



Advancing Human Rights 2017

A Status Report on Human Rights
in the United States



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INTRODUCTION

FROM US HUMAN RIGHTS NETWORK'S

EXECUTIVE DIRECTOR

Colette Pichon Battle

For human rights defenders in the United States, 2017 was a grueling and unforgettable year. Over these arduous twelve months, there was a rise in human rights violations in the United States alongside the ascension of a federal administration using rhetoric and advancing policies that are explicitly racist, sexist, homophobic and extractive. The Trump administration's regressive actions began early in the year with an attack on women and reproductive rights and included questionable appointments to the leadership of the Department of Education, Department of Justice, Department of State and the Supreme Court appointment. This current federal government advanced a ban on transgender persons in the military, engaged in multiple attempts to pass a Muslim travel ban, and passed a tax policy overhaul which facilitates a transfer of wealth from the working classes to the wealthy. Under this administration, the U.S. has defunded the Environmental Protection Agency, pulled out of international agreements that advance the rights of children, the rights of women, and the preservation of our planet. In addition to actions of this new administration, 2017 saw a record number of climate disruptions and corporate attacks on natural resources that continue to uncover the thinly veiled structural discrimination faced by Indigenous, Black and poor communities across the country.

These attacks on basic human freedoms were met with the resistance-leadership of human rights defenders across the U.S. Resistance leadership was seen at marches, demonstrations and protests from January through December. From the historic Women's March, the day after the presidential inauguration, to the shutting down of efforts to repeal the Affordable Care Act "Obamacare," to the various challenges to the Muslim ban in airports around the country, people are fighting these attempts to pass discriminatory and unjust laws.

This 5th edition of the US Human Rights Network's Human Rights Status Report is being launched on January 15, 2018 (Martin Luther King, Jr. Day), in order to highlight the issues that Dr. King organized around and issues that grassroots leaders in the U.S. continue to fight for, namely racial, economic and climate justice.

This report provides a status update on human rights in the United States in 2017. The research herein seeks to affirm these issues as part of a continued civil rights struggle while helping advocates better understand that our fight in the U.S is part of a broader movement to advance and protect human rights around the world. We hope that you will use it to amplify the various human rights efforts in the United States.

In solidarity,



Colette Pichon Battle, Executive Director
US Human Rights Network, Inc.

WHAT ARE HUMAN RIGHTS?

Human rights are rights that we all have simply because we are human. They are the basic claims that we have to dignity and respect without regard to our race, nationality, gender, gender identity, sexuality, age, religion, (dis)ability, language, income, immigration status, or other statuses. Human rights include civil, cultural, developmental, economic, environmental, political, sexual, and social rights. Examples of human rights include housing, health, education, food, water, freedom from discrimination, freedom from torture, and freedom of expression.

Commonly accepted human rights are expressed and guaranteed in a body of international law. The Universal Declaration of Human Rights (UDHR)¹, which was adopted by the United Nations on December 10th of 1948—now known as Human Rights Day—was one of the first documents to outline the full range of human rights. Since then, human rights law has developed to include numerous laws, treaties and agreements that aim to protect people around the world.

Human rights laws not only articulate basic rights and freedoms that all people and Peoples are entitled to, but they also establish the role of government in advancing these protections. It asserts that governments have an obligation to respect, protect, and fulfill the rights of all people. This means that not only must governments refrain from violating human rights themselves, but they must also affirmatively ensure that others are not violating our human rights and must provide all of the conditions necessary for people to enjoy their human rights.

In recognition that governments are increasingly compromised by the role of money in politics and governance, the human rights community has also highlighted human rights abuses occurring at the hands of transnational corporations. These kinds of profit-making entities in many cases not only violate human rights, but are increasingly erroneously looked to as a solution. The responsibility of business enterprises to respect human rights refers to all internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights ² and the principles concerning the corporate responsibility to respect human rights set out in United Nations Human Rights Council's "Guiding Principles on Business and Human Rights."³

WHAT IS A PEOPLE-CENTERED APPROACH TO HUMAN RIGHTS THEORY AND PRACTICE?

People-Centered Human Rights (PCHRs) are those “non-oppressive rights that individuals and collectives define and secure for themselves through social struggle that reflects the highest commitment to human dignity and social justice for themselves and all humanity.

The feature that distinguishes the people-centered framework from all of the prevailing schools of human rights theory and practice is that it is based on an explicit understanding that to realize the full range of the still developing human rights idea requires: 1) an epistemological break with a human rights orthodoxy grounded in Euro-centric liberalism, 2) a reconceptualization of human rights from the standpoint of oppressed groups, 3) a restructuring of prevailing social relationships that perpetuate oppression and 4) the acquiring of power on the part of the oppressed to bring about that restructuring. As opposed

to the fraudulent claims of being “non-political” and value neutral made by mainstream human rights practitioners and organizations, PCHRs is a political project that has identified all forms of oppressive relations, including capitalism, neoliberalism, white supremacy, patriarchy, colonialism and imperialism, as structural and ideological constraints on the ability to realize the full range of human rights.”⁴

WHY A HUMAN RIGHTS REPORT FOR THE UNITED STATES?

This report aspires to present a 2017 snapshot of the status of human rights in the United States using language that promotes broad accessibility. The focus of this Human Rights Report is on domestic issues with an emphasis on economic, social, and cultural rights. Foreign policy and international anti-terrorism measures, which are equally important human rights concerns, are not addressed. The report is derived from research conducted by partners, allies, journalists, and USHRN’s research team. We acknowledge that this report does not mention or cover in detail all human rights violations that happened in the United States over the course of the report year. The report is divided into 14 issue areas. The structure of each chapter includes (1) an introduction, (2) a brief overview of specific international human rights laws and any recent human rights updates, (3) policy demands from grassroots organizations, (4) and an abbreviated overview of 2017 human rights violations in each issue area. We invite you to respond to us with your thoughts at info@ushrnnetwork.org.

TERMS USED IN THIS REPORT

In this report, the following terms are used:

- ★ Native American, Indigenous Peoples and American Indian to refer to persons who are of some degree Indian blood and are recognized as an Indian by a nation, village and/or the United States.
- ★ People of color and racial minorities to refer to people who claim races other than white. Black refers to people of African descent with varying ethnicities and immigration statuses including descendants of Africans enslaved in the United States as well as more recent immigrants from countries in Africa, the Caribbean, the West Indies, Asia, and Europe. African American refers to Descendants of Africans Enslaved in the United States (DAEUS).
- ★ Hispanic and Latino/a/x to refer to persons or communities of Latin American origin or from Spanish speaking countries.
- ★ LGBTQI & LGBT to refer to those individuals who identify as Lesbian, Gay, Bisexual, Transgender, Queer, Gender Non-Conforming, and Intersex.
- ★ Migrants, Immigrants, and Internally Displaced Persons to refer to individuals who have moved to the United States from another country.

ABOUT THE US HUMAN RIGHTS NETWORK

The US Human Rights Network (USHRN) is a national network of organizations and individuals working to strengthen a human rights movement and culture within the United States led by those most impacted by human rights violations. We work to secure dignity and justice for all. USHRN serves as an anchor to build the collective power of communities across the country and to expand the base of a bold, vibrant, and broad-based people-centered human rights movement.

Implementing Human Rights in the United States: Human Rights Education (HRE)

IS THE UNITED STATES A GLOBAL LEADER IN HUMAN RIGHTS?

Historically, the United States has enjoyed its status as a global leader for human rights implementation as it was instrumental in the drafting of the Universal Declaration of Human Rights (UDHR). However, in the official drafting process, the United States focused its efforts on universal civil and political rights, only a small portion of the full scope of human rights included in the final draft of the UDHR. It was Latin American countries that championed the inclusion of social and economic rights while Egypt fought for the strong universality language, which extended human rights to colonies (a move which the United States and Western European powers strongly resisted). India, the Dominican Republic, and Denmark championed the gender-neutral language in the UDHR and the inclusion of equal rights for women. The final draft of the UDHR outlines human rights that are universal, meaning they encompass the transnational/global sphere and the local/personal dimensions of human life.

While there are complexities in conceptualizing how a nation-state can enforce local and personal human rights, the United States government has on multiple occasions failed to meet international human rights standards *and* intervened against their implementation.¹ For this reason, comprehensive implementation of human rights in the United States is crucial. A growing body of activism and scholarship suggests that human rights education (HRE), (education informed by, through, and for human rights) is a baseline for establishing the protection of human rights. If people are not educated about what their human rights are, then they are not able to effectively hold their governments accountable for the protection of those rights. Therefore, HRE should be an integral part of human rights implementation in the United States².

DEFINITIONS OF HUMAN RIGHTS EDUCATION

Human Rights Education (HRE) is addressed in Article 26, Part I, of the UDHR: “Everyone has the right to an education [which] shall be free ... [and] compulsory. Part II of Article 26 declares that “education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms...” and that education “shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”

According to this definition, access to education is a portion of the human right to education and is not sufficient to meet the full requirements of HRE. If human beings have human rights simply by virtue of their status as humans, then they should also be able to discover those rights through their human powers of reason³. Education must (a) make human rights knowledge accessible to all, and (b) provide students with the ability to further refine their knowledge of human rights and promote peace and tolerance.

Human Rights Educators USA defines HRE as a “lifelong process of teaching and learning” that develops knowledge, skills, and values to help individuals to fully exercise and protect their own human rights and the human rights of others; to fulfill their responsibilities in the context of internationally agreed-upon human rights principles; and to “achieve justice and peace in the world.”

TRANSNATIONAL TIMELINE OF HRE

Although HRE was present in the original 1948 draft of the UDHR, it attracted little attention until the Vienna Conference on Human Rights in 1993. There, HRE was formally recognized as a key component of the effort to promote and implement human rights. Due to pressures from nongovernmental organizations (NGOs) at the Vienna Conference⁴, the United Nations formally designated the period from 1995-2004 as a Decade for Human Rights Education. In so doing, the United Nations called upon “all states and institutions to include human rights, humanitarian law, democracy and rule of law as subjects in the curricula of all learning institutions in formal and non-formal settings.” In response, over 100 countries have published National Initiatives on HRE, which describe what needs to go into HRE training throughout the world. Notably, the United States is not on this list of 100 countries and has largely ignored pressures to implement HRE.

In 2011, the United Nations General Assembly adopted the United Nations Declaration on Human Rights Education and Training. This is the first document in which the United Nations formally established international standards for HRE. It provides an important toolkit for civil societies to advocate for HRE and recognizes individual governments’ commitments to implement HRE.⁵ In addition, it recognizes HRE as an essential component of the implementation of human rights.

Models of HRE

HRE in the formal sector is aimed at public schools, in which goals, content, and methodologies include citizenship education, peace studies, anti-racism education, education for sustainable development and education for intercultural understanding⁶. In the non-formal sector, HRE includes the training of professionals (journalists, teachers, law enforcement officials, social workers, and civil servants);⁷ its goals focus on changing the behavior of professionals to eliminate human rights violations.⁸

HRE takes on various permutations and is expansive in nature, as it must navigate between the transnational/global (macro) and local/personal (micro) dimensions and operate within both scales. On the macro scale, HRE must teach about universal values and promote transnational human rights activism⁹. On the micro scale, HRE is considered a contextually specific, “transformative”¹⁰ learning process in which the learner develops skills to critically assess current economic, social, and political inequities¹¹ and the drive to enact personal and social change¹². On both levels, HRE can enhance social justice advocacy for individuals and grassroots organizations by providing a language that reframes experiences of injustice in terms of human rights.¹³

HRE and the United States' Universal Periodic Review

In 2014-2015 the United States underwent a Universal Periodic Review (UPR) by the United Nations Human Rights Council¹⁴. To contribute to the review process, Human Rights Education USA and the US Human Rights Network drafted recommendations to which the United States should adhere in meeting the human rights obligations to which it had agreed. The rationale for their recommendations is as follows:

- ★ Only 39 states even mention “human rights” in their social studies standards; of those, only 22 reference the Universal Declaration of Human Rights (UDHR). Very few state standards reference specific international human rights or humanitarian treaties, obligations, or mechanisms.
- ★ Where implemented, HRE tends to focus on civil and political rights and to omit or minimize references to the full range of human rights, including social, economic, and cultural rights.
- ★ The predominant historical content approach to teaching human rights does not facilitate the establishment of connections between human rights responsibilities, self-awareness, and personal behavior through social and emotional learning (SEL). SEL is designed to encourage the development of critical thinking, inquiry, making connections, and learning about international affairs.¹⁵

The recommendations proposed that human rights education (HRE) should be standardized in public schools and integrated into the content and performance standards that govern public education in the United States¹⁶. In addition, the UPR called on the United States to strengthen and broaden its training related to human rights and racial discrimination for law enforcement officers¹⁷ by adhering to the recommendations from the Committee on the Elimination of Racial Discrimination (CERD). CERD requires states to combat prejudice and racial discrimination through HRE which includes the study of CERD and the UDHR. In an addendum to the 2014-2015 UPR, the US State Department voiced vague support for the recommendations but referred to them as “ideals” which the “United States may never completely accomplish...”¹⁸ due to conflicts between state and local government standards. In 2015, the US State Department did publicize and disseminate the concluding observations from the UPR, for the reviews of International Covenant on Civil and Political Rights (ICCPR), CERD, and Convention Against Torture (CAT)¹⁹.

ROLE OF STATE AND LOCAL AGENCIES AND OFFICIALS IN IMPLEMENTING HUMAN RIGHTS

The United States operates under a federalist system of government and has always referred to the shared responsibility of the federal, state and local governments in implementing public policy—including human rights²⁰. Under the federalist system, the federal government is responsible for compliance with international human rights law and obligations, while daily implementation on the local/personal level is shared between federal, state, and local governments.

Columbia Law School's Human Rights Institute recommends that state and local agencies advance human rights by:

- ★ Monitoring, documenting, and reporting on human rights
- ★ Integrating human rights into local law and policy
- ★ Conducting human-rights-based audits and impact assessments
- ★ Fostering participatory governance, and
- ★ Engaging in human rights education

IMPLEMENTATION OF HUMAN RIGHTS IN THE UNITED STATES: ADDITIONAL STRATEGIES

State and Local Human Rights Implementation

Cooperation between the federal, state, and local governments has often been contentious. However, the United States has seen some victories for human rights at the state and local levels. These are as follows:

- ★ As of 2017, 42 states have their own human rights commissions.
- ★ In August of 2017, the state of Michigan released a statement about racial justice, which identified three key principles needed to implement racial justice in the state. Michigan has pledged to prioritize equity in its efforts toward diversity and inclusion, to work to recognize unconscious or implicit bias by building awareness, and to focus on racial impact over racial intent.
- ★ Minnesota hosted a Human Rights Commission Summit that focused on diversity, inclusion and civic engagement on October 4, 2017. In Minnesota, a District Court dismissed a lawsuit against the state that targeted a provision of the Minnesota Human Rights Act, which outlawed discrimination.
- ★ In Illinois, the Department of Human Rights began a study to develop best practices to promote diversity and inclusion and to discourage discrimination in housing, employment, and education.
- ★ As of December 2016, six U.S. localities have adopted CEDAW-based ordinances. The localities are listed in order of highest level of implementation to lowest: San Francisco, California; Los Angeles, California; Honolulu, Hawaii; Berkeley, California; Pittsburgh, Pennsylvania; and Miami-Dade County, Florida.
- ★ Mayors in municipalities across the United States are working to implement human rights principles to address local issues and injustices.
 - ✓ In December 2015, Birmingham, Alabama mayor William Bell partnered with Columbia Law School's Human Rights Institute to hold a day of dialogue on human rights in the local context of Birmingham.
 - ✓ In 2014, Kitty Piercy, mayor of Eugene, Oregon authored Crafting Innovative Anti-Discrimination Policy Using Human Rights, which emphasized the role of human rights in city governance and highlighted city ordinances and initiatives related to CERD.

- ✓ In Salt Lake City Utah, the Human Rights Commission, the Mayor's Office, and the City Council held a series of dialogues on gender discrimination, which revealed significant disparities in educational and employment opportunities for women. As a direct result of these dialogues, the Human Rights Commission in Utah is currently working to adopt the international human rights treaty on women's rights (CEDAW) locally.

GRASSROOTS DEMANDS FOR IMPLEMENTATION OF HUMAN RIGHTS

Columbia Law School's Human Rights Institute produced a report which discusses three major recommendations for implementation of human rights in the United States. According to that report, the United States must:

- Strengthen and expand existing mechanisms to monitor human rights implementation at the federal, state, and local levels;
- Provide sufficient funds for human rights monitoring and implementation at all levels of government; and
- Develop a more comprehensive approach to human rights promotion and protection, including through the creation of a national human rights institution.

Racial Justice is an area in which much improvement is needed in the United States. Grassroots organizations are dedicated to pressuring the United States into action on this topic, given that it has ratified CERD. The American Civil Liberties Union (ACLU) has created the Racial Justice Program which brings lawsuits in state and federal courts throughout the United States. This program takes on cases that it anticipates will have a significant and wide-ranging effect on communities of color. The National Urban League has created a 10-point plan for racial justice and police reform, which recommends:

1. The widespread use of body and dashboard cameras;
2. Reform of broken windows laws and implementation of 21st century community policing models;
3. Review and revision of policies governing the use of deadly force in police departments;
4. Comprehensive retraining of all police officers;
5. Comprehensive review and strengthening of police hiring standards;
6. Appointment of special prosecutors to investigate police misconduct;
7. Mandatory, uniform FBI reporting on and auditing of lethal force incidents involving all law enforcement;
8. Creation and audit of National Database of Citizen Complaints against Police;
9. Revision of the National Policing Accreditation Policy for mandatory use by law enforcement to be eligible for federal funds; and
10. A national comprehensive anti-racial-profiling law.



Coffey Park
neighborhood in
Santa Rosa, Cali-
fornia, after it
was devastated
by wildfires in
October 2017

Environmental/Climate Justice and Human Rights

As the harmful effects of climate change impact more and more communities (both in frequency and severity), the potential for permanent displacement and other devastating outcomes becomes ever more present. Millions of people living in vulnerable communities, in particular children and women of color, may be denied their human rights to life, health, food, water, and adequate housing. Events in 2017 prompted governments, communities, and organizations around the world to seriously confront the realities of human-caused climate change. Environmental groups tailored their advocacy to address civil and human rights; recognizing the human rights crisis faced by those who are on the front lines of severe climate change effects.

The near universal scientific consensus regarding the cause and nature of the warming climate was rejected by President Donald Trump when his administration announced plans to withdraw from the landmark Paris Climate Agreement.¹ This year saw the continuation of disputes over water, specifically regarding the integrity of water in Flint, Michigan and over the building of the Dakota Access Pipeline. Human Rights mechanisms are an important tool that many activists around the world use to protect and ensure their right to live in a clean and healthy environment. We hope that the following information will be a useful tool for advocates in the United States to assert their human rights at the federal, state, and local levels.

HOW ARE HUMAN RIGHTS AND THE ENVIRONMENT LINKED?

The Universal Declaration of Human Rights (UDHR)²—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline rights related to the environment. A key provision is:

UDHR, Article 25: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family.”³

Human rights related to the environment were explicitly outlined in the *International Covenant on Civil and Political Rights* (ICCPR) in 1992,⁴ and the *Convention on the Elimination of Racial Discrimination* (CERD) in 1994,⁵ two treaties that the United States has ratified. When the United States has ratified treaties, it has done so with *Reservations, Understandings, Declarations* (RUDs)—attempting to exempt itself from certain obligations with which countries are normally expected to comply. The United States also claims that these treaties are not self-executing, meaning that additional legislation is needed for the treaty to take effect.⁶ Despite these challenges, domestic human rights advocates have continued to push for the United States to meet its treaty obligations at the federal, state, and local levels.⁷

CERD, Article 5: “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of ... [e]conomic, social and cultural rights.”⁸

Additional human rights are listed in the endnotes.⁹

Following the series of mega-storms that struck the Americas in early fall 2017, the Inter-American Commission on Human Rights (IACHR) called on the affected States to “adopt mechanisms of shared responsibility and collective response to the situation of those who are affected and displaced.” Soledad García Muñoz, the IACHR Special Rapporteur on economic, social, cultural, and environmental rights, recognized that these storms were the direct effects of climate change when she stated, “At the Special Rapporteurship, we are going to pay particular attention to the impact of climate change and natural disasters on the effective exercise of human rights, particularly with respect to individuals, groups, and communities in vulnerable situations. We call on the States of the region to make an active commitment to protect, preserve, and improve the environment.”¹⁰

Robert Glasser, the Special Representative of the Secretary-General (SRSG) for Disaster Risk Reduction encouraged a renewed focus on eliminating the underlying drivers of disaster events, a marked shift from the Sendai Framework for Disaster Risk Reduction of 2015.¹¹ That agreement focused on reducing the numbers of people affected by disasters; however, Glasser noted that an understanding is needed that the natural disasters are “from the quality of the built environment which lies in its path and the potential for intensified damage and loss because of rising, warming seas linked to climate change.”¹²

Following a visit to the United States to assess the impact of energy development projects, UN Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, called on the United States government to consult with Indigenous nations on projects that could affect their rights—specifically citing the Dakota Access Pipeline affecting the water rights of the Lakota Nation. In addition to the cultural significance of water to many Indigenous Peoples, water as a resource would be directly at-risk by hydraulic fracturing—a process of natural gas extraction that can contaminate groundwater and drinking water from wells. Ms. Tauli-Corpuz recommends that “for any extractive industry project affecting indigenous peoples, regardless of the status of the land, the United States should require a full environmental impact assessment of the project in consideration of the impact on indigenous peoples’ rights.”¹³

Following an executive order signed by President Trump in January, the United States Department of State officially informed the United Nations of its intent to withdraw from the Paris Climate Agreement. As the withdrawal process is expected to take at least three years, the United States maintained that it would continue to participate in United Nations climate change meetings. The communication on the intent to withdraw states, “[t]he United States supports a balanced approach to climate policy that lowers emissions while promoting economic growth and ensuring energy security.”¹⁴ Following President Trump’s decision to withdraw from the agreement, representatives of American cities, states and companies prepared to submit a plan to the United Nations pledging to meet the United States’ greenhouse gas emissions targets under the Paris climate accord.¹⁵

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ The U.S. government is obligated to respect, protect, and fulfill the human rights of Indigenous Peoples, including the right to access clean water and to peacefully protest.¹⁶
- ✓ All states must move away from fossil fuels or risk provoking human rights catastrophes.¹⁷
- ✓ Climate-related advocacy must amplify the voices of those on the front lines of climate-related human rights violations.¹⁸
- ✓ The EPA must enforce the Civil Rights Act and eliminate harmful disparities experienced by communities of color and ethnic minorities, people with disabilities, and women.¹⁹
- ✓ Immediately remove toxic facilities [like coal fired power plants and incinerators] in communities of color as they emit mercury, arsenic, lead, and other contaminants into the water, food and lungs of these communities.²⁰
- ✓ The EPA should use environmental law to institute a moratorium on hydraulic fracking.²¹
- ✓ Institute a moratorium on all new exploration for oil, gas and coal.
- ✓ Reduce consumption of meat or eliminate it entirely to impact climate change.²²
- ✓ Reduce overall consumption habits.²³

2017 VIOLATIONS OF THE HUMAN RIGHTS TO A HEALTHY ENVIRONMENT

CLIMATE CHANGE (CLIMATE JUSTICE)

In addition to increasing heat waves, extreme weather, and a deepening displacement crisis as populations shift in reaction to changes in weather, climate change has serious consequences for public health.²⁴ The executive order to withdraw from the Paris agreement was followed by the Trump administration's decision to reinstate and expand the Global Gag Rule. This policy prohibits United States funding to international organizations that administer, counsel on, or advocate for abortion.

Environmental Non-Governmental Organizations (NGOs) argue that in addition to the obvious reproductive rights implications, the Global Gag Rule would also undercut women's positive contributions to both civic engagement and environmental decision-making.²⁵ A lawsuit, *Kelsey Cascadia Rose Juliana et al. v. United States of America* [Juliana v. U.S. 217 F.Supp.3d 1224 (D. Ore. 2016)] alleges that the government's failure to meaningfully address climate change deprives young people of life, liberty, and property without due process of law. The lawsuit, filed in 2015, has already become a symbol in the greater fight over climate change.²⁶

VULNERABLE POPULATIONS AND CLIMATE CHANGE

Climate change-linked health impacts continue to disproportionately affect vulnerable populations with limited capacity to respond to climate variability. The United States Global Change Research Program, a coalition of federal departments and agencies that spearheads research on global environmental implications for society,

defines "vulnerable" as populations with people who tend to have one or more of the following characteristics: low income, of color, immigrant, Indigenous, children, pregnant women, elderly populations, persons with disabilities or chronic medical conditions.²⁷ These groups may be more susceptible to the negative health effects of climate change-related extreme weather events, due to the social, political, and economic factors that limit resources for maintaining an adequate standard of living. Children and the elderly, for example, are more at-risk when there is extreme heat and increased air pollution, while mega-storms and flooding greatly hinders the ability of persons with disabilities, or those from low-income areas, to evacuate. Furthermore, rising temperatures prolong and exacerbate allergy seasons, which increase the risk of vector-borne diseases.²⁸ In the final year of the Obama Administration, officials released "The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment". This report outlines how the health effects of climate change can exacerbate existing issues linked to social determinants of health, such as availability of healthy housing, access to health care and food affordability.²⁹ In order to more efficiently examine the intersections of climate change and vulnerable populations, the U.S. Global Change Research Program has called for a more robust public health surveillance that comprehensively evaluates the risk factors that signal vulnerability to climate change for certain populations.³⁰ Other groups have also argued for an approach that uses both mitigation and adaptation, as in maintaining state-driven commitments to mitigate climate change by limiting the emissions of greenhouse gases, while responding to, and thereby adapting, to climatic conditions that reduce vulnerability.³¹

CLIMATE CHANGE AND MEAT CONSUMPTION

In addition to the elevated greenhouse gas emissions generated by factory farms, toxic runoffs from increased meat production and consumption have had grave consequences for human health, the environment, and water sources.³² Recognizing the effects of meat consumption from both environmental and health perspectives, some activists have argued for the introduction of a “meat tax” designed to shift consumption trends towards more plant proteins.³³ In 2017, the National Oceanic and Atmospheric Administration announced that this year’s “dead zone” in the Gulf of Mexico, an area covering 8,776 square miles, was the largest dead zone yet measured.³⁴ These “dead zones” are areas of water that don’t have enough oxygen for fish to survive, and are the result of large algal blooms that create oxygen-deprived stretches of water, most often found in the Gulf of Mexico, the Great Lakes, and the Chesapeake Bay.³⁵ These algal blooms come from nutrients, or more specifically fertilizers, that have been washed into waterways thereby stimulating an overgrowth of algae, and decomposition. This nutrient pollution is attributed to corn crops, the primary feed used by the meat industry, and in 2016 caused most of the 1.15 million metric tons of nutrient pollution released into the Gulf.³⁶ The large dead zone size shows that nutrient pollution, primarily from agriculture and developed land runoff in the Mississippi River watershed, is continuing to affect the nation’s coastal resources and habitats in the Gulf. The Gulf dead zone may also have negative effects on marine life and local fisheries, causing an economic impact on vulnerable populations in southern Louisiana and Mississippi.³⁷ This pollution has also been linked to contaminated drinking water. These agricultural contaminants

can be traced to cancer, nerve system damage, and other developmental defects.³⁸

MEGA-STORMS

This year saw a sudden onslaught of mega-storms and hurricanes that ravaged the Caribbean and Gulf Coast region, killing thousands and impacting millions.



Following Hurricane Harvey, as much as 5 million pounds of pollutants were re-leased into the air from flooded oil refineries and chemical plants.

Hurricanes Harvey, Irma, and Maria devastated parts of Texas, Florida, and the Caribbean, causing extreme flooding that also threatened oil and gas refineries and processing plants. Following Hurricane Harvey, as much as 5 million pounds of pollutants were released into the air from flooded oil refineries and chemical plants.³⁹ Disproportionately affecting residents of color, approximately 17,000 Houstonians were moved to shelters and tents in the days immediately following the storm.⁴⁰ In addition to the devastating infrastructural damages following these mega-storms, families in Texas are being threatened with eviction for owing rent on properties that have been rendered unlivable following the hurricane. The cost of rebuilding in Puerto Rico is expected to skyrocket and Puerto Ricans have no voting representation in Washington.⁴¹ Support from the federal government has been lacking, as evidenced by President Trump's reluctance to waive the Jones Act, which would allow more aid supplies to the region. When the restriction was finally lifted, it was only for ten days.⁴² The devastating effects and resulting human rights violations notwithstanding, these storms have brought into sharp focus the real consequences of rising sea levels. Rising sea levels caused storm surges to swell, and warmer ocean temperatures both intensified and maintained travelling hurricanes.⁴³ Hurricane Harvey, for example, grew from a category 2 to category a 4 storm within hours due to the increased amount of water vapor the storm was able to absorb because of a warmer planet.⁴⁴

NATIVE LANDS & PIPELINES

The continuing efforts of Indigenous Peoples to protect the water from a corporation building the Dakota Access Pipeline have put the rights of Indigenous Peoples and the right to water at the forefront of the environmental movement. In March 2017, thousands of people, including members of the Standing Rock Sioux Tribe, Indigenous environmental activists, and allies, marched to protest President Trump's approval of the Dakota Access and Keystone XL pipelines. Marchers additionally demanded respect for Indigenous rights, cultural rights, and the right to water.⁴⁵ The Standing Rock water protectors assert that the United States government failed to adequately consult with tribal authorities before beginning the project, and did not consider the potential risks of pipeline construction to the source of the Lakota Nation's drinking water. The Standing Rock conflict made headlines in 2016 when, over the course of several months, hundreds of people were arrested and law enforcement officers used excessive force against the peaceful water protectors.⁴⁶ In addition to the civil protests, six prominent legal and advocacy organizations warned the joint owners of the Dakota Access Pipeline of their corporate duty under international and domestic law to respect human rights and to avoid complicity in further human rights abuses.⁴⁷ Signatories of the letter include the Center for International Environmental Law, EarthRights International, GreenPeace, Bold Alliance, Oil Change International, and Climate Justice Programme.

In late 2017, the Standing Rock Sioux Tribe won a major legal victory in federal court when a judge ruled that the Trump administration failed to conduct an adequate environmental review of the pipeline after Trump ordered the Army Corps of Engineers to fast-track and greenlight its approval. The judge requested a full review of the potential impacts on fishing and hunting rights, as well as an environmental justice review.⁴⁸

CLIMATE-BASED DISPLACEMENT

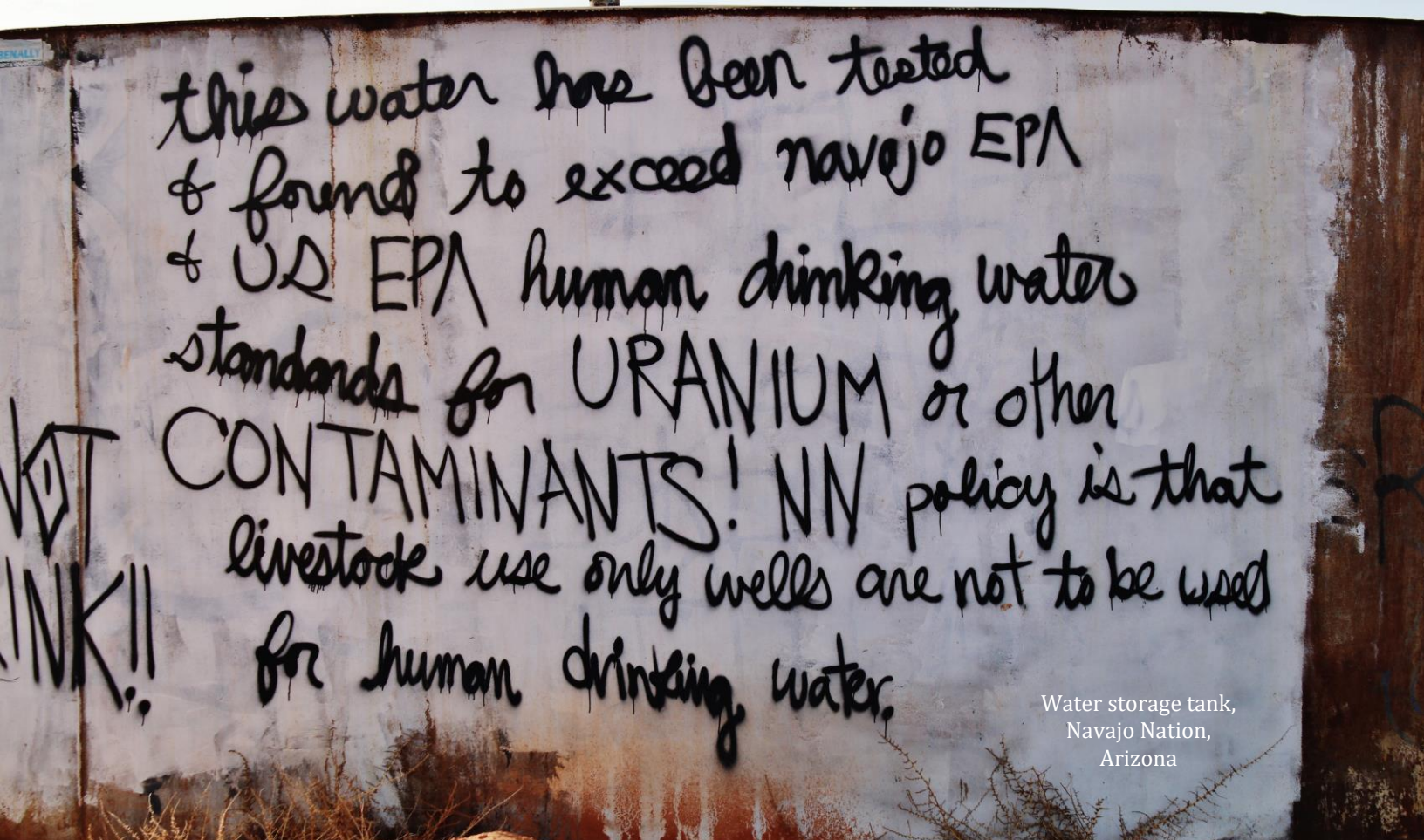
Communities around the world are beginning to directly experience the effects of climate change. Entire communities are steadily disappearing because of erosion and flooding attributed to climate change, leading to growing numbers of displaced Peoples—individuals forced to leave their homes due to changing environmental conditions. In August 2016, approximately 600 residents of a small Alaskan village voted to relocate their entire village.⁴⁹ The village, Shishmaref, is home to an Inupiat community north of the Bering Strait, and has for decades, been dealing with loss of infrastructure caused by storm surges. In January 2016, the federal government allocated \$48 million to relocate the tribal community of Isle de Jean Charles in Louisiana, an effort that earned the residents of the sinking island status as the United States' first "climate refugees."⁵⁰ Since 1955, the community has experienced a 98 percent loss of land.⁵¹ The project to resettle the community is one of the first of its kind, as it seeks to respond to climate change without disrupting the community to the point of disintegration. Following the effects of Hurricane Irma, about 1,700 people were evacuated

from Barbuda to Antigua and other neighboring islands, with almost none of the population able or willing to return to Barbuda.⁵² In addition to recognizing and planning for the climate change-related implications of this phenomenon, the international community will have to come up with concrete solutions for managing environmental displacement. A study commissioned by the British government reports that as many as 200 million people could be displaced by 2050 because of climate change.⁵³



As many as 200 million people could be displaced by 2050 because of climate change.

This will have specific implications for the U.N. Convention on the Rights of Refugees, particularly in determining whether identified "perpetrators" of climate change can be held accountable—specifically fossil fuel companies that have contributed to greenhouse gas emissions exacerbating climate change.



Water storage tank,
Navajo Nation,
Arizona

Human Right to Food, Water, and Sanitation

Access to healthy foods, clean water, and adequate sanitation is integral to the human right to “a standard of living adequate for the health and well-being” of ourselves and our families.¹ Poor people, people of color, and other marginalized communities are disproportionately impacted by human rights violations, specifically in the areas of food, water and sanitation. Governments are tasked with refraining from violating the human rights of those within its borders, but it must also stop others (including corporations), from committing human rights violations. The Trump administration has begun rolling back regulations on drinking water, food safety, and pesticide regulation, as well as reducing funding for federal regulatory departments such as the Environmental Protection Agency.²

Although the long-term effects of this deregulation on vulnerable communities is not yet known, the impacts of minimal regulations and climate change have already proven to be catastrophic even prior to the change in the presidential administration.

WHAT ARE THE HUMAN RIGHTS TO FOOD, WATER AND SANITATION?

The Universal Declaration of Human Rights (UDHR)³—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline the rights of immigrants. For example:

UDHR, Article 25 (1): “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”⁴

The rights of children with regard to food and water were explicitly outlined in the *Convention on the Rights of the Child* in 1990,⁵ though the United States remains the only one of 196 nations that has failed to ratify this treaty. The United States has similarly failed to become a party to the *Committee on Economic, Social, and Cultural Rights* which also addresses the issues of food, water and sanitation. The United States has, however, signed and ratified three treaties:⁶ the *International Covenant on Civil and Political Rights* (ICCPR) in 1992,⁷ the *Convention on the Elimination of Racial Discrimination* (CERD) in 1994,⁸ and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) in 1994.”⁹ Additional human rights are listed in the endnotes.¹⁰

During the 36th Session of the Human Rights Council in September of 2017, the Special Rapporteur on the human rights to safe drinking water and sanitation stated that “[s]tates should prohibit [water] disconnections due to inability to pay in law and in regulatory frameworks, as this is a retrogressive measure and violates the human rights to water and sanitation.” Regardless of the body carrying out the regulatory functions, these standards should reflect and give practical meaning to the normative content of the

human rights to water and sanitation specifically focused on availability, accessibility, quality and safety, affordability, acceptability, privacy and dignity. Human rights protection is a key issue here, particularly because regulation in the water and sanitation sector is often guided solely by economic concerns.”¹¹ For example, residents in Flint, Michigan continue to have their water disconnected for inability to pay exorbitant water bills (often more than \$200 per month) while the company, Nestle, pays a mere \$200 per year for the right to capture and bottle millions of gallons of clean drinking water outside of the city.¹² At the same time, the Trump administration has begun repealing rules giving the EPA broad authority over water pollution.¹³



Environmental Racism
+ Indifference = Lead in
the Water & Blood

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ Affirmatively link the right to food, housing, school, employment, transportation, healthcare with other political and cultural opportunities.¹⁴
- ✓ Provide targeted government programs to low-income populations and communities of color that will guarantee the right to healthy and affordable food.¹⁵
- ✓ Reduce the political influence of agrifood corporations on public policy, e.g., by strengthening antitrust enforcement on those corporations and reducing their unregulated market power.¹⁶
- ✓ Ensure support to sanitation systems for rural communities and communities experiencing homelessness.¹⁷
- ✓ Order an immediate moratorium on water shutoffs for lack of ability to pay and provide funding to guarantee affordable drinking water.¹⁸
- ✓ Federal, state, and local governments must work together to ensure no person loses access to water or sanitation due to inability to pay.¹⁹
- ✓ Impose a total ban on fracking for the extraction of shale oil.²⁰
- ✓ Ensure tighter controls on factory farming waste entering the drinking water supply.²¹
- ✓ Allocate federal funding for the construction of sewer systems in rural Alabama.²²
- ✓ State and local governments should enact laws that give local communities access to land for food growth and protects such land from environmental harm.²³

2017 VIOLATIONS OF THE HUMAN RIGHTS TO FOOD, WATER AND SANITATION

FOOD

Climate Justice is a struggle over, land, air, and water, but also the right to food sovereignty—particularly because the health of the former, greatly impacts the latter. Racialized policies in the United States have led to food insecurity including “inadequate distribution of healthy and nutritious food and food deserts in the United States which “disproportionately impact the health and well being of many communities of color.”²⁴ An estimated “12.3 percent of American households were food insecure at least some time during the year in 2016—meaning they lacked access to enough food for an active, healthy life for all household members.”²⁵



This means families
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Evidence suggests that many low-income communities, communities of color, and sparsely populated rural areas do not have sufficient opportunities to buy healthy, affordable food. Decreased access to healthy food means people in low-income communities suffer more from diet-related diseases like obesity and diabetes than those in higher-income neighborhoods with easy access to healthy food—particularly fresh fruits and vegetables. The United States Department of Agriculture (USDA) has developed a map that is designed to assist efforts to alleviate food deserts,²⁶ however, there have been no federal directives as to the ways in which the deserted areas will be assisted, nor by whom, leaving grassroots organizations to fill in the gaps left by the United States government.²⁷

In his March 2017 report, the Special Rapporteur on the right to food, discussed the adverse effects of pesticides on environmentally sound management, growth and distribution of foodstuffs. “Pesticides, which have been aggressively promoted, are a global human rights concern, and their use can have very detrimental consequences on the enjoyment of the right to food. Pesticides are responsible for an estimated 200,000 acute poisoning deaths each year, 99 percent of which occur in the global south. While there are no official numbers on global pesticide, there is a consensus amongst scientists and advocates that pesticide application rates have dramatically increased over the past few decades.”²⁸

WATER

To respect the right to life, the “United States must realize the human right to water and provide equal access to safe, affordable water for basic human needs and adequate sanitation. Despite this, thousands of low-income, of color, and Indigenous communities across the United States lack access to safe, affordable drinking water and adequate sanitation.”²⁹

The continuing efforts of Indigenous Peoples to protect the water from a corporation building the Dakota Access Pipeline have put the rights of Indigenous Peoples and the right to water at the forefront of the environmental movement. In March 2017, thousands of people, including members of the Standing Rock Sioux Tribe, Indigenous environmental activists, and allies, marched to protest President Trump’s approval of the Dakota Access and Keystone XL pipelines. Marchers additionally demanded respect for Indigenous rights, cultural rights, and the right to water.³⁰ The Standing Rock water protectors assert that the United States government failed to adequately consult with tribal authorities before beginning the project, and did not consider the potential risks of pipeline construction to the source of the Lakota Nation’s drinking water. The Standing Rock conflict made headlines in 2016 when, over the course of several months, hundreds of people were arrested and law enforcement officers used excessive force against the peaceful water protectors.³¹

In addition to the civil protests, six prominent legal and advocacy organizations warned the joint owners of the Dakota Access Pipeline of their corporate duty under international and domestic law to respect human rights and to avoid complicity in further human rights abuses.³² Signatories of the letter include the Center for International Environmental Law, EarthRights International, GreenPeace, Bold Alliance, Oil Change International, and Climate Justice Programme. In late 2017, the Standing Rock Sioux Tribe won a major legal victory in federal court when a judge ruled that the Trump administration failed to conduct an adequate environmental review of the pipeline after Trump ordered the Army Corps of Engineers to fast-track and greenlight its approval. The judge requested a full review of the potential impacts on fishing and hunting rights, as well as an environmental justice review.³³

Recently, President Trump appointed Dakota Access Pipeline former lobbyist Dennis Lee Forsgren to head the Environmental Protection Agency's Office of Water. Forsgren immediately announced plans to roll back regulations on safe drinking water established during the Obama administration.³⁴ The rollback came despite the Standing Rock Sioux Tribe's continued fight against the pipeline.³⁵

The close link between access to clean water and race was on display throughout the Flint, Michigan water crisis—when an emergency manager, appointed by Gov. Rick Snyder, channeled corrosive river water into Flint's old lead-lined water pipes, causing a health emergency when children tested positive for elevated levels of lead.³⁶ NAACP President Cornell William Brooks drew a direct connection

between Flint's socioeconomic factors and the toxic drinking water: "Environmental Racism + Indifference = Lead in the Water & Blood," he tweeted.³⁷

The Clean Water Fund for Texas, Oklahoma and California has reported contamination of drinking water as a result of fracking operations, as well as the efforts of state officials to get retroactive exemptions. These reports noted that the contamination of the aquifers is going unreported to the government. "The so-called Halliburton loophole allows fracking companies to keep the chemicals they use—which end up in wastewater disposal wells—secret from the public. It is known that one of those chemicals is often benzene, a known carcinogen." These chemicals have been found in the drinking water of neighboring communities.³⁸

Additionally, advocates continue to battle global corporations, such as Nestle, for the right to water. Although a California regulatory body has stated that the Swiss-owned company does not have the right to pull two-thirds of the water from the San Bernardino National Forest,³⁹ Nestle, through its representatives' words and actions has asserted a global corporatist view that water, far from being a human right, is a commodity to be exploited.⁴⁰

SANITATION

A lack of adequate sanitation strips individuals—who are often faced with having to relieve themselves in public and unsafe places—of the dignity and humanity that is guaranteed under a human rights framework.

In December 2017, the United Nations Special Rapporteur on extreme poverty, Philip Alston, toured the streets of Skid

Row—"the epicenter of [Los Angeles, California's] homelessness ... passing by a shelter courtyard with dozens of people bedding down on the concrete because there was no room inside."⁴¹ Skid Row has had the use of "nine toilets at night for 1,800 street-faring people. That's a ratio well below that mandated by the UN in its camps for Syrian refugees."⁴²



Skid Row in Los Angeles has had the use of 9 toilets at night for 1,800 people experiencing homelessness. That's a ratio well below that mandated by the UN in its camps for Syrian refugees.

Los Angeles authorities have promised to provide more access to toilets, "a critical issue given the deadly outbreak of Hepatitis A that began in San Diego and is spreading on the west coast claiming 21 lives mainly through lack of sanitation in homeless encampments. At night, local parks and amenities are closed specifically to keep homeless people out."⁴³

The Special Rapporteur said that because the United States—alone among big industrial nations—"has consistently rejected access to housing and sanitation as essential human rights, he is probing

whether economic disparities prevent poor people from exercising their full political and civil rights."⁴⁴

On September 8, 2017, following Hurricane Harvey that ravaged parts of the Gulf Coast, Prisoners at Beaumont Federal Correctional Facility in Texas reported that they were not evacuated immediately as the facility began to flood, and had no drinking water following hurricane Harvey. In order to preserve what little water they had until water was restored, prisoners at the facility began drinking toilet water and relieving themselves in garbage bags.⁴⁵ Reporters also heard rumors that prisoners were dying as a result of either dehydration or drinking contaminated water.⁴⁶

Many rural communities, as well as hurricane affected areas, have inadequate access to bathrooms. The Federal Emergency Management Agency (FEMA) has been working on this problem in Alabama's "Black Belt" since 2005.⁴⁷ The Trump administration, however, has begun slashing the budgets of much needed programs to provide adequate funding for these vulnerable communities.⁴⁸ President Trump has also tacitly refused critical aid to Puerto Rico—after Hurricane Maria devastated the island—implying that residents of the U.S. territory were looking for a hand-out, citing unpaid loans and costs of aid as an excuse for the Administration's inaction.⁴⁹ As a result, large areas of Puerto Rico are still without proper sanitation and water which evidences the United States government's failure in their obligation to protect the human rights of its residents.



Mural "El Inmigrante" (2005)
by Joel Bergner
joelartista.com

Human Rights of Immigrants

The presidential campaign of Donald Trump began with declaring immigrants to be "drug dealers, criminals and rapists." In 2017, the human rights violations of immigrants have played a central role in the Trump administration. The year witnessed the formal end of the Deferred Action for Childhood Arrivals program (DACA), which protected nearly 800,000 young immigrants from deportation. (As of the release of this report, the administration has opened the door to a legislative agreement to keep DACA, but only if the Democrats support a \$18 billion request to build a wall on the U.S.-Mexico border.) Moreover, this year has witnessed three travel bans targeting people from Muslim-majority countries. However, popular resistance to these policies is strong. Protests against "Muslim bans" at airports across the nation brought people together to welcome travelers from targeted countries to the United States.

Hashtags such as #undocumented-unafraid galvanized the public voice of undocumented people while states such as California passed the "Values Act" expanding sanctuary city-like protections for the entire state. In this climate of regressive policies, a human rights framework will continue to be critical in fighting for protections of immigrants.



In 2017, Donald Trump issued three different versions of the Muslim travel ban--the last of which was allowed by the Supreme Court to take effect in December and continues to be challenged legally.

WHAT ARE THE HUMAN RIGHTS OF IMMIGRANTS IN THE U.S.?

The Universal Declaration of Human Rights (UDHR)¹ contains key provisions that outline the rights of immigrants. A few of them are:

UDHR, Article 5: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

UDHR, Article 9: “No one shall be subjected to arbitrary arrest, detention or exile.”

UDHR, Article 13: “(1) Everyone has the right to freedom of movement and residence within the borders of each state [country]. (2) Everyone has the right to leave any country, including his own, and to return to his country.”

UDHR, Article 14: “Everyone has the right to seek and to enjoy in other countries asylum from persecution...”²

The rights of migrant workers were explicitly outlined in the *International Convention on Migrant Workers* in 2003, though the United States has failed to ratify this treaty. The U.S. also has not signed the *Convention Relating to the Status of Refugees*. The United States has, however, signed and ratified three treaties:³ The *International Covenant on Civil and Political Rights* (ICCPR) in 1992,⁴ the *Convention on the Elimination of Racial Discrimination* (CERD) in 1994,⁵ and the *Convention Against Torture* in 1994.”⁶ All of these treaties include protections for those who have migrated to the United States whether they are undocumented migrants, refugees, visa-holders, those with temporary protected status, or lawful permanent residents:

CERD, Article 5: “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of [...] the right to equal treatment before the tribunals and all other organs administering justice.”⁷

ICCPR, Article 12: grants the right of freedom of movement to foreigners provided they are lawfully present in a country. This said, the Human Rights Committee has made clear in General Comment No. 15 that all foreigners may enjoy the protection of the Covenant, including in relation to entry and residence, when issues of discrimination, inhuman treatment, or respect for family life arise.⁸

CAT, Article 3: “No State Party shall expel, return (“refouler”) or extradite a person to another State [country] where there are substantial grounds for believing that he would be in danger of being subjected to torture.”⁹

Additional human rights are listed in the endnotes.¹⁰

In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.¹¹ Most recently, in October 2016, the United Nations Working Group on Arbitrary Detention “found that there are serious issues relating to the arbitrary deprivation of liberty in the United States in the context of immigration, criminal justice, health-related confinement and the situation at Guantanamo Bay.”¹²

In May 2017, the *Committee to End Racial Discrimination* (CERD) requested the response of the United States government regarding the “discriminatory effects” of the expansion of the border wall between the US and Mexico, especially regarding its “adverse impact on the communities living along the border, especially indigenous communities.” The Committee states that this order was “implemented without any type of consultation or consideration of potentially affected communities...”¹³

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ A fair, just and inclusive immigration system, which ensures that all immigrants are treated humanely and fairly and can bring their contributions and talents to strengthen our culture, economy and communities.¹⁴
- ✓ Border Patrol and other governmental agencies should end the policies and practices that cause death and suffering of migrants and refugees along the border; We assert the right for migrants to receive life-saving humanitarian aid in the midst of the crisis of border deaths; We call on Border Patrol and other governmental agencies to cease interference with all humanitarian aid efforts.¹⁵
- ✓ Ensure dignity, justice, and human rights protections be afforded to Haitian and all Black immigrants.¹⁶
- ✓ End to the extreme delays in due process and judicial review for the tens of thousands of immigrant detainees.¹⁷
- ✓ End to the new version of Muslim Travel Ban.¹⁸

- ✓ Congress should pass DREAM Act into law.¹⁹
- ✓ We demand an end to Somali removal.²⁰
- ✓ Stop ICE from “destroying detainee records, including those related to in-custody deaths, sexual assault, and the use of solitary confinement...”²¹
- ✓ Facilities that house immigration detainees must comply with international standards and officials must be held accountable if they do not.²²
- ✓ Halt the detention and deportation of all immigrants [including families], LGBTQ detainees, and children and seek alternatives to detention.²³

2017 VIOLATIONS OF THE HUMAN RIGHTS OF IMMIGRANTS

IMMIGRANT RIGHTS AND DACA

The Deferred Action for Childhood Arrivals (DACA) program provided renewable two-year visas to young adults who were brought to the U.S. before they turned 16. The program, which began in 2012, gave almost 800,000 young undocumented immigrants, primarily from El Salvador, Mexico, Guatemala and Honduras, the right to live, work and attend school.²⁴ When the Trump administration decided to end the program, many organizations such as the NAACP, a group of DACA recipients, 15 states, and Washington D.C. filed a lawsuit challenging the action.²⁵

Even nonprofit organizations are being targeted by these draconian policy changes. The Border Patrol conducted an unprecedented raid of No Mas Muertes (“No More Deaths”), a humanitarian aid clinic in southern Arizona, in June of 2017. The raid that resulted in the arrest of four mi-

grants reversed an informal policy of the Obama administration that allowed the group to provide migrants with water, food, shelter and medical aid.²⁶

IMMIGRANT RIGHTS AND DETENTION CENTERS

A persistent aspect of human rights violations of immigrants occurs in for-profit prisons that often escape public scrutiny. The Attorney General of Washington State sued private prison giant Geo Group for paying detainees at its Northwest Detention Center \$1/day for running "virtually all non-security functions" at the prison. "The lawsuit demands GEO Group begin paying Washington detainees in accordance with wage laws, and that it fork over the extra profits it earned by allegedly underpaying workers."²⁷ The conditions in the prison were so severe that in 2017 there were five hunger strikes in protest of low wages, poor food, and inadequate medical treatment. More than 700 prisoners participated in the protest accounting for about half the population.^{28,29} A similar lawsuit has been filed on behalf of over 60,000 immigrants held in the Aurora, Colorado ICE Detention Center. They are suing GEO Group for their "voluntary work program" that paid them from nothing to \$1/day, and threatened those who refused to work under these conditions with solitary confinement.³⁰

These violations are poised to continue with a 43% increase in immigration arrests since Trump's inauguration as well as a backlog of over 600,000 cased in U.S. immigration court.³¹ This mass prosecution of undocumented border crossers has been so severe that many advocates are calling it "driving force in mass incarceration" in the United States."³² The 380,000 to 442,000 migrants held in U.S. detention centers show this.³³ 73% of

these facilities are privatized,³⁴ with a congressional mandate to maintain at least 34,000 detention beds a day."³⁵ The profits of these facilities are often at the expense of prison conditions. This summer, three deaths occurred in California detention centers due to poor medical care. Stock prices of private prisons have nearly doubled since Election Day.³⁶

IMMIGRANTS' RIGHTS AND THE BORDER WALL

In early 2017, Trump issued an executive order to build 1,250 miles of a border wall between the U.S. and Mexico.³⁷ The State of California sued the Trump administration on environmental and constitutional grounds.³⁸ The Tohono O'odham Nation is also resisting the construction of the wall on their lands (which includes 62 miles of US-Mexico border). Members of the nation argue that "A wall would not just split the tribe's traditional lands in the United States and Mexico..., [i]t would threaten an ancestral connection that has endured even as barriers, gates, cameras and Border Patrol agents have become a part of the landscape."³⁹ The construction of this border wall on Tohono O'odham land violates rights recognized under the United Nations Declaration on the Rights of Indigenous Peoples.⁴⁰

IMMIGRANT RIGHTS, BLACK IMMIGRATION AND THE MUSLIM BAN

Although Black immigrants constitute just five percent of the immigrant population, they are 21 percent of those deported as a result of alleged criminal contact.⁴¹ Currently there are 3.7 million Black immigrants living in the United States.⁴² Within that population Black women are more likely to be incarcerated and face higher levels of "criminal alien" detention and deportation than any other group.⁴³



In late 2017, despite ongoing protests, DHS announced the end of Temporary Protected Status for 60,000 Haitians and 2,500 Nicaraguans.

Human rights advocates are seriously concerned with plans to terminate the Temporary Protected Status (TPS) of citizens from Sudan in November 2018, despite unsafe conditions in their home country. Since the outbreak of civil war in Sudan, TPS had provided protection for Sudanese citizens for nearly 20 years. Likewise, in late 2017, despite public protests, the Department of Homeland Security announced the end of TPS for 2,500 Nicaraguans by January 2019⁴⁴ and 60,000 Haitians by July 2019.⁴⁵

This apparent agenda of social cleansing was also witnessed under the guise of the “travel ban.” Thus, Trump issued three versions of a ban blocking travel from Muslim-majority countries to the U.S. The first ban, chaotically rolled out in January, targeted refugees and seven Muslim-majority countries. The administration abandoned the policy after a series of federal courts blocked it citing the U.S. Constitution’s protection of religious freedom. The second order, issued in March,

targeted six of the same countries. A limited version of the ban was allowed to go into effect over the summer of 2017, following a temporary ruling by the Supreme Court. The nation’s highest court began hearing arguments in October from a collective of states with Democratic-majorities and migrant legal advocacy groups. They argue that Trump has exceeded his legal authority and has deliberately targeted Muslims.”⁴⁶ A third travel ban has added North Korea, Chad, and Venezuela to the list of targeted countries. This ban was allowed by the Supreme Court to take effect in December of 2017 and continues to be challenged legally.⁴⁷

SANCTUARY CITIES

The second executive order issued by Trump in 2017 declared that sanctuary cities who limit their cooperation with federal authorities would no longer be eligible for federal funding “except as deemed necessary for law enforcement purposes.”⁴⁸ A Federal judge granted a temporary national injunction against this order. In the State of California, lawmakers passed the landmark “sanctuary state” bill, the “California Values Act,” which directly expands protections for undocumented immigrants in the state. “The bill limits state and local law enforcement communication with federal immigration authorities, and prevents officers from questioning and holding people on immigration violations.”⁴⁹



Criminal Justice and Human Rights

The United States continues to engage in pervasive and pernicious human rights violations in its criminal justice system. Currently, there are 2.4 million people confined within local jails as well as state and federal prisons in the United States.¹ In addition, when those under supervised parole or probation are counted, the number of persons under correctional control swells to nearly seven million.² The rate of incarceration in the United States is the higher than any other developed country in the world.³ In the past decade, there has been a heightened awareness of the abuses of the criminal justice system in America, bolstered by works, such as Michelle Alexander's *The New Jim Crow*, the *#blacklivesmatter* movement, and the searing images of militarized repression of protests in the wake of the police killing of Michael Brown.

However, this movement to begin transforming the criminal justice system is seriously threatened by the election of Donald Trump and the appointment of Attorney General Jeff Sessions. Sessions previously opposed the Sentencing Reform Act of 2016 and has issued a memo directing prosecutors to pursue longer sentences.⁴ In light of these political developments, we hope that this report will assist activists in addressing human rights abuses in the United States criminal justice system at the federal, state and local levels.



WHAT ARE THE HUMAN RIGHTS OF RELATED TO CRIMINAL JUSTICE IN THE U.S.?

The Universal Declaration of Human Rights (UDHR)⁵—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline the rights of immigrants. A few of them are:

UDHR, Article 5: “No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment.

UDHR, Article 6: “Everyone has the right to recognition everywhere as a person before the law.”

UDHR, Article 7: “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

UDHR, Article 8: “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.”

UDHR, Article 9: “No one shall be subjected to arbitrary arrest, detention or exile.”

UDHR, Article 10: “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

UDHR, Article 11 (1): “Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a

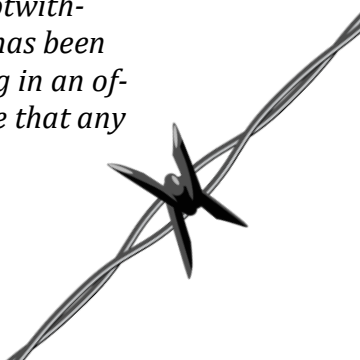
public trial at which he has had all the guarantees necessary for his defense.”

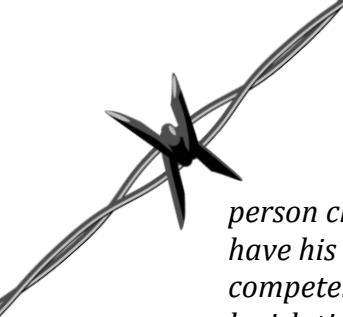
UDHR, Article 11 (2): “No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.”⁶

The rights of those who have contact with the U.S. criminal justice system were explicitly outlined in the *International Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) in 1981, *The Convention on the Rights of the Child* (CRC) in 1990 and *Convention on the Elimination of All Forms of Discrimination against Women* in 1979, although the United States has failed to ratify this treaty. The United States has, however, signed and ratified three treaties: The *International Covenant on Civil and Political Rights* (ICCPR) in 1992, the *Convention on the Elimination of Racial Discrimination* (CERD) in 1994 and the *Convention Against Torture* in 1994. These treaties include protections for those who have arrested, detained, imprisoned, or convicted of a crime.

The following are a few of the specific articles of the ICCPR, CERD and CAT relevant to criminal justice in the United States:

ICCPR, Article 3: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any





person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted.

ICCPR, Article 6 (1-2, 4-6): 1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life; 2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court; 4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases; 5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women; and 6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

ICCPR, Article 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be

subjected without his free consent to medical or scientific experimentation.

ICCPR, Article 9: 1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law; 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him; 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement; 4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful; 5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

ICCPR, Article 10: 1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person; 2.(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment

appropriate to their status as unconvicted persons;(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication; 3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

ICCPR, Article 14: 1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

ICCPR, Article 19: 1. Everyone shall have the right to hold opinions without interference; 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regard-

less of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.⁷

CERD, Article 2: “1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

CAT, Article 2: 1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction; 2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture; 3. An order from a superior officer or a public authority may not be invoked as a justification of torture.⁸

Additional human rights are listed in the endnotes.⁹

In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.¹⁰

In August of 2016, the United Nations Working Group of Experts on People of African Descent released its final report on its visit to the United States. The report

revealed “alarming levels of police brutality and excessive use of lethal force by law enforcement officials, committed with impunity against people of African descent in the United States.”¹¹ In addition, the U.S. currently does not have a national system to track killings by law enforcement since local law enforcement officials are not required to report incidents. The Department of Justice reported to the Working Group that it was building a nation-wide system for tracking this information although it has not been implemented. The Working Group affirmed that the killing of unarmed African Americans by police was only “the tip of the iceberg” revealing deep patterns of racial bias in the justice system. Testimonies from African Americans bear witness to patterns of police practices which violate human rights such as disproportionate surveillance, the denial of the presumption of innocence and the criminalization of their race.¹²

In July of 2017, the United Nations Working Group on Arbitrary Detention issued its final report on its visit to the United States. The report found that “lengthy pretrial detention was the norm rather than the exception” in clear opposition to the right to liberty under international human rights law.¹³ Testimonies from pretrial detainees demonstrate that many have spent years being detained without trial due to bond level beyond their ability to pay regardless of risk to the community. Such persistent patterns of arbitrary detention often result in the loss of employment, educational opportunities, housing, and custody of their children. The Working Group acknowledged such cases effectively constitute the “criminalization of poverty” in the U.S. criminal justice system.¹⁴

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ We demand an end to money bond and pre-trial detention.
- ✓ We demand divestment from policing and incarceration and investment in educational, employment and restorative justice resources.
- ✓ We demand community oversight of the police.
- ✓ We demand an end to the shackling of pregnant women.
- ✓ We demand an end to criminalization of children under 18 for prostitution offenses.
- ✓ We demand Congress to pass the End Racial Profiling Act.
- ✓ We demand the end of the criminalization, harassment and lack of protection of Black, Trans, Queer and gender nonconforming persons.

2017 VIOLATIONS HUMAN RIGHTS IN THE U.S. CRIMINAL JUSTICE SYSTEM

RACIAL PROFILING

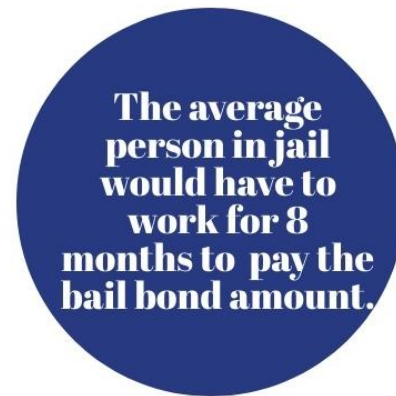
The path to violating the experience of equal protection under the law increasingly begins with racial profiling. The Stanford Open Policing Project found that Black and Hispanic drivers were stopped and searched more often for less evidence.¹⁵ As a result, people of color are more frequently charged with a crime (such as carrying contraband) even though statistically people of color are not more likely to engage in non-legal activities as whites. Human Rights organizations, such as the American Civil Liberties Union (ACLU) of Wisconsin, are challenging these violations through class-action suits to end stop-and-frisk programs.

Racial profiling by law enforcement officers also negatively impacts immigrant and transgender communities. Civil and human rights attorneys and advocates are expressing concern that Texas Senate Bill SB4, largely seen as a federal crackdown on “sanctuary cities,” would increase the profiling of immigrant communities.¹⁶ SB4 would authorize law enforcement officers to ask about the immigration status during a stop or arrest regardless of the reason. The year 2016 was the deadliest year on record for the LGBTQ community. And as of August 23rd, the rate of violence related homicide in 2017 is 29% higher than last year¹⁷ as these same communities continue to receive inadequate police protection. These incidents are occurring while the LGBTQ community continues to receive unequal protection in receiving aid from police after a violent incident. Sixty-six percent of persons surveyed said that the police were indifferent or hostile to them, and 52% of survivors reported that they experienced police misconduct after the initial incident of violence, including excessive force, unjustified arrest, entrapment, and raids.¹⁸

ENDING MONEY BOND AND PRE-TRIAL DETENTION

The rampant racial profiling by law enforcement has led to profound transgressions of human rights norms against arbitrary detention. In the U.S., 443,000 people are currently incarcerated awaiting trial.¹⁹ Nearly 90 percent of those awaiting trial are unable to post bond.²⁰ And those awaiting trial are disproportionately drawn from the poor. The report *Detaining the Poor* uses Bureau of Justice Statistics data to show that those in jail had a median annual income of \$15,109 prior to their incarceration. This is less

than half of the median income for non-incarcerated people of similar age. Moreover, the report reveals that the median bail bond amount in the U.S. of \$10,000 represents eight months of income for the average detained defendant.²¹ Reforming the systemic denial of human rights has emerged as a national demand of grassroots organizations in the U.S.



The median income of those in jail is \$15,109/yr prior to their incarceration. The median bail bond amount in the U.S. is \$10,000 representing eight months of income for the average detained defendant.

SENTENCING

The disparities at all levels of the criminal justice system include criminal processing and sentencing. Recent studies have disputed the effectiveness of pursuing “color-blind” sentencing, where the same crimes are given the same penalties regardless of race. Scientific models from Virginia Tech researchers suggest that “four decades after implementing this policy, African American incarceration rates would still be 2.5 times higher than their white peers.”²² As such, researchers

recommend a more comprehensive set of policies that equalize the sentences of those already incarcerated while minimizing “community members’ repeated exposure to incarceration.” The work of eliminating disparities in sentencing is needed not only between racial groups, but also within racial groups as well.



Implicit racial bias in sentencing is evident in the relationship between darker skin tones and, stronger Afrocentric features and longer sentences.

Recent empirical research suggests that implicit racial bias in sentencing is evident in the relationship between darker skin tones and, stronger Afrocentric features and longer sentences. Thus, defendants with darker skin, wider noses, coarser hair, darker eyes and fuller lips were perceived as more aggressive, prone to criminality, dangerousness, and law-breaking.²³ Leading researchers recommend that training to address this implicit bias must move beyond sentencing judges to probation officers who write presentencing reports as well as lawyers who recommend the length of sentences. The pervasive presence of implicit bias in the U.S. criminal justice also results in pro-

found disparities in the violation of human rights standards for humane conditions for detention.

PRISON CONDITIONS

In 2016, 45 years after the Attica prison uprising, prison protests occurred in Alabama, Florida, California, Ohio, and Michigan.²⁴ And, in March and April of 2017, prisons in Delaware and Tennessee also erupted in protest. Many prisons, such as the ones in Alabama investigated by the Equal Justice Initiative, are operating at twice their capacity, leading to a dramatic increase in violence, inmate murders, rape, and other sexual abuse.²⁵ Prisons in California continue to experience a steady rise in the rate and severity of mental illness.²⁶



A heatwave swept through California’s “prison alley” sending temperatures in cells up to 144 degrees.

Organizing from the inside to against human rights abuses, organizations such as Incarcerated Workers Organizers Committee (IWOC) launched the Corcoran Prisoners Need Heatwave Relief! to address the heatwave that swept through California's "prison alley" sending temperatures in cell to 144 degrees. In addition, IWOC also organized the "Millions for Prisoners March and Strike" campaign on August 19th, 2017 to abolish the 13th Amendment enslavement clause.



Currently there are 2.4 million people confined within local jails as well as state and federal prisons in the United States

SOLITARY CONFINEMENT

In the landmark case *Ashker v. California*, No. C 09-5796 CW (N.D. Cal. Jun. 2, 2014), a federal class action lawsuit, the court ruled that prisoners held in Security Housing Units (SHU) at California's Pelican Bay State Prison for a decade or more constitutes cruel and unusual punishment.²⁷ Pelican Bay prisoners were on lockdown 22 ½ to 24 hours a day in windowless cramped cells with no access to phone calls, visits or any form of programming. A November 2017 report by Human Rights in Trauma Mental Health Lab reveal the long-term effects of this practice include mood deterioration, depression, intense anxiety, emotional numbness, cognitive impairments and changes in perception in time. More importantly, the report is the first in-depth look into these effects on prisoners as they transition into general population. Many prisoners reported inadequate programs to transition into general population thus exacerbating the experience of feeling overwhelmed by the "contrast between the physical, social and sensory environments of SHU."²⁸ And some experiences of general population such as lockdowns are triggering and re-traumatizing by invoking experiences of being held in SHU. This report is important for human rights advocates. Juan E. Mendez, former UN Special Rapporteur on torture spent nearly six years unsuccessfully attempting to gain access to U.S. prisons to assess the conditions of solitary confinement.²⁹

In our political environment where the Trump administration expresses a desire to reinstate CIA's black sites and torture,³⁰ advocates must continue to be vigilant in pressing for the end solitary confinement.

Anti-Trump protests
in San Francisco's
Castro neighbor-
hood, January 2017.



Political Human Rights (Voting and Dissent)

The suppression of the right to vote and to right to dissent represents a serious threat to human rights in the United States. In 2016, Donald Trump secured victory through the Electoral College while losing the popular vote by nearly three million votes. Despite claims by the Trump campaign of widespread voter fraud, a study by The Brennan Center for Justice found that only 0.0001 percent of the votes cast in 2016 were fraudulent.¹ Despite these facts, on May 11th of 2017, the Trump administration issued an Executive Order establishing the Presidential Commission for Voter Integrity to examine alleged voter fraud. Kris K. Kobach, the Kansas Secretary of State known for his harsh stance against undocumented immigrants and leveling unsubstantiated claims that millions of non-citizens have voted, is vice chairman of the commission.²



Only 0.0001 percent of the
votes cast in 2016 were
fraudulent.

A wide range of civil and human rights organizations have expressed the view that the commission will be a vehicle for further voter suppression.³ In response to a request from three Democratic senators, the Government Accountability Office has investigated the commission for its lack of transparency regarding its activities. Resistance to this commission from states prompted the Trump administration to dissolve it on January 3rd, 2018. However, according to Kris Kobach, the work of the commission will continue within the Department of Homeland Security.⁴ This development should deeply concern human rights advocates, as this would make public oversight increasingly difficult.



In 2017 alone, 45 pieces of anti-demonstration legislation have been proposed or passed by state legislatures nationwide.

In 2017, populist energy in defense of democracy and human rights shaped demonstrations from NFL protests against police killing of unarmed black people to the Women's March. However, according to UN Special Rapporteur on the freedom of assembly, Maina Kiai, the United States is violating basic human rights through inhibiting the freedom of assembly.⁵ In 2017 alone, 45 pieces of an-

ti-demonstration legislation have been proposed or passed by state legislatures nationwide.⁶ In this current political environment, it is our hope that this report will provide a useful tool for those asserting their political rights at the federal, state and local levels.

WHAT ARE THE POLITICAL HUMAN RIGHTS OF PERSONS IN THE U.S.?

The Universal Declaration of Human Rights (UDHR)⁷—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline political rights. A few of them are:

UDHR, Article 20: *Everyone has the right to freedom of peaceful assembly and association.*⁸

UDHR, Article 21: *Everyone has the right to take part in the government of his country, directly or through freely chosen representatives [and to participate in] periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.*⁹

The political rights to vote and dissent were explicitly outlined in the *Convention on the Rights of Persons with Disabilities* in 2009 though the United States has failed to ratify this treaty.¹⁰ The United States has, however, signed and ratified three treaties:¹¹ the *International Covenant on Civil and Political Rights* (ICCPR) in 1992,¹² the *Convention on the Elimination of Racial Discrimination* (CERD) in 1994,¹³ and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) in 1994.

All of these treaties include protections for those exercising their right to vote, peacefully assemble and dissent.

ICCPR, Article 19 (1,2): *Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

ICCPR, Article 21: *The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests or national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.*¹⁴

ICCPR, Article 25: *Every citizen shall have the right and the opportunity without any of the distinctions mentioned in Article 2 and without unreasonable restrictions...to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors...*¹⁵

CERD, Article 5: *States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of [...] political rights, in particular the right to*

participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage... Further, CERD guarantees “the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (viii) The right to freedom of opinion and expression; (ix) The right to freedom of peaceful assembly and association.”¹⁶

Additional human rights are listed in the endnotes.¹⁷

In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.¹⁸

In 2010 the United Nations Human Rights Council created a UN Special Rapporteur on the right to freedom of assembly. The first Special Rapporteur, Maina Kiai completed an official visit to the United States in which he stated that America was struggling with living up to its ideals of racial, social, and economic equality and experiencing the “deepest social and political divisions in a generation.”¹⁹ More importantly, such divides cannot be addressed by criminalizing protests, but rather through cultivating a public sphere that encourages “participation, openness, dialogue and a plurality of voices.” Kiai affirms that such a goal requires “maximum protection and promotion of peaceful assembly and association rights.”²⁰ Finally, the Special Rapporteur expressed deep concern with the Trump administration’s approach to human rights due to xenophobic rhetoric, threats of expulsion of migrants on the basis of nationality and religion, acceptance of torture, intolerance of criticism and threats to withdraw from the United Nations.²¹

On May 1st of 2017 Special Rapporteur Annalisa Ciampi formally accepted the mandate from Maina Kiai for the right of peaceful assembly. In addition to following up with the recommendation from Kiai, Ciampi will also be investigating the use of force in managing assemblies as well as the increasing restrictions to assembly in the digital sphere.²²

In 1994, the U.S. signed and ratified the UN Committee on the Elimination of Racial Discrimination. In 2017, during its ninety-third session CERD issued an ‘early warning’ to the United States in response to the events in Charlottesville on August 11th and 12th that lead to the death of Heather Heyer and the beating of Deandre Harris by white supremacists.²³ The committee also cited the failure at the “highest level of the United States of America to unequivocally reject and condemn” the actions taken by white nationalists, neo-Nazis and the Ku Klux Klan.²⁴

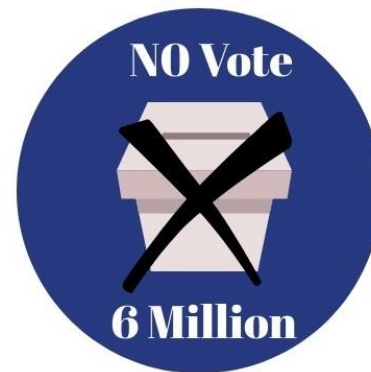
DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ Congress must pass the Democracy Restoration Act and the Voting Rights Advancement Act.²⁵
- ✓ States must adopt Automatic Voter Registration policies.
- ✓ End Gerrymandering by requiring that district maps be created by transparent community entities.
- ✓ Uphold the right to dissent as an individual or a group.
- ✓ Uphold the right to peacefully assemble, to express opinions, and to participate in public affairs.
- ✓ Restore and strengthen the Voting Rights Act.²⁶

2017 VIOLATIONS OF THE HUMAN RIGHTS TO VOTE AND DISSENT

VOTER DISENFRANCHISEMENT

In 2017, nearly 6 million people in the United States are currently unable to vote due to felony disenfranchisement or restrictive voting laws. According to The Sentencing Project this is a dramatic increase from the 1.7 million people who were unable to vote in 1976.²⁷



Nearly 6 million people in the United States are currently unable to vote due to felony disenfranchisement or restrictive voting laws.

The problem is particularly acute in states such as Florida where 10% of the adult population is barred from voting. Grassroots organizations such as People Power, Floridians for a Fair Democracy, and the ACLU are working to gather 1 million signatures for a Voter Restoration Amendment on the November ballot in 2018.²⁸ At the federal level S1588, the Democracy Restoration Act was reintroduced on July by Sen. Ben Cardin (D-Md.). The bill would restore voting rights to 4.7 million citizens who currently are not able to vote in federal elections due to a prior conviction.²⁹ The bill is also supported by civil rights advocates and a large coalition of civic organizations.³⁰

VOTING RIGHTS

This year marks the fourth anniversary of the Supreme Court's decision in *Shelby County, Alabama v. Holder*, 570 U.S. 2 (2013) in which Section 4 of the Voting Rights Act was found to be unconstitutional. The ruling allowed states with a history of racial discrimination to make changes to electoral laws without clearance from the federal government. Within weeks, North Carolina enacted what the 4th Circuit Court of Appeals called "the most restrictive voting law North Carolina has seen since the era of Jim Crow" that targets African American voters with "surgical precision."³¹ In addition, this year, federal courts have ruled three times that Texas intentionally discriminated against minority voters.³² Advocates are pointing to such cases as evidence that preclearance needs to be re-implemented. In addition, Rep. John Lewis and Rep. Terri Sewell have introduced the Voting Rights Advancement Act that places thirteen states back within federal authority.³³ Grassroots organizations are currently pressuring Congress to enact this legislation prior to the 2018 mid-term elections.³⁴

GERRYMANDERING

The presence of gerrymandering in the United States also continues to violate the right to civic participation. Organizations such as Michigan's Voters Not Politicians are actively challenging this practice that produces "inattentive, ineffective and unpopular representatives who continue to get re-elected" through ballot initiatives.³⁵ The initiative would amend Michigan's constitution to create an Independent Citizen Redistricting Commission (ICRC) which would be comprised of four democrats, four republicans and five independent and would be transparent about the

redistricting process.³⁶ As grassroots organizations continue to struggle against partisan gerrymandering, the Supreme Court began hearing oral arguments for a potentially precedent setting case *Gill v. Whitford* on October 3rd of 2017.³⁷ The case began when a three-judge federal panel ordered Wisconsin to redraw its map as the Republican controlled legislature in 2011 violated both the Equal Protection Clause and the plaintiff's First Amendment right to freedom of association.³⁸

RIGHT OF PEACEFUL ASSEMBLY

The fragility of the right to peacefully assemble in the United States is apparent in St. Louis Missouri in the wake of the acquittal of white police officer Jason Stockley of the killing of Anthony Lamar Smith.³⁹ The resulting demonstrations have lasted for over six weeks since the evening of September 17th, 2017. The police response included over 300 arrests that "swept up an undercover officer, an Air Force lieutenant, a reporter for The St. Louis Post-Dispatch and individuals who were not protesting."⁴⁰ Furthermore, the reports of police chanting "Whose streets? Our Streets" and pepper spraying protesters⁴¹ has pushed civil rights advocates to seek an investigation of police tactics by United States attorney Jeffrey Jensen. Sherrilyn Ifil, President of the NAACP Legal Defense and Education Fund stated that though the "reportedly violent response by police in St. Louis in recent weeks has failed to capture the country's attention in the same way, it is no less alarming."⁴²

RIGHT TO FREEDOM OF SPEECH

The image of former San Francisco 49ers quarterback Colin Kaepernick dropping his knee to lift up human rights continues

to be the subject of intense debates. In receiving an advocacy award from Southern California's ACLU, Kaepernick stated unequivocally that "we all have an obligation, no matter the risk and regardless of reward, to stand up for our fellow men and women who are being oppressed with the understanding that human rights cannot be compromised."⁴³ Opponents of Kaepernick's protest have tried to reframe his actions as disrespecting the flag rather than raising awareness about violence against African Americans.⁴⁴ President Donald Trump is one of these opponents. Speaking at a rally in Huntsville, Alabama, Trump said when a player "disrespects our flag" NFL should say 'Get that son of a bitch off the field right now, out. He's fired. He's fired.'⁴⁵ Trump's words—coming from a government official in the highest elected office in the United States—cannot be viewed as mere rhetoric. There is increasing evidence that Trump has leveraged his influence with NFL owners to punish Kaepernick by not hiring him. Such proclamations can have a chilling effect on the exercise of free speech. As such, it is critical that human rights advocates continue to emphasize that the right to hold opinions and express them is recognized by International Covenant on Civil and Political Rights (ICCPR) ratified by the U.S. in 1992.

RIGHT TO DISSENT

The existence of the COINTELPRO —short for *Counterintelligence*—Program was an FBI operation that was publicly exposed through leaked documents to the press in March of 1971. The program was a key instrument used in the surveillance, infiltration and disrupting of social and political movements during the 1960s. On October 6th, 2017 an FBI Counterterrorism Division report was leaked to *Foreign Policy* which identified their latest alleged threat as Black Identity Extremists or BIEs that would target law enforcement officials. The report, which focuses on "black separatist ideologies" characterizes racial injustices in general and police abuses in particular as "perceived" and "alleged."⁴⁶ Activists such as Malkia Cyril, Executive Director of Center for Media Justice and surveillance reform expert, argue that the new designation could be used to "neutralize people or organizations whose attitudes or beliefs the federal government perceives as threatening."⁴⁷ Cyril and the ACLU have filed a Freedom of Information Act request for FBI documents related to black activism and any association with ideology or extremism.⁴⁸ Cyril also argues that in America's high-tech civil society, an open internet where internet traffic is treated equally is an "antidote to authoritarianism" so that "voices of dissidence that have always been watched, can watch and talk back."⁴⁹ The right to dissent under the Trump administration will require vigilance from all persons and organizations that value human rights.



Human Right to Life and Security of Person

The right to life and security of person is fundamental to all other human rights. The United States is obligated to uphold and ensure that all people within its borders are safe and secure. The right to life and security of person encompasses a host of other issues including sexual violence, hate crimes, gun violence, racial profiling, police violence and killings, as well as the defunding of mental health services, and much more. Currently, and historically, the United States government consistently falls short of its obligations to refrain from violating the human rights of others, and also, to stop others (including corporations) from violating the human rights of those within its borders. The minimum safeguards that are in place to protect these rights, the U.S. Constitution and resulting civil rights laws, are inadequate to ensure the protection of all human rights in the United States.

**Violence
Against
LGBTQ
People Up
29%**

The year 2016 was the deadliest year on record for the LGBTQ community. And as of August 23rd the rate of violence related homicide in 2017 is 29% higher than last year

WHAT IS THE RIGHT TO LIFE AND SECURITY OF PERSON IN THE UNITED STATES?

The Universal Declaration of Human Rights (UDHR)¹—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline the rights of immigrants.

*UDHR, Art. 3: Everyone has the right to life, liberty, and security of person.*²

The right to life and security of person is mentioned in three treaties that the United States has signed and ratified: *International Covenant on Civil and Political Rights* (ICCPR) in 1992, the *Convention on the Elimination of All Forms of Racial Discrimination* (CERD) in 1994, *Convention Against Torture* in 1994.³

The ICCPR Article 6 states that the right to life is inherent and is protected by law.

The ICCPR Article 7 states that no one can be subjected to cruel, inhuman, or degrading treatment or punishment.

The ICCPR Article 9(1) states that everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

*CERD Article 5(b) states that the right of security of person is by the State against violence or bodily harm inflicted by government officials or any individual group or person.*⁴ *The Committee on the Elimination of Racial Discrimination issued an early*

warning statement after the Charlottesville incident. The committee condemned the Trump administration lack of action on rejecting racism and procedures necessary for the U.S. to take. In 2016, the UN Working Group of Experts on People of African Descent stated that the rise of police violence against African-Americans had created a human rights crisis that needed to be addressed immediately.

Additional human rights are listed in the endnotes.⁵

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ The federal government should adopt the recommendations provided in the Report of the Special Rapporteur on the rights of indigenous peoples on her mission to the United States of America.⁶
- ✓ Elected officials at local and federal agencies should adopt the South Asian American Leading Together (SAALT) recommendations from their Power, Pain, Potential Report dealing with racism towards South Asians, Sikhs, Muslims, and Arabs.⁷
- ✓ Amnesty International and 52 other NGOs and grassroots organizations sent a coalition letter to the DOJ Civil Rights Division to discuss racial profiling technology and procedures. Those recommendations should be implemented.⁸
- ✓ Employ humane alternatives to incarceration and confinement for the mentally ill.⁹

2017 VIOLATIONS OF THE HUMAN RIGHT TO LIFE AND SECURITY OF PERSON

HATE CRIMES

Hate crimes have continued to rise since the election of Donald Trump as President of the United States. Trump's rhetoric on the campaign trail seems to have emboldened white supremacists and neo-Nazi groups. The Southern Poverty Law Center (SPLC) has collected info on 1,372 hate-incidents between November 9, 2016—one day after Donald Trump was elected— and February 7, 2017.¹⁰ In August 2017, the Dar-Al-Farooq Islamic Center was bombed in Bloomington, Minnesota.¹¹ The FBI did not conclude it was a hate crime, but the Governor of Minnesota did. On June 18, 2017, Darwin Martinez Torres allegedly killed eighteen-year-old, Nabra Hassanen in Fairfax, VA. The Fairfax police stated that they were not investigating the murder as a hate crime but as a result of road rage. However, Nabra Hassanen's parents believe she was targeted because she was Muslim. She and her friends were wearing hijabs the day Nabra was killed.¹² On August 12, 2017, white supremacists planned a rally called "Unite the Right" in Charlottesville, VA. Counter-protesters against white supremacy rallied and, the demonstration turned violent resulting in the death of Heather D. Heyer and 34 others being injured when a car, driven by a white supremacist, was driven through the crowd. The police arrested James Alex Fields Jr. for driving the car that killed Heather Heyer.¹³

Further, the brutal beating of DeAndre Harris in Charlotte, North Carolina during that time was videotaped.¹⁴



There were
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and 31, 160 were injuries.

GUN VIOLENCE

There have been 344 mass shootings in the United States in 2017. Further, in the United States there was 61,335 gun-related violent incidents in 2017, 15, 549 of these resulted in death and 31, 160 were injuries.¹⁵ On October 1, 2017, the United States suffered its deadliest mass shooting committed by a person in modern history. Stephen Paddock a 64 years old white man, committed an act of terror by opening fire on individuals at the Route 91 Harvest Country Music Festival from the 32nd floor of the Mandalay Bay Hotel in Las Vegas, Nevada. The music festival had more than 20,000 attendees. Paddock killed 59 people and injured 527. He shot himself in the hotel room before authorities had a chance to arrest him. The police found an arsenal of at least 23 firearms in the hotel suite and 19 guns at his house as well as explosives and thousands of rounds of ammunition. Gun experts believe that Paddock may have used a trigger device (available for purchase online starting at only \$40) that can turn

a semi-automatic assault rifle into a fully automatic machine gun. Despite the extraordinary amount of destruction that was done, Congress and the Trump administration refused to take any meaningful action on gun control. In fact, Press Secretary Sara Huckabee Sanders stated, “a motive is yet to be determined and it would be premature for us to discuss policy when we don’t fully know all the facts or what took place that night,” in response to being asked about gun control. As a result of the shooting, the GOP put on the backburner two bills that would further weaken gun control laws; one would have removed long-standing restrictions on silencers.¹⁶

POLICE VIOLENCE AND POLICE KILLINGS

As of October 2017, the police had killed 964 individuals. Of those, a quarter of the victims were black. Black people are three times more likely to be killed by police and 30% of black victims were unarmed.¹⁷ On September 16, 2017, a judge in St. Louis ruled that Jason Stockley, a police officer, was not guilty of murdering Anthony Lamar Smith after shooting Smith following a car chase in 2011. Surveillance footage, dashcam video and court documents obtained by the Post-Dispatch indicate that Stockley approached Smith while holding a non-department-issued AK-47 assault rifle. Court documents say that Stockley said, “Going to kill this (expletive), don’t you know it,” during the ensuing pursuit. Stockley fired five shots into the car using his handgun. Both officers allege that Stockley shot Smith in self-defense because he believed he had a gun. After another officer arrived, Officer Stockley was seen on video reaching into a duffel bag in his squad car. The camera doesn’t reveal what he removed from the bag, but later

footage shows him near the driver seat of Smith’s car after the victim’s body was removed. Court documents revealed that a revolver found in Smith’s car tested positive for Officer Stockley’s DNA.¹⁸

On September 12, 2017, the Department of Justice announced that it would not bring federal criminal charges against the six Baltimore police officers who were involved in the death of 25-year-old Freddie Gray in April 2015. The decision comes after the Baltimore State’s Attorney’s Office failed to secure convictions in the trials of four of the officers, and eventually dropped all the charges. The Department of Justice cited insufficient evidence to support charges.¹⁹ On August 23, 2017, Kiwi Herring, an African-American transgender woman was killed by a St. Louis police officer. Relatives say the police officer shot Herring while responding to a dispute between Herring and her neighbors claiming she had attacked the officer with a knife.²⁰

SEXUAL HARASSMENT AND VIOLENCE

The “Me Too” movement was started in 2006 by Tarana Burke to help survivors of sexual violence particularly young women of color from low income communities. The #metoo hashtag went viral after actress, Alyssa Milano used it on social media after actress Ashley Judd came forward with sexual harassment claims against Hollywood producer, Harvey Weinstein.²¹

Organized groups of women that was part of the Women's March urged advertisers to drop Fox News host Bill O'Reilly who has been accused, on multiple occasions, of sexual harassment of women either seeking employment at Fox News or already employed there. Fox News, after pressure from these women finally let O'Reilly go. Perhaps one of the most impactful results of the movement was the firing of popular morning news hosts Matt Lauer and Charlie Rose after accusations of sexual harassment in the workplace.²² The willingness of networks to drop some of their highest paid and most popular host sent a signal that women's voices should be heard and that they should be believed if they are brave enough to come forward.

The public response and general support for the victims of sexual harassment signals a marked shift from the responses attorney and professor Anita Hill received during the Senate Judiciary Committee hearing in 1991. Hill accused U.S. Supreme Court nominee Clarence Thomas, her boss at the United States Department of Education and the Equal Employment Opportunity Commission, of sexual harassment.²³ In the Hill-Thomas situation, the public had a poor understanding of the nature and impact of sexual harassment, and, as a result of this and widespread misogyny, she was widely criticized and ostracized, while Clarence Thomas went on to become a justice in the highest court in the land.²⁴ Though, women showed support by wearing "I believe, Anita" buttons, the treatment of Hill may have had a chilling effect discouraging other women from coming forward.

Currently, the #metoo movement is markedly different as women from all walks of life have come forward on social media and in person to tell their stories. On Capitol Hill, Senator Al Franken (D-MN) stepped down from his U.S. Senate seat after multiple women came forward with allegations of sexual harassment and pressure from his fellow Democrats pressured him to step down.²⁵ Further, U.S. Representative Jackie Speier launched the #MeTooCongress campaign to raise awareness about sexual harassment and assault on Capitol Hill by sharing her own experience.²⁶ Speier along with Senator Kirsten Gillibrand introduced the Member and Employee Training and Oversight On Congress Act (ME TOO Congress) which would require sexual harassment awareness training and reform the process available for staffers to file complaints.²⁷

During Donald Trump's campaign, an Access Hollywood video was released in which he described grabbing women by their genitals without their consent²⁸ About 21 women (including Trump's ex-wife, Ivana Trump) have come forward with claims of sexual assault against Donald Trump.²⁹ Despite these revelations, Donald Trump was still elected as the President of the United States. Though some industries are making advancements to make work and other areas of life, safe for women, we have a long way to go when accused perpetrators are both in the White House and on the Supreme Court.



Human Right to Healthcare

In the United States, the right to health remains unrecognized and access to healthcare is wholly inadequate. According to the 2016 Current Population Survey Census, 27.5 million people do not have health insurance in the United States.¹ Access to healthcare remains tied to income levels and employment status.² The United States' failure to provide true universal healthcare coverage for all people within its borders means that not only is the right to health compromised, in some instances, so is the right to life. Grassroots groups and advocates demand a health-care system that provides health care as a public good, not a commodity.³

While the Patient Protection and Affordable Care Act (ACA) of 2010 has decreased the number of individuals without health insurance in the United States, it only allows for more individuals to purchase insurance.⁴

The ACA, though it is a start, does not provide universal healthcare for all. It maintains a for-profit, insurance-based system, rather than fully expand access to healthcare without preconditions for income or immigration status.⁵ Thus, many individuals remain unable to afford the high cost of insurance, even with the subsidies.⁶ Furthermore, the Trump administration's recent proposed reforms to the ACA threaten to negatively impact access to health care for people of color and marginalized populations, rather than increase access to adequate health care.⁷



27.5 million people do not have health insurance in the United States.

WHAT IS THE HUMAN RIGHT TO HEALTH IN THE UNITED STATES?

The Universal Declaration of Human Rights (UDHR)⁸—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline the right to health. A few of them are:

UDHR, Article 3: “Everyone has the right to life, liberty and security of person.”⁹

UDHR, Article 25: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control...”¹⁰

The right to health is explicitly outlined in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) in 1966, the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) in 1979, the *Convention on the Rights of the Child* in 1989, and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* in 1990. Although the United States has failed to ratify these treaties, it has signed and ratified¹¹ the *Convention on the Elimination of Racial Discrimination* (CERD) in 1994.¹² This treaty specifically outlines aspects of the right to health:

CERD, Article 5: “In compliance with the fundamental obligations laid down in article 2 of this Convention, States Par-

ties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:...(iv) The right to public health, medical care, social security and social services;...”¹³

Additional human rights are listed in the endnotes.¹⁴

In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.¹⁵

Most recently, in August 2017, the Committee on the Elimination of Racial Discrimination, issued a report on the Prevention of Racial Discrimination, including Early Warning and Urgent Action Procedures to the United States. The Committee called upon the United States to address one of the systemic causes of unequal access to healthcare, asking the United States to “fully respect its international obligations and in particular those arising from the International Convention on the Elimination of All Forms of Racial Discrimination to combat and eliminate all forms of racial discrimination.”¹⁶

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ Recognize the human right to health, and create a system focused on healthcare as a public good, rather than as a commodity.¹⁷
- ✓ Establish a HR676/single-payer national healthcare system that is publicly financed and organized by a single public or quasi-public agency.¹⁸

- ✓ Protect and expand Medicaid, rejecting reforms to the ACA such as the American Health Care Act which promotes caps on Medicaid and which bars Planned Parenthood and its affiliated clinics from participating in essential public health programs.¹⁹
- ✓ Protect Medicare benefits, and increase affordability of health care costs for older persons, rejecting the proposed ACA “age tax.”²⁰
- ✓ Ensure immigrants (regardless of immigration status) have access to quality, affordable healthcare.²¹
- ✓ Ensure individuals with disabilities are free from discrimination when accessing healthcare, removing financial, physical, systematic barriers that prevent equal access.²²
- ✓ Ensure that LGBTQIA individuals can access non-discriminatory and culturally competent health care.²³
- ✓ Increase access to appropriate and affordable health services that positively impact the health outcomes for women, especially for black women and other minority populations²⁴

2017 VIOLATIONS OF THE RIGHT TO HEALTH

In the United States, most uninsured individuals report that they do not have healthcare because of the high cost of insurance. As a result, twenty percent of this population does not seek medical care, resulting in less preventative care, postponed treatment, and the development of more serious health issues. When uninsured individuals do seek care, they are often unable to pay medical bills, resulting in long-term debt, bankruptcy and

homelessness. Disparities in healthcare coverage disproportionately impact vulnerable populations in the United States.²⁵

Most often, the uninsured population consists of low-income families, often composed of African Americans and other people of color. Thus, the United States has failed to fulfill its obligations under the Convention on the Elimination of Racial Discrimination.²⁶ The Trump administration’s proposed reforms to the ACA, including Medicaid cuts and the elimination of the Individual Mandate, would disproportionately impact access to healthcare for the uninsured population. Additionally, the Latinx population in the United States experiences overall poor health outcomes in comparison to the white population.²⁷ This population is also three times more likely to be diagnosed with HIV.²⁸

As Puerto Rico is a territory and not a state, it does not receive the same federal matching funds towards Medicaid.²⁹ It receives a much lower rate, severely impacting the stability of the territory’s healthcare system. Puerto Rico experiences higher rates of diabetes, heart disease, HIV, and infant mortality than the rest of the country. Furthermore, the island has reported approximately 40,000 cases of the Zika virus.³⁰ In 2017, Hurricanes Maria and Irma compounded the adverse state of healthcare in Puerto Rico, leaving hospitals with limited clean water and electricity for an extended period of time.³¹ Due to the lack of adequate assistance from the federal government and FEMA, the healthcare system continues to operate in an emergency state with most primary care physicians unable to provide preventative care and chronic illness management.³²

Over 31 million children are living in low-income families. Of that number, 6.6 million children—or 9% of the underaged population—live in extreme poverty (defined as 50% of the poverty threshold) with overrepresentation of children of color: in 2015, 18% of Black children and 17% of Indigenous children live in extreme poverty, as opposed to 6% of white children, according to the Kids Count Data Center.³³ The impact of poverty on vulnerable populations underlines the need for robust social welfare programs. However, in September Congress failed to reauthorize the Children’s Health Insurance Program (CHIP), which provided medical insurance for children whose families do not qualify for Medicaid, jeopardizing the medical health of 9 million children.³⁴ Complementing this legislative failure is a budget resolution that recently passed Congress, detailing a \$1.3 trillion cut over the next 10 years to non-Medicare health programs (Medicaid and Obamacare) and \$653 billion of cuts towards “income security” spending, which notably includes the Supplemental Nutrition Assistance Program (SNAP) formerly known as Food Stamps.³⁵

POLICE VIOLENCE AND THE RIGHT TO HEALTH

Harassment and physical violence by police officers against individuals in the United States violates the right to health. According to a recent report, “Law Enforcement Violence as a Public Health Issue,” harassment and physical violence by police officers negatively impacts the physical and mental health of impacted individuals and communities.³⁶ As certain laws in the United States lead to discriminatory practices and criminalization, police violence disproportionately impacts the health of specific populations, including people of color, members of the

LGBTQ community, those experiencing homelessness, and sex workers.³⁷ Police violence often results in injury or death.³⁸ From 2015 through 2016, over 2,000 people were killed by police.³⁹ Additionally, survivors and witnesses of harassment and/or violence by the police often suffer from negative mental health consequences.⁴⁰ Furthermore, police violence has been found to be associated with other long term health issues, such as high blood pressure and asthma.⁴¹

PEOPLE WITH PHYSICAL AND MENTAL DISABILITIES

According to 2010 report on the census, “Americans with Disabilities,” 19 percent of the population in the United States has a disability.⁴² This report indicates that people with disabilities in the United States experience higher rates of poverty.⁴³ According to the National Alliance on Mental Illness, 18.5 percent of adults in the United States experience mental illness in a given year, and 4 percent of adults experience mental illness that substantially interferes with major life activities.⁴⁴ Less than half of these impacted individuals receive mental health services.⁴⁵

Access to adequate health insurance in the United States continues to rely heavily on employment status as employers remain the main provider of health insurance.⁴⁶ Therefore, individuals that are unable to work due to a disability are at a disadvantage. Many individuals with physical and mental disabilities do not meet the definition of disability required by Medicare’s Social Security Disability Insurance (SSDI).⁴⁷ Furthermore, individuals that apply for SSDI experience long waiting periods without insurance before finding out if they qualify to receive benefits.⁴⁸

NATIVE AMERICANS

Native Americans are twice as likely as white Americans to report asthma, diabetes, and overall poor health status.⁴⁹ A recent study indicated that 19 percent of Native Americans delayed or did not receive healthcare over the course of 12 months due to the cost.⁵⁰ Furthermore, environmental pollution, primarily from energy development initiatives, negatively impacts the health of Native Americans. For instance, the flaring of natural gas in the Bakken formation in North Dakota due to energy development in the area has resulted in adverse health effects in the surrounding Indigenous communities, including cancer, lung damage, and other neurological effects.⁵¹

LGBTQIA

Lesbian, gay, and bisexual individuals experience disproportionate mental and physical health disparities than heterosexual individuals.⁵² Further, in 2017, The Inter-American Commission on Human Rights (IACHR) expressed concern over the current health of transgender individuals, encouraging the adoption of measures to “...mainstream a gender identity approach into public policies that seek to break the cycles of poverty, exclusion, violence, and criminalization that affect trans people in the Americas.”⁵³ The Trump administration’s recent decision to remove sexual orientation and gender identity data collection measures from the National Survey on Older Americans Act Participants and the Centers for Independent Living Annual Performance Report ignores this call to “mainstream a gender identity approach.”⁵⁴

In another report, the IACHR, however, did praise the United States for several measures taken to protect the right to health for LGBTQIA individuals, including the creation of a federal law that bans contractors from discriminating against LGBT people when providing services, recent ordinances passed in Seattle and Miami that criminalize “conversion therapy” with a goal of changing a minor’s sexual orientation, and New York’s Department of Health and Mental Hygiene’s decision to change an intersex person’s birth certificate to read “intersex” instead of the traditional designation of either “female” or “male.”⁵⁵

JUSTICE-INVOLVED POPULATIONS

As incarceration often serves as a substitute for mental healthcare facilities in the United States, individuals with mental illness represent a large portion of the incarcerated population.⁵⁶ Moreover, this population often receives longer sentences than individuals without mental illness. The United States does not provide adequate mental health care for justice-involved populations, and the current system often results in an increase in mental illness. In a July 2017 report, the U.S. Office of Inspector General found that the Federal Bureau of Prisons (BOP) “does not adequately address confinement of inmates with mental illness.” Even though 19 percent of federal inmates have a history of mental illness, only 3 percent are treated regularly. Furthermore, in the BOP, 9,749 inmates out of 148,227 inmates are confined in Restrictive Housing Units (RHU). Research reveals that confinement in RHU, even over a short period of time, may negatively impact inmates’ mental health.⁵⁷



Poster commissioned by Megan Holbrook at the Women's March on January 21, 2017, in San Francisco

REPRODUCTIVE HUMAN RIGHTS

Access to healthcare must include reproductive services for people of all races, genders, and sexual orientations. In the United States, access to reproductive health services continues to be an obstacle for many. Reproductive rights include access to family planning services, fact-based sexual education in schools, contraception, abortion, cancer-prevention, and pre-natal care. Although the Supreme Court protected the right to an abortion in the 1973 decision, *Roe v Wade*, there have been 334 new abortion restrictions enacted between January 2011 and July 2016.¹ The intersection of identities such as race, class, gender, gender-identity, sexual orientation, and disability further exacerbates the disparities in access to basic care related to their reproductive health.

Forced Sterilization in 11 states

In eleven states, the courts are authorized to order the involuntary sterilization of a person with a disability

HOW ARE HUMAN RIGHTS AND REPRODUCTIVE JUSTICE LINKED IN THE UDHR?

The Universal Declaration of Human Rights (UDHR)²—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline reproductive rights. A few of them are:

UDHR, Article 3: “Everyone has the right to life, liberty and security of person.”³

UDHR, Article 16 (3): “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”

UDHR, Article 25 (1): “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control...”⁴

UDHR, Article 25 (2): “Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”

The *Convention for the Elimination of all forms of Discrimination Against Women* (CEDAW), the *Convention on the Rights of Persons with Disabilities* (CRPD), and the *Convention on the Rights of the Child* (CRC) address reproductive justice directly, though the United States has failed to ratify these treaties. The United States has, however, signed and ratified three treaties:⁵ The *International Covenant on*

Civil and Political Rights (ICCPR) in 1992,⁶ the *Convention on the Elimination of Racial Discrimination* (CERD) in 1994⁷ and the *Convention Against Torture* in 1994.⁸

Convention on the Rights of Persons with Disabilities (CRPD):

CRPD, Article 25(a) stipulates that persons with disabilities must have access to free or affordable health care and programs as provided to other persons, including in the area of sexual and reproductive health.

Convention on the Rights of the Child:

CRC, Article 24 mandates access to proper healthcare for children and their mothers including appropriate pre-natal and post-natal healthcare, education on the advantages of breastfeeding, and family planning.

Convention for the Elimination of all forms of Discrimination Against Women:

CEDAW, Article 5(b) ensures that family education includes a proper understanding of maternity as a social function.

CEDAW, Article 12 aims to eliminate discrimination against women in health care to ensure access to health care services, including those related to family planning.

Convention on the Elimination of Racial Discrimination:

CERD, Article 5 (iv) ensures the right to public health, medical care, social security, and social services.

Additional human rights are listed in the endnotes.⁹ In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.

The United States government has adopted the United Nation's Sustainable Development Goals (SDGs). The 2030 Agenda for Sustainable Development targets the lack of access to sexual and reproductive health and rights as among the most pressing concerns for women and girls with disabilities. Women with disabilities are more likely to have hysterectomies at a younger age and for a non-medically necessary reason, including by request of a parent or guardian. Since 2012, there have been 12 confirmed cases and over 100 suspected cases of families subjecting their disabled children to similar treatment. Women with disabilities also frequently encounter pressure from doctors, guardians, social service workers, parents and society to abort a pregnancy because of a misperception of the possibility of passing on disabilities to their children—even if the disability is not genetic.¹⁰

In 2014, the California Legislature enacted a statute that prohibits sterilization for the purpose of birth control of an individual under the control of the Department of Corrections and Rehabilitation or a county correctional facility, and limits sterilizations for other purposes to cases of medical emergency.¹¹

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ Ensure affordable reproductive healthcare for all women in the United States (recognizing healthcare as a human right).¹²
- ✓ Ensure access to sexuality education, contraception, abortion, prenatal care, and childbearing assistance for all women in the United States (reverse the shortage of trained abortion providers throughout the country).¹³
- ✓ Pass the Equal Access to Abortion Coverage in Health Insurance (EACH) Woman Act, which “increases access to health care for low-income women by lifting restrictions on federal abortion coverage and prohibiting political interference with private insurance plans that decide to cover abortion care.”¹⁴
- ✓ Ensure affordable access to gender-affirming healthcare for transgender and gender non-conforming people, including hormones and surgery.¹⁵
- ✓ Eliminate reproductive health disparities for women of color (including Indigenous women), ethnic minorities, women with disabilities, LGBTQIA, and poor women.
- ✓ Ensure any measure to repeal the Affordable Care Act retains existing protections against gender-based discrimination in health care provision.¹⁶
- ✓ Oppose TRAP laws, which are burdensome and medically unnecessary.¹⁷
- ✓ Remove discriminatory exclusions in public and private health insurance plans barring transgender-related care.¹⁸

2017 HUMAN RIGHTS ISSUES RELATED TO REPRODUCTIVE HEALTH

Women of color in general, fare far worse than white women in every aspect of reproductive health. Due to the high cost of healthcare in the United States, and limited sexual health education, low-income women rely on Medicaid and other forms of government subsidized health insurance such as the Affordable Care Act (ACA) and Title X of the Public Health Service Act for their reproductive services. Intersecting identities further compound limited accessibility, leaving marginalized people without the right to make informed choices about their reproductive health and family planning.

NATIVE WOMEN & ACCESS TO CONTRACEPTION

Native American women face multiple barriers when attempting to access contraception, including Plan B—which prevents pregnancy if taken within 72 hours of sexual activity—and other forms of emergency contraception. To date, a mere 10% of surveyed Indian Health Service (IHS) pharmacies have Plan B® available over-the-counter (OTC). Even with a prescription, Plan B was available at 50% of the pharmacies in the same study from January 2008. Further, a 2002 study from the Native American Women’s Health Education Resource Center (NAWHERC) found that the IHS was not providing lawful abortion services to Native American women. 85% of the IHS units surveyed were “noncompliant with official IHS abortion policy” and 62% stated that they do not provide abortions even in the case of life endangerment.¹⁹

PRENATAL CARE FOR BLACK WOMEN

Research from the past fifty years has revealed that “African American women die in pregnancy or childbirth at a rate of three to four times the rate of white women.”²⁰ While no single factor can explain this racial disparity, access to prenatal care is linked with reduced maternal mortality and other negative pregnancy outcomes. Even one prenatal appointment impacts a woman’s chances of survival after a live birth up to three to four times. However, “women of color disproportionately rely on Medicaid” as they are more likely to be uninsured than white women due to working “in low-wage jobs that do not offer employer-based health insurance.”²¹

REPRODUCTIVE HEALTH FOR LOW-INCOME WOMEN

Title X of the Public Health Service Act is intended to fill the gap for low-income women without health insurance. Offering services to 6.6 million low-income women, with women of color constituting 40 percent of those receiving contraceptive services through Title X. Unfortunately, this program is disastrously underfunded, and many women and their families are unable to access the services required to lead healthy, productive lives. The government must take responsibility for creating and perpetuating health disparities which leave women of color and their families vulnerable.

DISCRIMINATION AGAINST TRANSGENDER PEOPLE

The conversation surrounding reproductive health is often limited to cisgender women, but transgender individuals face severe challenges when attempting to access reproductive health services. A lack of research and data further contributes to misunderstandings about the needs of transgender people accessing health services as well as underfunded programs for specific health needs. Navigating justice for transgender individuals presents unique challenges and non-judgmental, comprehensive services without expectations or limitations is imperative.²² Access to health care continues to pose significant barriers for transgender people, who face “significant job loss and job fragility and, therefore, a higher rate of uninsurance.”²³



1 in 5 transgender patients have been refused medical treatment, and 1 in 3 has been verbally or physically harassed by medical providers

The National Center for Transgender Equality reports that about 50% of trans people delay care because they can't afford it. Those who can afford it, face barriers to treatment including 1 in 5 who have been refused medical treatment, and 1 in 3 has been verbally or physically harassed by medical providers.²⁴

FORCED STERILIZATION

Women with disabilities also frequently encounter pressure from doctors, guardians, social service workers, parents, and society to terminate a pregnancy or to be sterilized. This is due, in part, to the misperception that the disability may potentially be passed on to their children, even if the disability is not genetic. The family's decision can sometimes override the individual's consent, with 12 confirmed cases of sterilization of disabled children and over 100 suspected cases since 2012. In eleven states, the courts are authorized to order the involuntary sterilization of a person with a disability.²⁵

Similarly, incarcerated women face issues of forced sterilization while under the control of the Department of Corrections and Rehabilitation, sometimes consenting to a procedure they do not fully understand. In California, a 2014 statute was enacted that prohibits sterilization for the purpose of birth control.²⁶

BREAST FEEDING

The United States Breastfeeding Committee (USBC) calls for protecting, promoting, and supporting breastfeeding as a public health imperative. This includes increasing funding for initiatives which improve maternity care practices and provide support for continued breastfeeding care. For working parents, laws must

be put in place which support those who are nursing. This includes strengthening the “Break Time for Nursing Mothers,” a federal law which would provide unpaid break time and a private space to express breast milk during the day. In addition, workplace discrimination against breast-feeding mothers can be prevented via passage of accommodation legislation with language that explicitly includes lactation in the statutory language. Enhancing existing programs can ensure that low-income families and women of color are supported post-pregnancy. This includes continuing the Maternal, Infant and Early Childhood Home Visiting (MIECHV) program, which provides critical resources and new parents who are considered particularly at-risk.²⁷

COMPREHENSIVE SEXUAL EDUCATION

Multiple reproductive justice-focused organizations, including Planned Parenthood, Sister Song, NARAL, and NOW, call for inclusive and accessible sex education for children and teenagers. These programs should be federally funded and include the Personal Education Program (PREP) and the Teen Pregnancy Prevention Program (TPPP) that offer age-appropriate and unbiased information regarding sexual health.²⁸ Access to accurate and informative information must also address socioeconomic issues and be culturally sensitive “to enable youth to lead successful and health lives.”²⁹ Abstinence-only education or other shame-based tactics which do not rely on factual information should not be funded by the government. This include Crisis Pregnancy Centers, which “mislead and shame”

people about their reproductive health care options and actively block access to safe abortions.³⁰

POSTPARTUM CARE

While much media attention has highlighted women in developing countries who experience complications as a result of inadequate postpartum healthcare, new mothers in the United States face a series of similar healthcare issues after giving birth. For many women, their vaginas are badly injured after giving birth and their experiences are minimized, misdiagnosed, or ignored entirely. Studies from the American Society for Colon and Rectal Surgeries and Harvard University estimates that 40% of women have a rectocele and 80% to 20% of women might have small rectoceles. Defined as a herniation of the rectum into the posterior vaginal wall that results in a vaginal bulge by the National Institute of Health, individuals who have recently given birth may not even know they have one. However, those with rectoceles generally complain of perineal and vaginal pressure, obstructive defecation, constipation, or the need to splint or digitally reduce the vagina to effectuate a bowel movement.” In France, “where the republic wants to increase the population and the culture values sexuality, women may take vaginal rejuvenation classes or “rééducation périnéale”: 10 to 20 sessions of pelvic floor physiotherapy, paid for by the government.” The United States needs to do more to invest in the sexual and reproductive health of people within its borders.³¹

As of 2017,
San Francisco's
unhoused popu-
lation is current-
ly at 10,000



Housing and Human Rights

The human right to clean, safe, and affordable housing is an integral component of the right to an adequate standard of living, yet it is a right that is continually violated with the rise of unchecked urban development, climate change-driven natural disasters, evictions, discriminatory and predatory renting practices, and the lack of social protections for vulnerable families. The importance of housing cannot be understated because it has the potential to impact many other human rights in profound ways, including the rights to education, health, security, and even life.¹

According to international standards, the human right to housing "consists of seven elements: (1) security of tenure, (2) availability of services, materials, and infrastructure (3) affordability, (4) accessibility, (5) habitability, (6) location, and (7) cultural adequacy. Human rights law requires that countries take progressive steps to respect, protect, and fulfill the right, to the maximum of the country's available resources, in a non-discriminatory manner."²



WHAT ARE THE HUMAN RIGHTS RELATED TO HOUSING IN THE U.S.?

The Universal Declaration of Human Rights (UDHR)³—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline rights to housing. A few of them are:

UDHR, Article 25: Everyone 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.

The right to housing is explicitly outlined in the *International Convention on Economic, Social and Cultural Rights* (ICESCR),⁴ even though the United States has failed to ratify this treaty. The United States has also failed to sign or ratify the majority of major international declarations and conventions that guarantee accessible, affordable, and adequate housing.⁵ The United States has, however, signed and ratified three treaties: The *International Covenant on Civil and Political Rights* (ICCPR), the *International Convention on the Elimination of all forms of Racial Discrimination* (CERD), and the *Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment* (CAT). The ICCPR and CERD both include protections that guarantee shelter and include housing as a key component of a person's well-being and health.

In 2017, the UN Working Group on Discrimination Against Women released its general recommendation update, which included ensuring the availability of affordable housing and land tenure rights for women who are survivors of violence and their.⁶ Additionally, the latest report of the Special Rapporteur on adequate

housing advocated the right to an adequate standard of living, and on the right to nondiscrimination as integral to the protection of the right to housing.⁷

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ Pass rental protection laws at the state and local levels to prevent displacement of vulnerable communities in the United States.
- ✓ End the criminalization of homelessness, and preserve the civil rights of the unhoused through the implementation of Homeless Bills of Rights at the State level.⁸
- ✓ Strengthen the Fair Housing Act and the Violence Against Women Act (VAWA) and encourage states and municipalities to expand VAWA's protections to housing that has no federal subsidy.⁹
- ✓ Increase HUD's ability to serve and house low-income individuals and for ongoing support of the National Housing Trust Fund.¹⁰
- ✓ Support the development of Community Land Trusts (CLTs), Limited Equity Housing Co-Ops (LEHCs), and other co-operative land and housing arrangements.¹¹
- ✓ Congress, state, and local governments should pass protections for renters, including just-cause eviction laws and the Permanently Protecting Tenants at Foreclosure Act, including a private right of action, ensure no person need pay more than 30 percent of their income on housing, and vest authority in the Consumer Protection Financial Bureau to regulate and enforce compliance.¹²

- ✓ Authorize disaster recovery funding, when appropriate, to help address the housing needs of extremely low-income renters impacted by natural and manmade disasters.¹³

2017 VIOLATIONS OF THE HUMAN RIGHT TO HOUSING

TENANT PROTECTIONS AND AFFORDABLE HOUSING

The past several years, many communities across America have been embroiled in a housing crisis threatening the right to clean, safe, and affordable housing. HUD's 2017 Worst Case Housing Needs report to Congress provides an estimate of renters who are experiencing "worst-case" housing needs, indicating that they have very low incomes (below 50% of the median income in their area); do not receive government housing assistance; and either have severe rent burdens (paying more than 50% of their income in rents), or live in severely inadequate and/or substandard housing.¹⁴ According to this report, there was an 8% increase in the number of households with worst-case housing needs during the 2013-2015 period, from 7.72 million to 8.30 million households. These "worst-case" housing needs were overwhelmingly driven by severe rent burdens and severely inadequate housing.¹⁵ Additionally, half of all low-income American families who rent spend more than 50 percent of their income on housing costs.¹⁶

Of those experiencing "worst-case" housing needs, Hispanic people and non-Hispanic Black people are overrepresented.¹⁷ Black people comprise approximately 13% of the total population, but 21.7% of renters experiencing worst-case

housing needs; and Hispanic persons, who represent approximately 16% of the total population, but 25.3% of renters experiencing worst-case housing needs. The shares of very-low-income renters with worst-case needs also increased more quickly for non-Hispanic Black renters (up 1.9 points) and Hispanic renters (up 3.3 points) than for non-Hispanic White renters (up 0.6 points).¹⁸

Further exacerbating this problem is the shortage of legal protections for renters, who are disproportionately low-income and from communities of color, and renters who are particularly vulnerable to eviction without cause in many areas. For example, renters can be evicted from owners' properties with little or no warning in the case of foreclosure. Housing advocates urge the passage of just-cause and the permanent reinstatement of the Protecting Tenants at Foreclosure Act, which expired at the end of 2014.¹⁹



In many cities in America, families can be evicted from their homes for no reason. Also, their rent can be increased \$1000s of dollars per month with minimal warning.

Housing advocates and activists have also identified a lack of representation in housing court as a major contributing factor to eviction, gentrification, and home dispossession, but some cities are taking steps to curb this issue. New York City has become a model city because of its strong tenant protection laws, and, most recently, for the implementation of legislation that would guarantee this right to counsel for tenants. Since recent signing of this legislation, channeling funds into programs that would grant funding to low-income tenants to find representation in housing court, some 40,000 people are estimated to have avoided eviction in 2015 and 2016. Movements for similar legislation have been building in San Francisco and Philadelphia.²⁰

For many cities, however, because there is no rent stabilization or just cause protections for tenants, even if tenants have counsel, it would do little to help them stay in their homes. Communities across the country are focusing their efforts on gaining fair, common sense rental protections to prevent displacement of vulnerable communities across the United States in the face of urban renewal and gentrification.

HOMELESSNESS

Two major issues facing individuals and families experiencing homelessness in the United States include criminalization of homelessness and high numbers of youth experiencing homelessness who disproportionately identify as LGBTQ. Laws targeting daily life and routines of people experiencing homelessness have inhibited their abilities to perform basic, life-sustaining functions, and in some places leads to high rates of incarceration.²¹

While there is a decrease in unsheltered homelessness at the national level, only 18 states reported decreases in the number of people living in unsheltered locations. The national decrease in unsheltered homelessness was driven in large part by decreases in unsheltered homelessness in Florida, Texas, and Georgia.²² Communities of color, especially African Americans and Native Americans, are overrepresented in the unhoused population in some areas, as are survivors of domestic violence and those living with mental illness.²³

Youth homelessness is also of major concern. Around one-fifth of the homeless population in the United States is composed of children,²⁴ and trends indicate that in New York City's public schools alone, one in seven children could experience homelessness during elementary school.²⁵ Youth who identify as LGBTQ are at heightened risk of experiencing homelessness and are likely to experience heightened stigma while navigating homelessness services. Further, 40% of youth experiencing homelessness identify as LGBTQ, and their experiences of homelessness are often subject to heightened discipline, punishment, and instability due to their perceived gender non-conforming presentation and behaviors.²⁶

Of significant concern to housing advocates in the past year has been the displacement of mobile home residents, who do not own the land under their homes and are particularly vulnerable to eviction during the implementation of urban development plans. This causes major disruptions to many residents' lives, including job loss, depletion of savings, and diminishing of quality of housing.²⁷

PUBLIC AND SUBSIDIZED HOUSING

Policies and agencies meant to support public and subsidized housing face major budget cuts, which will likely exacerbate the affordable housing gap and impact the health and well-being of the members of the nation's low-income households. In March 2017, the National Low-Income Housing Coalition released its annual analysis of "the affordable housing gap".²⁸ It showed that only about one-third of the nation's 11.4 million extremely low-income households (those with an annual income of less than about \$20,000 for a family of four) are able to find housing they could afford. The other 7.4 million equally under resourced households who cannot find affordable housing endure a crisis every month. Most of those households must spend most of their income on rent and utilities, forcing them to skimp on healthy foods, medicine, transportation, and educational programs.²⁹

Additionally, there are continued threats to slash funding from federal agencies that lend assistance to poor people who live in cities, including significant cuts to the Department of Housing and Urban Development, the Department of Education, the Department of Health and Human Services, and the Community Development Block Grant program, which provides money for neighborhood investment, the HOME Investment Partnership Program, which provides grants for low-income people to buy or rehabilitate homes, and the Choice Neighborhoods program, which provides grants to organizations attempting to revitalize neighborhoods. The U.S. Interagency Council on Homelessness, which coordinates how 19 federal agencies respond to homelessness, is also under threat of elimination.³⁰

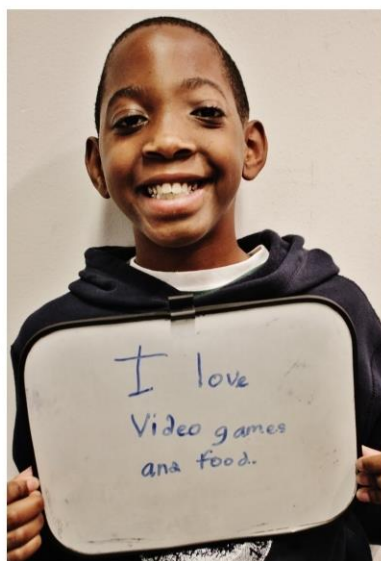
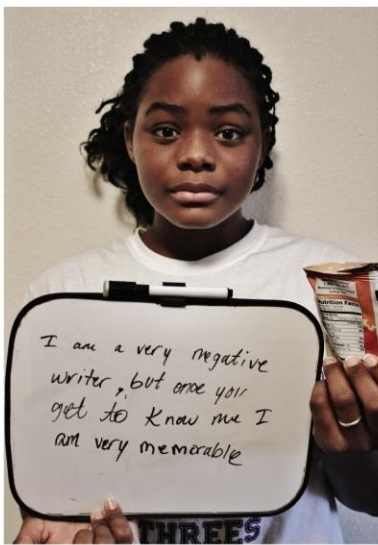
Many major cities in the United States are also facing a crisis in meeting demand for subsidized housing and rental assistance provision. The last time Boston accepted new applications for rental-assistance Section 8 vouchers was 9 years ago. In Los Angeles, the estimated wait time for a Section 8 voucher is 11 years. In Washington, the waiting list for housing vouchers is closed indefinitely, and over 40,000 people have applied for public housing. Nationwide, only 1 in 4 households that qualifies for rental assistance receives it.³¹

COMMUNITY LAND TRUSTS

Overcrowded and hyperinflated real-estate markets threaten housing rights in urban areas, and advocates have called for the expansion of place-based, community-directed development. Democratically governed Community Land Trusts could pool public resources to enable residents to chart local development as owner-members.³²

CLIMATE-INDUCED DISPLACEMENT

Environmental hazards, exacerbated by the landfall of major hurricanes this year, continue to pose a threat to the guarantee of the right to adequate housing. Since the 1980s, studies show waste sites, landfills, and hazardous facilities are disproportionately located in poor and minority neighborhoods. Slashes to Superfund's budget over the years (\$1.1 billion a year, about half of what it did in 1999), have caused cleanup to move at a glacial pace.³³ Residents of Texas, Florida, the U.S. Virgin Islands, and Puerto Rico have also faced flooding, mold growth, exposure to industrial toxins, and spikes in rental costs after the landfall of hurricanes Harvey, Irma, and Maria.



Education and Human Rights

The right to education is a fundamental human right established and protected by numerous international treaties. Despite landmark rulings by the Supreme Court and the development of legislation protecting all individuals from discrimination, many children and young adults are being denied equal access to education in the United States. Issues such as continued racial and socio-economic segregation, changing immigration policies, and severe resource inequities in the public-school system disproportionately affects girls, children of color, immigrants, and children with disabilities.

In 2017, a number of legislative and policy amendments have detrimentally increased the inequality already occurring within the United States educational system, perpetuating disparities between white students and students of color, and rescinding crucial protections for those most vulnerable in society. The education system in the U.S. continues to operate on a separate and unequal principle, and fails to ensure equal access to quality education for all.

THE HUMAN RIGHT TO EDUCATION

The Universal Declaration of Human Rights (UDHR)¹—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline the right to education. A few of them are:

UDHR, Article 13 (1): “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (3) Parents have a prior right to choose the kind of education that shall be given to their children.”²

The right to education was explicitly outlined in the *Convention against Discrimination in Education* in 1960, the *Convention on the Elimination of Discrimination Against Women* (CEDAW) in 1981,³ the *International Covenant on Economic Social and Cultural Rights* (ICESCR) in 1976,⁴ the *Convention on the Rights of the Child* (CRC) in 1990,⁵ the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* in 1990, and the *Convention on the Rights of Persons with Disabilities* (2006)⁶—though the United States has failed to ratify these treaties. The United

States has, however, signed and ratified the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD) in 1994. All of these treaties protect the right to education for every person without distinction as to gender, race, immigration status, or socioeconomic background.

CERD, Article 5 requires States Parties to undertake to prohibit and to eliminate racial discrimination in all its forms in order to guarantee the right to education without distinction as to race, color, or national or ethnic origin.

In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.⁷

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ An immediate moratorium on the creation of new charter schools, including a moratorium on expansion of existing charter schools.⁸
- ✓ Eliminate for-profit charter schools.⁹
- ✓ Prohibit police involvement in student discipline/replace officers with guidance and mental health counselors.¹⁰
- ✓ Pass the DREAM Act of 2017.¹¹
- ✓ Designate schools as sanctuary “safe zones” for students and families with irregular immigration status, and adopt policies prohibiting assistance with enforcement of federal immigration law.¹²
- ✓ Increase resource equity and provide more adequate funding for schools serving students of color and low- and middle-income students.¹³

- ✓ Permit parents to indicate a preference for a school within or outside of their local district and redraw zone boundaries so that they transcend neighborhood lines.¹⁴
- ✓ Replace suspensions and expulsions for nonviolent and minor offences with restorative justice practices.¹⁵

2017 VIOLATIONS OF THE RIGHT TO EDUCATION

RACIAL SEGREGATION

Racial segregation in education remains a serious issue; three times the number of “intensely segregated” public schools exist today compared with twenty-five years ago.¹⁶ This systemic racial segregation is largely connected to, and exacerbated by, socio-economic segregation.

Girls of color are more likely to live under the poverty line in neighborhoods with under-resourced public schools.¹⁷ This “double segregation” experienced by students of color in public schools often results in academic underperformance, thus impacting dropout rates, early exposure to gangs, and college attendance disparities.¹⁸ More specifically, “implicit biases” held by many in the education field often has a disproportionate effect on Black and Latina girls, increasing their risk of repeating a grade.¹⁹

DACA AND EDUCATION

Of equal concern is the rhetoric surrounding immigration over the last year. In 2017, the Trump administration announced the end of the Deferred Action for Childhood Arrivals (DACA) program.²⁰ DACA, established by the Obama administration, protects approximately 800,000 undocumented immigrants who arrived

in the United States before turning sixteen years old, shielding them from deportation and providing access to education and employment.²¹ The rescission of DACA has had a drastically detrimental effect: “Immigrant students and their families fear that school will soon become a venue for law enforcement to implement threatened immigration policies.”²² Statistics show that the threat of deportation affects academic performance, with 55% of Latina girls, 38% of Asian/Pacific Islander girls, and 30% of Black girls worrying about friends or family members being deported while at school.²³

Further, immigrant students and students of color—and particularly Muslim students—are significantly more likely to be bullied not only by their peers, but by school administrators and teachers.²⁴ This “politically-motivated” harassment can result in repeated absence and underperformance.²⁵

FUNDING CUTS

Despite the fact that more than 80% of children attend public school in the United States, resource inequities in public schools are rampant. There is a severe lack of educational funding and investment in central cities where many students of color reside, resulting in “deprivation of the educational opportunities [these students] deserve and need.”²⁶ A number of states and cities have attempted to lessen the socio-economic gap in public education, with New Mexico, New York City, Boston, Detroit, and several other school districts passing legislation ensuring free lunch for students to assist low-income families.²⁷ However, the Trump administration’s budget has not only proposed cuts to after-school programs and childcare for low-income par-

ents, but plans for “another \$1 billion in Title I funds, originally meant for low-income students, to be used for a new grant program, Furthering Options for Children to Unlock Success (FOCUS), that would encourage school districts to adopt policies that advance school choice.”²⁸

DIVERSION OF RESOURCES

Education Secretary Betsy DeVos has long been an advocate for “school choice,” with the Trump administration confirming public charter schools and voucher programs, to be a key factor in its education policy.²⁹ Charter schools are publicly-funded, privately-run schools, and are independent of the state school system, whereas a “school voucher” is a taxpayer-funded subsidy from the government, given to parents to enroll their children in private schools. Today, there are around 6,900 charter schools in the United States.³⁰ Despite plans to cut \$9b from the Department of Education, charter school expansion and private school voucher programs are to receive a combined \$1.4b in 2018.³¹ DeVos has stated that “these grants will help supplement state-based efforts to give students access to more options for their education,” claiming that charter schools and voucher programs improve academic performance.³²

In reality, many studies have shown that voucher programs do not result in improved academic achievement.³³ Further, voucher programs take funds out of the public-school system and divert resources to private and religious educational institutions, which disproportionately affects students of color and those from lower socio-economic areas.³⁴

DISCRIMINATION

Students who attend private schools using a voucher system are “deprived of critical civil rights protections that would otherwise be afforded to them in the public system,” including students of color and disabled children.³⁵ LGBTQ students and students with LGBTQ parents are often denied admission to schools participating in voucher programs, and DeVos has failed to assure families that federal funds would be withheld from such private schools.³⁶

In addition to discrimination in private and charter schools, it is reported that since the 2016 election, 1 in 4 LGBTQ+ students have been harassed at school, with 70% experiencing or witnessing bullying in the 30 days after the election.³⁷

Evidence has shown that such harassment can result in increased absences, underachievement, trouble concentrating, and grade repetition. Approximately 43% of LGBTQ girls are falling behind due to chronic absences from school, with 1 in 4 reporting that such absences are a result of feeling unsafe in or on their way to school.³⁸

In February 2017, the Trump administration revoked guidance from both the Department of Education and the Department of Justice which specifically protected transgender students from gender discrimination under Title IX.³⁹ This revocation infringes on the civil rights of transgender students, perpetuates negative stereotypes and the harassment faced by these students at school, and further exacerbates dropout rates and college attendance disparities.

The same can be said for students with disabilities. Girls with disabilities are not only more likely to experience harassment at school, but are more likely to be suspended than girls without disabilities.⁴⁰ Of particular vulnerability are girls of color with disabilities. These suspensions and expulsions are directly related to underperformance and juvenile crime, “a combination which can push students into what has been called the school-to-prison pipeline.”⁴¹

SCHOOL-TO-PRISON PIPELINE

The school-to-prison pipeline is a nationwide trend where children—predominantly of color, those living in poverty, and those with disabilities—are “funneled out of public schools and into the juvenile and criminal justice systems.”⁴² Black students are approximately four times more likely to be suspended than their white counterparts, and are arrested at a rate of 33.4% despite constituting only 15.5% of school enrollment.⁴³ Native American girls are three times more likely to be suspended than white girls, and “national rates of school-based arrests are disproportionately high for Black, Native American and Native Hawaiian/Pacific Islander girls.” In fact, public schools with mostly students of color often “use their limited resources to increase the presence of law enforcement, which actually can be detrimental, to students’ safety.”⁴⁴ This form of “excessive discipline,” often for minor behavioral offences, deprives students of color of their right to education and further exacerbates graduation disparities, “creating a new kind of separate and unequal education.”⁴⁵

SEXUAL ASSAULT ON COLLEGE CAMPUSES

In September 2017, after meeting with “men’s rights groups,” Betsy DeVos rescinded crucial Title IX guidelines established by the Obama administration, which provided greater protection for victims of sexual assault on college campuses.⁴⁶ These new guidelines make it significantly less likely that (predominantly female) victims will report rape on college campuses.⁴⁷

The Trump administration has also failed to uphold its promise to “make historically black colleges and universities an absolute priority.”⁴⁸ Rather than strengthening affirmative action programs to improve access to education for students of color, it has been reported that the Department of Justice will begin investigating higher education institutions whose admissions policies “discriminate” against white applicants.⁴⁹ This proposal, coupled with the administration’s student debt policies, would make it significantly more difficult for students of color and students living in poverty to attend college or university.

Not only does Trump’s education budget propose a phasing out of the Public Service Loan Forgiveness program, but no applications for debt relief under the borrower defense law have been approved since Trump took office.⁵⁰ Students of color, and in particular black students, are more likely to owe more in student loans, yet face poorer employment prospects than white students.⁵¹ New guidelines and proposed changes to student loan guidance and procurement not only exacerbate inequalities for Black and Latino borrowers, but impact earning potential and quality of life after graduation.⁵²



Mural by
Hector Escaraman,
Mission District,
San Francisco

Human Rights to Work, Fair Wages, And Leisure

The right to work not only includes the right to equal and fair employment, but encompasses a number of crucial human rights, including the right to fair wages, rest, leisure, limitation of working hours, and periodic holidays with pay. By virtue of a number of international and domestic legal instruments, the United States has an obligation not only to respect this right, but to protect and fulfil every individual's access to work. Despite the country's recovery from economic crisis over the last ten years, millions of Americans continue to live below the poverty line, without access to adequate employment and equal wages. The government's failure to protect, preserve, and pass legislation which protects workers, constitutes a violation of numerous international obligations to which the United States is bound, and fails to ensure equal access to quality work for all.



In 2017, black unemployment was almost twice the national average at 8%, compared to 5.1% for Latinos, 3.9% for Whites, and 3.3% for Asian Americans.

THE RIGHT TO WORK

The Universal Declaration of Human Rights (UDHR)¹—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outlines the right to work. A few of them are:

UDHR, Article 23: “Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favorable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests.”²

UDHR, Article 24: Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

The right to work was explicitly outlined in the *Convention on the Elimination of Discrimination Against Women* (CEDAW) in 1981,³ the *International Covenant on Economic Social and Cultural Rights* (ICESCR) in 1976,⁴ the *Convention on the Rights of the Child* (CRC) in 1990,⁵ and the *Convention on the Rights of Persons with Disabilities* (2006),⁶ though the United States has failed to ratify these treaties. The United States has, however, signed and ratified a number of International Labor Organization (ILO) treaties, including the *Abolition of Forced Labour Convention* in 1991 and the *Worst Forms of Child Labour Convention* in 1999. In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.⁷

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ Ensure equal and fair pay through the Raise the Wage Act and support family and medical leave programs, including policies that cover ‘chosen family.’⁸
- ✓ Adopt a global trade strategy to protect the rights of workers rather than corporations.⁹
- ✓ Create a national jobs program that offers work at a living wage to all in need of employment, combined with a significant increase in the minimum wage.¹⁰
- ✓ In order to close the gender inequality gap, pass the Paycheck Fairness Act and the Pregnant Workers Fairness Act.¹¹
- ✓ At the local level, enact LGBTQ anti-discrimination legislation in employment policies.¹²
- ✓ Ensure that agencies, in particular the Department of Homeland Security, Department of Labor, and State Department, are committed to human rights and equal protection of all workers, including domestic workers.¹³
- ✓ Abolish the 13th Amendment enslavement clause.¹⁴
- ✓ End the involvement of state and local police in immigration enforcement.¹⁵
- ✓ Pass the DREAM Act.¹⁶

2017 VIOLATIONS OF THE RIGHT TO DECENT WORK

Since the great recession of 2008, the economic recovery of the United States has been experienced mostly by those from higher socio-economic backgrounds; middle- and working-class families have experienced little to no improvement.¹⁷ In 2016, 58 million people earned less than \$15 per hour, with 41 million earning less than \$12 per hour.¹⁸



Also, 41 million
people earning
less than \$12 per
hour

Although unemployment is at its lowest rate in sixteen years, workers are often employed in jobs that they are overqualified for. Research shows that four out of ten recent college graduates are employed in jobs that do not require a bachelor's degree while the market is significantly worse for those without a college degree.¹⁹ Trump's recently passed tax reform bill will further exacerbate income inequality and employment disparities in the United States, and will not only be detrimental to working and middle-class families, but would significantly benefit those in the top 1% through measures such as the repeal of estate tax.²⁰

DISPARITIES IN EMPLOYMENT

Racial disparity in employment is pervasive, as Black people continue to experience unemployment at a disproportionately high rate. In 2017, Black unemployment was almost twice the national average at 8%, compared to 5.1% for Latinos, 3.9% for Whites, and 3.3% for Asian Americans.²¹

Of those who are able to find employment, wage and work hour discrepancies continue to decrease their standard of living. Reliable work that pays a steady living wage has become more difficult to access over the last several decades, and "ever changing schedules" set by employers with little notice can range from fifteen to thirty-nine hours per week, leaving families with an unreliable source of monthly income.²² Since the establishment of the Trump administration, crucial regulations protecting workers continue to be in danger of rescission. In 2017, the Trump administration not only attempted to delay the enforcement of a regulation ensuring overtime pay for four million additional workers, but attempted to remove regulations requiring investment advisors to act in the best interest of workers and retirees.²³ In March 2017, the senate overturned regulations established by the Obama administration that required contractors to disclose violations of federal labor laws, including workplace safety, wages, and discrimination.²⁴

Further, Trump's appointment of Neil Gorsuch to the Supreme Court puts employees' rights at risk at the judicial level, with Gorsuch's history of ruling in favor of employers in workers' rights cases.²⁵

WOMEN IN THE WORKPLACE

Due to negative stereotypes and barriers faced by women in the workplace, particularly by women of color, issues such as access to decent, well-paid work affect women at a disproportionate rate, compared to men. Thus, approximately 16 million women live in poverty, compared to 11 million men. These rates are significantly higher for Black and Latina women, who experience poverty rates of 38.8% and 40.8% respectively.²⁶ The gender wage gap has improved by less than 1% in the last year: women continue to be paid 80 cents for every dollar men receive for equal work.²⁷



...compared to 11 million men. Women are paid 80 cents for every dollar men receive for equal work. Black women are paid 63 cents and Latina women are paid only 54 cents per every dollar.

The statistic is significantly worse for women of color. Black women are paid 63 cents per every dollar paid to white men, and Latina women are paid only 54 cents per every dollar paid to men for the same work.²⁸ Further, discrimination against women in the workplace has worsened since the establishment of the Trump administration. In September 2017, Con-

gress and the Trump administration voted against the DeLauro-Frankel-Scott Amendment, which would have preserved funding for a new equal pay data collection initiative by the Equal Employment Opportunity Commission.²⁹ Also, under Trump's "Religious Liberty" Executive Order, "women who work with organizations that have faith-based objections to providing reproductive health care will likely no longer have access to counseling, screening, breastfeeding support or contraception." The Department of Justice is likely to interpret the order in a way that not only prioritizes religious beliefs over women's healthcare, but also LGBTQ rights.³⁰ In 2017, only twenty-two states in the U.S. have employment protections in place for LGBTQ workers, and federal protections remain under attack by the Trump administration and, in particular, Vice President Pence.³¹

SEXUAL HARASSMENT IN THE WORKPLACE

The "Me Too" movement was started in 2006 by Tarana Burke to help survivors of sexual violence particularly young women of color from low income communities.³² The #metoo hashtag went viral after actress, Alyssa Milano used it on social media after actress Ashley Judd came forward with sexual harassment claims against Hollywood producer, Harvey Weinstein.³³ Since then, many celebrities have spoken out about sexual harassment in the workplace and the impact on their lives and careers.

Women have been banding together in the news as well. Organized groups of women that were part of the Women's March urged advertisers to drop Fox News host Bill O'Reilly, who has been accused, on multiple occasions, of sexual harassment of women either seeking em-

ployment at Fox News or already employed there. Fox News, after pressure from these women finally let O'Reilly go with a large severance package. Perhaps one of the most impactful results of the movement was the firing of popular morning news hosts Matt Lauer and Charlie Rose after accusations of sexual harassment in the workplace.³⁴ The willingness of networks to drop some of their highest paid and most popular host sent a signal that women's voices should be heard and that they should be believed if they are brave enough to come forward.

The public response and general support for the victims of sexual harassment signals a marked shift from the responses attorney and professor Anita Hill received during the Senate Judiciary Committee hearing in 1991. Hill accused U.S. Supreme Court nominee Clarence Thomas, her boss at the United States Department of Education and the Equal Employment Opportunity Commission, of sexual harassment.³⁵ In the Hill-Thomas situation, the public had a poor understanding of the nature and impact of sexual harassment, and, as a result of this and widespread misogyny, she was widely criticized and ostracized, while Clarence Thomas went on to become a justice in the highest court in the land.³⁶ Though, women showed support by wearing "I believe, Anita" buttons, the treatment of Hill may have had a chilling effect discouraging other women from coming forward.

Currently, the #metoo movement is markedly different as women from all walks of life have come forward on social media and in person to tell their stories.³⁷ On Capitol Hill, Senator Al Franken (D-MN) stepped down from his U.S. Senate seat after multiple women came forward with allegations of sexual harassment and

pressure from his fellow Democrats pressured him to step down.³⁸ Further, U.S. Representative Jackie Speier launched the #MeTooCongress campaign to raise awareness about sexual harassment and assault on Capitol Hill by sharing her own experience.³⁹ Speier along with Senator Kirsten Gillibrand introduced the Member and Employee Training and Oversight On Congress Act (ME TOO Congress) which would require sexual harassment awareness training and reform the process available for staffers to file complaints.⁴⁰

During Donald Trump's campaign, an Access Hollywood video was released in which he described grabbing women by their genitals without their consent.⁴¹ At least 21 women (including Trump's ex-wife, Ivana Trump) have come forward with claims of sexual assault against Donald Trump.⁴² Despite these revelations, Donald Trump was still elected as the President of the United States. Though, in some industries, are making advancements to make work and other areas of life, safe for women, we have a long way to go when accused perpetrators are both in the White House and on the Supreme Court.

PRISON LABOR

Prison labor, which disproportionately relies on the exploitation of people of color, is legally permissible in the United States. Under the 13th Amendment, slavery and indentured servitude are prohibited "except as punishment for a crime," ultimately forcing the majority of inmates to work for nothing or for less than a dollar per day.

Unsurprising, given Donald Trump's attitudes towards crime and close ties to corporations, the day following the 2016

election, the share price for the Corrections Corporation of America—which operates private prisons in the United States—rose by 43% in anticipation of new immigration detention center contracts.⁴³ Indeed, some businesses are increasing their collaboration with immigration law enforcement agencies to control labor by intimidating immigrant workers.⁴⁴ In February 2017, Attorney General Jeff Sessions cancelled a directive established by President Obama aimed at phasing out federal contracting with private prison companies.

THE HUMAN RIGHT TO LEISURE

Despite numerous international human rights instruments ensuring the right to leisure and paid time off, such rights are not guaranteed in the United States. In fact, the U.S. stands alone as the only developed nation, or “advanced economy,” in the world that fails to ensure paid vacation time, paid sick leave, and paid family leave for new mothers and fathers.⁴⁵ Currently, the Family Medical Leave Act of 1993 guarantees workers the right to 12 weeks annual time off for qualified medical and/or family reasons (for example a serious health condition or to care for a new child or sick spouse). This time off, however, is unpaid, causing 1 in 4 new mothers to return to work just ten days

after giving birth.⁴⁶ Many workers refrain from taking any vacation time due to monetary concerns, with a quarter citing fear of being replaced as a barrier to vacation or leisure time.⁴⁷ Some states and cities have attempted to rectify this in recent months; for example, New York City recently enacted legislation ensuring more protections for “job-protected time off to bond with a new child” for mothers and fathers, which includes same-sex, adoptive, and foster parents.⁴⁸ Further, NYC has recently expanded the definition of family members in its “paid sick time law” to include LGBT individuals and non-traditional or “nuclear” family members with disabilities, as well as including new protections for time off as a result of domestic or sexual violence.⁴⁹ Indeed, a number of states over the last ten years have enacted legislation requiring employers to provide annual paid sick leave (for example, Chicago and certain cities in Minneapolis ensure up to 40 and 48 hours of annual paid sick leave respectively), however, fourteen states have enacted complete bans on such policies, the majority of which are in the south, and such rights remain unprotected at the federal level.⁵⁰



Marriage, Family and Human Rights

It is through the lens of President Trump's sexist, racist, and homophobic campaign promises that we can best understand what his ultimate goals are, including, among other things, an assault on poor or vulnerable families. Political victories of the past few years—government recognition of the right for same-sex couples to marry, protections afforded to LGBTQ individuals in the workplace and school—are rapidly being stripped away.

Actions that further weaken the family include challenges to human rights at work and at school and the doctrine, in general, of punishing the poor which includes threats to the social welfare system and accusations that working-class mothers are “taking advantage of the system.”¹

If the Trump administration's policy goals are realized, then only a few at the very top of the socio-economic ladder will be able to adequately care for and provide for their families.



35 states include disability as grounds for termination of parental rights and up to 80% of parents with disabilities face termination of their parental rights.

WHAT ARE THE HUMAN RIGHTS TO MARRY AND ESTABLISH A FAMILY?

The Universal Declaration of Human Rights (UDHR)²—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline the right to marry to found a family. A few of them are:

UDHR, Article 16: “(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group of society and is entitled to protection by society and the State.”³

UDHR, Article 25: “(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”⁴

The rights to marriage and family were explicitly outlined in the *Convention on the Rights of the Child* in 1990⁵ and the *Convention on the Rights of Persons with Disabilities* in 2007,⁶ though the United States has failed to ratify these treaties. They were further outlined in the *Interna-*

tional Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which the United States has not signed.

The United States has, however, signed and ratified three treaties: The *International Covenant on Civil and Political Rights* (ICCPR) in 1992,⁷ the *Convention on the Elimination of Racial Discrimination* (CERD) in 1994,⁸ and the *Convention Against Torture* in 1994.⁹

ICCPR, Article 23: establishes that the family is entitled to protection by society and the State and that States Parties to the Covenant shall ensure equality of rights and responsibilities of spouses as to marriage. Article 24 further states that children are entitled to measures of protection on the part of his family, society, and the State.

In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.¹⁰

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ Challenge any federal, state, or agency laws or policies that prohibit or discriminate against any potentially qualified individuals and couples from becoming parents, due to philosophical or religious beliefs as well as any policy that treats LGBTQ youth unequally.¹¹
- ✓ Provide consistent and explicit anti-discrimination protections for LGBTQ people across key areas of life.¹²

- ✓ Congress needs to pass comprehensive immigration reform which includes rejecting any policy that separates children from parents as an immigration enforcement tool.¹³
- ✓ Oppose the deep budget cuts of the FY 2018 budget.¹⁴
- ✓ Congress needs to reauthorize CHIP as a stand-alone program.¹⁵
- ✓ Expand the Child Tax Credit to ensure it reaches all low- and moderate-income families with children.¹⁶
- ✓ Family court professionals—including judges, attorneys, and evaluation personnel—should receive training related to parenting with a disability.¹⁷
- ✓ Persons must be allowed opportunities to develop parenting relationships with their children while incarcerated.¹⁸

2017 VIOLATIONS OF THE HUMAN RIGHT TO MARRY AND FOUND A FAMILY

In 2015, the fundamental right to marry was guaranteed to same-sex couples in the landmark *Obergefell v. Hodges*, 576 U.S. (2015) case. However, discrimination against LGBTQ persons prevents full implementation of the decision as well as challenges the ability of LGBTQ persons to found and care for a family. In March 2017, South Dakota became the first state to enact legislation (S.B. 149) promoting anti-LGBT discrimination by state-funded agencies, with other state legislatures (Texas, Oklahoma, Alabama, etc.) pursuing similar measures.¹⁹ “The worst” of them, H.B. 1523, went into effect in Mississippi on October 10. H.B. 1523 “enables any individual or organization to use religion as a justification to discriminate against LGBTQ individuals.”²⁰ As Missis-

issippi has the highest rate of same-sex couples raising children, the law’s provisions permitting state-funded adoption and housing agencies to discriminate against LGBTQ individuals will catastrophically impact adults who wish to start a family.²¹ It will further harm LGBTQ youth, who make up 25% of the foster care population.²²

LGBTQ adults raising children are three times more likely than non-LGBTQ individuals to report household incomes near the poverty threshold, a fact informing the need for workplace protections of LGBTQ persons.²³ Despite this, in March, President Trump issued an executive order rescinding workplace protections for LGBTQ individuals. In October, Attorney General Jeff Sessions issued a directive to agencies to prioritize claims of religious freedom violations over anti-LGBTQ discrimination.

LGBTQ YOUTH

According to data from the 2015 Youth Risk Behavior Survey, 29% of LGB youth attempted suicide at least once in the prior year compared to 6% of non-LGB youth.²⁴ Missing from this survey is data on transgender youth, who are explicitly targeted by the current administration.

In February, President Trump revoked the Obama Administration’s guidance which stated that transgender students are protected from sex discrimination under Title IX, a policy change jeopardizing the *Gavin Grimes v. Gloucester County School Board* decision reaffirming trans youth Gavin Grimm’s right to use the bathroom consistent with his gender identity.²⁵ The psychosocial harm of these events on transgender youth is sometimes immediate. The Trevor Project’s

Suicide Hotline reported that calls from transgender youth more than doubled in the week after President Trump proposed a trans military ban over Twitter and Texas state legislature introduced their own “bathroom bill.”²⁶

PARENTS WITH DISABILITIES

One in 10 children have a parent with a disability. However, 35 states include disability as grounds for termination of parental rights and in every state disability of the parent can be included in determining the best interest of the child.²⁷ Up to 80% of parents with disabilities face termination of their parental rights.²⁸ Currently, New York City faces a lawsuit alleging that parents with intellectual disabilities are “disadvantaged at every stage of a child welfare case.”²⁹

INCARCERATED PARENTS

54% of incarcerated people have minor children.³⁰ The effects of parental incarceration have lasting consequences of life outcomes: children with imprisoned parents are four times more likely to become involved in the juvenile justice system and three times more likely to not graduate from high school.³¹ Children of color are further underserved—though 1 in 57 white children have an imprisoned parent, an astonishing 1 in 9 Black children and 1 in 28 Latinx children have a parent in prison or jail.³² Recognizing the unique needs of these children, Oregon state passed a “bill of rights” detailing the need to reduce trauma experienced by children and allow them to maintain ties with their parent.³³

UNDOCUMENTED PARENTS

More than 5.9 million citizen children live with at least one family member who is undocumented.³⁴

Additionally, 5,000 children were placed in foster care because of the detainment or deportation of parents; however, this number does not take into account recent changes in federal policy. The lasting trauma of being separated from a parent frequently results in increased symptoms of Post-Traumatic Stress Disorder (PTSD) for children of detained or deported parents.³⁵

NATIVE AMERICAN CHILDREN

In 1978, the United States enacted the Indian Child Welfare Act (ICWA) to address the long-standing practice of removing Indigenous children from their families and placing them with non-indigenous families as a means of forced assimilation into a majority culture. However, Indigenous children are still being removed from their homes and communities at disproportionate rates, preventing Indigenous children from fully exercising their rights to culture and community. In order to assist those involved in child custody proceedings to understand and comply to the ICWA, the Department of the Interior released *Guidelines for Implementing the ICWA*.³⁶ While the federal court system continues to dismiss attempts (the sixth legal challenge was dismissed in March) at overturning the landmark legislation, the practice of removing Indigenous children from tribal authority continues. Of the 1,600 Cherokee youth in state custody, nearly 900 are outside the tribe’s jurisdiction.³⁷

CHILDREN IN LOW-INCOME FAMILIES

Over 31 million children are living in low-income families. Of that number, 6.6 million children—or 9% of the underage population—live in extreme poverty (defined as 50% of the poverty threshold) with overrepresentation of children of color: in 2015, 18% of Black children and 17% of Indigenous children live in extreme poverty, as opposed to 6% of white children, according to the Kids Count Data Center.³⁸ The impact of poverty on vulnerable populations underlines the need for robust social welfare programs. However, in September Congress failed to reauthorize the Children’s Health Insurance Program (CHIP), which provided medical insurance for children whose families do not qualify for Medicaid, jeopardizing the medical health of 9 million children.³⁹ Complementing this legislative failure is a budget resolution that recently passed Congress, detailing a \$1.3 trillion cut over the next 10 years to non-Medicare health programs (Medicaid and Obamacare) and \$653 billion of cuts over 10 years towards “income security” spending, which notably includes the Supplemental Nutrition Assistance Program (SNAP).⁴⁰

Placement in out-of-home care is temporary and for reasons of abuse, neglect, and/or abandonment. However, children of color are overrepresented within the child welfare system. Although child maltreatment occurs at the same rate in all racial and ethnic groups, data from the 2014 Department of Health and Human services show that Black children, who comprise 13.8% of the youth population, make up 22.6% of children identified by child protective services as victims, and are 24.3% of children in foster care.⁴¹

Nearly 4 in 10 children are involved in child maltreatment investigations before the age of 18, however over 53% of Black children are subject to investigations.⁴²



Black children, who comprise 13.8% of the youth population, make up 22.6% of children identified by child protective services as victims, and are 24.3% of children in foster care.

Socioeconomic factors further increase the likelihood of child removal. A recent study found that subjects of mistreatment investigations living in lower-income households are more likely to be placed in protective services. Professionals working within the New York City child welfare system argue that “child removals punish parents who have few resources.”⁴³ This phenomenon is supported by a report showing that in 2015, of all the cases of reported child abuse, 75.3% were for reasons of neglect.⁴⁴ However, “neglect” has broad and varying definitions, such that “poverty itself is often mistaken for neglect.”⁴⁵



Privacy and Human Rights

Communities of color in the United States are some of the most heavily surveilled communities in the world. Technological advances, such as cell phone tracking, facial recognition software and artificial intelligence have created new and difficult challenges to protecting the human right of privacy. Currently, the FBI possesses photographs of nearly half the adult U.S. population in facial recognition databases. In the process of a criminal investigation, this database can be accessed without the knowledge or consent of those whose identities are being reviewed. In addition to this, personal assistants featuring artificial intelligence such as Amazon's "Echo" and Google's "Home" have achieved a prominent place in our homes, yet they can be used to disclose an unprecedented amount of personal information.

Finally, 2017 will certainly be remembered by human rights advocates for the critical assaults on privacy by the Trump administration, in order to support corporate interests. On April 4, 2017, Trump signed into law S.J. Res.34 that allows Internet Service Providers (ISPs) to collect and sell customers' data to third parties *without their consent*. Moreover, with the support of a Republican-led Congress; Trump repealed the Open Internet Rules, known as "net neutrality." Together, such policies intensify government surveillance, jeopardizing our right to privacy and the ability to control access to information.¹

The United States is bound by the international agreements ratified through treaties or by membership in the United Nations and the obligations within its charter. However, the most significant discussion relating to privacy rights in the United States is the modern interpretation of the Fourth Amendment rights against unlawful searches and seizures.



The U.S. government is collecting large amounts of data using facial recognition software. These images can be easily distributed to every surveillance camera in America.

WHAT IS THE HUMAN RIGHT TO PRIVACY?

The Universal Declaration of Human Rights (UDHR)² contains key provisions that specifically outline privacy rights:

*UDHR, Article 12: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right against such interference or attacks."*³

The same right is enshrined in Article 17 of the *International Covenant on Civil and Political Rights* (ICCPR).⁴

The United States is also bound to the *Convention on the Elimination of All Forms of Racial Discrimination* (ICERD). Though this convention does not contain any provisions specifically to a right to privacy, it is evident that violations to privacy rights amongst many other rights in the United States are influenced by race. Whether it is the propensity of non-white individuals to be victims of privacy right violations during border crossing,⁵ or the unjustified social media monitoring of immigrants⁶ and Black Lives Matter activists⁷, the declaration of "national security" is practiced discriminately and unjustifiably.

Moreover, in an *amici curiae* submission to the *Carpenter v. United States* case, the Reporters Committee for Freedom of the Press emphasized the inherent relationship of Fourth Amendment and First Amendment rights in this digital age.⁸ Such a belief would imply that discriminatory surveillance could have a stifling effect on freedoms of expression and constitute a violation of those rights, which are heavily protected in ICERD.⁹

The United States has failed to ratify the *Convention on Migrant Workers*, which includes specific provisions on the rights to privacy for migrant workers and their families (Article 12).¹⁰ Additional human rights are listed in the endnotes.¹¹

The United Nations General Assembly reaffirmed the importance of privacy rights in the digital age through a resolution passed on November 21, 2016.¹² In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.¹³

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ The government must not single out law abiding people in the United States without cause and must refrain from singling out people using social media surveillance due to their foreign heritage.¹⁴
- ✓ Cease all surveillance and monitoring of individuals and groups associated with the Black Lives Matter movement and all peaceful activists.¹⁵
- ✓ Stop the large-scale surveillance of Muslims in America at their places of worship and schools.¹⁶
- ✓ Enhance individual control of personal information that is known to a corporation—such as the moment-to-moment record of a person’s movements or communications—which can easily be used by companies and the government against vulnerable populations, including women, the formerly incarcerated, immigrants, religious minorities, the LGBT community, and young people.¹⁷
- ✓ The Fair Information Practice Principles must be universally and consistently adopted and applied in the Identity Ecosystem. FIPPs are the widely accepted framework of defining principles to be used in the evaluation and consideration of systems, processes, or programs that affect individual privacy.¹⁸
- ✓ Establish independent oversight mechanisms to ensure that government reports on surveillance activities are accurate and complete.¹⁹

2017 VIOLATIONS OF THE HUMAN RIGHT TO PRIVACY

CELL PHONE TRACKING AND SOCIAL MEDIA SURVEILLANCE

An egregious example of the violation of privacy rights is the surveillance of Black Lives Matter (BLM) activists on social media. For example, BLM hashtags have been tracked by law enforcement in Oregon, and dossiers on individual activists were created through social media accounts by Mall of America security. In addition, movement activists were monitored by the Department of Homeland Security (DHS) through Facebook and Twitter accounts.²⁰ The ACLU notes there are precious few state laws and no federal regulations to prevent warrantless cell-phone location tracking.²¹ Moreover, social media surveillance companies are aggressively marketing products to law enforcement agencies to circumvent the warrant process and spy on dissidents.²² In light of these revelations, activists from the ACLU of Massachusetts and Fight for the Future secured a key victory in preventing the Boston Police Department from investing \$1.4 million in a social media surveillance system.²³

Furthermore, a recent Department of Homeland Security policy allows the government to collect and store private social media information of immigrants, “including lawful residents and naturalized US citizens.”²⁴ The United Nations General Assembly has noted that such violations of the right to privacy have a chilling effect on democratic participation.²⁵

RIGHTS TO PRIVACY AND BORDER POLICING

Government surveillance of social media and emerging technologies is increasingly used to target people of color and religious minorities entering the country. This practice would expose information that has been publicly posted as well as private information stored on a person's device. Under the Trump administration the number of searches of personal devices has risen dramatically. In 2017 the U.S. Customs and Border Protection (CBP) agency searched the devices of 30,200 persons.²⁶ This is a profound increase from the number of searches in 2016 (19,033) and 2015 (8,503).²⁷ John Kelly, Secretary of Homeland Security even went so far as to suggest that visitors should give up their passwords in order to enter the country.²⁸ Attorney Sophia Cope of the Electronic Frontier Foundation (EFF) argues, "It's high time that the courts require the government to stop treating the border as a place where they can end-run the Constitution."²⁹ The EFF and the ACLU sued the Department of Homeland Security on behalf of 11 travelers whose cellphones and laptops were searched without warrants.³⁰

Human rights activist will need to continue to press for the right to privacy that is enshrined in treaties ratified by the United States against the practices of border searches of digital devices.

PRIVACY RIGHTS AND FACIAL RECOGNITION

A major privacy issue that emerged in 2017 was the use of facial recognition technology in CBP's Traveler Verification Service. This plan would apply facial recognition to all airline passengers, including American citizens, boarding flights exiting the United States.³¹ The power of facial recognition is that images

can be easily distributed to every surveillance camera in American resulting in a profoundly invasive form of government tracking. Moreover, technologies that begin in airports and borders controls historically have been quickly put to use in other areas of society.³² The ACLU has noted this normalization could quickly lead to a "checkpoint society" with constant status and identity checks that sort citizens into "go" and "no-go" categories.³³ More importantly, the use of technology may not comply with federal law as the DHS was authorized by Congress to collect such biometric data on foreign nationals, not American citizens.³⁴

The threat to privacy through facial recognition software also emerged as a problem with law enforcement agencies as well. On March 22, 2017, several civil and human rights organizations provided testimony to the U.S. House of Representatives hearing on the use of facial recognition by law enforcement. The session revealed that over 125 million adults are in a criminal face recognition network.³⁵ According to the Center on Privacy and Technology at Georgetown Law, "never before—not with fingerprints or DNA—has law enforcement created a national biometric network made up mostly of innocent people."³⁶

A major concern is the inaccuracy of the technology. Current testing reveals that the FBI's Interstate Photo System fails to produce a correct identification 15% of the time.³⁷ In addition, African Americans, ethnic minorities, and women are misidentified at higher rates, increasing their chances of being implicated in crimes they did not commit.³⁸

Finally, oversight is a pressing problem. The FBI is pushing to have its program exempt from the Privacy Act and only 10% of local police agencies had public polices explaining their use of facial recognition technology.³⁹ Organizations, such as the EFF, are advocating for increased protections and regulation of this civil and human right to privacy.

COMMERCIALIZATION OF PRIVACY RIGHTS

The increasing influence and importance of technology in everyday life as well as in our homes has presented new threats to the right of privacy. On April 4, 2017, Donald Trump signed into law Senate Joint Resolution 34 (S.J. Res. 34) removing rules that prevent ISPs from collecting and selling data to third parties without their consent.⁴⁰ Such measures could open the door for health insurance providers to discriminate against potential clients based on internet searches or online health records.⁴¹

In addition to this threat to privacy rights, human rights advocates watched with alarm as the United States removed net neutrality protections in opposition to 80% of its citizenry.⁴² This move threatens both the information one can potentially have access to, as well as freedom of expression. Together, these two developments compromise both the right to privacy and the right to express dissent about such policies through the digital domain. Organizations such as the ACLU are currently pushing for a Congressional Review of the decision.⁴³

PRIVACY AND HOME ASSISTANTS

Devices, such as Amazon's Echo and Google's Home, employ microphones that listen for voice commands to be activated. Powered by artificial intelligence, all voice commands and conversations are recorded and stored through cloud-based services. In spite of safeguards, recently Google Home Mini units were found to be recording at all times.⁴⁴ Thus, a hacker was able to wiretap a home by turning on an Amazon Home device remotely.⁴⁵ Elsewhere, police in Bentonville, Arkansas sought and obtained a warrant for the audio recordings of an Amazon Echo that may have recorded a murder.⁴⁶ Fearing a backlash from customers, Amazon filed a motion to block warrant. Their argument claimed that the First Amendment protected "Alexa's" responses from users. Although, the motion was dropped, the issue is certain to surface again. Advocates are deeply concerned about government agencies arguing that they do not need a warrant to access such data.⁴⁷ In particular at stake is our understanding of the "third party doctrine" where police do not need a warrant from third parties to obtain information. These new personal assistants, however, are inside the home streaming information about that home to third party corporations.⁴⁸

In addition to a number of technical recommendations, the ACLU argues that "Congress should lay out strong and precise standards for when the government can access data from these new devices."⁴⁹ Finally, Joseph Cannataci, Special Rapporteur on the right to privacy, has pushed for accessible information about threats to privacy and exercising privacy rights at the state and local level.⁵⁰

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