



Advancing Human Rights:

A Status Report on Human Rights in the United States

December 2018

US HUMAN RIGHTS
NETWORK
BUILDING A PEOPLE-CENTERED MOVEMENT



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INTRODUCTION

FROM USHRN'S ACTING EXECUTIVE DIRECTOR

Dr. Rosalee Gonzalez

The US Human Rights Network (USHRN) is pleased to release its seventh annual report on the status of human rights in the United States on December 10th in honor of Human Rights Day. On this day 70 years ago, the Universal Declaration of Human Rights (UDHR)—the first global expression of the rights to which all human beings are inherently entitled—was adopted by the General Assembly of the United Nations on December 10, 1948.

As we reflect on what 70 years of human rights recognition means globally, we also turn our attention to the status of human rights in the United States and how frontline communities are impacted by, and responding to violations. In the United States this year, with the Trump administration at the helm, we have seen undeniable, egregious, and unapologetic violations of human rights. Among the critical number of violations, very young children, many below the age of five-years-old, have been separated from their parents at the border; women and children fleeing violence have been denied the human right to seek asylum, and refoulement enacted against them; unarmed Black men are being killed by police with impunity; and the federal administration is targeting dissenters and human rights defenders—particularly Indigenous activists seeking to protect their land, including sacred sites. Black, Indigenous, and Latina women continue to have appalling outcomes when it comes to reproductive health, jobs, and housing, and transgender people are being killed during hate crimes. Add to this, one of the deadliest mass shootings in modern U.S. history; mass gentrification, and the gutting of the Environmental Protection Agency, and the conclusion is that 2018 has been a bad year for human rights. However, in response to these violations of human rights, there is a resistance brewing, which has activated people of conscience across the nation.

In response to the Parkland mass shooting, surviving students led a march on Washington D.C. attended by hundreds of thousands of people in support of enacting stronger gun violence prevention measures. Indigenous rights advocates are fighting environmental degradation of land, Black Lives Matter advocates are challenging police brutality, and thousands of people have rushed to the border to support migrants in distress. In addition to this, the 2018 mid-term elections saw women run for office in record numbers resulting in the breaking of glass ceilings through the election of Native Americans, Muslims, Latinxs, immigrants, millennials, and LGBT candidates. Dissent at the local, federal and international levels represent the rejection of the current President's vulgarity, mendacity and lawlessness, and incitement of fear and hate.

In response to the news that the United States, in an unprecedented move decided to withdraw from the United Nations Human Rights Council, the USHRN held a press conference while in Geneva for the Human Rights Council's 39th Session. We reminded the Trump administration and the world that the withdrawal does not exonerate the US from its international legal obligations, including the responsibilities to promote and protect the human rights of civil society and Indigenous Peoples. We reaffirmed that we will persist and demand the United Nations hold the US accountable for upholding human rights standards.

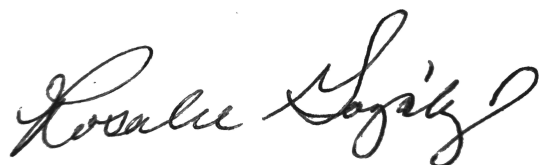
USHRN also successfully advocated to ensure that the Special Rapporteur on extreme poverty and human rights' report reflected the condition of various constituencies that engaged with him on his visit to the United States. As such, his report reflects the voices and demands, amongst other people, that of migrants, Indigenous Peoples (including federally unrecognized and unrepresented Indigenous Peoples), and women from the rural deep south. We welcomed this report and held press conferences to support the findings and demanded the attention of this Administration to follow up and implement its recommendations.

And finally, on December 10, 2018, we delivered over 65,000 signatures from Civil Society to the UN High Commissioner on Human Rights and High Commissioner for Refugees to demand that the UN launch an investigation in response to egregious human rights violations happening at the U.S.-Mexico border, including use-of-force, the closing of a U.S. port of entry, in collusion with Mexico enact refoulment (deportation of Asylum Seekers to their home countries where their lives are at risk) to deny asylum seekers their right to a legal review of their case(s).

Now, we offer this human rights report as a tool to provide advocates on the ground in the United States with a human rights framework to address their issues on the front lines.

We look forward to continuing the fight in 2019 and beyond until all human rights are recognized and protected.

In Solidarity,

A handwritten signature in black ink, reading "Rosalee Gonzalez". The signature is fluid and cursive, with the first name "Rosalee" written in a larger, more prominent script than the last name "Gonzalez".

Rosalee Gonzalez, PhD
Acting Executive Director
US Human Rights Network

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, development, 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 Rights² 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

WHO WE ARE AND WHAT WE DO

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.

WHY A HUMAN RIGHTS REPORT?

This report aspires to present a 2018 snapshot of the status of human rights in the United States using plain language for the purpose of broad accessibility. The report is derived from research conducted by partners, allies, journalists, and USHRN's research team. It is by no means a comprehensive report. The focus 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. We invite you to respond to us with your

Human Rights Implementation

INTRODUCTION

This December marks the 70th Anniversary of the signing of the UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR) which was adopted by the General Assembly of the United Nations on December 10, 1948. The countries that have signed the Declaration now make up the 192 members of the United Nations. The UDHR offers a wide range of protections guaranteeing similar, but more expansive rights, than those laid out in the United States' Constitution. For example, Article 2 protects against discrimination based on "race, colour sex, language, religion, political or other opinion, national or social origin, property, birth or other status."⁴ Similarly, the 14th amendment of the U.S. Constitution seeks to combat discrimination, saying, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."⁵ A dozen more articles in the UDHR are similar to amendments in the U.S. Constitution protecting various civil and political rights,⁶ but the distinction is that the UDHR offers additional protections for Economic, Social, and Cultural rights that the United States fails to recognize. Legal scholars "continue to debate whether the demands of international human rights law in the area of economic and social (ESC) rights comport with the intentions of the U.S. Constitution's framers. Reflecting those concerns, the United States has never ratified the [INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS] (ICESCR) the CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW), or the CONVENTION ON THE RIGHTS OF THE CHILD (CRC). But, while this academic debate simmers, many in the advocacy community already recognize the roles that human rights norms are playing in domestic law and policymaking in the United States."⁷

In addition to the UDHR, the United States has signed and ratified three treaties:⁸ the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) in 1992,⁹ the CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD) in 1994, and the CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT in 1994.¹⁰

Under President Trump's administration, the United States has taken a dramatic step away from the real public commitments that it has made toward human rights. First, the United States withdrew from United Nations Human Rights Council, and then National Security Advisor John Bolton threatened to sue the International Criminal Court. This, as well as other actions, signals the administration's intent to covet narrow and draconian ideas of nationalism over global human rights standards. The nomination of Gina Haspel as the director of the Central Intelligence Agency (CIA) also exposed the United States to domestic and international criticism due to her role in the George W. Bush administration's controversial detention and interrogation program.¹¹ By adopting explicitly combative stances that are contrary to human rights norms, it remains to be seen how this will impact the United States' standing on the world stage.

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

- ✓ Strengthen domestic legal protections for human rights that are consistent with international standards.¹²
- ✓ Develop a more comprehensive approach to human rights promotion and protection, including through the creation of a national human rights institution.¹³
- ✓ Strengthen and expand existing mechanisms to monitor human rights implementation at the federal, state, and local levels.¹⁴
- ✓ Provide sufficient funds for human rights monitoring and implementation at all levels of government.¹⁵
- ✓ The United States must sign or ratify international human rights conventions that guarantee human rights.¹⁶

STATE AND LOCAL HUMAN RIGHTS IMPLEMENTATION

Cooperation between federal, state, and local governments has not been consistent and has often been contentious, however, within the United States there have been some human rights advances at the state and local levels. These are as follows:

- On April 3, 2018, the City of Mountain View voted to approve a pilot program to conduct a human rights impact assessment of city projects. This initiative is based on a resolution that was passed by the Council in 2016, which adopted the rights recognized in the Universal Declaration of Human Rights as guiding principles and declared the City of Mountain View to be a Human Rights City.¹⁷
- In June 2018, the New York City Commission on Human Rights issued a guide entitled “Legal Enforcement Guidance on Discrimination on the Basis of Disability” to educate employers and other covered entities on their responsibilities to job applicants and employees with respect to both preventing disability discrimination and accommodating disabilities.¹⁸
- The Idaho Human Rights Commission (IHRC) spoke out against the Halloween costumes of several middle school teachers portraying racist caricatures of Mexican immigrants. Referencing the Idaho Human Rights Act of 1969, the commission warned that “discrimination can occur if an employer or school permits a hostile environment.”¹⁹
- In Illinois, the Human Rights Commission (IHRC) has faced criticism for extreme delays in processing claims of discrimination and violations of human rights. In 2018, a number of changes were made to the Commission in order to improve enforcement, including extending the time from for Illinois employees to file a charge of discrimination with the Department of Human Rights from 180 days to 300 days.²⁰

2018 VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS NORMS

ESTABLISHING A NATIONAL HUMAN RIGHTS COMMISSION

The United States has a complex and convoluted relationship with international human rights—often promoting them abroad and ignoring their enforcement domestically. For example, the “Bureau of Democracy, Human Rights, and Labor” focuses on human rights issues at the international level, completely ignoring domestic human rights violations.²¹ Citing the Universal Declaration of Human Rights, the Bureau notes that a “central goal of U.S. foreign policy has been the promotion and respect for human rights.”²²

The constitutional and institutional structure of federalism poses unique challenges for the United States when it comes to its international law obligations. The federalist system gives a sovereign federal government a set of powers while giving the state governments of 50 sovereign states another set of powers. That said, international law obligations bind all countries regardless of each of their internal governing operations.²³

Human rights advocates and academic institutions in the United States have called for the creation of a National Human Rights Institution (NHRI) to address the issues posed by federalism and to properly coordinate human rights implementation and education at all levels of government.²⁴ According to the United Nations Office of the High Commissioner for Human Rights, NHRIs “comply with the principles relating to the status of national institutions, commonly known as the Paris Principles, [and] are playing a crucial role in promoting and monitoring the effective implementation of international human rights standards at the national level, a role which is increasingly recognized by the international community.”²⁵ No national human rights commission currently exists in the United States. Instead, governmental officials often revert to the language of civil rights when speaking of human rights issues within a domestic context.

HUMAN RIGHTS EDUCATION AND PLANNING

Human Rights Educators (HRE) submitted a shadow report to the United Nations Human Rights Council in February 2018 highlighting the need for greater human rights education across higher education institutions in the United States.²⁶ In addition, HRE released the 6th edition of the “Human Rights Here and Now Bulletin,” a toolkit for educators hoping to teach their students about Deferred Action for Childhood Arrivals (DACA).²⁷ With the help of HRE, Kansas is one state that has started to revise its human rights education standards in 2018.

UNITED NATIONS HUMAN RIGHTS COUNCIL

The relationship between international human rights institutions and the United States, under the Trump administration has deteriorated dramatically. In September of 2018, the United States announced it would be leaving the UN Human Rights Council, the first nation ever to withdraw.²⁸ The decision was announced by Secretary of State Mike Pompeo and former Ambassador to the United Nations, Nikki Haley. The United States was mid-way through its three-year term on the United Nation's top human rights body.²⁹ While the United States has always been critical of the Human Rights Council since it was created in 2006, past administrations (Bush and Obama) sought to change the intergovernmental human rights body from within. Citing a "chronic bias against Israel," the United States' decision was universally criticized, particularly by many of the 47 member states and international NGOs.³⁰ While the Human Rights Council is far from perfect, it represents a multi-lateral effort by the international community, through elected membership, to hold each other accountable for human rights violations. The United States' departure signals more than just a departure from the Council's mission, but an abandonment of an important global project. It remains to be seen how this decision will impact the movement towards protecting and strengthening human rights domestically and abroad.

SPECIAL REPORT ON EXTREME POVERTY AND HUMAN RIGHTS

Professor Philip Alston, the UN Special Rapporteur on extreme poverty and human rights published his statement by the same name in December 2017. The mandate on extreme poverty was created by the United Nations Human Rights Council and was established to, give greater prominence to "the plight of those living in extreme poverty[,] and to highlight the human rights consequences of the systematic neglect to which they are all too often subjected."³¹ Professor Alston, an Australian legal scholar teaching at NYU School of law, was appointed "to examine and report back to member States on initiatives taken to promote and protect the rights of those living in extreme poverty, with a view to advancing the eradication of such poverty."³² His research included visits to California, Alabama, Georgia, Puerto Rico, West Virginia, and Washington D.C. His report highlighted human rights abuses related to poverty at the intersection of homelessness, race and class inequality, health care, and more.³³ In response to Professor Alston's report, the Center for Human Rights and Global Justice is currently focused on "related programming and research...on American poverty, both in connection with the Special Rapporteur's official visit in December 2017, and ensuring civil society dialogue and strategic interventions beyond the visit."³⁴

In this report, the following terms are used interchangeably: In this report, the following terms are used interchangeably: Native American, Indigenous Peoples and American Indian to refer to persons who are of some degree of Indigenous North American ancestry and are recognized as an American Indians by a nation, village and/or the United States. 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. 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 America.



Human Rights to Sovereignty & Self-Determination

Illegal and immoral attempts to encroach on American Indian lands, territories, and the resources of Indigenous Peoples have always been, and continue to constitute a grave violation of human rights. “Non-tribal governments and corporations with interests in tribal lands have not slowed such attacks in recent years, but [representatives and members of Indigenous Peoples’ governments] and communities throughout the United States have rallied new resistance. Some, like the Standing Rock Sioux in North Dakota, are [legally] challenging corporate incursions on their treaty lands and water. Others are fighting something slightly more subtle: renewed calls to change the ownership structure of Native lands.”¹ Indigenous nations and Peoples continue to engage in worldwide discussions on ensuring the effective implementation of THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (DRIP).²



The Standing Rock Sioux in North Dakota are legally challenging corporate incursions on their treaty lands and water.

WHAT ARE HUMAN RIGHTS TO SOVEREIGNTY AND SELF-DETERMINATION?

UNITED NATIONS CHARTER

The enshrining of human rights in international law happened in San Francisco between April and June 1945 when the United Nations' Charter was drafted. Article 1.2 states that the goal of the agreement was "[t]o develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples."³ Article 1.3 goes on to say that the United Nations sought "[t]o achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion..."⁴

The UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (DRIP) consists of 46 articles, which establish a universal framework of minimum standards for the survival, dignity and well-being of the Indigenous Peoples of the world. It elaborates on existing human rights standards and fundamental freedoms as they apply specifically to Indigenous Peoples and it providing a path toward peace and reconciliation.⁵

The INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, is one of only three international human rights instruments, ratified by the United States Senate. The ICCPR is significant here due to its first article which states, "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."⁶ Further, Article 1.2 notes, "In no case may a people be deprived of its own means of subsistence."⁷

The INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ICERD), Article 5 says, "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 [...]. 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: (iv) The right to public health..."⁸ Further, General Comment 23 specifically elaborates on the relationship between Indigenous Peoples and the convention.⁹

Indigenous Peoples in the United States have historically utilized the EARLY WARNING URGENT ACTION OF THE UN COMMITTEE to raise with the United Nations, issues that are pressing and imminent.

2018 VIOLATIONS OF THE HUMAN RIGHTS TO SOVEREIGNTY AND SELF-DETERMINATION

PROTECTION OF SACRED HOMELANDS FROM ENCROACHMENT

Bears Ears National Monument was originally founded at the behest of five Indigenous nations with a proposal incorporating the nations' cultural principles with customs and policies of the United States which included rules for respecting archeological, ceremonial, and burial sites. Indigenous Peoples actively initiated and coordinated the legislation to create Bears Ears and Grand Escalante National Monuments.¹⁰

Indigenous nations have had to contend with the external pursuit of lands enshrined in national monuments with recognized protections that are of cultural and spiritual significance to them. Some of the protections for these lands have been drastically reduced and opened for natural resource exploitation by the current administration. This is an ongoing challenge for Indigenous Peoples in the United States as extractive industries are emboldened under the Trump administration.

Arizona Representative Eric Descheenie explained how the current administration fundamentally denied free, prior and informed consent when the size of Bears Ears was reduced by 85% by a Presidential Order.¹¹

Kanaka Maoli, from the islands of Hawaii in the middle of Oceania, is resisting commercial efforts to disrespect their ancestral homelands by proceeding with development without free, prior, and informed consent. The Hawai'i Supreme Court, for exam-

ple, recently decided that the construction of the world's second largest telescope could be constructed on the sacred mountain of Mauna Kea. Human Rights Defenders have vowed to protest and to put their bodies on the line to prevent the construction of this proposed 30-meter telescope.¹²

THE TARGETING OF HUMAN RIGHTS DEFENDERS PROTECTING SACRED LAND

At the 39th session of the UN Human Rights Council in September of 2018, Victoria Tauli-Corpuz, Special Rapporteur on the rights of Indigenous Peoples discussed the challenges facing Indigenous Peoples defending their territories and natural environment. She said that Indigenous activists are being targeted by governments for advocating for the protection of their lands, territories, and resources. A typical scenario would start with an environmentally and culturally harmful large-scale project with an extractive component, attempting to develop land without consulting the Indigenous Peoples impacted by the development. There is generally no attempt to seek free, prior and informed consent before moving forward with projects. Or when project owners have undertaken to consult with Indigenous Peoples, the efforts are often culturally inappropriate and undertaken in bad faith.¹³ "A crucial underlying cause of the current intensified activity is the failure to respect collective land rights and to provide [I]ndigenous communities with secure land tenure, like this, in turn, undermines their ability to effectively defend their lands from the damage caused by large-scale projects."¹⁴

Indigenous Peoples are being accused of being obstacles to development and acting against the national interest of the United States. This framework places Indigenous communities who seek to protect their lands, at the front lines of conflict, and makes them vulnerable to persecution at the hands of federal, state, and local governments.¹⁵

The Special Rapporteur continued, “[i]n the worst situations, escalating militarization, fueled by the demand over natural resources, results in [i]ndigenous peoples being targeted under national security acts and anti-terrorism legislation, putting them in the line of fire, at times literally, by the army, the police...”¹⁶

Human rights defenders continue to insist that political prisoners of conscience, active in the early Indigenous rights movement across the United States of America must be released unconditionally and the current criminalization of land rights defenders must cease.

At a press conference at the United Nations in July, 2018, the International Indian Treaty Council also raised the issue of the targeting of advocates, while the American Indian Movement – West called for the immediate release of the prisoner of conscience, Leonard Peltier. The United States government continues to insist that Mr. Peltier remain incarcerated, but Indigenous advocates assert that Peltier remains one of the early human rights defenders facing criminalization for exercising their rights on Indigenous Peoples’ lands.¹⁷

LAND AND HUMAN RIGHTS AT THE BORDER

In 2018, the United States-Mexican border is in the spotlight because of the egregious human rights violations occurring there, however, for Indigenous Peoples, human rights at the border has always been a priority.

Members of the Arizona House of Representatives, Eric Descheenie and Wenona Benally descried how historically, the creation of the border between the United States and Mexico sliced right through sovereign Indigenous Peoples’ lands. The borders were drawn in a way that divided Indigenous nations which separating Peoples with common heritages and cultures.

In 2017, President Trump issued an executive order to build 1,250 miles of a border wall between the United States and Mexico. The State of California sued the Trump administration on environmental and constitutional grounds. 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.”¹⁸ 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.¹⁹

Indigenous Peoples are demanding sensible border policies that recognize the rights enshrined in the UN Declaration on the Rights of Indigenous Peoples, specifically Article 36. Border policies must recognize existing treaties, agreements, and other constructive arrangements between Indigenous Peoples and countries maintaining the boundaries and those policies and practices must be rooted in international human rights law.²⁰

GENDER BASED VIOLENCE AT THE BORDER

Indigenous leaders serving the 7th District of Apache and Navajo County of the Arizona House of Representatives participated in the UN Human Rights Council's 39th session. While there, they raised concerns about the treatment of children and women at the border due to the current administration's escalation of violence. These activities are in violation of the UN Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), both of which have not been ratified by the United States of America.²¹

At the same session, Representative Benally shared specific examples of mothers and children separated at the border who are Indigenous Peoples of Mayan descent fleeing persecution in Guatemala. Even though they may have had legitimate asylum cases, they were denied the opportunity to simply apply for asylum, which is counter to international human rights law. Many Indigenous children being separated from parents do not speak Spanish—only their Indigenous language—and are losing the ability to speak that language while are being held separately from their parent.²²

Further, the Indigenous Peoples Law and Policy Program at the University of Arizona

denounced the violations of tribal rights by border officials between the United States and Mexico. In addition, the United Nations Permanent Forum on Indigenous Issues' (PFII) final report welcomed constructive dialogue between Indigenous Peoples in North America on border-crossing issues as well as noting "...the recent second meeting of the North American Working Group on Violence Against Indigenous Women and Girls and encourages Canada, Mexico and the United States to develop a trilateral initiative on transboundary issues of concern to [I]ndigenous [P]eoples."²³

SOVEREIGNTY: DEMANDS FOR INCLUSION AND RECOGNITION

UN PERMANENT FORUM ON INDIGENOUS ISSUES

During the 17th annual United Nations Permanent Forum on Indigenous Issues' (PFII) session, Indigenous Nations and Peoples continued a dialogue to make real, the articles of the UNDRIP. Indigenous Peoples also continue to play an active role to ensure that they have specific status to guarantee participation at the highest levels in the United Nations.

The UN PFII seeks to be innovative in its efforts to increase involvement and inclusion of Indigenous Peoples with new regional dialogues between Indigenous Peoples and Members States. The main issue beyond common borders for North America was the persistent denial the right to self-determination and decision-making processes for Indigenous Peoples. Especially, with regard to protection of sacred homelands from the harmful impact of developments such as pipelines that ignore the rights of Indigenous Peoples while harming their health and polluting water sources.²⁴

SELF DETERMINATION IN PUERTO RICO

The Special Rapporteur on extreme poverty and human rights, Philip Alston, toured Puerto Rico after the devastation of Hurricane Maria. Alston recognized the specific situation that Puerto Rico is in due to colonization and harmful practices by corporations committing human rights violations. Alston shared, “many, probably most, Puerto Ricans believe deeply that they are presently colonized and that the US Congress is happy to leave them in the no-man’s land of no meaningful Congressional representation and no ability to really move to govern themselves.”²⁵ In his report, Alston concluded, “there seems to be good reason for the Special Political and Decolonization Committee of the United Nations to conclude that the island is no longer a self-governing territory.”²⁶

On his visit to the South of Puerto Rico, Alston noted that people in the Guayama community are “living next to a mountain of completely unprotected coal ash which rains down upon them bringing illness, disability, and death.” Alston discussed the human right to health throughout his report but specifically expressed concern about the Trump administration’s Environmental Protection Agency. The concern was around a proposal for “a new rule that would significantly undermine existing inadequate protections against coal ash disposal.”²⁷

The Special Rapporteur’s final report also recognized the systematic structures of social exclusion and denial of dignity for Indigenous Peoples in the United States. He listened to testimony directly from Chiefs and representatives of recognized and non-recognized nations and tribes sharing information from individuals impacted on the ground. However, it was the United States government’s own documents that are the most damning. They state that Indigenous Peoples have the highest poverty and unemployment rates in the United States. Amongst American Indians and Alaska Native Peoples, 26.2% are living in poverty and 12% are unemployed. Further, “[o]ne in four indigenous young people aged 16 to 24 are neither enrolled in school nor working.”²⁸



26.2% of Indigenous Peoples are living in poverty and 12% are unemployed.



Environmental/Climate Justice & Human Rights

According to leading scientific experts, we have twelve years to limit the effects of climate change.¹ If global temperatures climb beyond 1.5 degrees Celsius, then catastrophic events will occur with more frequency and intensity including: drought, floods, extreme heat, starvation, and forced migration.² These findings are from a groundbreaking report from the United Nations Intergovernmental Panel on Climate Change (IPCC) released on October 8th of 2018.³ Monique Harden of the Deep South Center for Environmental Justice, however, argues that communities of color are already “living on the front lines of both the causes and effects of climate change.”⁴

One example of this is “Cancer Alley,” an area along the Mississippi River between Baton Rouge and the Gulf of Mexico that features over 200 petrochemical facilities.⁵ The African American and Indigenous communities living along this path are not only experiencing environmental racism—requiring marginalized groups to disproportionately shoulder the distribution of environmental burdens by, in this case, being exposed to asthma-inducing and cancer-causing pollution—but those same harmful pollutants contribute to a warming planet making these communities vulnerable to climate-change-causing displacement in the form of powerful hurricanes in the Gulf Region.⁶

Members of the Trump administration, including the President himself, have referred to climate change as a “hoax”⁷ and has called into question the legitimacy of the UN report.⁸ The severely weakened Environmental Protection Agency (EPA), under the Trump administration, has not formally endorsed the findings of the report.⁹ In addition, the EPA has weakened many environmental regulations designed to address climate change¹⁰ and, more insidiously, has striped any mention of climate change from its website.¹¹ Despite this, grassroots groups as well as the international community continue to make climate change and human rights a priority. Urgent action to combat climate change and its impacts is explicitly stated in the UN Sustainable Development Goals 2030.¹² This includes integrating climate change-related measures into national policies, strategies, and planning.¹³

A core issue that advocates and frontline communities understand is that to seriously address the dual issues of environmental justice and climate change, societies need to look at the ways that they are causing harm to the planet and ways that it can move forward that are advantageous for human health and the planet. “Just Transition” –with origins in the labor and environmental justice movements—is a strategy framework to “move away from a globalized capitalist industrial economy to linked local living participatory economies that provide well-being for all.”¹⁴ The move is away from industries that harm workers, community health, and the planet while providing a pathway for new forms of employment by building alliances between fence-line communities—those adjacent to polluting factories—and frontline workers—those directly affected by pollution.¹⁵

HUMAN RIGHTS AND THE ENVIRONMENT

The UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR), 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.¹⁶

A key provision is:

Article 25: “Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of this family.”

Human rights related to the environment are also explicitly outlined in the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) ratified by the United States in 1992¹⁷ and the CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD) ratified in 1994.¹⁸

*CERD, Article 5 (iv): 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 [...]. 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: (iv) The right to public health...”*¹⁹

The UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC) ratified by the United States in 1992 is an important instrument that is guiding human rights work as it relates specifically to climate change. Advocates for climate justice have noted that the United States has often created barriers to significant progress on the issue of climate change.²⁰

UNFCCC, Article 3 (1,2,3,4,5):

1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.

3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties.

4. The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programs, taking into account that economic development is essential for adopting measures to address climate change.

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Create more stringent national and state regulations regarding coal ash pollution and dumping.²¹
- Protect the human rights of communities displaced by natural disasters.²²
- End the criminalization of protests against environmental human rights violations.²³
- Hold the Environmental Protection Agency accountable to human rights standards and ratified treaties.
- Protect the human rights of workers engaging in cleanup efforts in aftermath of natural disasters.²⁴
- Promote environmentally sound lifestyles, economic livelihoods for Indigenous communities

2018 VIOLATIONS OF THE HUMAN RIGHTS PERTAINING TO ENVIRONMENT

ENVIRONMENTAL JUSTICE

The environmental justice movement originated with people of color whose communities were and are on the front lines of environmental harm. The human rights framework is central to the principles of environmental justice as developed by the First National People of Color Environmental Leadership Summit in 1991.²⁵ Moreover, Robert Bullard a pioneer in the field argues, “grassroots human rights activists have shown environmentalists that confronting *polluters* with the *polluted* is a strategic path for protecting the right of the next generation to inherit a planet worth inhabiting.”²⁶ This strategy highlights what many studies have verified: that polluters and

pollutants are disproportionately located in communities of color.²⁷ According to a 2018 EPA report, people of color make up more than half of the 9 million persons living near hazardous waste sites.²⁸ And Black people are three times more likely to die from air pollutants than white people.²⁹ In addition to this, 2018 marks the resolution of a 26-year lawsuit, “the oldest pending civil rights complaint against the Environmental Protection Agency [...] A district court in California found that the EPA was guilty of environmental racism when it ignored the pollution concerns of a largely African-American community in Flint in the 1990s.”³⁰ The case originated in Flint, Michigan in 1992 when a wood burning incinerator and power station was moved to a predominantly low-income, Black community.³¹ The community expressed concerns that the incinerator, Genesee Power Station, would send lead, mercury, arsenic and other pollutants into the air.³² Their fears were realized and the EPA eventually recognized that the plant was significantly violating environmental standards.³³ The city of Flint continues to be a site of human rights struggles for environmental justice as nearly 100,000 residents, including 9,000 children,³⁴ were affected by unclean drinking water when their water source was switched from Lake Huron to the Flint River.³⁵ The water was found to have nearly 100 times the legal level of lead. Attorneys for the state of Michigan and the city of Flint are attempting to have a class action lawsuit dismissed arguing that clean water is not a constitutional right.³⁶ This is in clear violation of international law which requires nations to provide their people with safe drinking water and sanitation.³⁷

TOXIC POLLUTION

This year, Dewayne Johnson became the unwitting face of a human rights movement when he brought to light, human rights violations perpetrated by Monsanto, an agribusiness corporation and notorious bad actor.³⁸ A California jury awarded Johnson \$289 million in damages related to his development of non-Hodgkin lymphoma through his use of their weed killer, Roundup, which contains the chemical glyphosate.³⁹ Monsanto’s use of glyphosate is now considered by the International Monsanto Tribunal in The Hague to constitute a crime of Ecoside, which is the loss or damage of an ecosystem that can no longer be used or enjoyed by the people who live there.⁴⁰ Human rights advocates are deeply concerned that the epidemiological studies that have demonstrated the harm of various chemicals and pesticides are now being undermined by the Trump administration. More specifically, with leadership changes to the Environmental Protection Agency (EPA), such studies are now being delegitimized and referred to as “secret science.”⁴¹

In 2018, significant concerns around exposure to coal ash were brought to light. On July 18th the EPA signed a rule weakening the first federal regulations providing health and environmental safeguards for communities near toxic coal ash waste dumps.⁴² The changes would include loosening drinking water protections for hazardous chemicals, termination of groundwater testing by state officials, and allowing hundreds of ponds leaking ash to continue operating.⁴³ This precedent is even more concerning for people in Puerto Rico whose water is being contaminated by coal ash generated by a coal-fired power plant owned by AES, a private corporation.⁴⁴ Having suffered from environmental damage from such practices for decades, Hurricane

Maria exacerbated the harm, making communities in Puerto Rico even more vulnerable to environmental injustices.⁴⁵ The Inter-American Commission on Human Rights (IACHR) has urged the United States to provide sustained support to “ensure access to basic services that facilitate peoples’ access to drinking water and food, electric power, health assistance, and telephone and Internet services”⁴⁶ and that these human rights problems should be addressed with the consent of the people of Puerto Rico.⁴⁷

PIPELINES

Human rights violations are also a key aspect of the ongoing struggle against pipelines such as the Dakota Access pipeline that undermines the National Environmental Policy Act and the Native American Graves Protection Act as well as several long-standing treaties. Organizations such as Honor the Earth are calling for a halt to all permits issued by the Army Corps of Engineers until “formal tribal consultation and environmental review are properly and adequately conducted.”⁴⁸ This particular struggle has suffered two significant setbacks as Donald Trump has already approved the permit to operate.⁴⁹ As a result, the Standing Rock and Cheyenne Sioux Tribes sued the U.S. Army Corps of Engineers arguing that it had not been properly consulted, which is a human rights requirement. Subsequently, Judge James Boasberg ordered that construction of the pipeline continue while the Army Corps conducted another study to gauge the potential harms of the project.⁵⁰ Human rights advocates continue to fight against this project and to call out the company responsible for the pipeline, Energy Transfer Partners (ETP). According to a recent Greenpeace report “Too Far, Too Often” the company continues to use repressive tactics that vio-

late human rights and have led to international outcries.⁵¹

FRACKING

Fracking is a practice of drilling into the earth and releasing a high-pressure water mixture creating cracks in the rock that allows oil and gas to flow freely into wells. One of the problems with fracking is that it also releases agricultural waste that flows into the water supply of environmentally vulnerable communities.⁵² In addition to this, human rights and water security experts are concerned that the water mixture used in fracking are unmonitored and unregulated, as they are exempt from the US Safe Drinking Water Act due to a provision known as “the Halliburton loophole.”⁵³ This exception allows for the systemic violation of clean water as a right. This trend is likely to continue under the Trump administration who is currently “auctioning off millions of acres of drilling rights to oil and gas developers” with the number of drilling rigs in states like Wyoming doubling since 2016.⁵⁴ This renewed intensity is concerning as the practice is linked to earthquakes and increased hydrocarbon emissions.⁵⁵

CLEAN ENERGY

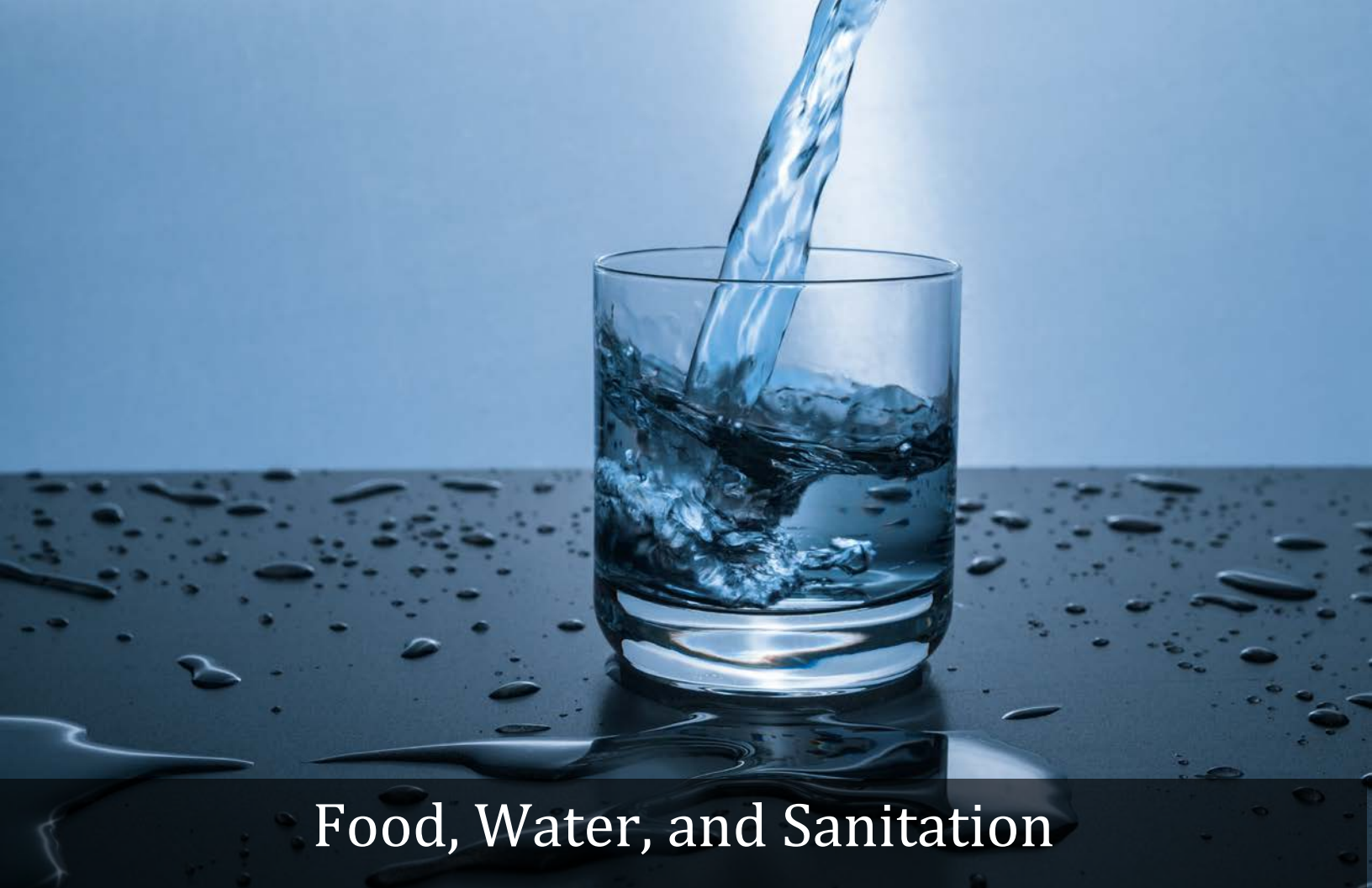
The need for clean energy solutions continues to be an urgent one as coal burning is a major area of concern for organizations like the Union of Concerned Scientists (UCS).⁵⁶ Burning coal accounts for 25% of US global warming emissions and 80% of all carbon emissions produced by power generation nationwide.⁵⁷ The UCS estimates that there “are nearly 600 coal-fired power plants operating in the United States today, producing nearly half of the nation’s electricity.” And, to decrease our reliance we must shut down and replace the oldest and dirtiest plants with reliable and clean energy

sources.⁵⁸ The environmental burden of such plants disproportionately falls on Black communities in America. In February of 2018, a study by the EPA showed that Blacks have a 54% higher rate of inhaling matter that leads to higher rates of asthma, heart attacks, and lowered life expectancy rates.⁵⁹ Environmental racism also affects Latinx, Native American, Asian, and other communities of color resulting in poor health outcomes across generations. The political landscape for human rights and social justice organizations to address these issues became immeasurably harder as the Trump administration enacted a greenhouse emissions plan that increases the output of coal-burning plants rather than closing them.⁶⁰ The new plan is expected to reduce carbon dioxide emission by 1.5% by 2030 versus Obama's clean power plan that set a 32% reduction target by the same year.⁶¹ In addition, EPA documents show that by 2030 the plan will kill an additional 1,400 people, worsen 40,000 cases of asthma and account for 60,000 lost school days.⁶² If the plans proceed, Attorney General Barbara D. Underwood of New York has promised to sue the Trump administration on behalf of a coalition of 26 cities, counties, and states.⁶³



Black people have a 54 %
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In November of 2018, the wildfires, Camp Fire and the Woosley Fire in California together claimed 87 lives with 296 people unaccounted for.⁶⁴ In addition to this, the fires have consumed nearly 13,972 homes, 528 commercial buildings and 244,836 acres of land.⁶⁵ Wildfires are a normal part of how our environment restores nutrients to soil through clearing out decay. However, the fires in 2018 are “30 percent larger than the average over the past decade.”⁶⁶ California has documented its fires going back to 1932. And of the 10 largest fires, 9 have occurred since 2000, 5 since 2010 as well as 2 in 2018.⁶⁷ The increasing size and destructiveness of these fires are believed to be tied to human activity causing climate change. In the past century, California has warmed by three degrees Fahrenheit.⁶⁸ This increase absorbs additional water leaving trees, shrubs and grasslands dry and ready to burn. This extra dryness increases the possibility of major fires starting from random events such as lighting strikes, campfires or even a spark from a car.⁶⁹ Park Williams, a fire expert at Columbia University argues that because of climate change wildfires are “increasing in size, both in California and across the western U.S.”⁷⁰ On Friday November 23rd the White House released a 1,656 page National Climate Assessment report—created by 13 federal agencies and mandated by Congress—detailing the effects of climate change on the U.S. economy and public health.⁷¹ The report explicitly cites the relevance of climate change to the increase in wildfires.⁷² Unfortunately, the Trump administration has not indicated that the report would convince them to halt the rollback of policies designed to curb climate change. The number of lives lost and the searing images from California's wildfires highlight the importance of climate change as crucial human rights issue.



Food, Water, and Sanitation

Food security, clean water, and adequate sanitation are integral to the human right to “a standard of living adequate for the health and well-being” of an individual. In the United States, people of color, people with low incomes, and other marginalized communities are disproportionately impacted by violations of the rights to food, water, and sanitation. The Trump administration has further failed to protect these rights in its recent directives to decrease regulations on drinking water, environmental reviews, food safety, and pesticide regulations.

WHAT ARE THE HUMAN RIGHTS TO FOOD, WATER, AND SANITATION IN THE U.S.?

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 humans. For example:

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.”

The rights of children with regard to food and water were explicitly outlined in the CONVENTION ON THE RIGHTS OF THE CHILD in 1990 though the United States remains the only one of 196 nations that has failed to ratify this treaty.² 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.³ 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 AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CAT) in 1994.⁴

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 “states should prohibit water disconnections due to inability to pay in law and in regulatory frameworks.”⁵

In 2018, the HUMAN RIGHT COUNCIL’S “REPORT OF THE SPECIAL RAPPORTEUR on extreme poverty and human rights on his mission to the United States of America” stated, “In practice, the United States is alone among developed countries in insisting that, while human rights are of fundamental importance, they do not include rights that guard against dying of hunger...or growing up in a context of total deprivation.” The report also noted that, “In Alabama and West Virginia, a high proportion of the population is not served by public sewerage and water supply services. Contrary to the assumption in most developed countries that such services should be extended by the government systematically and eventual-

ly comprehensively to all areas, neither state was able to provide figures as to the magnitude of the challenge or details of any planned government response.”⁶ In June 2018, Nikki Haley, the United States ambassador to the United Nations, spoke out against the report, completely dismissing it and its allegations.⁷



"The United States is alone among developed countries in insisting that, while human rights are of fundamental importance, they do not include rights that guard against dying of hunger...or growing up in a context of total deprivation."

Following both the destruction caused by Hurricanes Irma and Maria in Puerto Rico and the United States' failure to provide appropriate relief to the island, the Special Committee on Decolonization approved a draft resolution today that would call upon the United States to shoulder its responsibility to facilitate the realization of the right of Puerto Ricans to self-determination."⁸

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Create and protect government programs that guarantee the right to food for all individuals, especially communities of color and low income populations.⁹
- Pass a new farm bill that addresses food insecurity, reduces food waste, and supports food and environmental sustainability.¹⁰
- Enact laws that give local communities access to land for food growth and protect such land from environmental harm.¹¹
- Recognize the right to water through the creation of federal legislation that prevents water shutoffs for lack of ability to pay and provides funding to guarantee affordable drinking water.¹²
- Impose a total ban on fracking for the extraction of shale oil.
- Support legislative action that prevents the privatization of water and supports access to water for all through public water services.¹³
- Eliminate discrimination and other barriers in accessing the right to sanitation, especially for those living in rural areas and the homeless.¹⁴

2018 VIOLATIONS OF THE RIGHT TO FOOD, WATER, AND SANITATION

In 2018, the United Nations called on the United States to “acknowledge the damaging consequences of extreme inequality.” The United States’ failure to formally recognize and uphold the human right to food, water, and sanitation has “damaging consequences” and perpetuates the cycle

of “extreme inequality.”¹⁵ In the United States, many households remain food insecure, without access to safe-drinking water, or lack adequate sanitation. Federal legislations and funding is needed to address these human rights violations.

FOOD

In 2018, 13 percent of U.S. households were food insecure. Households in Louisiana, Alabama, and Mississippi experienced the highest rates of food insecurity. The households at the greatest risk for food insecurity in the US included men living alone, households with children headed by a single woman, racial and ethnic minorities, low-income families, families living in the south, and families living in rural areas.¹⁶



This means families lacked access to enough food for an active, healthy life for all household members

In September of this year, the USDA released a report that indicated that the rate of food insecurity is highest for African American and Hispanic American households.¹⁷ While hunger has decreased overall for African American and Hispanic American households since 2015, grassroots groups and advocates demand more policies that prioritize racial and gender equity to reduce food insecurity at a faster rate for these populations.¹⁸ Residents of some regions in the United States, often referred to as food deserts or food apartheid areas, do not have access to well-stocked grocery stores with adequate healthy, affordable food options.¹⁹ A 2018 study also emphasized the importance of education and nutritional knowledge in ending this cycle in an effort to increase the demand for healthy and affordable food in these regions.²⁰

Despite the existence of food insecurity in the United States in 2018, individuals may encounter more difficulties in accessing food programs in the future. In June 2018, the House of Representatives passed a new farm bill with stipulations that would create more obstacles for individuals dependent on SNAP (food stamp) benefits, including extra paperwork and new work requirements.²¹ The Senate passed a bipartisan bill with changes to the house's farm bill that does protect food assistance for low-income families.²² The House and the Senate, however, are still trying to reconcile many aspects of the farm bill, including whether or not formerly incarcerated individuals will be allowed to participate in the food stamp program.²³

Programs that address food waste and food sustainability are also part of the farm bill negotiations. Despite the prevalence of food insecurity, 40 percent of

food in the United States is wasted.²⁴ The current draft of the farm bill does not thoroughly address this issue.²⁵ Because modern agriculture and food systems remains dependent on fossil fuels, agriculture, livestock, and soil management activities contributes significantly to greenhouse gas emissions.²⁶ Studies reveal that a farm-to-table approach, and other efforts to eat locally can increase food and environmental sustainability. For instance, one study indicated that "...increasing Iowa's consumption of regionally grown fresh produce by only 10 percent would save more than 300,000 gallons of transportation fuel per year."²⁷

WATER

The Trump administration's reversal of Obama era policies to protect the right to safe-drinking water—especially for Indigenous Peoples—violates "the right to a standard of living adequate for the health and well-being" for large populations.

In March 2018, under President Trump, the Bureau of Land Management reversed the Obama administration's framework of oversight, disclosure, and operating standards "to ensure the environmentally responsible development of oil and gas resources on Federal and Indian lands."²⁸ This change followed President Trump's directive ordering an end to protracted environmental reviews of the Dakota Access Pipeline to expedite completion of the pipeline in 2017.²⁹ This is of grave concern to the human rights community because the pipeline has already had spills and the Missouri River—near the pipeline—is the Standing Rock Sioux Tribe's only source of water. In August 2018, the U.S. Army Corps of Engineers issued a decision affirming its original decision to issue a construction permit for

the Dakota Access Pipeline. The tribe, however, continues to pursue legal action against the U.S. Army Corps of Engineers to protect their human right to clean water.³⁰

Furthermore, fracking and a lack of regulation for septic tank and wastewater runoff in the United States continues to impact access to clean water for many populations. Although the EPA admitted that fracking contaminates drinking water in 2016, a recent study has confirmed these findings.³¹ Water contamination and adverse health outcomes have been reported in areas near fracking sites in Texas, Oklahoma, California, Pennsylvania, and Colorado. Recent studies also reveal a dramatic increase in the amount of water used for fracking over a five-year period in the United States.³² This means a reduction in the amount of drinking water and an increase in contaminated waste water which poses a threat to residents in areas impacted by fracking.³³ Wastewater treatment plants and septic tanks in Massachusetts, Vermont, and New Hampshire are polluting the Connecticut River with large amounts of Nitrogen.³⁴ In April 2018, the Environmental Protection Agency released a memorandum, “Establishing Nitrogen Endpoints for Three Long Island Sound Watershed Groupings,” to address the pollution.³⁵ The four impacted states are now using technology to monitor the progress of the pollution reduction.³⁶

Water shut-offs and water privatization also severely impact the right to water in the United States. In October 2018, a study was published that revealed: “Water services were cut off to an estimated 1.4 million people living in more than a half-a-million American households that got behind on their bills” in 2016.³⁷ Addi-

tionally, a 2017 study from Michigan State University predicts that if water rates continue to climb as projected, nearly 36 percent of U.S. households will be unable to pay their bills by 2022.³⁸ In 2018, water shutoffs and water pollution continued to impact the residents of Flint, Michigan. The mayor’s office issued a statement in March that the city halted water shutoffs during cold weather, but due to financial strain on the city, water shutoffs would continue during the summer.³⁹ In April 2018, after replacing thousands of old lead and galvanized pipes, Flint officials declared the water safe to drink, but many residents remain skeptical.⁴⁰ The state also ended its free bottled water program for Flint residents.⁴¹ As state officials downplayed the extent of the water contamination for a long time, Flint residents do not trust that the water is safe, and want the bottled water program to continue until all of the old pipes are replaced in the city.⁴²

SANITATION

The United States has failed to protect the right to sanitation for residents in rural areas, especially for African Americans living in rural counties of Alabama. In September 2018, Earthjustice, an advocacy group, filed a complaint with the federal government on behalf of residents of Lowndes County, contending “state and county health officials have failed to address sewage conditions that led to a hookworm problem in the county.”⁴³ In September 2018, Earthjustice filed an additional complaint, alleging that the Alabama Department of Public Health and the Lowndes County Health violated the Civil Rights Act when they discriminated against African American residents of Lowndes County by failing to equally distribute the sewage disposal program and

the infectious diseases program in the county.⁴⁴ Health officials in Alabama, however, are disputing the results of the 2017 report that revealed that 34.5% of Lowndes residents have hookworm. The state department declared that no presence of hookworm was found in Lowndes County.⁴⁵

The criminalization of homelessness also contributes to the lack of adequate sanitation for individuals in the United States. In 2018 the issue of public defecation in cities with high populations of the homeless, was brought to the fore in cities such as San Francisco. Residents of New York, San Francisco, Denver, and Washington D.C. are demanding more clean, safe public toilets throughout their cities.⁴⁶



2,975 deaths because of Hurricane Maria. Many of the deaths occurred in the six months following the hurricane, as many residents remained without safe-drinking water during this time.

FOOD, WATER, AND SANITATION IN PUERTO RICO

The United States government failed to provide adequate emergency relief to Puerto Rico following Hurricane Maria—particularly as it pertains to food, water, and sanitation on the island. In 2018, officials raised the death toll in Puerto Rico from Hurricane Maria’s destruction to 2,975.⁴⁷ Many of the deaths occurred in the six months following the hurricane, as many residents remained without safe-drinking water during this time.⁴⁸ Hurricane Maria damaged water and sewage systems in Puerto Rico, leaving many Puerto Ricans without access to clean water for months. A year later, residents remain suspicious that the tap water is not safe to drink, reporting strange colors and smells in the water.⁴⁹ Although the EPA declared the water safe to drink, many residents are still buying bottled water.⁵⁰

Furthermore, a FEMA report demonstrated that the agency severely underestimated the need for food and water in Puerto Rico after Hurricane Maria.⁵¹ At the time of the storm, the FEMA warehouse in Puerto Rico was almost empty, and after the storm, the agency struggled to deliver food quickly to the island. Puerto Ricans also reported that food rations handed out often included candies and snacks, rather than food or ingredients for meals.⁵² In the year following the hurricane, grocery stores in Puerto Rico struggled to keep shelves stocked, especially with fresh food, due to ongoing power outages and closed roads.⁵³ As Puerto Rico’s susceptibility to food shortages becomes more evident, farmers are attempting to strengthen and expand agricultural growth on the island.⁵⁴



Human Rights of Migrants

The Trump administration's tenure, thus far, has been defined by its relentless and unveiled attacks on immigrants. Its policies, coupled with the openly racist, hostile, and xenophobic comments frequently made by the President, puts undocumented migrants at heightened risk for human rights violations at the hands of governmental and private actors. In 2018, we saw the "Muslim Ban" being upheld, attempted revocations of Temporary Protected Status, threats to send large numbers of armed guards to the border, the narrowing of the valid grounds for seeking asylum, and most egregiously, the separation of children, many of them babies and toddlers, from their parents at the U.S.-Mexico border.

WHAT ARE THE HUMAN RIGHTS OF IMMIGRANTS 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. A few of them are:

Article 3: *"Everyone has the right to life, liberty and security of person"*²

Article 9: *"No one shall be subjected to arbitrary arrest, detention or exile."*³

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.”*⁴

Article 14: *“Everyone has the right to seek and to enjoy in other countries asylum from persecution...”*⁵

The rights of migrant workers were explicitly outlined in the INTERNATIONAL CONVENTION ON MIGRANT WORKERS in 2003. The United States signed but has failed to ratify this treaty.⁶ The United States also has not signed or ratified the CONVENTION RELATING TO THE STATUS OF REFUGEES. The United States has, however, signed and ratified three treaties⁷: the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) in 1992⁸, the CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD) in 1994⁹ and the CONVENTION AGAINST TORTURE in 1994.”¹⁰ All of these treaties include protections for those who have migrated to the United States whether they are undocumented, refugees, visa-holders, those with Temporary Protected Status, lawful permanent residents or citizens.

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.”*

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.*¹¹

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.”*¹²

Following up on a 2013 request from the COMMITTEE TO END RACIAL DISCRIMINATION (CERD), in May 2017 the Committee requested a response from the United States government regarding the “discriminatory effects”¹³ of the expansion of the border wall between the United States and Mexico, particularly regarding its “adverse impact on the communities living along the border, especially Indigenous communities.”¹⁴ The Committee states that this order was “implemented without any type of consultation or consideration of potentially affected communities.”¹⁵

In February of 2018, the CERD COMMITTEE released a statement regarding the human rights of women and girls who are migrants, calling for a gender-responsive global compact to protect them. “At all stages of migration, women and girls may be subjected to racism, xenophobia, discrimination, violence, abuse and even death – often at the hands of smugglers from whom they had sought assistance in their migration journey, and by traffickers who seek to exploit them.”¹⁶

The IACHR also made a statement in June 2018 condemning “the death of Claudia Patricia Gómez González, a 20-year-old Maya-Mam Indigenous woman from Guatemala, who was shot and killed by the United States Border Patrol.”¹⁷ The IACHR also expressed “... deep concern over the new migration policy known as ‘zero tolerance’ aimed at deterring migration by separating children from their parents, as well as recent legal decisions that restrict access to refugee status on the basis of domestic and gang violence.”¹⁸



Claudia Patricia
Gómez González, a
20-year-old Maya-
Mam Indigenous
woman from
Guatemala was shot
and killed by the
United States Border
Patrol.”

In June 2018, the United States withdrew from the UN Human Rights Council.¹⁹ Former UN Ambassador Nikki Haley, responded to this exit by stating, “Neither the United Nations nor anyone else will dictate how the United States upholds its borders.”²⁰

In June of 2018, the UN Human Rights Council’s EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES released a “Statement in support of Indigenous families, children, individuals and others being detained in the United States of America.” The statement called upon “...the United States immediately to reunite children, parents, and caregivers that have been separated to date, and to ensure their basic human rights to family, safety, and security”²¹

In a press briefing in June 2018, the SPOKESPERSON FOR THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS stated that “The practice of separating families amounts to arbitrary and unlawful interference in family life, and is a serious violation of the rights of the child.”²² Additionally, they said that “the US should immediately halt this practice of separating families and stop criminalizing what should at most be an administrative offence. We call on the US authorities to adopt non-custodial alternatives that allow children to remain with their families and fulfill the best interests of the child, their right to liberty and their right to family life.”²³



"The practice of separating families amounts to arbitrary and unlawful interference in family life, and is a serious violation of the rights of the child."

SPOKESPERSON FOR THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS

Also in June 2018, SPECIAL RAPPORTEURS TO THE UN called upon the U.S. to release migrant children from detention, and stop using them to deter migration, calling out the executive order that "fails to address the situation of thousands of migrant children forcibly separated from their parents and held in detention at the border."²⁴ This "may lead to indefinite detention of entire families in violation of international human rights standards."²⁵

In July of 2018, 193 countries signed onto the GLOBAL CONTRACT FOR MIGRATION with the U.S. being a notable exception.²⁶ UN SPECIAL RAPPORTEURS called upon the US to sign the Compact, stating that, "Migration is not a crime, and migrants in irregular situations should not be treated as crimi-

nals or deprived of their liberty and security,"²⁷ and that "[c]hildren must never be detained because of their or their parents' migration status. It goes against the best interests of the child, is a clear violation of child rights, and causes irreparable harm that can amount to torture."²⁸

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Ensure 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.²⁹
- Congress should oppose any budget that funds the Trump administration's harmful proposal to continue to militarize the border."³⁰
- The Trump administration must use all tools necessary to reunite every child with their parents,³¹ and hand over detailed data about each remaining child who needs to be reunited with their parents.³²
- Congress should pass the DREAM Act.³³
- The Trump administration must halt the detention and deportation of all immigrants [including families], LGBTQ detainees, and children and seek alternatives to detention.³⁴

2018 VIOLATIONS OF THE HUMAN RIGHTS OF MIGRANTS

“ZERO-TOLERANCE” POLICY / FAMILY SEPARATION

In April 2018, the Trump administration began its “zero-tolerance” policy, which separated children from their parents when they were apprehended crossing the border. In six weeks, “some 2,654 children were taken from their parents or guardians in order to fulfill the mandate that the parents be prosecuted for a criminal misdemeanor.”³⁵ In June 2018, a U.S. District Court Judge “issued a preliminary injunction that ordered the government to return all children under five years old to their parents within 14 days and within 30 days for the rest.”³⁶ In late June 2018, news emerged that the Trump administration was jailing babies and toddlers, many of them under the age of one, in “tender age shelters,” coined “baby jails” by the critics of the policy.³⁷

As of October 2018, 245 children were still separated from their parents. “125 children have made the difficult decision—in consultation with their parents, who have already been deported—to remain separated in order to stay in the country and pursue asylum.” [This] leaves 120 children who were separated from their parents... who have not decided to waive reunification.”³⁸ Of the children still seeking to be reunified with their parents, there are “50 with parents who were removed from the United States by the government and 70 whose parents are still in the U.S.”³⁹

(PROPOSED) CHANGES THE FLORES SETTLEMENT AND THE CONDITIONS (AND CONSEQUENCES) OF THE DETENTION OF CHILDREN

In September 2018, the Trump administration moved to yet again find ways to harm immigrant children and families, this time under the auspices of a proposed rule that would allow the indefinite detention of children with their parents. Current protections under the *Flores* settlement keep children from being detained for longer than 20 days.⁴⁰ This proposal comes on the heels of reports showing that in Customs and Border Patrol custody, “immigrant children have reported physical and psychological abuse, unsanitary and inhumane living conditions, isolation from family members, extended periods of detention, and denial of access to legal and medical services.”⁴¹

Additionally, in July 2018, a federal judge ruled that the Trump administration was in violation of child welfare laws for “giving *psychotropic* medication to migrant children at a Texas facility without first seeking the consent of their parents or guardians.”⁴² In August 2018, reports surfaced that a toddler who had been detained with her mother died due to medical complications that began while they were detained and deteriorated due to inadequate medical care within the detention center.⁴³

ATTACKS ON ASYLUM

Codified in Article 14 of the Universal Declaration of Human Rights is the notion that “[e]veryone has the right to seek and to enjoy in other countries asylum from persecution [...]”⁴⁴ In June 2018, former Attorney General Jeff Sessions vastly restricted the types of cases that may be considered for asylum by making “it all

but impossible for asylum seekers to gain entry into the United States by citing fears of domestic abuse or gang violence.”⁴⁵

In response to a group of approximately 7,000 asylum seekers traveling toward the United States from Central America in the fall of 2018, President Trump has threatening to close the US-Mexico border.⁴⁶ In late October 2018, Trump threatened to send up to 15,000 troops to the US-Mexico border to stop the asylum seeking migrant “caravan” from entering the country. Trump also said that any immigrants at the border who throws rocks at the troops will be treated as if they were armed with rifles.⁴⁷

Most recently, in early November 2018, President Trump “signed a proclamation to ban people from seeking asylum if they cross the border into the US from Mexico outside of a designated port of entry.”⁴⁸ In mid-November 2018, a US District Court issued a temporary restraining order against the ban.⁴⁹ “Immigrant advocacy groups insist that United States laws clearly extend asylum protections to anyone who reaches the United States and expresses a fear of persecution, no matter how they enter the country.”⁵⁰ In late November 2018, the US-Mexico border was briefly closed in Tijuana/San Diego, and teargas was fired upon immigrant families as they attempted to cross.⁵¹

As an extension of its racist and xenophobic politics and rhetoric, the Trump administration has made promises to end birthright citizenship—a right enshrined in the U.S. constitution granting citizenship to anyone born on land subject to the jurisdiction of the United States.⁵² Despite rebuttals from constitutional law scholars, Trump insists that citizenship should not be extended to “the children of non-citizens born in the US.”⁵³

CONDITIONS OF DETENTION

Immigrants in detention joined the National Prison Strike that took place in prisons across the country in August and September 2018. The strikers demanded “humane living conditions, access to rehabilitation, sentencing reform and an end to modern-day slavery.”⁵⁴ A report released in June 2018 found that “LGBTQ migrants in federal detention centers are 97 times more likely to be sexually assaulted than other detainees.”⁵⁵ In the summer of 2018, corporate giant Amazon met with ICE to market its facial-recognition system, “as a way for the agency to target or identify immigrants.”⁵⁶

ICE has been targeting immigrants rights activists for deportation. Activists Maru Mora Villalpando and Ravi Ragbir are part of a “cohort of high-profile activists who the federal government has pursued aggressively for removal proceedings.”⁵⁷ If ICE is given free rein to silence their critics, then they will become “an agency that is unaccountable and is permitted to disappear those who are in the best position to educate the public about what this agency is actually doing.”⁵⁸

MUSLIM BAN

In June 2018, the Supreme Court upheld the Trump administration’s third version of the “Muslim ban.”⁵⁹ Since December 4, 2017, “the ‘Muslim Ban’ has been in full effect for certain individuals from: Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen. All are facing difficulty in their applications for visas to be united with family, study in the U.S., get medical treatment, or visit for tourism.”⁶⁰

DACA AND TPS

The uncertain future of the Deferred Action on Childhood Arrivals (DACA) Program—an Obama administration policy that shields status holders from deportation proceedings and provides them with access to higher education and employment—highlights a grave concern for immigration advocates in the United States.⁶¹ There are approximately 700,000 active DACA participants currently living in the United States, but by January 2019, 43,500 of them will lose DACA status, and another 50,000 will lose the status for the next two following months.⁶² By March 2020, all DACA recipients will have lost this legal protection. Obscured from these figures are the 605,000 youth who are eligible for the program but do not have the status.⁶³

Human rights advocates have been 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, and 60,000 Haitians. In early October 2018, a US District Court temporarily blocked the Trump administration from ending Temporary Protected Status (TPS) for Sudan, Nicaragua, Haiti and El Salvador “while a lawsuit challenging the government's decision to eliminate their protections continues.”⁶⁴ In May 2018, the Trump administration also ended TPS for approximately 57,000 Hondurans.⁶⁵

(PROPOSED) PUBLIC CHARGE RULING - ATTACK ON POOR IMMIGRANTS

In September 2018, the Trump administration proposed a ruling that would deny immigration benefits (such as green cards) to those who use, or have American-citizen-children, who use, public benefits. These benefits include Temporary Assistance for Needy Families (TANF or food stamps), Children's Health Insurance Program (CHIP), and Section 8 housing vouchers.⁶⁶ Out of fear of deportation, many families are making the hard choice to abstain from using public benefits.⁶⁷ In the United States, approximately 10 million U.S. citizen children, have at least one non-citizen parent.⁶⁸

In response to this policy, the Black Alliance for Just Immigration states, “[b]y punishing immigrant families who have used public benefits to meet their most basic needs, the Trump administration is advancing an explicitly racist and anti-immigrant policy designed to cause more harm to the most vulnerable among us. BAJI and our partners will continue fighting back against this administration's hate filled agenda.”⁶⁹



In May 2018, the Trump administration also ended Temporary Protective Status for approximately 57,000 Hondurans



Criminal Justice & Mass Incarceration

The United States places more people in prison than any other developed nation in the world.¹ Currently, there are 2.2 million people in United States living in prisons and jails. This is a 500% increase over the last forty years.² The growth of and privatization of prisons and jails has led to worsening conditions for people living there, including overcrowding, limited access to healthcare services, and unsanitary and inhumane conditions.³ These conditions are emblematic of the entire criminal justice system where racial and ethnic minorities, LGBTQs, and people with physical and mental disabilities are disproportionately targeted by the criminal justice system.

WHAT ARE THE HUMAN RIGHTS OF PERSONS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM?

The UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)⁴—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline rights and standards when dealing with criminal justice and imprisonment. A few of them are:

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

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

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.”

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.”

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

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.”

The United States has signed and ratified three treaties: The INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) in 1992,⁵ the CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD) in 1994,⁶ and the CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CAT) in 1994.⁷ The Convention against Torture, specifically, outlines protections for those who are imprisoned in the United States.

CAT Article 10: “1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. 2. Each State Party shall include this prohibition in

the rules or instructions issued in regard to the duties and functions of any such person.”⁸

CAT, Article 11: “Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”⁹

In April of 2018, The Sentencing Project sent a report on racial disparities in the U.S. criminal justice system to the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance.¹⁰ The report provides valuable data on the prevalence of racial disparities in policing, pretrial motions, trial, sentencing, parole, and post prison/collateral consequences.¹¹



There was a 43% increase in immigration arrests since Trump's inauguration as well as a backlog of over 600,000 cases in U.S. immigration court.

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- End war on drugs.
- Eliminate mandatory minimum sentences.
- Reduce the use of cash bail.
- Adopt a policy of using racial impact statements.
- Raise the age of juvenile court jurisdiction and end the prosecution of youth as adults.
- Remove all youth from adult jails and prisons.
- Invest in non-residential community-based programs.
- Eliminate detention or residential placement for technical violations of probation and divert status offenses away from the juvenile justice system.¹²

2018 VIOLATIONS OF THE RIGHTS OF PERSONS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM

RACIAL PROFILING BY LAW ENFORCEMENT

Racial profiling has been defined as “a practice that targets people for suspicion of crime based on their race, ethnicity, religion or national origin. Creating a profile about the kinds of people who commit certain types of crimes may lead officers to generalize about a particular group and act according to the generalization rather than specific behavior.”¹³ In early 2018, the ACLU filed a lawsuit against the City of San Francisco's police department for its conduct in 2013 in which the department targeted Black people for selling small amounts of drugs.¹⁴ According to the

2010 census, Black people made up only 6.1% of the population in San Francisco,¹⁵ however, all of the 37 people arrested and prosecuted in federal court, were Black.¹⁶ In September of 2018, The Southern Poverty Law Center published the report *Racial Profiling in Louisiana: Unconstitutional and Counterproductive*.¹⁷ The report revealed that more than one-third of the state's law enforcement agencies lacked any policy on racial profiling and existing policies at the other law-enforcement agencies generally failed to give officers and deputies the tools that they need to understand what racial profiling is or what conduct is prohibited.¹⁸

RACIAL DISPARITIES IN CRIMINAL PROCESSING AND SENTENCING

African Americans and Latinos comprise 29% of the population in the United States, but they make up 57% of the prison population. African Americans are more likely than white Americans to be arrested for the same activities as their white counterparts. Once arrested, they are more likely to be convicted; and once convicted, they are more likely to experience lengthy prison sentences. Of the 277,000 people imprisoned nationwide for drug offenses, over half (56%) are African American or Latino. Further, nearly half (48%) of the 206,000 people serving life and “virtual life” prison sentences are African American and another 15% are Latinx.¹⁹



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

PRISON CONDITIONS

Some of the effects of prison overcrowding include frequent violence, the overuse of isolation, and inadequate mental health diagnoses and treatment.²⁰ The Supreme Court in *Brown v. Plata* required the State of California to release up to 46,000 prisoners after finding that its overcrowded prisons and inadequate medical and mental health care is “incompatible with the concept of human dignity and has no place in civilized society.”²¹ In 2018, the ACLU filed a suit against the Mississippi Department of Corrections, who contracts with Management & Training Corporation (MTC), a private prison company, and the for-profit company Centurion, to provide medical and mental health care to incarcerated people.²² The ACLU is representing approximately 6,000 people incarcerated in prisons, some of whom testified about being sexually assaulted and having to set fires to get medical attention due to the prison’s lack of staff. The department’s own testimony and documents showed unsafe conditions and unaddressed gang-activity.²³

SOLITARY CONFINEMENT

According to Solitary Watch, at least 44 states and the federal system now have supermax prisons, which are generally composed solely of solitary confinement cells. It estimated that 80,000 to 100,000 people are held in isolated confinement.²⁴ While some specific conditions of solitary confinement may differ among institutions, generally a person spends 23 hours a day alone in a small cell with a solid steel door, a bunk, a toilet, and a sink. Human contact is restricted to brief interactions with corrections officers and, for some prisoners, occasional encounters with healthcare providers or attorneys. Family visits are limited; almost all human contact occurs while the prisoner is in restraints and behind a partition. Many people are only allowed one visit per month, if any. The amount of time a person spends in solitary confinement varies, but this can last for months, years, or even decades.²⁵ In October 2011, the United Nations’s chief torture investigator called on UN member nations to ban nearly all uses of solitary confinement in prisons, warning that it causes serious mental and physical harm and often amounts to torture.²⁶

TREATMENT OF INCARCERATED JUVENILES

There are approximately 53,000 youth held in facilities because they have been accused of a criminal offense. Nearly one in ten is held in an adult jail or prison. Even those held in juvenile “residential placement” live in restrictive, corrections-style facilities. Thousands of children are held in these facilities before having been convicted on any infraction, and many are held for non-violent, low-level offenses or for non-criminal infractions.²⁷ Of the

48,000 youth in juvenile facilities, more than two-thirds (69%) are 16 or older and more than 500 confined children are no more than 12 years old.

Black, Hispanic, and American Indian youth are overrepresented in juvenile facilities. These racial disparities are particularly pronounced when it comes to Black boys and American Indian girls. While less than 14% of all youth under 18 in the United States are Black, 43% of boys and 34% of girls in juvenile facilities are Black. And even excluding youth held in special facilities for American Indians, American Indians make up 3% of girls and 1.5% of boys in juvenile facilities, despite comprising less than 1% of all youth nationally.²⁸

PEOPLE WITH MENTAL DISABILITIES

Approximately two million people with mental illness are processed in jails each year. Of them, nearly 15% of the men and 30% of the women have a serious mental health condition. The vast majority of them are accused on non-violent crimes and most individuals in jails have not yet gone to trial. Once in jail, many people with mental illness do not receive medical treatment which can exacerbate their condition. Those affected have longer stays in jail than their counterparts who do not have mental illness. After leaving jail, many people no longer have access to the healthcare and benefits that they need. Further exacerbating the challenges is the fact that a criminal record often makes it difficult for individuals to get a job or housing. Many individuals, especially without access to mental health services and support, experience homelessness, end up in emergency rooms, and often are subjected to re-arrest. At least 83% people with a mental illness in jail

did not have access to needed treatment. According to National Alliance on Mental Illness, jailing people with mental illness creates huge burdens on law enforcement, departments of corrections, and state and local budgets and it does not contribute to the public safety.²⁹

CRIMINALIZATION OF COMMUNITIES OF COLOR AND LGBT COMMUNITIES OF COLOR

LGBTQ people and HIV-affected people are significantly overrepresented in all aspects of the penal system: from police interactions, to prosecutions, to incarceration. These individuals experience discrimination based on sexual orientation, gender identity, race, ethnicity, and national origin.³⁰ According to Lambda Legal, in a national community survey of LGBTQ people it conducted, a quarter of respondents who had in-person contact with police reported at least one type of misconduct or harassment by the police officer, including profiling, false arrests, verbal or physical assault, sexual harassment, and/or assault. LGBTQ people of color, LGBTQ youth, low-income LGBTQ people, and transgender people were much more likely to report an experience of at least one type of police misconduct or harassment.³¹

STIGMATIZATION OF SEX WORKERS

In the United States, a majority of states treat child sex trafficking victims as criminals. Support services designed to help survivors of gender-based violence, domestic violence or exploitation may not adequately address the needs of trafficking survivors. Without the support and counseling they need, trafficking survivors may find themselves targeted by the criminal justice system, marginalized and vulnerable to further abuse.³²



Right to Life & Security of Person

The right to life and security of person is fundamental to all other human rights. International human rights law mandates that each nation uphold and ensure that all people within its borders and subject to its jurisdiction are safe and secure. The right to life and security of person encompasses a host of other rights including, but not limited to the right to freedom from all violence, including gender-based violence, police brutality, gun violence, state-sanctioned violence, and other types of harm. The instruments created to protect these rights, such as the United States Constitution and resulting civil rights laws, have proven to be insufficient to ensure the protection of these human rights in the United States.

WHAT ARE THE HUMAN RIGHTS TO LIFE AND SECURITY 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 right to life and security. A few of them are:

Article 3, “Everyone has the right to life, liberty and security of person.”²

Article 5, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”³

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.”⁴

The United States has ratified three treaties: the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) in 1992, the Convention on the ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD) in 1994, and the Convention Against Torture (CAT) in 1994.⁵

ICCPR, Article 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.”

ICCPR, Article 7, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

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.”

CERD, Article 2d, “Each State shall prohibit and bring to an end racial discrimination by any persons or group.”

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Develop gun ownership regulations by mandating extensive background checks and firearm trainings, and adopt the Combating Illegal Gun Trafficking Act.⁶
- Combat police brutality by stopping police militarization, restricting use of physical force, ending broken windows policing, and building in community oversight.⁷
- Abolish the death penalty and prohibit the executions of prisoners who do not have the mental capacity to make decisions regarding their case or understand proceedings.⁸
- End gender-based violence by holding government officials and others accountable for addressing harassment and sexual assault.⁹
- Use due process when prosecuting immigrants and make U.S. immigration enforcement transparent to the public.¹⁰



There have been 307 mass shootings in the United States this year

2018 VIOLATIONS OF THE RIGHT TO LIFE & SECURITY OF PERSON

HATE CRIMES

In October of 2018, a man murdered 11 people at the Tree of Life Synagogue in Pittsburgh, Pennsylvania.¹¹ The Federal Bureau of Investigations (FBI) is investigating the incident as a hate crime as it was reported that the gunman shouted anti-Semitic remarks prior to the shooting. The National Coalition for Anti-Violence Programs released a report in early 2018 that found an 86% increase in LGBTQ+ homicides, leading to an equivalent of one murder of an LGBTQ+ in the United States per week.¹²



In 2018, there was an 86% increase in LGBTQ+ homicides, leading to an equivalent of one murder of an LGBTQ+ in the United States per week

GUN VIOLENCE

There have been 307 mass shootings in the United States this year.¹³ One of the deadliest shootings that occurred this year was on February 2018, when a 19 year old murdered 17 high school students in Parkland, Florida.¹⁴ The massacre is now ranked as one of the ten deadliest shootings in U.S. modern history.¹⁵ Further, 2018's second deadliest shooting took place on November 8th at a bar in Thousand Oaks, California.¹⁶ Thirteen people were killed, including the gunman. Despite the repeated occurrences of these incidences, legislators continue to fail to enact any meaningful gun-control legislation.

POLICE VIOLENCE & POLICE KILLINGS

As of October 1st, 2018, the police have shot and killed 830 people in United States.¹⁷ Approximately 34% of people killed identified as Black and/or Hispanic/Latinx, and about 19% had a diagnosed mental illness. Early in 2018 in East Pittsburgh, police shot Antwon Rose Jr., a 17 year old black teenager who was unarmed.¹⁸ Officers shot the teenager three times as he tried to flee. The incident roused community protests, where hundreds of protesters demanded justice. Thirty-year-old Grechario Mack was also killed by police officers on April 2018.¹⁹ Mack, who struggled with schizophrenia, was experiencing an episode when police shot him in Los Angeles. Less than a day later, in Gardena, California, police killed another black man with mental illness, Kenneth Ross Jr. As is typical in these cases, the officers involved in the shootings have not been charged with a crime.



As of October 2018, police have killed 830 people. 34% of people killed identified as Black and/or Hispanic/Latinx, and about 19% had a diagnosed mental illness

GENDER-BASED VIOLENCE

The “Me Too” movement was started in 2006 by Tarana Burke to support 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. The “Me Too” movement continues to spark much needed conversations surrounding sexual harassment and assault. As a result of the movement, Hollywood actresses, in reaction to a letter from low-wage workers seeking solidarity, founded “Times Up”—an initiative that seeks to provide survivors of sexual assault and harassment with legal defense funds.²⁰

Brett Kavanaugh, Associate Justice of the U.S. Supreme Court, faced sexual assault allegations in September 2018.²¹ Christine Blasey Ford, Professor of Psychology, accused Kavanaugh of sexual misconduct while the two were in high school. She stated that Kavanaugh and his friend, Mark Judge, cornered her into a bedroom, covered her mouth to stop her from screaming, and proceeded to assault her before she escaped. The allegations resulted in a hearing before the Senate Judiciary Committee, in which both parties testified. Kavanaugh denied the allegations, and was ultimately confirmed as a nomination for the U.S. Supreme Court.

Kavanaugh's nomination, caused a public outcry against the injustices that marginalized women face and once again thrust the issue of gender-based violence into the spotlight. According to a 2018 study, 81% of women and 43% of men will experience sexual harassment or assault in their lifetime.²² Moreover, women with disabilities are 69% more likely to experience sexual assault compared to women without disabilities. Further, 84% of American Indian and Alaska Native women have experienced violence in their lifetimes, and 56% of these women have experienced sexual violence.²³

An astounding twenty-two transgender people have been killed in 2018.²⁴ In May, Roxsana Hernandez, a Honduran immigrant seeking asylum, died while detained in U.S. custody.²⁵ According to immigration advocacy groups, she died due to inadequate medical attention while in immigration custody. Another Honduran transgender woman was murdered in January, at her home in Los Angeles, California. She was stabbed multiple times during an attempted robbery, and the murderer set her home on fire.



Political Human Rights (Right to Vote & Dissent)

Essential to any healthy democracy is the right for all of its eligible citizens to participate equally in free and fair elections. Further, all people subject to the United States' jurisdiction, regardless of their ability to vote, have a right to assemble, dissent, and critique the actions of the government, especially the press. Attacks on the right to vote, dissenters, and the press, not only have a negative impact on the individuals who are targeted, but they also threaten the very fabric of a democracy by silencing the voices of vulnerable communities. For a democracy to flourish, its residents must be able to obtain objective information about the inner workings of the government, have the freedom to form views and share them with others, and have the right to engage in collective action in opposition to harmful policies.

In 2018, the basic building blocks of democracy were tested through the undermining of elections, the targeting and criminalizing of protestors, and the ongoing attacks on the press by the Trump administration.

WHAT ARE THE POLITICAL HUMAN RIGHTS OF PERSONS 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 political rights. A few of them are:

Article 12 (1): “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 to the protection of the law against such interference or attacks.”²

Article 20: “Everyone has the right to freedom of peaceful assembly and association.”³

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.”⁴

The political rights to vote and dissent were explicitly outlined in two treaties that the United States has signed and ratified:⁵ the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) in 1992,⁶ the CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD) in 1994.⁷ Both 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.⁸

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...”⁹

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.”¹⁰

In August of 2018, David Kaye and Edison Lanza, Special Rapporteurs on freedom of expression for the United Nations and Inter-American Commission on Human Rights respectively, argued that President Trump’s attacks on the media “are strategic, designed to undermine confidence in

reporting and raise doubts about verifiable facts.”¹¹ They argued that such attacks are contrary to America’s obligations to respect the right to freedom of the press under international law and they make journalists increasingly vulnerable to violence.¹²

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- End Gerrymandering by requiring that district maps be created by transparent community-based entities.
- Uphold the right to dissent as an individual or a group.¹³
- Uphold the right to peacefully assemble, to express opinions, and to participate in public affairs.¹⁴
- Restore and strengthen the Voting Rights Act¹⁵
- Stop the practice of criminalizing and targeting groups based on their political beliefs¹⁶

2018 VIOLATIONS OF POLITICAL RIGHTS

RIGHT TO PEACEFUL ASSEMBLE AND DISSENT

Some of the most recognizable and impactful images of a group assembling peacefully and opposing the actions of their government, were of the 1963 March on Washington in which thousands of people assembled and heard the now famous “I Have a Dream” speech by Rev. Dr. Martin Luther King, Jr. Currently, in order to stifle protests, the Trump administration is proposing a closure of 80% of the sidewalks near the White House, placing new limits on spontaneous demonstrations, and is seeking to charging fees for those protesting near the White

House. The American Civil Liberties Union (ACLU) has responded arguing that the proposed changes are unconstitutional citing a Vietnam era case where the courts argued that the White House constitutes “a unique site for the exercise of First Amendment rights.” These actions are consistent with the Trump administration’s repeated attacks on protestors such as NFL players “taking a knee” (kneeling) during the playing of the National Anthem before football games in order to protest police killings of Black people and injustices in criminal justice system.¹⁷ Further, after protests erupted in response to the selection of Supreme Court Justice Brett Kavanaugh, President Trump suggested that such actions should become illegal. ¹⁸ When President Trump—who uses his private Twitter account to announce key policy decisions and for other official business—blocked a protestor on his Twitter account, it prompted the Knight First Amendment Institute at Columbia University to file a lawsuit alleging an unconstitutional effort to suppress dissent.¹⁹ The use of the internet in general, and social media in particular, has emerged as critical tool for people to express dissent against this administration.

CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS

An well-documented example of the targeting of advocates is the surveillance of Black Lives Matter (BLM)—a global network people “whose mission is to build local power and to intervene in violence inflicted on Black communities by the state and vigilantes.”²⁰ For example, BLM’s 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.²¹ In 2018, it was revealed that the FBI's surveillance of Black Lives Matter activists was far more expansive than previously believed.²² Newly released documents suggest that FBI resources were used for informants and for surveillance of cars, residences, and to track activists as they traveled across the country. These efforts are alarmingly similar to the FBI's COINTELPRO—short for *Counterintelligence* Program—a secret program designed to monitor and “neutralize” domestic groups deemed by the FBI to be a danger to national security in the 1950s through 70s.²³ Such targets included anti-war groups and civil rights groups as well as individuals. The FBI infiltrated Black power groups, American Indian Movements and the Brown Berets, resulting in jailed dissidents and the blackmailing of Dr. Martin Luther King, Jr. The documents regarding Black Lives Matter contradict the FBI's claim that they do not target groups based on their ideology but only persons who engage in violent action.²⁴ These internal documents refer to a document described as the “Race Paper” in Department of Homeland Security (DHS) emails. Forty-two civil and human rights organizations have demanded that the Department of Homeland Security release the un-redacted version to the public which is believed to potentially relate to data-driven surveillance of protestors.²⁵

In addition to this, there were a number of legislative attempts to criminalize protests in 2018. In June, Republican Representative Daniel Donovan introduced H.R. 6054 called the Unmasking Antifa Act.²⁶ This would make wearing masks during a protest—at strategy often employed by the Antifa, a leftist antifascist group in the United States—a federal crime with

lengthy prison sentences for activists. United Nations Secretary General for Human Rights Andrew Gilmour has noted that there is a global increase in attacks on, and intimidation of, human rights defenders. In particular, he expressed concern about the insidious tactic by some countries to label dissenting individuals, groups, and organizations as terrorist or criminals.²⁷ The State of Virginia has created legislation that, if passed, would include mandatory life sentences for domestic terrorist who engage in two or more acts of violence. This legislation also calls for the creation of a terrorist group list. This legislation emerged as a response to the alt-right rally in Charlottesville, where Heather Heyer, a counter protester was killed a white nationalist. The ACLU of Virginia opposes the legislation as it would “entrench in Virginia a framework that has been used at the federal level to target minority communities for discriminatory investigation, surveillance, and prosecution—and make it worse by, creating a new overly-broad category of ‘domestic terrorist organizations.’”²⁸

ATTACKS ON THE PRESS

The Trump administration has routinely accused news media of being the “enemy of the people” who promote “fake news.” In addition, President Trump has been accused of displaying particular animus toward journalists who are Black women. This is a profound attack on what traditionally has been understood as the “fourth estate,”—the arm of society critical to keeping government accountable to the people. This year the Boston Globe called on news organizations to publish editorials on the dangers of these attacks on the press. With an initial response from 100 news organizations the call has

been answered by over 300 publications that have local, national and international audiences.²⁹ Unfortunately, The Trump administrations' attacks on the press may be having an impact. A CBS news poll this year found that 91 percent of strong Trump supporters believe he gives accurate information while only 11 percent of that group feel that the media provides accurate information.³⁰ This assault on the media was witnessed in a dramatic confrontation between Trump and CNN reporter Jim Acosta. After being questioned by Acosta on his characterization of the Central American migrant caravan as an invasion and on the FBI investigation of Russia's interference in the 2016 election, President Trump referred to CNN as "fake news." After the exchange, the White House released a misleading video and attempted to argue that Acosta committed an assault on an intern working for the administration.³¹ The doctored video was used as pretext for revoking Acosta's press pass—which gained him access to White House press briefings. A court has issued a temporary restraining order forcing the White House to reinstate his press pass.³² The issue however is far from resolved as Judge Timothy J. Kelly has yet to rule if suspending Acosta's press pass was in violation of the constitution.³³

The most egregious aspect of this campaign against the media is the tepid response of the Trump administration to the killing of Jamal Khashoggi, a Washington Post columnist and Saudi dissident. The journalist disappeared from the Saudi Arabian consulate in Istanbul on October 2nd 2018. Saudi officials now admit that he was killed inside of the embassy by a team of agents sent from Riyadh. His body has yet to be recovered. Michelle Bachelet, the UN High Commis-

sioner for Human Rights and Office of the High Commissioner for Human Rights (OHCHR) has called for a full investigation into the human rights violations in the case.³⁴ At the recent International Day to End Impunity for Crimes Against Journalists, United Nations experts called on the international community to account for their failure to address the enforced disappearance of Khashoggi.³⁵ This call for a full transparent investigation is more pressing in light of revelations that the United States is in possession of an audio tape of the killing. The New York Times reports that the "steps appear calibrated to respond to international outrage over the death of Mr. Khashoggi and to thousands of civilian deaths in the Yemen war, but avoid directly punishing the Saudi crown prince, Mohammed bin Salman, and could head off tougher congressional action."³⁶

VOTER DISENFRANCHISEMENT

With an essential part of the Voting Rights Act eliminated, attempts to suppress the right to vote have continued across the nation. This threatens to roll back the hard - won right of every American citizen to participate freely in the democratic processes. The ACLU filed a lawsuit against the state of Arizona for violating the National Voter Registration Act.³⁷ The Act requires voter addresses to be updated when changes are made through a motor vehicle agency. Arizonans are particularly affected as nearly 70 percent of voters have changed their address between the years 2000 and 2010, the second highest rate in the nation.³⁸ In the state of Georgia, Brian Kemp engaged in egregious and blatant attempts at disenfranchisement. Kemp served as both a candidate for governor and Georgia's secretary of state—which oversees the elections. In

his role, Kemp has put “53,000 voter registrations on hold, nearly 70 percent of which are for black voters, by using an error-prone ‘exact match’ system, which stops voter registrations if there are any discrepancies, down to dropped hyphens, with other government records.”³⁹ In a move that undermines democratic institutions, Donald Trump referred to the efforts to account for all votes cast as a “disgrace” and “fraudulent.”⁴⁰ Despite these ongoing efforts at disenfranchisement, organizers claimed a big victory by passing Amendment 4 that restores voting rights to all Floridians previously convicted of a felony—a group comprised of 1.5 million people.⁴¹

VOTER ID LAWS

In 2017, the Supreme Court rejected an appeal by North Carolina to reinstate voter identification laws that negatively impacted African American voters with “surgical precision.”⁴² Undeterred, members of the Republican Party pushed a ballot measure to make photo identification a state constitutional requirement to vote.⁴³ It passed. Advocates such as Kat Calvin, founder of Spread the Vote have responded. The organization will be traveling to senior-living facilities, homeless shelters and college campuses in North Carolina to assist with ID’s as well as vital records such as birth certificates and social security cards.⁴⁴ Arkansas is also a battleground over the use of restrictive voter ID laws. Known as “Issue 2,” a recent amendment to the Arkansas Constitution added a provision requiring voters to present photo ID before voting in person or on an absentee ballot.⁴⁵

GERRYMANDERING

The state of Michigan moved to the forefront of challenging U.S. gerrymandering practices that contradict human rights norms. Powered by grassroots organizing, Voters Not Politicians held “33 town-hall meetings in 33 days, wrote a ballot proposal to give redistricting powers to a citizens’ commission” and gathered 425,000 petition signatures to secure a spot on the November 2018 ballot.⁴⁶ The measure which recently passed, amends the Michigan constitution and creates a citizen commission that will redraw the congressional district lines every 10 years. Grassroots organizations continue to struggle against partisan gerrymandering with a mixed ruling from the Supreme Court on *Gill v. Whitford*, a case that ordered Wisconsin to redraw its map after a 2011 Republican controlled legislature violated both the Equal Protection Clause and the plaintiff’s First Amendment freedom of association.⁴⁷ In July of 2018 the Court argued that the “plaintiffs focused on proving the *entire* state map was gerrymandered against Democrats. Instead, they should have focused on proving whether their *particular districts* were gerrymandered.” Instead of the case being dismissed, plaintiffs will be allowed to re-argue the case in district court to try to establish standing. There is still an opening for advocates to demonstrate the harms of gerrymandering to human rights and political life.



Human Right to Healthcare

In the United States, the human right to health remains unrecognized. In 2018, approximately 28.3 million people do not have health insurance. The United States' failure to provide healthcare coverage for all people fails to protect the right to health, and in some instances, the right to life.¹ Grassroots groups and advocates demand a healthcare system that provides health care as a public good, not as a commodity.² Many support a Medicare-for-all, also known as universal healthcare-for-all single payer, approach to health care.³

In 2018, the current administration failed to increase access to health insurance in the United States, and used legislative actions to weaken the Affordable Care Act (ACA), increasing the number of people without health insurance.⁴

The high cost of health insurance remains the main reason that individuals do not have coverage.⁵ Furthermore, access to health care remains tied to income levels and employment status.⁶ Disparities in health care coverage disproportionately impact already vulnerable populations in the United States.⁷

WHAT IS THE POLITICAL HUMAN RIGHT TO HEALTHCARE 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:

Article 3 "Everyone has the right to life, liberty and security of person."⁹

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.”*¹⁰

The right to health is explicitly outlined in the INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR) ¹¹ in 1966, the CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) in 1979,¹² the CONVENTION ON THE RIGHTS OF THE CHILD in 1989,¹³ and the INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES in 1990.¹⁴ Although the United States has failed to ratify these treaties, it has signed and ratified¹⁵ the CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD) in 1994.¹⁶ 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 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 following rights:...(iv) The right to public health, medical care, social security and social services.”*¹⁷

In August 2017, the Committee on the Elimination of Racial Discrimination, issued a Prevention of Racial Discrimination Early Warning and Urgent Action Procedures decision for the United States. The Committee called upon the United States to address one of the systemic causes of unequal access to health care, asking “the United States of America 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.”¹⁸

In May 2018, the Human Rights Council’s *Report of the Special Rapporteur on extreme poverty and human rights on his mission to the United States of America* stated, “[i]n practice, the United States is alone among developed countries in insisting that, while human rights are of fundamental importance, they do not include rights that guard against dying of hunger, dying from a lack of access to affordable health care or growing up in a context of total deprivation.”¹⁹ The report highlighted the changes in U.S. policy under the current administration, and emphasized that denial of human rights law “does not eliminate responsibility, nor does it negate obligations.”²⁰ The then-U.S. Ambassador to the United Nations, Nikki Haley dismissed the report.²¹

Additionally, in July 2018, the “Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, note by the Secretary-General” addressed “the anti-migrant-related developments in the United States.”²² The report noted “the need to address obstacles to the realization of the right to mental health for people on the

move and the broader communities that host them.”²³ It also called on states to recognize the right to mental health as stipulated in international human rights treaties.²⁴

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Recognize the human right to health, and create a system focused on health care as a public good, rather than as a commodity.²⁵
- Establish a HR676/single-payer national healthcare system with no deductibles or co-payments that is publicly financed and organized by a single public or quasi-public agency, but also gives the public an option to buy supplemental care.²⁶
- Protect and expand Medicaid, rejecting further reforms to the Affordable Care Act such as the American Health Care Act which promotes caps on Medicaid, and bars Planned Parenthood and its affiliated clinics from participating in essential public health programs.²⁷
- Increase affordability of health care costs for older persons, and protect Medicare benefits, including Medicare Part D provisions that help to reduce out-of-pocket costs for beneficiaries.²⁸
- Ensure immigrants (regardless of immigration status) have access to quality, affordable health care, and that individual states protect this access now that reforms to the ACA allocate more that they have more control following the Trump administration’s reforms to the ACA.²⁹
- Ensure individuals with disabilities are free from discrimination when access-

ing health care, removing financial, physical, and systematic barriers that prevent equal access, such as individual states initiating work requirements for Medicaid recipients³⁰

- Ensure that LGBTQIA individuals can access non-discriminatory and culturally competent health care, including through the creation of federal legislation that prohibits healthcare discrimination based on gender identity.³¹
- Increase access to appropriate and affordable health services that positively impact the health outcomes for women, especially for black women and other minority populations³²
- Decrease discrimination in healthcare for minority populations.³³

2018 VIOLATIONS OF THE RIGHT TO HEALTHCARE

In allowing more Americans to purchase health insurance, the Affordable Care Act (ACA) of 2010 decreased the number of individuals without healthcare insurance in the United States through 2016.³⁴ Recent changes to the act under the Trump administration are reversing these gains.³⁵ According to the U.S. Department of Health and Human Services’ “National Healthcare Quality and Disparities Report,” 15.5% of the population, a significant increase from 12.5% of the population in 2016, does not have health insurance.³⁶

In 2017 and 2018, Congressional Republicans attempted to repeal the ACA multiple times.³⁷ While the ACA was not repealed, one component of the act was reformed. As of 2019, taxpayers no longer need an exemption to avoid the ACA Shared Responsibility Payment (penalty

fee) if they do not have health insurance.³⁸ Following this reform, it is expected that an additional 5 percent of insured adults will drop healthcare insurance in the next year.³⁹ The Trump administration also weakened the ACA in several ways, including cutting advertising costs for open enrollment periods, giving individual states more authority over Medicaid distribution, allowing employers to not cover birth control for religious reasons, and encouraging the sale of short-term health plans that could exclude individuals with pre-existing conditions.⁴⁰

AFRICAN AMERICANS & HISPANIC AMERICANS

In August 2017, The Committee on the Elimination of Racial Discrimination called upon the United States to respect its international obligations to the “International Convention on the Elimination of All Forms of Racial Discrimination to combat and eliminate all forms of racial discrimination.”⁴¹ The United States continued to disregard its obligations to this convention in 2018, and its actions impact African American and Hispanic American populations significantly. The U.S. Department of Health and Human Services reports that in 2018, approximately 24.2% of Hispanic Americans and 14.1% of non-Hispanic Black Americans did not have health insurance, compared to 8.9% of non-Hispanic white Americans without health insurance.⁴²

According to one study, discrimination and misinformation have a greater impact on healthcare services and outcomes for Black and Hispanic Americans than income level. The Hispanic population in the United States experiences higher rates of poor physical and mental health.⁴³ This population has higher rates of teen pregnancy, obesity, and overall poor

health in comparison to the white population.⁴⁴ This population is also three times more likely to be diagnosed with HIV.⁴⁵ Following the destruction of Hurricane Maria in September 2017, Puerto Rico’s need for mental health care resources increased significantly, as many residents are experiencing post-traumatic stress disorder, depression, and anxiety.⁴⁶ Gaps in care and medication also have worsened chronic conditions, and continuous power outages have prevented individuals from using machines to manage medical conditions.⁴⁷ The devastation from Hurricane Maria compounded with Puerto Rico’s unstable healthcare system pre-hurricane due to a lower allocation of federal funds towards Medicaid has severely impacted the standard of living adequate for the health and well-being of an individual.⁴⁸

UNDOCUMENTED POPULATIONS/IMMIGRANTS

Approximately 43 million people residing in the United States were born in another country, and 11 million people out of this population are undocumented.⁴⁹ More than half of the undocumented population lives below the poverty line, and 41 percent of this population does not have health insurance.⁵⁰ Furthermore, approximately 10 percent of the undocumented population is over age 55, and this population often depends on community health centers. Many immigrants do not seek necessary health care due to the expense of health services or fear of deportation.⁵¹ While refugees are eligible for short-term health insurance plans through the ACA or qualify for Medicaid/CHIP, this population often reports obstacles in accessing these programs due to administrative difficulties.⁵²

According to one study, the recent reforms to the ACA have both potential to

harm or benefit immigrants in the United States. As individual states now have a greater role in healthcare after the ACA reform, they may choose to allocate more resources towards clinics and safety net procedures that provide healthcare to undocumented populations, likewise they may also choose to allocate less funds towards services that benefit this population.⁵³ The Trump administration continues its attempts to overturn numerous programs protecting undocumented people in the United States, including Deferred Action for Childhood Arrivals (DACA).⁵⁴

ASIAN AMERICANS AND PACIFIC ISLANDERS (AAPIs)

A recent study found that following the passage of the Affordable Care Act in 2010, the rate of Asian Americans and Pacific Islanders (AAPIs) without health insurance dropped to 9 percent, similar to the 8.8 percent rate of white Americans.⁵⁵ The impact of the Trump administration's reforms of the ACA on the AAPI community's access to healthcare remains unknown. According to the Centers for Disease Control (CDC), 37% of Asian American adults, approximately 7.7 million people, have a mental health condition.⁵⁶ The study also found that this population in the United States is less likely than others to utilize mental health services due to discrimination from healthcare providers, language barriers, high costs for care, and stigma surrounding mental health conditions.⁵⁷

NATIVE AMERICANS

Native Americans have lower life expectancy rates and experience a higher rates of chronic diseases, including heart disease, cancer, and diabetes, than other

Americans.⁵⁸ A 2018 CDC report indicated that disability is more common among Native Americans than other populations in the United States.⁵⁹ Recent reforms to the ACA, especially efforts to impose work requirements for Medicaid recipients may impact the Indian Health Service, which would negatively impact access to health care for Native Americans.⁶⁰ The Indian Health Service, which is responsible for providing federal health services to Native Americans and the Alaska Natives, relies on Medicaid revenues, and remains underfunded.⁶¹

LGBTQIA

Due to discrimination, lesbian, gay, bisexual, and transgender individuals suffer from more mental and physical health disparities than heterosexual individuals.⁶²



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

According to a 2018 Human Rights Watch Report, the LGBT population often experiences discrimination from healthcare providers and insurers, resulting in this population often delaying medical care, or being unable to find providers that are knowledgeable about their needs.⁶³ The lack of federal legislation protecting this population prevents individuals from seeking recourse in response to discrimination. In 2018, the current administration proposed rule changes that would adversely impact the right to health for the LGBTQIA population: the creation of a rule that would allow more religious exemptions in healthcare law, and a plan to reverse a regulation in federal law that prohibits healthcare discrimination based on gender identity.⁶⁴

PERSONS WITH DISABILITIES

Persons with disabilities in the United States are often unable to obtain adequate health insurance.⁶⁵ According to the CDC, in 2018, 61 million Americans have a disability that impacts major life activities. Disabilities are more prevalent among women, Native Americans, and adults with lower incomes.⁶⁶ Many individuals with disabilities do not meet the definition of disability required by Social Security for Medicare or Medicaid benefits.⁶⁷ Furthermore, recent reforms to the ACA allows states to initiate a work requirement for Medicaid recipients which may disproportionately impact these populations. Many individuals with disabilities unrecognized by Social Security depend on Medicaid benefits due their inability to work.⁶⁸

OLDER PERSONS

The number of older persons in the United States is increasing, and therefore, a need for comprehensive healthcare op-

tions for this population is necessary. Between 2020 and 2030, the number of older persons in the United States will increase by approximately 18 million as the last of the baby boomers turn age 65.⁶⁹ In 2018, the Social Security and Medicare trust fund released a report indicating that Medicare's Hospital Insurance Trust Fund is projected to be depleted by 2026.⁷⁰ In 2018, the Trump administration did allocate more spending towards healthcare initiatives for older persons, including funding for programs and research for Alzheimer's and dementia.⁷¹

MENTAL HEALTH

In the United States, approximately 43 million people have a mental health condition, but many states lack an adequate amount of mental healthcare professionals. Mental illness is most common in individuals experiencing chronic financial struggles. Individuals with an income of less than \$20,000 across all races and ethnicities are more likely to experience severe depression.⁷² Grassroots organizations and advocates call for more programs that address mental health care in the United States. In 2018, the Mental Health Services for Students Act was introduced into Congress. The bill would amend the Public Health Service Act to revise and extend projects relating to children and to provide access to school-based comprehensive mental health programs.⁷³

Furthermore, mental health remains a prominent health concern for justice involved populations. In justice involved populations, approximately 365,000 people have a mental illness. In state prisons, an estimated 75 percent of women have a mental illness.⁷⁴ Moreover, this population often receives longer sentences than individuals without mental illness.⁷⁵



Reproductive Human Rights

Reproductive human rights include the right to safe and affordable reproductive healthcare for everyone regardless of socioeconomic status, race, gender, sexual orientation, or other identity marker. Unfortunately, in the United States, safe reproductive human rights have become a privilege that only a small, fortunate segment of the population can access. Across the nation, millions of individuals are unable to access comprehensive reproductive healthcare including sexual education, gynecological, urological, and postnatal care. The current political climate in the United States puts reproductive human rights at risk of further erosion. While the Supreme Court protected a constitutional right to abortion in *Roe v. Wade*, the new conservative court may be poised to weaken this landmark decision.¹

WHAT ARE THE REPRODUCTIVE HUMAN RIGHTS OF PEOPLE IN THE U.S.?

The Convention on the ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)—often referred to as the international bill of rights for women—contains key provisions that specifically outline the reproductive human rights of women, and are applied to all people.² A few of them are:

Article 12 (1): States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

Article 12 (2): States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13: States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) *The right to family benefits;*
- (b) *The right to bank loans, mortgages and other forms of financial credit;*
- (c) *The right to participate in recreational activities, sports and all aspects of cultural life.*

Equal access to reproductive human rights for people of color is addressed in the INTERNATIONAL CONVENTION OF THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ICERD) — a document that works in tandem with the UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR).³ Both ICERD and the UDHR documents contain key provisions that specifically outline the human right to healthcare for all people regardless of racial distinctions. A few of them are:

Article 5 ICERD: In compliance with the fundamental obligations laid down in article 2 of this Convention, 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 following rights:

(5.i.iv.) *The Right to Public Health and Social Security*

Article 2 UDHR: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 25 UDHR: (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 Inter-American Commission on Human Rights⁴ urges all American states, including the United States, to adopt comprehensive, immediate measures to protect the sexual and reproductive human rights of all individuals - including minors. A few of these provisions include:

- i. *The Inter-American Commission on Human Rights (IACHR) calls on all States to adopt immediate measures to ensure that women can fully exercise all sexual and reproductive rights. These include rights related to non-discrimination, to life, to personal integrity, to health, to dignity, and to access to information, among others. Along these lines, States have a fundamental obligation to ensure timely and adequate access to health services that only women, female adolescents, and girls need because of their sex/gender and reproductive function, free from all forms of discrimination and violence, in accordance with existing international commitments on gender equality.*⁵

- ii. *All children should have access to sexual and reproductive health services - whatever their age. Even very young children are at risk of sexual abuse and infections. Children should be encouraged to discuss their situation with their parents, but parental consent requirements are inappropriate and discourage children from seeking help.*

Finally, The United Nations Commission on the Status of Women⁶, the intergovernmental body dedicated to the promotion of gender equality and the empowerment of women, studies the status of gender equality internationally. In the 62nd session held in March of 2018, The Commission on the Status of Women released a document of conclusions and recommendations based on the current status of human rights as they pertain to women internationally. This documents includes key provisions that protect reproductive human rights for all peoples. A few of these provisions are:

- i. *The Commission acknowledges that all rural women and girls often face multiple and intersecting forms of discrimination and marginalization.*
- ii. *Ensure universal access to sexual and reproductive health and reproductive rights.*
- iii. *The Commission emphasizes the need to accelerate progress towards the goal of universal health coverage that comprises universal and equitable access to gender-responsive, quality health services and quality, essential, affordable and effective medicines for all, including for rural women and girls*

- iv. *The Commission expresses its deep concern that, as a result of the lack of or limited access to essential health-care services and information and limited agency over their own lives, rural women experience significant disparities in health, including reproductive health outcomes, such as higher rates of maternal and infant mortality and morbidity and obstetric fistula, as well as more limited options for family planning, than women in urban areas. It expresses further concern that those disparities are exacerbated by multiple and intersecting forms of discrimination.*

Human Rights Watch⁷, an international non-governmental organization, releases a yearly review of the implementation of human rights in the United States. The Human Rights Watch 2018 World Report (contains information on the events of 2017) includes comments on the implementation of human rights in the United States. In spite of a groundswell of conservative support to repeal the Affordable Care Act, the Trump administration has not been able to repeal the bill. However, countless protections for reproductive health, healthcare for LGBT people, and people with disabilities have been repealed or rolled back.⁸ This includes Congressional legislation passed in 2017 that allows states to restrict Title X grants - Title X helps to fund programs like Planned Parenthood. This legislation leaves almost 62 million American women vulnerable to violations of their reproductive human rights.⁹

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Ensure affordable access to reproductive healthcare for all people in the United States and recognizing Healthcare as a human right.¹⁰
- Halt the Trump Administration's effort to mandate a Federal 'Gag Rule' on abortion.¹¹
- Ensure that all trans and non-binary people have access to health insurance.¹²
- Lift TRAP Laws in all states.¹³
- Repeal the Hyde Amendment—which restricts Medicaid funding for abortion and pass the EACH Woman Act—which establishes federal funding for abortion—so that every person has access to safe and affordable abortion.¹⁴
- Every person deserves quality, inclusive, comprehensive sex education.¹⁵
- Ensure that people of color have equal access to safe and affordable reproductive healthcare regardless of income or location.¹⁶
- Ensure that incarcerated people have access to safe and humane reproductive healthcare including prenatal and post-natal care and sexual health.¹⁷
- Ensure equal access to sexual and reproductive health services for people with disabilities.¹⁸

2018 VIOLATIONS OF THE REPRODUCTIVE RIGHTS OF PEOPLE IN THE UNITED STATES

ACCESS TO REPRODUCTIVE HEALTHCARE FOR TRANS PEOPLE

While the Trump Administration is working quickly to dismantle reproductive human rights protections in general, it is taking particularly draconian steps targeting the reproductive human rights of transgender, intersex, and gender non-conforming people. In October, the Administration revealed that it intends to take steps to define gender as a biological, immutable condition determined by genitalia at birth.¹⁹ This proposed rule comes after numerous attempts by the Trump administration to limit transgender people's accesses to comprehensive health care, including a proposed rule in March of 2018 that would allow hospitals and health care providers to refuse services to transgender individuals.²⁰ These rules unfairly targets trans people living away from liberal, coastal epicenters, who may be in need of life-saving healthcare.

ACCESS TO SEX-ED

This year, the U.S. Department of Health and Human Services announced that the Teen Pregnancy Prevention Program (TPP) would only fund abstinence only programs.²¹ Up to this point, the TPP, has funded only evidence-based prevention initiatives including education on contraception, dating violence, consent, and healthy relationships. The TPP was likely responsible for a record decrease of 9% points in teen pregnancy between 2013 and 2014.

RACIAL DISPARITIES IN REPRODUCTIVE HEALTH CARE

At present in the United States, African American women are 3 to 4 times more likely to die from maternity complications than non-Hispanic White women.²² Unfortunately, socio-economic status and education do not protect against this grave disparity. In many areas, access to quality reproductive health care including obstetrics, gynecology, and post-natal care is sparse, in fact - two maternity wards in Washington D.C. that primarily served low-income communities and people of color, closed this year.²³ The hysterectomy rate of black women is twice that of any other ethnic group. This is largely due to the fact that roughly 80% of black women have uterine fibroids²⁴ – painful growths on the uterine walls that have historically been treated by myectomy the surgical removal of the fibroids or hysterectomy, the surgical removal of the uterus. According to research released by the University of California, Davis, black women are also 50% more likely to encounter gastrointestinal complications following an abdominal hysterectomy.²⁵ Since women of color are more likely to use federally subsidized reproductive health services, the slashing of these policies and budgets has a direct impact on their overall health.

Access to comprehensive reproductive health care is vital in addressing maternal health disparities. Recent improvements in maternal and infant health are largely due to a proliferation of comprehensive contraceptive education and use. The United States has not taken any government funded steps towards expanding reproductive healthcare. In fact, in 2017, the Trump administration passed a rule that allowed health insurance issuers to

withhold coverage for reproductive healthcare such as contraceptive services based on religious or moral reasons. For many low-income individuals and people of color, Title X beneficiaries, such as Planned Parenthood, are their primary source of health care. Therefore, the Trump administration's proposed gag rule will not only affect people seeking abortion services but also all individuals seeking safe and affordable reproductive healthcare.²⁶

REPRODUCTIVE HEALTHCARE FOR INCARCERATED MOTHERS

In 2018, only 22 states have some kind of anti-shackling legislation.²⁷ Shackling refers to the practice of tethering an incarcerated woman's ankles to her bed while she gives birth. Maryland, on the other hand, was the first state in the nation to enact a law that provides for free feminine hygiene products for incarcerated people, as well as a bill that mandates that the prison system develop humane healthcare policies for pregnant inmates and detainees.²⁸

ACCESS TO ABORTION

In 2018, there are substantial federal and state obstacles for individuals who seek comprehensive reproductive health care that includes access to safe and affordable abortions or information about abortion. These federal and state laws almost always directly impact people of color and low-income individuals the most. In June 2018, the Trump administration proposed a new gag rule that would prohibit providers that receive Title X federal funding from making referrals for abortion care, regardless of whether abortion care may be in the best interest of the health of the mother.²⁹ Title X is the only

federal grant program dedicated to providing individuals with comprehensive family planning and preventive health care.³⁰ A gag rule on providers receiving Title X funding would mean that providers would have to choose between losing critical funding or providing comprehensive health information to patients.

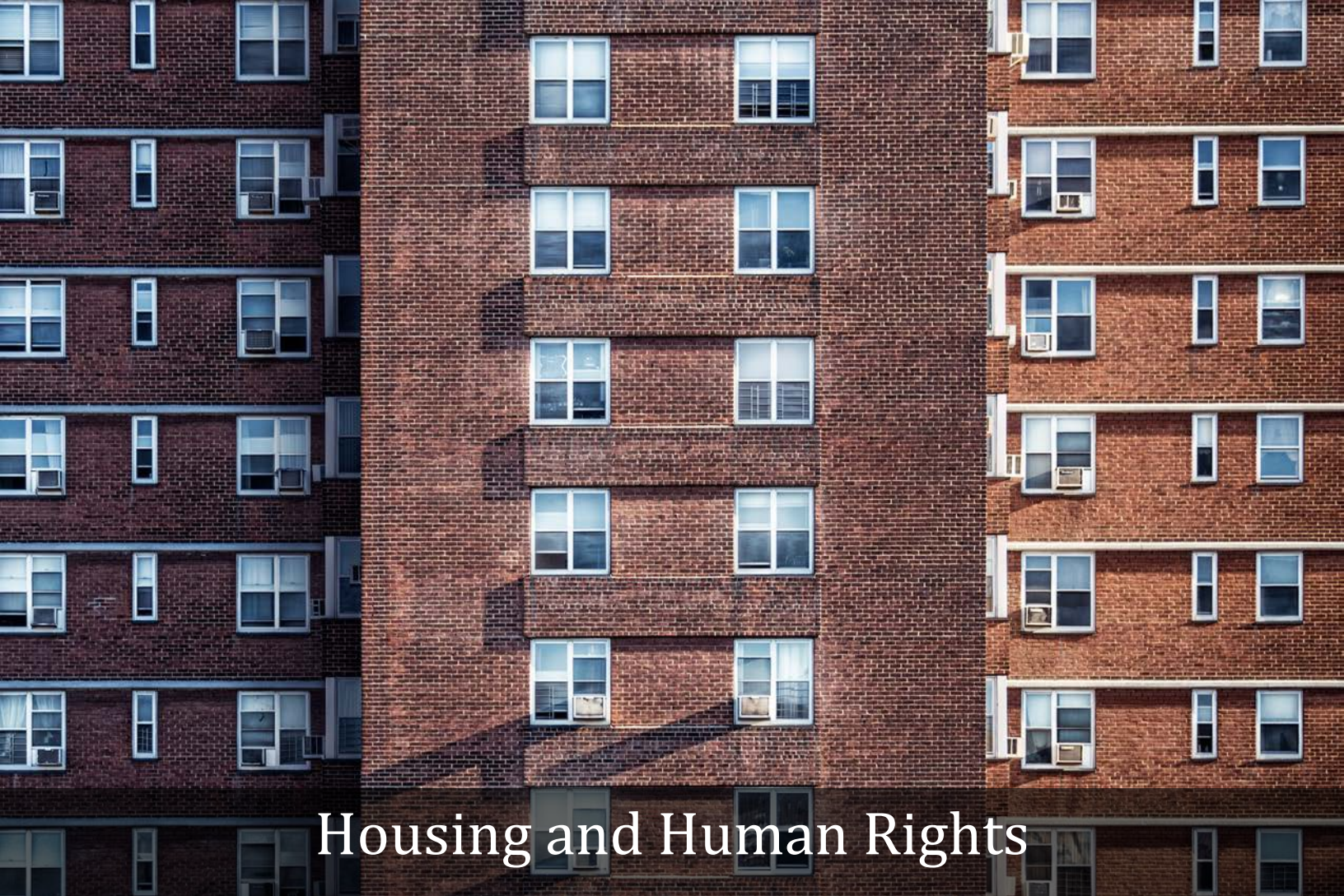
In September of 2018, Brett Kavanaugh was appointed and confirmed to the United States Supreme Court. Kavanaugh's appointment throws the political alignment of the court to the right, and directly endangers *Roe v. Wade* - the seminal Supreme Court case that protected abortion as a constitutional right. Limiting the scope of *Roe v. Wade* will disproportionately impact women of color over white women, because women of color are more likely to live in states with the most restrictive abortion laws.³¹ The list of policies and programs that affect women of color's ability to access safe and affordable health care extends far beyond those protected by *Roe v. Wade*, and include Medicaid, Title X, and the Affordable Care Act.³² Nonetheless, Kavanaugh's appointment may result in 25 million American women losing access to abortion.³³

GRASS ROOTS ADVOCACY AND REPRODUCTIVE HUMAN RIGHTS

In 2011, the Texas Legislature slashed the state's family planning budget by 75%, a move that restricted providers' ability to participate in low-income reproductive health services. In response, the Center for Reproductive Rights (CRR) and the National Latina Institute for Reproductive Health (NLIRH) collaborated with the Texas Latina Advocacy Network (TX LAN) to launch a campaign that would integrate mechanisms for the implementation of human rights initiatives and the protec-

tion of those efforts.³⁴ The campaign, entitled *Nuestro Texas*, ran from 2013 to 2016, and was instrumental in the establishment of avenues for increased protections for reproductive human rights in Texas as well as visibility of human rights violations taking place in the United States.³⁵ *Nuestro Texas* is a fantastic example of the efficacy of grassroots human rights advocacy in the protection of reproductive human rights in the United States.

The campaign was built around local female activists who were able to share their compelling stories and mobilize their community members, as well as people all over the world, to care about their cause. Through their advocacy, *Nuestro Texas* was able to influence how allied organizations and policy makers understood the impact that state and federal legislation was having on women's lives. *Nuestro Texas*' efforts to shape story telling around their community members resulted in an authentic and well received advocacy platform that ultimately led to a human rights hearing held in 2015 regarding the lack of safe and affordable reproductive human rights in Texas. The stories told throughout *Nuestro Texas* were the backbone of congressional hearings in Washington D.C. and an amicus curiae brief submitted to the Supreme Court of the United States in *Whole Women's Health vs. Hellerstedt*.³⁶ The main takeaway of *Nuestro Texas* is the efficacy of the framework of grassroots human rights advocacy as a way to impart lasting change in the communications and information around reproductive human rights and how they impact communities on the ground.



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, evictions, discriminatory and predatory renting practices, and the lack of social protections for vulnerable families. Simply put, there continues to be a lack of affordable housing for low income residents and insufficient government assistance to make up the difference. The Center for Budget Policy Priorities (CBPP) and the Department of Housing and Urban Development (HUD) agree that funding limitations mean only 1 in 4 (23%) of qualifying individuals receive assistance.¹

In 2016, some 38.1 million households spent more than 30 percent of their incomes on housing (the standard definition of cost burdened).² According to the National Low-Income Housing Coalition, the “U.S. has a shortage of 7.4 million affordable and available rental homes for [Extremely Low Income] ELI renter households, [for cities generally households with incomes under \$32,000 annually (30% of AMI)], resulting in 35 affordable and available units for every 100 ELI renter households... [t]he housing shortage for ELI renters ranges from 8,700 rental homes in Wyoming to 1.1 million in California.”³

More problematic, in 2015, HUD found 8.3 million very low-income renters (under 50% of AMI) would pay more than “half their income for rent, live in severely inadequate conditions, or both.”⁴ Only 4.7 million of these households receive rental assistance (around 2.62 million were elderly (over 62) or disabled).⁵ Overall, there remains 6.3 million individuals with children, 3.2 million elderly, and 1.2 million disabled qualifying renter households seeking assistance.⁶ There remains a need for policies that increase funding, reduce housing costs, and decrease reliance on vouchers.

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

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.”⁷

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 rights to housing. A few of them are:

Article 25(1): “Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including... housing.”

The United States has also signed and ratified two treaties that recognize the importance of housing to a person’s health and welfare: THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) and the INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD).⁹ Moreover, in 2016, the United States adopted the Quito Habitat III New Urban Agenda, a series of non-binding commitments to: develop a coherent national urban policy, expand the supply and access to affordable housing, take comprehensive approaches to housing policy ensuring access to clean water, transportation, jobs, healthcare, education, green spaces, and sanitation. The commitment also include increasing stakeholder participation in decision making processes, combating discrimination and racial/poverty-based isolation & segregation, recognizing the needs of migrants, women, and disabled, improving health/safety of communities, expanding access to innovative financing models, investing in inventive housing strategies like land trusts, and co-housing, among other pledges.¹⁰

The right to affordable, accessible, and adequate housing is also outlined in a number of widely adopted international declarations, conventions, and treaties, including the unratified INTERNATIONAL CONVENTION ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR).¹¹ The United Nations’ Sustainable Development Goals prioritize making “cities and human settlements inclusive, safe, resilient and sustainable.”¹²

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Protect Existing Communities by passing legislation providing for a right to counsel in eviction proceedings, rent control, just cause eviction protection, and voucher discrimination protections.
- Continue community action to resist forced displacement, including through the organization of collective ownership of land through community land trusts, stakeholder participation in decision making, co-housing solutions, and other efforts.
- Increase accessibility to higher opportunity areas through the use of Smaller Area Fair Market Rates, improved public transportation, greater funding availability, and reevaluating local rule impediments like zoning/density restrictions, expensive permitting and utility fees, and unpredictability of resident opposition.
- Ensure policies are sensitive to the specific challenges different groups face: Adopt forward thinking policies that recognize the elderly's need for accessible housing.
- Adopt policies that respect the contributions of migrants and cultural benefits of diverse cities.

2018 VIOLATIONS OF THE HUMAN RIGHT TO HOUSING

HOUSING ASSISTANCE

Despite a growing imbalance and \$1.5 trillion in tax cuts disproportionately benefiting the wealthy, the Trump admin-

istration continues to advocate for a 5% rent share increase, the elimination of dependent/healthcare/childcare cost deductions, and significant cuts to housing program funding.¹³ Ironically, rather than encouraging people, these policies punish working households. To put it into perspective, the average tax cut for individuals making between \$10,000 and \$30,000 is \$50 to \$180 while a 5% rent share increase for these individuals would amount to an extra \$500 to \$1500 annually.¹⁴ Furthermore, removing income deductions could cause thousands of dollars in additional burdens to families with children and households with significant health care costs. According to CBPP, 1.53 million recipients are disabled without children, 3.2 million recipients are elderly without children, and 1.78 million recipients are families with children.¹⁵ These policies could hit these households hard. The Trump administration has proposed \$7.3 billion in cuts to assistance programs like the Housing Voucher program (\$1 billion), Public Housing program (\$1.8 billion), and Community Development Block Grants (\$3 billion).¹⁶ In 2019, existing funding supporting millions of households, 55,000 new vouchers (\$450 million for people with disabilities and veterans), \$35 million for job counseling, and \$15 million for Jobs-Plus will be at stake as Congress must reauthorize funding annually.¹⁷ To maximize impact, CBPP suggests \$450 million in additional housing vouchers in 2019 targeting severely rent burdened families with children.¹⁸

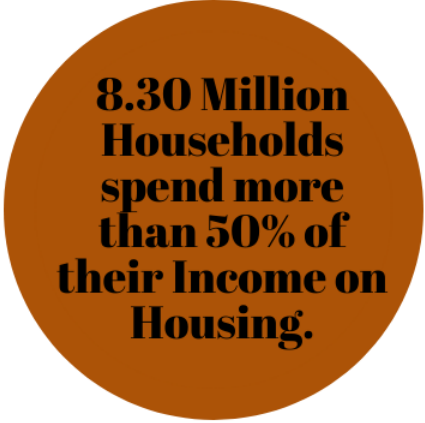
DISCRIMINATION

The country continues to face challenges related to race, gender, age, national origin, and disability without assistance from the White House. According to Na-

tional Fair Housing Alliance, in 2017, there were 16,337 cases of disability discrimination, 5,346 cases of racial discrimination, 2,675 cases of familial status, 1,951 cases of national origin, and 1,917 cases of sex-based discrimination reported.¹⁹

RACIAL DISPARITIES

Recent studies show that people of color face disparities in home ownership, access to credit, and even locating apartments. There remains a need for more extensive research in these areas. According to Harvard's State of the Nation Housing Report, people of color continue to face growing disparities in home ownership: a Black-white gap of 29.2%, a Hispanic-white gap of 26.1%, and an Asian-white gap of 16.5%. The National Fair Housing Alliance reports black and Latino mortgage applicants face higher denial rates in 61 cities and estimate over restrictive credit requirements have kept 250,000 minorities annually from getting loans since the Housing Crisis.²⁰ HUD recognizes the issue and promotes the use of Financial Opportunity Center counseling to improve financial planning, skills gaps, employment, and credit.²¹ A 2018 small sample size HUD sponsored survey-based report found that Black and Latino renters were 3.7 times (11% of those surveyed) more likely than whites to require 2 to 6 months to locate a new apartment. Even more troubling, considering housing assistance programs allow applicants 90 to 180 days to find housing, Latino renters were 7 times (7% of those surveyed) more likely and Black renters were 22 times (22% of those surveyed) more likely to require over 6 months to find a unit.²²



8.30 Million Households spend more than 50% of their Income on Housing.

Black people comprise approx. 13% of the total population, but 21.7% of renters paying 50%+ and Hispanic persons, who represent approximately 16% of the total population, are 25.3% of those paying 50% + of their income.

SEGREGATION & INCREASING OPPORTUNITY

Despite research showing that living in higher opportunity areas benefits physical and mental health, educational attainment, single parent rates, and income, impediments remain to minorities moving to these areas.²³ The 2018 HUD sponsored survey identified rental costs/lack of options, transportation needs, reliance on social networks, lack of child care options, low access to online resources, perceived steering or race based denials, and poor credit history as most commonly identified obstacles and the reasons minorities renters tend to remain in communities with higher levels of poverty, lower safety, and lower quality.²⁴ Another HUD study found barriers like the lack of units, median rents at 120% of Fair Market Value (FMR/FMV), lack of transit, steering/voucher discrimination, and lack

of information can be partially overcome by pre-move and post-move counseling, housing search assistance, active landlord recruitment, and Smaller Area FMR voucher values in line with local markets.²⁵ The report highlights the need for local policy changes to remove obstacles to multifamily development (like density rules and exclusionary zoning policies) and increased funding for Low Income Housing Tax Credit building.²⁶ Finally, HUD has recognized the importance of continued investments in low income communities where vouchers are utilized and the need for comprehensive approaches to poverty that incentivize jobs, expand educational opportunities, change policing tactics, improve healthcare, increase public transit, and create better housing options through programs like Strong Cities, Strong Communities and Partnership for Sustainable Communities.²⁷

The Trump administration has taken a number of steps toward undermining progress in these areas.

- a) The Trump administration unsuccessfully attempted to delay a Small Area Fair Market Value (FMV) rule that is intended to increase voucher holders' capacity to move to higher opportunity areas by calculating voucher amounts in line with higher rents in those areas.²⁸ HUD's main argument against small area FMR is they reduce the total number of vouchers available to low income renters.²⁹
- b) HUD delayed implementation of a rule that would require Public Housing Authorities to report information on "fair housing issues pertaining to patterns of integra-

tion and segregation; racially and ethnically concentrated areas of poverty; disparities in access to opportunity; and disproportionate housing needs, as well as the contributing factors for those issues" and to incorporate these findings into future decision making on housing, community development, and investments.³⁰ There remains a persistent need for more comprehensive data sets to identify and solve challenges.

- c) HUD has begun a review of the scope of disparate impact rules prohibiting facially neutral policies that produce discriminatory effects.³¹

DISABILITY DISPARITIES

People with physical and mental disabilities continue to face significant challenges. The advertised availability of wheelchair accessible housing options varies significantly by location.³² For example, in Bakersfield, CA only 10.6% of advertised units appeared accessible, in San Francisco, CA only 16%, whereas in Orlando, FL 87.3%, in Denver/Boulder, CO 85.5%, and NYC/NJ 82.9%.³³ Hearing impaired participants were shown 1 less unit per seven.³⁴ Furthermore, the report found only 71.2% of housing providers would agree to reasonable modifications.³⁵ For example, 20% refused to lower light switches, 24.4% refused to lower thermostats, 25.9% refused to remove cabinet under kitchen sink, whereas only 13.4% refused to install bathroom grab bars.³⁶ According to a Harvard University study, only 3.5% of available units offer "critical accessibility features... [like] single-floor living, extra-wide hallways and doors, and zero-step entrances."³⁷ Another recent

study found that people with mental illness or developmental disabilities are less likely to receive responses to housing inquiries, less likely to be offered a meeting, less likely to be allowed to see a unit, and a significant portion of valid reasonable accommodation requests for assistance animals or rent reminders due to memory limitations were denied. Fully, 40.86% of those made by telephone and 84.62% of those made by e-mail were denied.³⁸ These shortcomings pose a significant problem because populations over 65 years old are expected to grow from 48 million to 79 million and elderly households with disabilities are expected to grow 76% to an estimated 6 million people with dementia, 13.9 million with a cognitive impairment, 17 million with a mobility disability, 12 million with a self-care disability, and 27 million with a household activity disability.³⁹

GENDER DISPARITIES

Women continue to face unique challenges related to income, evictions, finding housing, and domestic violence. Princeton researcher Matthew Desmond found 1 in 17 woman renters in black and Hispanic Baltimore neighborhoods were evicted.⁴⁰ This amounts to twice the rate of similarly situated men and almost 9 times the average for woman in high poverty white neighborhoods.⁴¹ Desmond attributes these findings to lower wages and the demands of children.⁴² A Seattle study found women were more likely to be evicted over less than \$100 in rent and that blacks were being evicted at 4.5 times greater rate than their expected demographic rate.⁴³

Overall, the study found over 80% of evictions were rent related and 52.3% of evictions were for failure to pay only one month's rent.⁴⁴ There is increased focus on passing nationwide laws prohibiting landlord voucher discrimination.⁴⁵



women were more likely
to be evicted over less
than \$100 in rent

Eleven states and some cities have such laws, covering only 1/3 voucher holders.⁴⁶ A recent HUD study found denial rates for renters trying to use vouchers ranged from 31% to 78% depending on the city, denials increased in low poverty areas.⁴⁷ Since women headed households are 75% of public housing and 83% of housing vouchers, this conduct disproportionately affects women.⁴⁸ In December 2018, Violence Against Women Act grants face reauthorization by Congress.⁴⁹ According to the U.S. Department of Justice, over a 2 year period, these grants supported training, 1,363,499 beds and \$7,196,230 in rent subsidies for women and children fleeing domestic violence.⁵⁰ 2016 HUD rules providing for PHA eviction notice requirements, emergency transfers, self-certification of abuse, and requiring exceptions where the perpetrator of violence forced participation in criminal activity or caused adverse credit effects.⁵¹

Finally, a lack of access to affordable housing remains the most commonly cited impediment to victims leaving their abusers.⁵² Even with existing funding, over a 24-hour period, there were 7,200 requests for emergency shelter and 4,800 requests for other services left unmet.⁵³

EVICTIONS & GENTRIFICATION

According to Eviction Lab, 2,350,042 evictions occurred in 2016.⁵⁴ Some cities like North Charleston, SC and Richmond, VA have eviction rates as high as 16.5 per 100 renters and 11.4 per 100 renters respectively.⁵⁵ Furthermore, gentrification continues to effect cities throughout the United States. 2.5 million units priced at or below \$800 a month have been lost between 1990 to 2016, average nominal asking rents for new units are \$1550 (up 50%) since 2012, and average rents for new units in major metros/the northeast remain above \$2000.⁵⁶



2,350,042
evictions occurred in 2016

According to a 2015 Governing.com report, since 2000 census data, 58.1% of Portland, OR, 51.9% of Washington, DC, 50.6% of Minneapolis, MN, 50% of Seat-

tle, WA, 46.2% of Atlanta, GA, 46.2% of Virginia Beach, VA, 42.1% of Denver, CO, 39.7% of Austin, TX, 30% of Sacramento, CA, and 29.8% of New York, NY are characterized by shifts from low income/home values in the bottom 40th percentile to home values in the top third percentile and influxes of adults with bachelor degrees.⁵⁷ These trends can have real adverse consequences on local low income residents including the permanent loss of affordable housing, culture drain, local business closure without replacement, loss of political clout and low income services, and relocation to more disadvantaged areas.⁵⁸ Although effects on low income residents are difficult to measure, a New York City study estimated from 1989 to 2002 176,900 residents (between 6.22% to 9.87% of all movers) were displaced because of costs (6.8%), private action like condo conversion/landlord move in (1.1%), landlord harassment (.7%), or evictions (.7%).⁵⁹ Similarly, a 2003 American Housing Survey found that 225,000 renters moved because of costs and 96,000 moved because of private landlord or government action.⁶⁰ A recent HUD report cited a study finding the average rent burden for a low-income family living in gentrifying areas was 61% of income (67% in some areas in NY) and gentrification creates unmeasured barriers to entry for low income residents.⁶¹ The report also emphasizes that displacement from improving neighborhoods means the original residents do not get to benefit from reductions in crime rates, improved educational outcomes, increased employment / income opportunities, and increased satisfaction.⁶² Finally, the report emphasizes that gentrification studies may have artificially low displacement numbers because of its difficulty to locate displaced residents.⁶³

GRASS ROOTS EFFORTS

In 2018, a number of grass roots efforts were employed to stem inequitable displacements, gentrification, and rising rents. Major cities across the United States are beginning to or considering providing free legal services to tenants facing eviction. In 2017, New York became the first state to guarantee low income tenant access to legal services in Housing Court and New York City Housing authority evictions. According to NYC Office of Civil Justice 2017 Annual Report, since providing increased funding to legal services in 2013, evictions are down 27%.⁶⁴ From 2014 to 2017, an estimated 70,000 residents kept their homes and forced removal declined from 28,849 in 2013 to 21,074 in 2017.⁶⁵ In San Francisco, a recently passed ballot initiative requires the implementation of a legal services program by 2019.⁶⁶ A small sample size study there estimated that free legal representation saved the city \$1,096,200 in shelter costs and kept people in their homes.⁶⁷ More importantly, the study found differences dependent on the level of representation renters received. 62% of fully represented renters secured a dismissal or stayed in their unit whereas only 27.38% of tenants with limited representation remained.⁶⁸ Boston, Philadelphia, Denver, and D.C. are all considering similar policies.⁶⁹ Unfortunately, the lack of legal representation for tenants continues to be a significant problem. According to Pew Charitable Trust report, in some courts, landlord representation rates are between 85 to 90%.⁷⁰ Studies in Boston, Chicago, and Denver have found Tenant representation as low as 6%, 12%, and 1.5% respectively.⁷¹

Local groups continue the fight for legislation requiring a good cause before evicting long time tenants and restricting landlords from significantly raising rents to remove otherwise good tenants.⁷² Seattle, San Francisco, Oakland, Berkeley, Los Angeles, San Diego, New York City, New Jersey and New Hampshire have all implemented just cause eviction protections. Activists have built coalitions to overturn state laws prohibiting cities from adopting rent control policies.⁷³ Other stakeholders have organized community ownership of property and price freezing through land trusts.⁷⁴ According to Non-profit Quarterly, during the recession, individuals owning land trust property were 8 times less likely to be foreclosed upon.⁷⁵ Other tactics include rent strikes using the warranty of habitability.

HOMELESSNESS

According to HUD's 2017 Annual Homeless Assessment Report to Congress, in 2017, an estimated 553,742 people experienced homelessness on a single night in the United States.⁷⁶ From 2016 to 2017, chronic homelessness was at 86,962 (up 12%), veteran homelessness was at 40,056 (up 2%), family homelessness was at 184,661 (down 5%), and individual homelessness was at 369,081 (up 4%).⁷⁷ Overall homelessness rose 1% for the first time in 7 years largely concentrated in the 50 largest cities.⁷⁸ Perhaps most concerning, unsheltered homelessness increased 9% to around 193,800 people.⁷⁹ A follow up report estimated in 2017 1.4 million people experienced sheltered homelessness.⁸⁰ The report highlighted increases in unsheltered homeless in major cities, especially on the west coast.⁸¹ The report also found increases of 10% in people over 50 experiencing homelessness in the last 10 years.⁸²



Education & Human Rights

The serious inequities that exist within the education system in the United States were exacerbated in 2018. Ricocheting through the halls of the federal government were proposals to cut \$3.6 billion from the Education Department's budget, memos revoking key protections for transgender students, and suggestions that—in the face of rising gun violence in schools—teachers be trained to take a life. Against this hostile tableau, however, were robust grassroots uprisings demanding change. In the past year, hundreds of thousands of students took to the streets calling for safety in the classroom as thousands of teachers from West Virginia to Arizona went on strike.

However, as we move toward addressing institutional issues within the educational sphere, we must first understand the serious inequities students of color, as well as low-income, immigrant, LGBTQ, and disabled students must endure.

WHAT IS 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, the INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS (ICESCR) in 1976, the Convention on the Rights of the Child (CRC) in 1990³, 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)—however, the U.S. 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. These treaties protect the right to education for every person regardless of gender, race, immigration status, or socioeconomic background.

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Pass a permanent solution for Dreamers.⁴
- Replace all suspensions/expulsions (pre-K-5) and suspensions and expulsions for nonviolent offenses (grades 6-12) with alternative forms of discipline, such as restorative justice or behavioral counseling.⁵
- In schools, replace law enforcement officers—such as Student Resource Officers (SROs)—with guidance and mental health counselors.⁶
- Offer support for affirmative action.⁷
- Pass a moratorium on the creation of new charter schools and the expansion of existing ones.⁸
- Increase the level of charter school accountability.⁹
- Oppose the arming of teachers and educators.¹⁰
- Develop a better school disciplinary systems to combat sexual assault on campus.¹¹
- Provide debt-free higher education.¹²

2018 VIOLATIONS OF THE RIGHT TO EDUCATION

DACA

The uncertain future of the Deferred Action on Childhood Arrivals (DACA) Program—an Obama administration policy that shields status holders from deportation proceedings and provides them with access to higher education and employment—highlights a grave concern for education justice advocates in the United States.¹³ There are approximately 700,000 active DACA participants cur-

rently living in the United States, but by January 2019, 43,500 of them will lose DACA status, and another 50,000 will lose the status for the next two following months.¹⁴ By March 2020, all DACA recipients will have lost this legal protection. Obscured from these figures are the 605,000 high school and college students who are eligible for the program but do not have the status.¹⁵

Though legislation safeguards undocumented young people's access to elementary and high school education, 44% of DACA recipients with high school diplomas choose not to go to institutions of higher learning, versus 19% of the total U.S. population. United We Dream partially attributes this disparity to the inaccessibility of tuition aid to undocumented youth.¹⁶ These economic barriers have lasting consequences as investment in K-12 education for undocumented youth yields "relatively few economic dividends" as long as the students cannot access higher education.¹⁷

GUNS ON CAMPUS

On February 14, a gunman opened fire in a highschool in Parkland, Florida, killing seventeen students, faculty, and staff and injuring seventeen others. Sadly, however, this type of violence is not anomalous in the United States. By May 2018, news outlets had collectively reported 75 separate instances of gunfire on school grounds.¹⁸ In response to a national epidemic of gun violence, survivors of the Parkland shootings demonstrated in Washington D.C. during the "March for Our Lives." Joined by sister marches across the country, 1.2 million people called for Congress to enact greater gun control legislation: universal background checks, a high-capacity magazine ban, and

several other legislative proposals to protect student youth.

Conversely, as students called for greater regulatory measures on guns, President Trump suggested the arming of teachers, despite law enforcement agencies having vehemently opposed the idea.¹⁹ Education Secretary Betsy DeVos even floated the idea of diverting \$1 billion of federal education grants to implementing such a program.²⁰

The stark contrast between the students' response and the current administration's is belied by growing concerns over the effect of greater gun presence in schools on youth of color. As educational professionals note ongoing systemic biases against Black and brown students, arming that bias "creates a powder-keg situation."²¹ In a surreal manifestation of those fears, a white teacher in Georgia was caught on video threatening to shoot a Black student.²²

The militarization of the classroom, however, is not primarily a knee-jerk response to today's gun violence epidemic—in the past 20 years, the Department of Justice invested \$300 million in school policing.²³ However, the phenomenon is growing. The Miami-Dade County Public Schools, the fourth largest public school district in the country, allocated \$22 million of its 2017-18 budget to policing and security.²⁴ The militarizing school forces us to consider the system pushing children of color from school to prison,—the school-to-prison pipeline. Miami-Dade County Public Schools, of course, serve a predominantly students of color.

SCHOOL TO PRISON PIPELINE

Every 9 seconds, a Latinx public school student is being suspended.²⁵ This figure illustrates the severity of the “school-to-prison pipeline,” the trend where students—and students of color in particular—are funneled from schools into the juvenile and criminal justice systems.

Research shows that police view Black children as less “child-like” than their white peers, and “overestimate [...their] culpability” when accused of an offense.²⁶ This disturbing trend takes on new meaning with increasing police presence within the classrooms.

Schools with school resource officers (SROs) refer children to the juvenile legal system for “disorderly conduct” nearly five times more often than schools without SROs.²⁷ And though Black and Latinx youth make up 40% of public school enrollment, they represent 58% of school-based arrests.²⁸

The presence of SROs themselves can be an indicator of racism in the classroom. Fully, 20.7% of schools with a predominantly black student population have more security than mental health staff versus 2.5% of predominantly white students.²⁹ However, regardless of racial background, students report that police do not make them feel safer.³⁰

So, how can we make schools safe without perpetuating harm? Some schools have begun implementing restorative justice practices. Rooted in Indigenous traditions, restorative justice practices conceptualize crime not just as a violation of the law, but as a communal harm that must be addressed cooperatively. A Pennsylvania school that began implementing restorative justice practices saw a more

than 52% reduction of violent and serious incidents in the first year.³¹ Implementation also fed into addressing serious racial inequities: the Oakland school district reported that racial disproportionality in disciplinary measures was eliminated within one year.³²

YOUTH OF COLOR

According to the Kids Count Data Center, 22 out of 10,000 children were expelled in the 2013-14 school year. However, Native American and Black students faced expulsion at disproportionate rates, with 37 out of 10,000 Native American students and 44 out of 10,000 Black students being expelled. This racial inequity holds steady with respect to other disciplinary measures, with 14% of the total Black student population facing out-of-school suspension. The disproportionate over-disciplining of Black bodies cannot be explained away by controlling for socioeconomic status. A recent government report notes that Black students are suspended more than their white peers at all income levels.³³

LGBTQ STUDENTS

After collecting data from its national school climate survey, GLSEN reported that in 2017, 70.1% of LGBTQ respondents experienced verbal harassment based on sexual orientation and 59.1% based on gender expression.³⁴ Additionally, 42.7% of respondents reported avoiding bathrooms, and 34.8% missed at least one day of school in the last month because they felt unsafe at school. Alarmingly, the results showed an upward trend in the frequency of school staff making negative remarks about gender expression. These experiences should not be divorced from a federal government that is

hostile toward LGBTQ communities—one that is looking to define gender under Title IX as having strict biological determinants.³⁵ The effects of anti-LGBTQ bullying cannot be restricted to the schoolyard, as students who faced anti-LGBTQ harassment are nearly twice as likely to report they do not plan on pursuing post-secondary education.

AFFIRMATIVE ACTION

Souring into the national arena this year was the question of affirmative action in higher education. As wealth and social class have been tied to educational attainment, diversifying the academy remains an important avenue for lower-income minority groups to break out of the cycle of poverty. However, the Department of Justice affirmed its stance against affirmative action when it formally joined anti-affirmative action group Students for Fair Admission's lawsuit against Harvard University this year.³⁶ Despite the agency's concerns that Harvard's holistic admissions process unfairly targets applicants of Asian and/or Pacific Islander (API) descent, dozens of API groups reached out in support of the school. In its amicus brief to the suit, the Asian-American Legal Defense and Education Fund defended affirmative action as benefiting API students, noting that when California Proposition 209—a state amendment prohibiting government institutions from considering race, ethnicity, or sex in inter alia public education—API enrollment in UC Law Schools flattened out while white enrollment rose.³⁷

SEXUAL ASSAULT ON CAMPUS

When Dr. Christine Ford Blasey testified before Congress about her decades-old sexual assault at the hands of then-Supreme Court Justice nominee, Brett Ka-

vanaugh, the unresolved question of sexual assault on campus was dragged into the national spotlight. RAINN estimates that college women are twice as likely to be raped or sexually assaulted than robbed and while 23.1% of female undergraduate students experience rape or sexual assault, only 1 in 5 will report it.³⁸ Survivors credit these figures to a system meant "to silence survivors and exhaust their financial resources".³⁹ In a study of 21 schools, only 525 claims of sexual misconduct—out of 3,304 reports—were investigated.⁴⁰

Despite these figures—and the psychological effects of sexual assault, PTSD among them⁴¹—in the past year the Education Department averred a commitment to the rights of those accused of sexual assault, issuing sexual misconduct standards that increase their protections and shield schools from liability.⁴² The government's will to address sexual violence on campus can best be understood in how—in the face of several reports of misconduct against women as a student—on October 6, Kavanaugh was confirmed to the Supreme Court.

VOUCHER PROGRAMS

School vouchers are subsidies that allow parents to use public funding to pay for private school tuition. Currently, 28 states and the District of Columbia run a type of voucher program, with the majority of these states running several.⁴³ Key to the voucher program debate, however, is accountability. Currently, 19 states fail to include additional civil rights protections for voucher students beyond race, ethnicity, and national origin and 18 states do not require voucher programs to provide programming for students with disabilities.⁴⁴ Additionally, only one state with

voucher or voucher-like programs mandates providing services for English-language learner students.

CHARTER SCHOOLS

Publicly-funded, yet privately-run, National Public Radio (NPR) reports that there are 6,900 charter schools nationwide with over 3.1 million enrolled students.⁴⁵ Though school choice advocates argue that increased school competition will lead to higher student performance, charter schools yield mixed results. A study observed that 30% of charter high schools nationwide are low-graduation schools, compared to 7% of public high schools.⁴⁶ Additionally, the charter sector is subject to little regulatory oversight: the Los Angeles Unified School District Charter School Division revoked only one charter in the past three years.⁴⁷

Regardless, charter schools will certainly expand under the current administration. In the past year, Texas became the 34th state to have its Every Student Succeeds Act approved by the Education Department. Buried in its proposal was a provision allowing the state to use Title I school improvement funds to “creat[e] new schools, whether district or charter”.⁴⁸

SCHOOL CHOICE INITIATIVES

All but three states run a voucher program, charter program, or both. However, we should anticipate further diversion of federal funding to school choice initiatives while the Education Department is helmed by school choice advocate, Betsy DeVos.⁴⁹ In fact, FY 2018 budget proposal suggested allocating \$1 billion of federal funds to school choice initiatives.⁵⁰

COST OF HIGHER EDUCATION

During the 2017-18 year, the average cost of tuition at a four-year college was \$34,740 at private colleges, \$9,970 for in-state residents at public colleges, and \$25,620 for out-of-state residents at public colleges.⁵¹ Not being able to afford these costs has lasting socio-economic implications. The median income for young adults aged 25-34 with a bachelor’s degree is 57% higher than those of young adults with only a high school diploma.⁵² The correlation between education and wealth is such that that some economists partially attribute rising income-inequality to educational inequality, while others suggest that educational attainment defies class division.⁵³ College enrollment, of course, falls along racial lines, with data showing that in 2016, although 49% of the total population of young adults aged 18-24 was enrolled in college, only 39% of Latinx young adults and 27% of Native American young adults were enrolled.⁵⁴

Though state governments have implemented college affordability programs—with 16 states even running no-cost college plans⁵⁵—the federal government has evinced no comparable commitment. In fact, FY 2018 budget proposal, eliminated the popular Public Servant Loan Forgiveness program. While Congress refused to scuttle it, a federal report showed that only 96 out of 28,000 applications for student loan forgiveness have ever been approved.⁵⁶



Human Right to Decent Work, Fair Wages, & Leisure

The human right to decent work is an integral component of the right to an adequate standard of living. The articulation of decent work as a human right is largely a modern phenomenon. The devastation of World War I gave rise to a number of international organizations which aimed to prevent conflict and foster peace. These include the League of Nations and the International Labour Organization which were established because it was understood that providing economic justice was essential to securing lasting peace and stability.¹ The International Labour Organization (ILO) was established in 1919 to provide monitoring procedures and legal mechanisms to ensure fair and humane worker conditions.²

The establishment of the ILO was rooted in the understanding that “universal lasting peace can be established only if it is based upon decent treatment of working people.” Under international law, countries are obligated to fulfill and equally secure basic economic and social human rights. Economic human rights, amongst other things, include not only the right to work, but the right to equal and fair employment, as well as the right to fair wages, leisure, and the limitation of working hours.

WHAT ARE THE HUMAN RIGHTS TO WORK, FAIR WAGES, AND LEISURE IN THE UNITED STATES?

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 right to decent work, wages, and leisure. A few of them are:

Article 23: “(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. (2) Everyone, without any discrimination, has the right to equal pay for equal work. (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (4) Everyone has the right to form and to join trade unions for the protection of his interests.”

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

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 right to decent work, wages, and leisure were explicitly outlined in the CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW) in 1981,⁵ the INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS (ICESCR) in 1976,⁶ the CONVENTION ON THE RIGHTS OF THE CHILD (CRC) in 1990,⁷ and the CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD) in 2016,⁸ 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)⁹ and a number of INTERNATIONAL LABOR ORGANIZATION (ILO) treaties, including the ABOLITION OF FORCED LABOUR CONVENTION in 1991¹⁰ and the WORST FORMS OF CHILD LABOUR CONVENTION in 1999.¹¹ All of these treaties include protections for the right to decent work, equal pay, labour unions, fair hiring initiatives, just and favourable work conditions, protection against unemployment, work overload, and forced labour.

The INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD)¹² requires that all States “prohibit and 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: (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration; (ii) The right to form and join trade unions.”¹³

The INTERNATIONAL LABOUR ORGANIZATION (ILO) was established in 1919 to provide monitoring procedures and legal mecha-

nisms to ensure fair and humane worker conditions. The establishment of the ILO was rooted in the understanding that “universal lasting peace can be established only if it is based upon decent treatment of working people.”¹⁴ Since ILO’s founding the U.S. has ratified only 14 of 189 ILO conventions.¹⁵ Some of these ratified conventions include:

The ABOLITION OF FORCED LABOUR CONVENTION grants the right of freedom from any form of forced or compulsory labour.¹⁶

The WORST FORMS OF CHILD LABOUR CONVENTION grants that (i) each member “take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. (ii) the term child shall apply to all persons under the age of 18. (iii) the worst forms of child labour comprises: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”¹⁷

In July, 2018 the United Nations Human Rights Council adopted the Elimination of All Forms of Discrimination Against Women and Girls resolution at its 38th session. This resolution expressed concern over the persistent gender gaps in

the labour market attributed to patriarchal social norms and at the substantially fewer opportunities women have than men to meaningfully participate in the economy. Concern was also expressed that women are more likely to be unemployed or underemployed as well as paid less for equal work or work of equal value. Women are also more likely to participate in work with limited legal and social protections and engage in unpaid care and domestic work. This resolution also recognized that: “the right to work and just and favourable working conditions, and the right to non-discrimination and gender equality, combined with the right to sexual and reproductive health, also requires States to ensure employment with maternity protection and parental leave for workers [this] include[s] workers in vulnerable situations, as well as protection from sexual harassment in the workplace and the prohibition of discrimination based on pregnancy, childbirth or parenthood.”¹⁸

In March of 2018, the Human Rights Council adopted the Right to Work resolution at its 37th session. The Human Rights Council, through its adoption of the Right to Work resolution, emphasizes that: “full and productive employment and decent work for all are key elements of poverty-reduction strategies that facilitate the achievement of the internationally agreed upon development goals[...]and that they require a multidimensional focus that incorporates Governments, representatives of employers and workers, the private sector, national human rights institutions, civil society organizations and international organizations, in particular the agencies of the United Nations system and international financial institutions.”¹⁹

At its 37th session, the Human Rights Council also adopted the Equality and Non-Discrimination of Persons with Disabilities and the Right of Persons with Disabilities to Access to Justice resolution. This resolution reaffirmed that discrimination on the basis of disability is prohibited, and “in order to promote equality and eliminate discrimination, (states) shall take all appropriate steps to ensure that reasonable accommodation is provided.”²⁰

In 2018, the Human Rights Council’s Special Rapporteur on extreme poverty and human rights visited the United States. In his report, he states that “there are a great many jobs out there waiting to be filled by individuals with low educational qualifications, often with disabilities of one kind or another, sometimes burdened with a criminal record (often poverty related), without meaningful access to health care, and with no training or effective assistance to obtain employment,” because these options are in fact very limited.²¹ The Special Rapporteur also noted that many workers cannot survive even with a full-time job without the assistance of food stamps.²²

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Adopt national policy goals and strategies to achieve full employment and appropriate pay for work as the key means of poverty reduction.
- Ban blanket employer discrimination.
- Adopt laws or policies that provide paid parental or family leave as well as paid sick days.
- Require Transportation Network Companies to comply with local labor standards, like local minimum wage laws.
- Ensure that policy makers are committed to human rights and equal protection of all workers regardless of gender, race or ability, particularly domestic and farm workers.
- Implement legislation to penalize companies that tolerate persistent harassment, and to discourage the use of non-disclosure agreements to silence victims.
- Raise the minimum wage.
- Expand social protection coverage and programs.
- Pay prison laborers decent wages, ensure work programs are safe and truly voluntary, and expand opportunities for high-quality education and training such as career pathways programs and apprenticeships that lead to jobs for returning citizens.

2018 VIOLATIONS OF THE HUMAN RIGHTS TO DECENT WORK, FAIR WAGES, AND LEISURE

Through the UDHR, International law contemplates that the right to decent work, fair wages, and leisure are necessary to an adequate standard of living. However, in 2018 the United Nations found that the United States, despite it being one of the world’s wealthiest societies, allows a significant and disproportionate portion of its society to live with an inadequate standards of living. The United Nations found that in the United States “about 40 million [people] live in poverty, 18.5 million in extreme poverty, and 5.3 million live in Third World conditions of absolute poverty. It has the highest youth poverty rate in the Organization

for Economic Cooperation and Development (OECD), and the highest infant mortality rates among comparable OECD States.”²³ The United Nations further states that the persistence of extreme poverty, or lack of an adequate standard of living, in the United States is the direct result of the political choices of those in power. Extreme poverty could be eliminated and an adequate standard of living could be ensured through policies, yet in 2018 the United States has demonstrated its lack of political will to uphold the Government’s human rights obligations.

RIGHT TO DECENT WORK

The United States should adopt national policy goals to achieve full employment as well as fair and appropriate pay for work as the principal means of poverty reduction.²⁴ Although the federal government has established full employment—defined as the state of economy in which all eligible people who want to and are able to work can find employment at the prevailing wage rates²⁵—as a national goal, even using the Employment Act of 1946 and the Full Employment and Balanced Growth Act of 1978, it has failed to achieve these goals.²⁶ Despite the current relatively low unemployment rate of 3.7% (October, 2018), 6.1 million workers remain unemployed, and an additional 4.6 are working part-time for economic reasons (sometimes referred to as involuntary part-time workers).²⁷

Furthermore, current and historical unemployment data highlights that unemployment does not equally affect all workers. Notably, even after controlling for educational attainment, black workers consistently face an unemployment rate that is roughly twice that of white workers.²⁸ Currently, the unemployment rate

for white adult males is 3.3 percent while the unemployment rate for black adult males is 6.2 percent.²⁹ Discriminatory labor market practices have resulted in significantly higher unemployment rates for some social groups, 27% of formerly incarcerated people are looking for a job but remain unemployed.³⁰ This is of particular concern because the data show that formerly incarcerated people want to work and are more likely to be more “active” in the labor market than the general population. Among “25-44 year old formerly incarcerated people, 93.3% are either employed or actively looking for work, compared to 83.8% among their general population peers of similar ages.”³¹ Race and criminal records are not acceptable proxies for employability, the United States should ban blanket employer discrimination.

RIGHT TO FAIR WAGES

It has been nearly a decade since Congress last acted to raise the federal minimum wage. The federal minimum wage has remained stagnant at \$7.25 since 2009.³² The “Fight for \$15” is the movement advocating for the increase of minimum wage to at least \$15 per hour. This year we saw campaigns and strikes calling for a more fair wage from fast food workers, child care workers, airport workers, adjunct professors³³, security workers³⁴, and hotel workers. A shared grievance amongst these workers, is the reality that, despite working full-time, employees are not able to earn enough to afford their basic needs. The Fight for \$15, which has been supported by the Service Employees International Union (SEIU), has helped 22 million workers win wage increases since its founding in 2012.³⁵ Today fast food workers from employers such as Burger King, McDon-

ald's and Wendy's continue to call for an increase in wages and the opportunity to form unions.³⁶ Child care workers and parents are asking for at least \$15 per hour and the chance to form a union by campaigning for the Child Care for Working Families Act. Low wages amongst child care workers is leading to high turnover, limited training, and an inadequate system of early learning and care.³⁷ Airline jobs were once considered secure but are now subject to high turnover of staff due to the steady decrease in wages, increased workloads, and the elimination of many full-time jobs.

Marriott hotel workers went on strike across the nation; despite working full-time, Marriott workers were not making a living wage and are concerned with job loss due to automation.³⁸ Marriott workers saw victories in Hawaii, Oakland, Boston, and Detroit, and strikes are ongoing in San Francisco.³⁹

RIGHT TO LEISURE

For centuries, labor movements worked hard for the guarantee of the right to rest and leisure.⁴⁰ Today these rights are often guaranteed through paid holidays and limits on working hours. The United States implemented further guarantees to these rights such as the Family and Medical Leave Act of 1993 which required, "covered employers to provide employees with job-protected and unpaid leave for qualified medical and family reasons."⁴¹ However, about 40 percent of the workforce is not eligible for leave under the FMLA and millions of those who are eligible cannot afford to take unpaid leave.⁴² Additionally, less than 40 percent of the workforce has personal medical leave through an employer-provided disability program. Nearly one quarter of mothers

are back at work within two weeks of giving birth. Fathers continue to be excluded from taking advantage of family leave. Companies such as Time Warner have turned down fathers' requests for fair parental leave.⁴³ True family leave must be inclusive of fathers. The Supreme Court has made clear that employers cannot treat men and women differently when providing paid leave, other than giving birth-mothers six to eight additional weeks of leave as disability-related recovery time.⁴⁴ Nearly one in three people in the private sector are not able to earn a paid sick day. A study found that children of mothers with no access to paid sick days are less likely to receive routine preventative checkups, dental care, and flu shots.⁴⁵ The state must better provide the needed support to manage the demands of work and family. The government should adopt laws or policies that provide paid parental or family and medical leave and flexible use of paid sick time.

WORKING CONDITIONS

The United States should ensure that policy makers are committed to human rights and equal protection of all workers particularly domestic and farm workers, regardless of gender, race, or ability. Working conditions cover a broad range of issues from work time (rest periods, hours of work, work schedules) to compensation, as well as the physical conditions that exist in the workplace and mental demands placed on workers.⁴⁶

In the United States, pregnancy discrimination is prohibited under Title VII of the Civil Rights Act of 1964 and is enforced by the Equal Employment Opportunity Commission (EEOC), yet families continue to struggle with pregnancy discrimination.⁴⁷ Employers have failed to provide

reasonable accommodations to pregnant workers and have forced pregnant workers out of their jobs because of their medical needs. The discrimination does not end with the pregnancy. Many companies make it difficult for nursing employees to pump milk for their babies at work.⁴⁸ Studies show that a mother's wages decrease by 4 percent per child while the father's wages tend to increase by 6 percent after a child is born.⁴⁹ Human conditions such as pregnancy should not deprive people of their right to work if they are eager and able to do so.

The U.S. Bureau of Labor Statistics (BLS) reports that the number of work-related fatalities is increasing. Nearly 5,200 workers were killed on the job last year, yet under the Trump administration, the enforcement activity of the Occupational Safety and Health Administration (OSHA) is declining.⁵⁰ Workplace fatalities, injuries, and disease are preventable when employers follow established safety rules and practices. Strong enforcement of these safety rules and requirements by OSHA not only save lives and protect workers and consumers, it provides a valuable resource for employers by reducing injuries and insurance costs. The reduction of OSHA enforcement activity undercuts businesses and puts workers lives at risk.⁵¹

Domestic and farm workers are a particularly vulnerable population in the workplace. The involvement of state and local police in immigration enforcement, ensures that immigrant workers cannot assert their labor rights without fear of deportation.⁵² Their immigration status is often used as a coercive tool. Domestic and farm workers are vulnerable to trafficking. Some of these workers come with a valid visa and are abused by the em-

ployer tied to the visa, their passports and visas are withheld or stolen. Some domestic and farm workers who do not have documents, are vulnerable to threats by employers to call the police or immigration if they do not obey or attempt to complain or escape.⁵³

The Coalition of Immokalee Workers' (CIW) Fair Food Program advocates for humane wages and working conditions for the farmer laborers on participating farms through a partnership between farmers, farmworkers, and retail food company. Participating buyers agree to pay a penny more per pound to farmers, the extra profit then translates to higher wages for farmworkers. The Fair Food Program has succeeded in attaining partnerships with major retail food companies including: Walmart, Whole Foods, Taco Bell, and McDonald's. The supermarket industry as well as some major players of the fast food industry, such as Wendy's, have yet to participate in the Fair Food Program.⁵⁴

The Milk with Dignity Campaign is a worker-driven program calling for dairy companies to secure human rights in their supply chains. The need for this campaign was evident after a Migrant Justice study found egregious human rights violations rampant throughout Vermont dairy farms, which include the following: Vermont dairy workers work 60-80 hours a week; 40% of Vermont dairy workers have no days off, and 40% of these workers make less than the Vermont minimum wage.⁵⁵ Milk with dignity was influenced by and adopted many of its concepts from the Fair Food Program. Ben & Jerry's finalized and signed the first Milk and Dignity Agreement at the end of 2017. The Milk with Dignity Campaign is working on expanding and is currently engaging in

conversations with other major dairy brands with the hope of signing legally-binding agreements in the near future.⁵⁶

SEXUAL HARASSMENT IN THE WORKPLACE

The United States should implement legislation to penalize companies that tolerate persistent harassment, and should discourage the use of nondisclosure agreements to silence victims. While the #MeToo movement gained its prominence in Hollywood, it was started to raise awareness and gain protections against workplace harassment for women working in regular jobs. The United States' Equal Employment Opportunity Commission saw a sharp increase in the number of sexual harassment complaints workers filed with the agency over the past year for the first time in nearly a decade, attributing the increase to the #MeToo movement. The number of complaints filed in the fiscal year that ended Sept. 30 rose more than 12 percent.⁵⁷ Farm workers often endure sexual harassment and assault and are particularly vulnerable because their work often takes place in isolated fields and packing houses. In November 2017, 700,000 farmworkers wrote an open letter in solidarity with the (mostly) women and men who spurred the Hollywood iteration of the #MeToo movement.⁵⁸ In February 2018, an open letter was written to the Time's Up Movement, an initiative created to fight systematic sexual harassment in Hollywood and blue-collar workplaces nationwide backed by a \$13 million legal defense fund.⁵⁹ In May, 10 women supported by the Fight for \$15 campaign and the Time's Up Legal Defense Fund, filed sexual harassment complaints against McDonald's restaurants with the US Equal Employment Opportunity Commission.⁶⁰ Protesters at McDonalds and Walmart

have called for more respect in the workplace, better training for managers and more accountability when it comes to sexual harassment.⁶¹ In Chicago, hotel workers successfully fought for an ordinance that now requires hotels to provide panic buttons to all workers who clean, restock, or take inventory alone in guest rooms and restrooms. Now a similar ordinance is being proposed in California. According to the author of "We are All Fast Food Workers," 66% of hotel workers have allegedly experienced sexual harassment, for fast food workers the number is 40%.⁶² Bringing a charge of sexual harassment or sexual assault continues to be a burdensome task that impedes paths to justice. The difficult process of reporting sexual abuse on Capitol Hill prevents alleged victims from speaking publicly because of the secretive settlement process in place.⁶³ The system in Capitol Hill gives sexual harassment victims 180 days to bring a claim to the Congressional Office of Compliance, they are then subjected to a 30-day intake process that is strictly confidential. The complainant then must file a request for mediation regardless even if they know that they want to litigate the matter. The mediation requires the alleged victim to sign an agreement stating that, in good faith, they're going to attempt to resolve the dispute with the employing office. The United States must implement legislation to protect against workplace harassment as well as to protect victims of workplace harassment and assault.⁶⁴



Marriage, Family, & Human Rights

As a legal, social, and sometimes, religious institution, marriage in society is often presented as a union between two persons in love. The creation of a family, which may include children, are rights protected domestically within the United States and in the international community as sacred human rights. However, relationships, marriage, and love, have shifted dramatically in the United States. For example, adults are increasingly marrying later in life (29.5 years old for men, 27.5 for women)¹ or even forgoing marriage entirely, choosing instead to engage in a long-term partnership.² Individuals are making different choices about whether or not to marry or even have children, but this right was not always guaranteed for all.

The 1967 Supreme Court Decision *Loving v. Virginia* legalized interracial marriage by deeming “miscegenation” laws unconstitutional and the Supreme Court case in 2015, *Obergefell v. Hodges*, recognized the right to marry for same-sex couples in the United States. Unfortunately, the decades of progress to secure marriage rights for all—which for many, ensured the legal right to establish a family—have been deeply undercut for particularly vulnerable groups such as LGBTQ couples hoping to adopt, incarcerated mothers fighting for custody, migrant families fleeing from harm, and Native American communities wanting to maintain tribal sovereignty.

The separation of migrant children from their families at the United States' Southern Border creates different types of intersectional harm, including impacting parental rights, foster care, and adoption, and child welfare. Global responses to the news, which broke in June 2018, prompted United Nations experts, such as the Special Rapporteur on the human rights of migrants to release a statement, saying: "We call on the Government of the United States to release these children from immigration detention and to reunite them with their families based on the best interests of the child, and the rights of the child to liberal and family unity."³

WHAT ARE THE HUMAN RIGHTS TO MARRIAGE AND FAMILY?

The UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)⁴—the first global expression of the rights to which all human beings are inherently entitled—contains key provisions that specifically outline the rights of families, children, and marriage. 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."*

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 nec-*

essary 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."

UDHR, Article 26: *"(3) Parents have a prior right to choose the kind of education that shall be given to their children."*

The standards of marriage were explicitly outlined in the CONVENTION ON CONSENT TO MARRIAGE, MINIMUM AGE FOR MARRIAGE REGISTRATION OF MARRIAGES in 1964. The United States signed the Convention in 1962 but never ratified it. In addition, the U.S. has not ratified the Convention on the Rights of the Child (1995) and the Convention on the Rights of Persons with Disabilities (2007) which also explicitly outline the rights to marriage and family.⁵

The United States has, however, signed and ratified three treaties: the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) in 1992,⁶ the CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD) in 1994,⁷ and the CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CAT) in 1994.⁸ These treaties include articles addressing the right to marry, parental rights, child welfare, and protections for families.

ICCPR, Article 23: *(1) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. (2) The right of men and women of marriageable age to marry and to found a family shall be recognized. (3) No marriage shall be*

entered into without the free and full consent of the intending spouses. (4) States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

CERD, Article 5: “(iv) *The right to marriage and choice of spouse.*”



Special Rapporteur's report on his visit to the U.S. noted the family and community destruction wrought by prescription and other drug addiction and the extreme poverty faced by 18.5 million people.

In 2017, Professor Philip Alston, the United Nations Special Rapporteur on extreme poverty and human rights visited the United States. Alston noted the particular obstacles faced by single-mothers supporting their families, he spoke about

the “family and community destruction wrought by prescription and other drug addiction,” and the extreme poverty faced by 18.5 million people, the majority of whom reported a family income below one-half of the poverty threshold.⁹

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Immediately end the separation and detention of migrant and refugee families arriving at the Southern border and prioritizing the reunification of families that have been separated.
- Launch an investigation into allegations of the adoption of migrant children recently separated from their parents at the Southern border of the United states.
- Protect the children who have been separated from their parents at the border because they have a right to humanitarian protection and “unaccompanied” children have the right to full immigration proceedings.
- Recognize pre-transition domestic partnerships for transgender couples as well as full parental rights, regardless of gender identity or expression.
- Seek alternatives to arrest and incarceration for accused and incarcerated parents, especially single-mothers and primary caretakers.
- Ensure that Native American children have access to community-based services that connect them with their heritage, culture, and history.
- End the practice of child marriage in the United States, where only two state (Delaware and New Jersey) have banned the practice completely.

2018 VIOLATIONS OF THE RIGHT TO MARRIAGE AND FAMILY

MIGRANT/REFUGEE FAMILY SEPARATION

Between April and May 2018, the Trump administration separated more than 2,300 children from their parents at the Southern Border of the United States. The “zero tolerance” policy, implemented by the Department of Justice (DOJ), would prosecute anyone that U.S. Customs and Border Protection apprehends at the border.¹⁰ The policy of family separation was withdrawn soon after public outrage brought the issue to the forefront of the media cycle. However, many families remain separated, with some parents deported back to their home country, leaving their children in the United States in foster care. Due to loopholes in the immigration system, state court judges can grant custody of migrant children to U.S. families, or migrants parents have been coerced into signing away their parental rights, with their children being put up for adoption.¹¹

PARENTAL RIGHTS

Incarcerated parents, particularly mothers, are at an increased risk of losing custody over their children. With over 80% of women in jail who are mothers with young children under 18, often as primary care providers.¹² A 2018 report from Human Rights Watch (HRW) and the American Civil Liberties Union (ACLU) noted the “lasting harm of jailing mothers before trial in Oklahoma” often resulted in “overwhelming debt and loss of child custody,” even when they are held for a short period of time.¹³ Senator Cory Booker of New Jersey introduced the Dignity for Incarcerated Women Act of 2017, which seeks to assist incarcerated women

with re-entry, access to health care, and increased interaction with their children during incarceration.¹⁴

DOMESTIC PARTNERSHIPS/RIGHT TO MARRY

Although the Supreme Court struck down all bans on same-sex marriage in 2015 (*Obergefell v. Hodges*), marriage discrimination based on sex and gender persists. The appointment of Supreme Court Justice Brett Kavanaugh in October 2018, poses a threat to the LGBTQ communities, women, people of color, and the intersection of those identities. During his confirmation hearing, Kavanaugh refused to share his opinion on the *Obergefell v. Hodges* decision; with his refusal interpreted by some as disapproval of marriage equality for same-sex couples.¹⁵ While marriage is recognized for all in the United States, the rights that accompany it, such as parental rights, adoption, and more, continue to be at risk. However, a recent victory with Hawaii’s Supreme Court (*L.C. v. M.G.*) affirmed that same-sex spouses have the same parental rights to their children whether they are the non-biological parent or not.¹⁶ This decision may set an important precedent protecting LGBTQ parents in issues parallel to the right to marry: adoption, parental rights, and custody.

ADOPTION POLICY

Often overlooked, the history and continued mistreatment of Indigenous children in the United States intersects with human rights and adoption policy. The Indian Childhood Welfare Act (ICWA) was ruled unconstitutional by a U.S. Federal Judge in the Northern District of Texas in October 2018.¹⁷ Originally passed in 1978, ICWA prioritized placement of Native children within Native communities,

emphasizing the need for cultural sensitivity and respect for tribal sovereignty.¹⁸ The United States has a history of forcibly and unjustly removing native children from their families and communities, with “as many as one third of Native American children...separated from their families between 1941 and 1967.”¹⁹ The federal court decision argues that ICWA discriminates against non-Native couples looking to adopt Native children. Native American tribes across the United States instead point out that the ruling is “an extension of decades of U.S. assimilation policy that nearly cost tribes their cultures, and tribes look to youth to preserve future cultures.”²⁰



Oklahoma recently signed SB1140, a bill that gives child welfare agencies the power to deny potential LGBTQ foster and adoptive parents

FOSTER CARE REFORM

Oklahoma recently signed SB1140, a bill that gives child welfare agencies the power to deny potential LGBTQ foster and adoptive parents the chance to help vulnerable children in need. It is the first state in 2018 to sign anti-LGBTQ legislation into law, with Kansas following closely behind with a similar bill. Not only do these bills grant institutions with “sincerely-held” religious beliefs the discretion to reject potential adoptive or foster parents, but children will also be significantly impacted.²¹ LGBTQ youth are over-represented in the foster care system; many face obstacles to acceptance from their family members and communities including rejection, abuse, and neglect.²² President Trump signed the “Family First Prevention Services Act” in February 2018, an extensive overhaul of the foster care system in decades. It aims to reform child welfare financing streams by funding mental health services for children, providing substance abuse treatment, and access to in-home parenting skill training. This bipartisan bill has been criticized for being hastily written, and failing to “develop alternative placements” for youth placed in group homes, residential treatment facilities, or maternity homes.²³ These much needed facilities, while in desperate need of reform, cannot be outright eliminated without alternatives set up to replace them. Without proper programming and support, foster youth run the risk of turning to the streets. A 2017 national report from the U.S. Department of House and Urban Development reports that nearly 5,000 youth aged 12-18 were marked as “homeless and unaccompanied,” although advocates estimate the number to be much higher.²⁴

CHILD WELFARE

In response to the news of children being separated from their parents and detained at the Southern Border, the American Academy of Pediatrics noted the disastrous mental, emotional, and physical impact “Studies of detained immigrants have shown that children and parents may suffer negative physical and emotional symptoms from detention, including anxiety, depression and posttraumatic stress disorder. Conditions in U.S. detention facilities, which include forcing children to sleep on cement floors, open toilets, constant light exposure, insufficient food and water, no bathing facilities, and extremely cold temperatures, are traumatizing for children. No child should ever have to endure these conditions.”²⁵

As of August 2018, more than one month after the court deadline requiring the government to reunite families has passed, more than 500 children are still in detention centers and shelters, without their parents.²⁶ Court documents revealed that nearly two-thirds of the minors still in custody have parents who were deported; this includes 22 “tender-aged” children under 5 years old.²⁷

CHILD MARRIAGE

Child marriage is rarely, if ever, brought up within the context of the United States. Usually, it is portrayed as a backward and savage tradition that continues to thrive in “other” countries. However, between 2000 and 2014, more than 207,000 people under 18 were married in the U.S.²⁸ The Convention on the Elimination of Discrimination Against Women, Convention on the Rights of the Child, and the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriage all address child marriage, emphasizing protections for vulnerable groups in various ways. Unfortunately, the United States has not ratified any of these conventions. Twenty-five states have no minimum age of consent when certain conditions are met such as parental or judicial approval.²⁹ As of May 2018, Delaware is the only state that outright prohibits child marriage without exception.³⁰ In most other states, the age to consent to marriage ranges from 16 to 18. In both Massachusetts and Kansas, for example, the age of consent is 16, but can be lowered to the age of twelve for girls and fourteen for boys.³¹



Privacy and Human Rights

Privacy is a necessary condition for any well-functioning democracy to flourish. As the use of technology provided by large, unregulated corporations, becomes an unavoidable part of our daily lives—along with targeted marketing, mass collection of personal data, and data breaches—the spaces where one can expect to have a reasonable expectation of privacy begins to shrink. Government, and increasingly corporate, intrusion into the lives of people living within a democracy can stifle self-expression and association, destroy the proper development of ideas and beliefs, and act as an impediment to the pursuit of legitimate governmental critique and redress.

This can have a chilling effect because surveillance can impact who we speak to, what we listen to, what we say, and how the press reports what is happening in our world.

In a time when “every keystroke is potentially watched, and every heart beat potentially counted” the need to protect the human right to privacy is more critical than ever.¹

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

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 of privacy:

Article 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

The right to privacy is explicitly outlined in the CONVENTION ON THE RIGHTS OF THE CHILD and the INTERNATIONAL CONVENTION ON THE PROTECTION OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES, though the United States has failed to ratify these treaties.³ The United States has, however, signed and ratified the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) in 1992.⁴ It states:

*ICCPR, Article 17: 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.*⁵

In 2014, the United States was reviewed on its compliance under the UDHR and the treaties that it has ratified.⁶ Since then, the United States has stated that the government can “help [Artificial Intelligence] development by (carefully) giving companies access to some unspecified

government data, and that a new select committee would help government agencies think about and use the technology.”⁷ Further, White House spokeswoman Lindsay Walters said the administration, through the White House National Economic Council, “aims to craft a consumer privacy protection policy that is the appropriate balance between privacy and prosperity.”⁸

DEMANDS OF GRASSROOTS GROUPS AND ADVOCATES

The United States must...

- Stop surveilling human rights defenders.
- Stop High-Tech Profiling.⁹
- Preserve Constitutional Principles.¹⁰
- Enhance Individual Control of Personal Information.¹¹
- Protect People from Inaccurate Data.¹²
- Limit the collection of data (minimum necessary to achieve government’s purpose).¹³
- Define clear rules on legal process required for data collection.¹⁴
- Recognize that racism will affect AI outcomes.¹⁵
- Require democratic participation to ensure AI is not exacerbating inequality and obstructing human agency.¹⁶
- Store different biometric data in separate databases.¹⁷
- Put in place robust security measures required to protect all data.¹⁸

2018 VIOLATIONS OF THE HUMAN RIGHT TO PRIVACY

SURVEILLANCE OF HUMAN RIGHTS DEFENDERS

Communities of color in the United States are currently, and have historically been heavily surveilled by the government of the United States. Technological advances, such as cell phone tracking, facial recognition software and artificial intelligence have created new and difficult challenges to protecting the human right to privacy. Currently, the Federal Bureau of Investigations (FBI) possesses photographs of nearly half the adult U.S. population in facial recognition databases.¹⁹ In the process of a criminal investigation, this database can be accessed without the knowledge or consent of those whose identities are being reviewed.²⁰

An egregious example of the violation of privacy rights is the surveillance of Black Lives Matter (BLM)—a global network of people “whose mission is to build local power and to intervene in violence inflicted on Black communities by the state and vigilantes.”²¹ For example, BLM’s 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.²² In 2018, it was revealed that the FBI’s surveillance of Black Lives Matter activists was far more expansive than previously believed.²³ Newly released documents suggest that FBI resources were used for informants and for surveillance of cars, residences, and to track activists as they traveled across the country. These efforts are alarmingly similar to the FBI’s COINTELPRO—short for *Counterintelligence* Program—a secret program designed to monitor and “neutralize” do-

mestic groups deemed by the FBI to be a danger to national security in the 1950s through 70s.²⁴ Such targets included anti-war groups and civil rights groups as well as individuals. The FBI infiltrated Black power groups, American Indian Movements and the Brown Berets, resulting in jailed dissidents and the blackmailing of Dr. Martin Luther King, Jr. The documents regarding Black Lives Matter contradict the FBI’s claim that they do not target groups based on their ideology but only persons who engage in violent action.²⁵ These internal documents refer to a document described as the “Race Paper” in Department of Homeland Security (DHS) emails. Forty-two civil and human rights organizations have demanded that the Department of Homeland Security release the un-redacted version to the public which is believed to potentially relate to data-driven surveillance of protestors.²⁶

AMAZON AND ICE

In the summer of 2018, corporate giant Amazon met with U.S. Immigration and Customs Enforcement (ICE) to market its facial-recognition system, “as a way for the agency to target or identify immigrants.”²⁷ ICE has been targeting immigrant rights activists for deportation. Activists Maru Mora Villalpando and Ravi Ragbir are part of a “cohort of high-profile activists whom the federal government has pursued aggressively for removal proceedings.”²⁸

DATA BREACHES

As consumers browse various internet sites and cell phone applications require extra privacy permission to work on phones, corporations are collecting large amounts of information about its users

and then selling it to third parties. In March of 2018, it was revealed that Cambridge Analytica Ltd—a data mining company— had acquired and used personal data about Facebook users from an external researcher who had told Facebook he was collecting it for academic purposes.²⁹ The information collected from the Facebook data breach “included details on users’ identities, friend networks and “likes.” The idea was to map personality traits based on what people had liked on Facebook, and then use that information to target audiences with digital ads.”³⁰

On July 29, 2017, Equifax—one of the three major consumer credit reporting agencies in the United States—suffered a major data breach that affected over 143 million people.³¹ Moreover, Equifax did not disclose the data breach until September 1, 2017.³² The sensitive information exposed included social security numbers and other sensitive identification documents. The Equifax data breach was particularly egregious, because, with social media companies, one can choose to “opt out” of participating. Equifax, however, has access to social security numbers and other sensitive data of individuals who had no direct dealings with the company. Every time someone gets a mortgage, purchases a new car, or applies for a credit card, that information is sent to Equifax. The Equifax data breach was careless; the result of failure to implement “well-known security measures and a lack of internal controls and routine security reviews,” according to the U.S. General Accounting Office report.³³

FACIAL RECOGNITION & RACISM

The “frightful five” tech companies— Amazon, Google, Apple, Microsoft and Facebook — are collectively more powerful than many governments. As such, they have become “more like governments than companies with the amount of money they have, with the kind of power they have over democracy in society.”³⁴ Collectively, they “now have a combined valuation of over \$3.3 trillion, and make up more than 40 percent of the value of the Nasdaq 100 index.”³⁵



The ACLU of Northern California's test of facial recognition software found that people of color were disproportionately misidentified in mug shot databases, raising concerns about racial bias and the potential for abuse by law enforcement.

Amazon, one of the “frightful five” collects a large amount of data from its consumers³⁶ and has developed facial recognition software called “Rekognition.” Rekognition—“powered by artificial intelligence[...] can identify, track, and analyze people in real time and recognize up to 100 people in a single image. It can quickly scan information it collects against databases featuring tens of millions of faces.”³⁷ A test of Rekognition found that it falsely identified 28 members of Congress as people who have been arrested for crimes. The ACLU of Northern California’s test also found that people of color were disproportionately misidentified in mugshot databases, raising new concerns about racial bias and the potential for abuse by law enforcement.³⁸

Amazon is not the only company that is developing facial recognition software for public use. The company, Terrogeance, is creating a product called Face-Int.—“a massive and growing database of annotated faces and face data, highly suitable for advanced biometric security applications.”³⁹ Terrogeance says that Face-Int monitors and collects online information from terrorists, criminals, and other individuals believed to pose a threat to aviation security and national security.⁴⁰

A recent study of facial recognition software revealed that there were 34% more errors in identifying dark-skinned females as opposed to light-skinned males.⁴¹ As skin shades on women got darker, the chances of the algorithms predicting their gender accurately “came close to a coin toss.” With the darkest skinned women, the face-detection systems mis-gendering them close to half the time.⁴² Other analyses have found that facial recognition algorithms have been programmed to be racist.⁴³

SMART HOME DEVICES

Smart home devices such as Google Home and Amazon’s Echo and Alexa are supposed to provide comfort and assistance with tasks while users are in their homes. While these devices are convenient, they can pose a risk to privacy. This year, Amazon’s Alexa home device recorded an Oregon woman’s private conversations in her home and sent it to an arbitrary contact 176 miles away in Seattle.⁴⁴ The program is designed to start listening when it is triggered by a “wake word,” but it does not always hear the words correctly and it calls into question whether the device has to be listening all of the time in order to detect the “wake word.” There have been reported cases where Amazon Echoes have started laughing, a glitch attributed to the device mishearing speech.⁴⁵



In a time when every keystroke is potentially watched, and every heartbeat potentially counted the need to protect the human right to privacy is more critical than ever.

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