
Slow Progress: Combating Discrimination and Pushing for Domestic Implementation of Human Rights Obligations

September 2014

Shadow report of The Leadership Conference Education Fund and The Leadership Conference on Civil and Human Rights with the Lawyers' Committee for Civil Rights Under Law and the National Association for the Advancement of Colored People (NAACP)

For review of United States' Compliance with the 2nd Cycle Universal Periodic Review

22nd Session of the Human Rights Council Universal Periodic Review (2nd Cycle)

The Leadership Conference Education Fund
(The Leadership Conference on Civil Rights Education Fund)
1629 K Street NW, 10th Floor
Washington, DC 20006
Phone: 202-466-3315
Email: zeitlin@civilrights.org
Website: www.civilrights.org
ECOSOC Status: Since 2011

Table of Contents

2	Foreword
3	Introduction
3	Discrimination in the Criminal Justice System
6	Discrimination in Immigration Policy
8	Domestic Implementation of Human Rights and Human Rights Mechanisms / Ratification of Treaties
11	Endnotes

Foreword

I am pleased to submit this report¹ prepared by The Leadership Conference Education Fund and The Leadership Conference on Civil and Human Rights. The Leadership Conference is a coalition charged by its diverse membership to promote and protect the civil and human rights of all persons in the United States. The Leadership Conference's more than 200 national organizations represent persons of color, women, children, organized labor, persons with disabilities, seniors, the lesbian, gay, bisexual, and transgender (LGBT) community, and major religious groups. Since its inception, The Leadership Conference has worked to ensure that all persons in the United States are afforded civil and human rights protections under the U.S. Constitution and in accordance with international human rights norms. The Leadership Conference Education Fund serves as the education and research arm of The Leadership Conference, building public will for federal policies that promote and protect the civil and human rights of all persons in the United States. The Education Fund is a non-governmental organization in consultative status with the Economic and Social Council since 2011.

Sixty years after *Brown v. Board of Education*, 50 years after the Civil Rights Act, and 20 years after the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), America's track record of creating opportunities for people of color and ending racial discrimination is decidedly mixed. On nearly every indicator that we use in the United States to measure progress, people of color are falling further behind. And it starts early.

A recent report by the Annie E. Casey Foundation, "Race for Results," looked at how we are providing opportunities for children of color along 12 indicators, such as percentage of children enrolled in preschool, percentage of 4th graders proficient in reading, and percentage of children who live in low-poverty areas. The report found that African Americans, Native Americans, Latinos and some Asian American communities like the Vietnamese, Pakistani, and Hmong communities are falling behind White children. Even middle-class families of color have a very tenuous hold on their economic status.

The data aren't just revealing—they are a call to action. What the data tell us is that, as we learn from the past, we will need to fight for the future. Using international human rights norms and treaties to advocate for domestic civil and human rights can help identify gaps in our laws and suggest different approaches to solutions.

While the United States has been working to reclaim its leadership on international human rights matters, so much remains to be done. We must reform our racially and ethnically discriminatory criminal justice system. We need to build a truly equitable, diverse, high-quality education system that educates each and every child, regardless of race, ethnicity or ZIP code. We need safe and affordable housing for all individuals living in the U.S. We need to remove barriers to employment and create affirmative opportunities for career advancement for people of color, who continue to make up a large percentage of the low-wage workforce. We need to specifically address the needs of persons with disabilities and low-income women of color who are often struggling to support their families. We need to fix our broken immigration system and protect the rights of immigrants working in the United States. We need to fix our voting system so no voter has to wait in long lines, and we must eradicate any and all racial discrimination in access to voting. We need vigorous enforcement of hate crime protections and expanded, coordinated police-community efforts to track and respond to hate violence and improve hate crime data collection efforts. We need to transform the U.S. Commission on Civil Rights into an independent human rights commission that fully meets the Paris Principles

These are big challenges. But at The Leadership Conference, we strongly believe that civil and human rights must be measured by a single yardstick, both at home and abroad. Through the Universal Periodic Review (UPR) process, we have a chance to close these opportunity gaps. We hope that this report will be useful to the international community in assessing U.S. compliance with the UPR and that it serves as a public education tool to aid in protecting and promoting racial justice throughout the United States.



Introduction

1. This report supplements the submission of the government with additional information and offers recommendations for actions that will, if adopted, enhance the government's ability to comply with its human rights obligations under the Universal Periodic Review (UPR). We hope it will assist the Human Rights Council in evaluating the U.S. compliance and in creating its own recommendations to bolster U.S. commitments to ending all forms of discrimination. While this report does not reflect the complete agenda of all of The Leadership Conference's member organizations, it does highlight several issues that are at the top of the civil and human rights coalition's agenda. Specifically, this report provides recommendations related to the thematic categories of criminal justice system issues, immigration, and domestic implementation of human rights and treaties and creation of domestic human rights mechanisms.
2. Further, we note and urge the United States to take appropriate steps to implement 2010 UPR accepted recommendations *62; 64, 67, 94, 100, and 189; 68, 101; 81; 96; 97; 107; 113; 115; 116; 192; 197*, under the thematic category of civil rights and racial and ethnic discrimination, which relate to such critical issues as education, voting rights, employment, and housing, among others. More detailed information and specific recommendations regarding these issues can be found in The Leadership Conference's reports to the Committee on the Elimination of Racial Discrimination (CERD)² and the Human Rights Committee on the International Covenant on Civil and Political Rights (ICCPR).³

Discrimination in the Criminal Justice System

2010 UPR Recommendations Accepted by the United States

The Leadership Conference, the Lawyers' Committee for Civil Rights, and the NAACP support U.S. adoption of recommendations *70;118;144, 150, 151 and 209; 163 and 179; 178; 219*, under the thematic category of the criminal justice system, and urge the United States to take appropriate steps to implement them. The information below speaks directly to these issues and provides specific recommendations for the government.

Discriminatory Law Enforcement and Prosecutorial Practices

3. *Racial Profiling*: Police officers, whether federal, state, or local, exercise substantial discretion when determining whether an individual's behavior is suspicious enough to warrant further investigation.⁴ Racial profiling in the United States began expanding before the terror attacks of 2001 in at least three contexts—street-level crime, counterterrorism, and immigration law enforcement. Although the Department of Justice (DOJ) issued guidance in 2003 outlawing the use of race and ethnicity by federal law enforcement as an element of suspicion absent any suspect-specific information, the guidance contains a blanket exception for national and border security. Moreover, it does not cover profiling based on religion or national origin and is not applicable to, nor binding on, state or local law enforcement.⁵
4. *Police Misconduct*: Accounts of police misconduct and police brutality throughout the 1960s and 1970s, especially horrific violence against individuals of color during the civil rights movement, are burned into the public consciousness of the United States. According to a recent report to the Committee on the Elimination of Racial Discrimination, the government has enhanced its efforts to address the persistent problem of police brutality and racial profiling—most notably, the DOJ Civil Rights Division's recent investigation of the New Orleans Police Department, which led to one of the most comprehensive reform agreements in its history.⁶
5. Between FY 2009 and FY 2012 DOJ aggressively investigated police departments, prisons, and other institutions to ensure compliance with the law and brought legal action where necessary against both institutions

and individuals. As a result, there has been a 13.4 percent increase in number of convictions over the previous four years.⁷ More recently, the Department of Justice launched an investigation into the Ferguson, MO police department following the deadly shooting of an unarmed African American teenager, Michael Brown, who was shot six times by a Ferguson police officer.⁸

6. While strides have been made in the areas of police misconduct and brutality, federal, state, and local police continue to use force disproportionately, and, in particular, more deadly force, against individuals and communities of color.⁹ Anecdotal evidence of individual cases supports this conclusion; however, there is a great need in the area of police misconduct for reliable and comprehensive data disaggregated by race.¹⁰ The National Police Misconduct Statistics and Reporting Project, run by the Cato Institute, reports that there were 4,861 unique reports of police misconduct that involved 6,613 sworn law enforcement officers and 6,826 alleged victims in 2010, the most recent year for which there is data.¹¹ There were 247 deaths associated with the tracked reports in 2010 and 23.8 percent of the reports involved excessive use of force, followed by sexual misconduct complaints at 9.3 percent.¹² In 2010, states spent an estimated \$346 million on misconduct-related civil judgments and settlements, not including sealed settlements, court costs, and attorney fees.¹³ For example, the New York Police Department was recently found liable for a pattern and practice of racial profiling and unconstitutional stop-and-frisks.¹⁴
7. Additionally, abuses by the U.S. Customs and Border Protection (USCBP), the largest federal law enforcement workforce, have recently come to light.¹⁵ From 2010 to 2013, at least 22 people have been killed by U.S. border patrol agents, most along the southwest border, and hundreds have filed formal complaints of official misconduct, including beatings, sexual abuse, and other assaults. Reports indicate USCBP failed to properly investigate these claims and refused to tell families of those injured or killed by border agents if the agency had determined that the agent had acted improperly or had been disciplined.¹⁶
8. DOJ's Special Litigation Section investigates state and local law enforcement agencies for compliance with federal civil rights law, including claims of police misconduct.¹⁷ Civil enforcement actions by the Special Litigation Section are small in number: the section has had only 33 cases and matters since the year 2000, a miniscule number compared to the number of reports of police misconduct throughout the country.¹⁸ Furthermore, the Special Litigation Section has not opened matters in some of the jurisdictions with the highest police misconduct reporting rates, such as Galveston, Texas, Lee County, Pennsylvania, and Denver, Colorado.¹⁹ Criminal prosecution of police for misconduct is even rarer, compounded by the "code of silence" under which police refuse to testify or cover up evidence, making the investigation and prosecution of these cases extremely difficult.²⁰ Prosecution, conviction, and incarceration rates are all much lower than those for ordinary citizens.²¹

Disparities in Sentencing

9. *Death Penalty:* Racial discrimination pervades the U.S. criminal justice system, which among other things, has resulted in the disproportionate imposition of death sentences for people of color, especially African Americans.²² Today people of color account for 55 percent of those awaiting execution.²³ It is well-documented that the likelihood of receiving a death sentence increases exponentially if the victim is White.²⁴ According the U.S. General Accounting Office (GAO), "in 82 percent of the studies [reviewed], race of the victim was found to influence the likelihood of being charged with capital murder, i.e. those who murdered whites were found more likely to be sentenced to death than those who murdered blacks."²⁵ As DNA evidence has become more available, it shows that innocent people are often convicted of crimes—including capital crimes—and that some have been executed.²⁶ Despite decades of evidence showing that the administration of the death penalty is permeated with racial bias, the refusal of many courts and legislatures to address race in any comprehensive way reveals a fundamental flaw in America's justice system.²⁷
10. Since 2011, both Connecticut and Maryland have passed legislation abolishing the death penalty, which reduces to 32 the number of states in addition to the federal government and U.S. military that authorize capital punishment.

Barriers to Re-Entry

11. *Felony Disenfranchisement*: The widespread disenfranchisement of formerly incarcerated persons is contrary to our democratic principles, disproportionately impacts minorities, and is a barrier to a person's successful reintegration back in to society. Research has shown that formerly incarcerated individuals who vote are less likely to be rearrested.²⁸ In Florida, where then-Governor Charlie Crist briefly made it easier for people with felony convictions to get their voting rights restored, a parole commission study found that re-enfranchised people with felony convictions were far less likely to reoffend than those who hadn't gotten their rights back. According to the report, the overall three-year recidivism rate of all formerly incarcerated people was 33.1 percent, while the rate for formerly incarcerated people who were given their voting rights back was 11 percent.²⁹ When someone has fully and irreversibly served their time in prison, it is of the utmost importance that society restores that person's right to vote. There is no rationale for continuing to deny individuals the right to vote after the completion of their sentence since no one in a democracy is truly free unless they can participate in it to the fullest extent possible.³⁰

Recommendations*

12. *Discriminatory Law Enforcement and Prosecutorial Practices*: (a) The Department of Justice (DOJ) should revise its June 2003 guidance on racial profiling to clarify ambiguities, close loopholes, and eliminate provisions that allow for any form of profiling. Specifically, the revised guidance should be expanded to include prohibitions on profiling based on national origin and religion; (b) The Obama administration should issue an executive order that prohibits federal law enforcement authorities from engaging in racial profiling or sanctioning the use of the practice by state and local law enforcement authorities in connection with any federal program; (c) The Obama administration should support, and Congress should pass, an anti-racial profiling law, such as the End Racial Profiling Act; (d) The Obama administration should rigorously investigate the disproportionate use of deadly force against individuals of color by state and local police, require law enforcement agencies to collect data disaggregated by race, and use its federal funding authority to encourage police departments to reduce the use of deadly force by police departments.
13. *Disparities in Justice System and Sentencing*: (a) DOJ should develop and implement training to reduce implicit and explicit racial bias, and encourage criminal justice agencies at the state level to collect and evaluate data on racial outcomes at key decision making points in the justice system; (b) The Obama administration should encourage states to repeal the death penalty; (c) The administration should also urge Congress to introduce federal legislation to eliminate capital murder from federal law.
14. *Barriers to Re-Entry*: (a) DOJ should expand and clarify its support of automatic restoration of voting rights to citizens upon their release from incarceration for disfranchising convictions, and oppose restrictions for those on parole or probation or with unpaid fees or fines; (b) DOJ should expand and clarify its support of automatic restoration of voting rights to citizens upon their release from incarceration for disfranchising convictions, and oppose restrictions for those on parole or probation or with unpaid fees or fines.³¹
15. The Committee on the Elimination of Racial Discrimination made similar recommendations to the U.S. related to racial profiling, death penalty, police misconduct and disparities in the justice system, in its 2014 concluding observations and recommendations.³²

Discrimination in Immigration Policy

2010 UPR Recommendations Accepted by the United States

The Leadership Conference, the Lawyers' Committee for Civil Rights, and the NAACP support U.S. adoption of recommendations **79; 82; 108; 144; 164, 184, 185, 210 and 212; 208** related to the thematic category on immigration policy, and urge the United States to take appropriate steps to implement them. The information below speaks directly to these issues and provides specific recommendations for the government.

Introduction

16. In the absence of comprehensive immigration legislation, the United States has continued to aggressively enforce immigration laws, often to the detriment of families and communities across the country. Recently, concerns about heavy-handed immigration enforcement have been highlighted by the government's policies in response to a surge in unaccompanied alien children arriving at the southern U.S. border.
17. At any given time, the Department of Homeland Security (DHS) detains thousands of noncitizens who pose no flight risk or threat to public safety while they are awaiting deportation proceedings, including asylum seekers and other vulnerable people, including the recent surge in unaccompanied children arriving at the U.S. border. DHS also underutilizes less costly and effective alternatives to detention, even though they are standard in the criminal justice system. While detention costs the American taxpayer an estimated \$159 per person per day, alternatives such as release on recognizance, community-based support services or bond do not carry an expense, and other alternatives cost up to \$18 per person per day and impose fewer restraints on liberty. Alternatives to detention represent a smarter, less costly, and more humane way to ensure compliance with immigration laws.³³
18. In general, there remain widespread complaints of abusive conduct by law enforcement agents against both immigrants and citizens in the southwest border region. Numerous reports have pointed to border security agents "regularly overstepping the boundaries of their authority by using excessive force, engaging in unlawful searches and seizures, making racially motivated arrests, detaining people under inhumane conditions, and removing people from the United States through the use of coercion and misinformation."³⁴
19. Immigrant guest workers have long been some of the most vulnerable and poorly treated workers in America. Because workers under the current H-2 system are bound to their employers, many are subjected to routine mistreatment including the denial of wages, squalid living conditions, and inadequate safety protections. Workers who speak up to demand fair treatment can easily face deportation or other forms of retaliation.³⁵

Progress to Date

20. The government has taken steps to reform immigration detention policies through the Immigration and Customs Enforcement (ICE), and through the alternatives to detention (ATD) policy, a release condition that allows individuals who might otherwise be detained in ICE custody to live in the community. Additionally, all U.S. workers, regardless of immigration status, are offered substantial protections under U.S. labor and employment laws, and under the Migrant Worker Partnership Program, which was created to assist the Department of Labor (DOL) in the protection of migrant workers employed in the U.S. In response to complaints of law enforcement officials using excessive force against immigrants, the Department of Justice (DOJ) has investigated numerous police departments and works with law enforcement agencies that have committed such violations to ensure the constitutionality of their practices.

Recommendations*

21. The 113th Congress failed to enact comprehensive immigration reform. While the "Border Security, Economic Opportunity, and Immigration Modernization Act" (S. 744) passed the Senate in June 2013, and was supported

by the Obama administration, the House of Representatives refused to act. In the absence of legislation, there are numerous policy reforms that could be implemented by executive action. Despite acknowledgement of its authority to act administratively, to date, the Administration has deferred undertaking major policy reforms by executive action.

22. Hundreds of thousands of people are deported through expedited removals or reinstatement, with no hearing before an immigration judge. The administration should: (a) end the use of deportations without hearings for people who have a case for relief or prosecutorial discretion, and for people who agreed to a stipulated removal without counsel; (b) limit expedited removal to people caught at a port of entry or while trying to enter (as was DHS policy before 2004); (c) provide a review process for immigrants who faced such procedures; and (d) minimize the use of expedited removal against unaccompanied children who arrive at the U.S. border.
23. When immigrants stand up for basic labor and civil rights protections, they should never be undercut by immigration enforcement practices. The administration should: (a) clarify and publicize the processes for immigrants involved in labor and civil rights cases to obtain immigration status and work authorization; (b) prohibit civil immigration or criminal arrests of workers in the context of workplace enforcement actions; (c) look into labor and civil rights complaints before I-9 or other worksite enforcement actions; and (d) prevent employers from abusing I-9 or E-Verify procedures to violate workers' rights.
24. The administration should fine tune the 2012 Deferred Action for Childhood Arrivals (DACA) policy, which removed the threat of deportation for many immigrants who had no say in their legal status, to eliminate unnecessary cutoffs that deny relief to some deserving immigrants. The administration should follow the model of DACA by creating similar administrative relief programs for other categories of immigrants who are otherwise law-abiding and have strong ties to family, community, or jobs here in the country.
25. The administration should replace the overbroad 2011 civil enforcement priorities memo with DHS-wide guidance that limits and better defines the priority categories. The administration should build upon previous prosecutorial discretion memoranda by: (a) ensuring the memoranda apply to all of DHS; (b) creating a presumption of hardship for people with ties to the country; (c) applying deferred action with work authorization (not just administrative closure) to compelling cases; (d) giving timeframes for the grants of discretion, to provide grantees some stability; (e) evaluating the use of prosecutorial discretion at each stage of the enforcement process; (f) treating some requests for prosecutorial discretion in groups, for example, workers in certain labor situations; (g) complying with memos governing victims and sensitive locations cases; and (h) establishing a review process at DHS headquarters.
26. The administration should require a bond hearing for anyone detained, shortly after being taken into custody and every six months thereafter; interpret "custody" in statutes to permit forms of custody short of detention; shift resources from detention to effective and less expensive alternatives; and reaffirm that the "detention bed quota" only requires that beds be maintained, not filled with immigrants regardless of need.
27. If immigrants face deportation or other enforcement action, it should never be a result of racial, ethnic, or national origin profiling. The administration should revise the flawed 2003 DOJ guidance on profiling, which contains massive exceptions for national security and border integrity that do far more harm than good. It should also end the Secure Communities program, the 287(g) program, the use of detainers, and other ICE ACCESS programs that encourage the use of profiling and undermine public safety.
28. The administration should: (a) end the Operation Streamline program; (b) implement all recommendations on use of force from the Police Executive Research Forum, and strengthen oversight and accountability regarding inappropriate use of force; (c) roll back the U.S. Customs and Border Protection's (CBP) claimed 100-mile authority; (d) create enforceable standards and provide effective oversight for CBP short-term holding facilities; (e) carefully limit the use of drones; (f) equip all CBP officers with lapel cameras; and (g) provide more humanitarian resources such as rescue beacons and water stations along the border region.

29. Since 1996, a number of “criminal alien” provisions serve as the immigration equivalent of mandatory minimum sentences. The administration should not deport legal residents on the basis of old, minor offenses.

*These recommendations were formulated by The Leadership Conference on Civil and Human Rights and contributors to this section. The Leadership Conference Education Fund, a 501(c)(3) organization, takes no position on any legislative proposal.

Domestic Implementation of Human Rights and Human Rights Mechanism / Ratification of Treaties

2010 UPR Recommendations Accepted by the United States

The Leadership Conference, the Lawyers’ Committee for Civil Rights Under Law, and the NAACP support U.S. adoption of recommendations *10, 11, 13, 14, 20, 21, 22, 26, 28, 30, 33, 34, 35, and 43; 65, 74; 66 and 225; 87; 114*, under thematic categories of domestic implementation and treaty ratification, and urges the United States to take appropriate steps to implement them. The information below speaks directly to these issues and provides specific recommendations for the government.

Domestic Implementation of Human Rights

30. Following the UPR review, the U.S. government established several interagency working groups to follow up on accepted recommendations and also encouraged exchanges between these working groups and civil society. We have been actively engaged with the Equality Working Group (EWG), which brings together many domestic agencies to focus on non-discrimination and is co-chaired by the State Department and the Department of Justice. While the Equality Working Group serves as a useful forum for sharing information and for discussing human rights obligations, since its mandate and authority are very limited, it is not a sufficiently systematic or strong mechanism to assure implementation of human rights commitments.
31. We recommend that the administration update Executive Order 13107 or other official communication to expand the Interagency Working Group on Human Rights convened by the National Security Council, to focus on implementation of human rights in the United States in addition to its ongoing activities related to human rights in countries outside the United States. We urge the White House Domestic Policy Council to co-convene the working group so that domestic agencies responsible for implementation are fully engaged.
32. While the United States does have a number of federal agencies carrying out functions of a national human rights institution and many states have independent human rights commissions, there is no single institution at the federal level with this specific mandate. We believe such an independent civil and human rights institution, in line with the Paris principles, is needed. The Committee on the Elimination of Racial Discrimination made a similar recommendation to the U.S. in its 2014 concluding observations and recommendations.³⁶
33. We urge the administration to support the U.S. Commission on Civil Rights in its efforts to expand its mandate to encompass the monitoring and enforcement of human rights obligations. The commission is an independent body that already has authority to undertake many of the monitoring activities envisioned by a national human rights institution, including the power to convene hearings and issue subpoenas, issue reports, and make recommendations to Congress and the executive branch. However, in order to carry out these functions effectively, reforms are needed in the commission’s operations, its state committees and its funding. We urge the administration to press for an increase in the commission’s budget in order for it to begin to fulfill its historic role. We also strongly recommend that its mandate be expanded to include human rights and its authority expanded to include the submission of reports to international treaty bodies and related activities. For

background on these recommendations, “The Road to Rights: Establishing a Domestic Human Rights Institution in the United States” at www.civilrights.org.

Ratification of International Treaties

34. More than 20 countries recommended that the United States ratify a number of human rights treaties that it has yet to ratify, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD), among others. While we appreciate that the United States has accepted this recommendation and supports the ratification of these treaties, we strongly believe that the administration could be more actively engaged with the Senate to push for ratification, particularly with regard to CEDAW. The failure to ratify CEDAW is incomprehensible to the rest of the world and is used by opponents of women’s rights in many countries as an excuse not to act.
35. We recognize that administration support alone is not sufficient to get a treaty ratified by the Senate, but a more active partnership with the NGO community is needed. The Leadership Conference convenes a CEDAW coalition that includes nearly 200 national organizations that are passionately committed to U.S. ratification of CEDAW. We urge the committee to recommend that U.S. leadership at the very highest level push strongly for CEDAW. Women across the country are ready and willing to mobilize in support of ratification.

Endnotes

¹ This report supplements the submission of the government with additional information and offers recommendations for actions that will, if adopted, enhance the government's ability to comply with the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). We hope it will assist the United Nations Committee in evaluating compliance and in creating its own recommendations to bolster U.S. commitments to ending all forms of racial discrimination.

² The Leadership Conference Education Fund, "Falling Further Behind: Combating Racial Discrimination in America," (July 2014).

³ The Leadership Conference Education Fund, "Still Segregated: How Race and Poverty Stymie the Right to Education", (September 2013).

⁴ The Leadership Conference Education Fund, "American Dream? American Reality!: A Report on Race, Ethnicity, and the Law in the United States", 7, ¶ 35 (January 2008) (hereafter 2008 American Dream Report).

⁵ *Id.* at ¶ 39 (noting that religious profiling, for example, directly violates ICERD recommendations).

⁶ Concluding Observations of the Committee on the Elimination of Racial Discrimination, U.N. Doc. CERD/C/USA/7-9 at 13 (May 8, 2013) (hereafter, CERD/C/USA).

⁷ *Id.* at 35.

⁸ The United States Department of Justice, "Attorney General Holder Delivers Remarks at Press Conference Announcing Pattern or Practice Investigation into Ferguson Police Department," (September 2014), available at <http://www.justice.gov/iso/opa/ag/speeches/2014/ag-speech-140904.html>.

⁹ According to the U.S. Bureau of Justice Statistics, between 2003 and 2009, at least 4,831 people died in the course of being arrested by local police. Of the deaths classified as law enforcement "homicides," 2,876 deaths occurred of which 1,643 or 57.1 percent of the people who died were people of color. *Victor E. Kappeler, Being Arrested can be Hazardous to your Health, Especially if you are a Person of Color, E. Ky. Univ. Police Studies Online (Feb. 18, 2014)*, <http://plsonline.eku.edu/insideloook/being-arrested-can-be-hazardous-your-health-especially-if-you-are-person-color>.

¹⁰ The National Police Misconduct Statistics and Reporting Project, run by the Cato Institute, collects some data on police misconduct, but does not contain data on the race of the victim or perpetrator.

¹¹ Nat'l Police Misconduct Reporting Project, 2010 Annual Report, available at <http://www.policemisconduct.net/statistics/2010-annual-report/> (last accessed June 11, 2014) [hereinafter NPMRP].

¹² *Id.*

¹³ *Id.*

¹⁴ See *Floyd v. City of New York*, 813 F. Supp. 2d 417 (S.D.N.Y. 2011).

¹⁵ Brian Bennet, Border agency removes its own chief of internal affairs, *Los Angeles Times*, June 6, 2014, <http://www.latimes.com/nation/la-na-border-patrol-20140610-story.html>.

¹⁶ *Id.*

¹⁷ The Special Litigation Section can, for example, review the practices of law enforcement agencies that may be violating people's federal rights pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. If a law enforcement agency receives federal funding, the Special Litigation Section can investigate pursuant to the anti-discrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, and Title VI of the Civil Rights Act of 1964, which forbid discrimination on the basis of race, color, or national origin by agencies receiving federal funds. It may act if it finds a pattern or practice by the law enforcement agency that systemically violates people's rights. Harm to a single person, or isolated action, is usually not enough to show a pattern or practice that violates these laws. Overview: Conduct of Law Enforcement Agencies, U.S. Dep't of Justice, <http://www.justice.gov/crt/about/spl/police.php>.

¹⁸ Cases and Matters, U.S. Dept. of Justice, <http://www.justice.gov/crt/about/spl/findsettle.php>.

¹⁹ See NPMRP.

²⁰ "Revisiting Who Is Guarding the Guardians?", U.S. Comm'n on Civil Rights, <http://www.usccr.gov/pubs/guard/ch5.htm>.

²¹ *Id.*

²² About the Death Penalty, Nat'l Coal. to Abolish the Death Penalty, <http://www.ncadp.org/pages/about>.

²³ Facts About the Death Penalty, Death Penalty Information Ctr. (Jun. 19, 2014), <http://www.deathpenaltyinfo.org/documents/FactSheet.pdf>.

²⁴ David Baldus et al., Racial Discrimination and the Death Penalty in the Post-Furman Era: An Empirical and Legal Overview, With Recent Findings from Philadelphia, 83 Cornell L. Rev. 1638 (1998).

²⁵ National Statistics on Death Penalty and Race, Death Penalty Information Center, <http://www.deathpenaltyinfo.org/race-death-row-inmates-executed-1976> (last visited June 30, 2014).

²⁶ Innocence and the Death Penalty, The American Civil Liberties Union, <https://www.aclu.org/capital-punishment/innocence-and-death-penalty>.

²⁷ Racial Bias, Equal Justice Initiative, <http://www.eji.org/deathpenalty/racialbias>.

²⁸ Promoting Access, Am. Civil Liberties Union, <https://www.aclu.org/voting-rights/promoting-access>.

²⁹ Fla. Parole Comm'n, Status Update: Restoration of Civil Rights Cases Granted 2009 and 2010 (July 1, 2011), *available at*.

³⁰ Felony Disenfranchisement, Leadership Conference on Civil and Human Rights, <http://www.civilrights.org/voting-rights/felony-disenfranchisement/>.

³¹ Democracy Restoration Act of 2014, H.R. 4459, S. 2235, 113th Cong. (2014).

³² Concluding Observations of the Committee on the Elimination of Racial Discrimination, U.N. Doc. CERD/C/USA/CO/7-9 (August 29, 2014) (hereafter, CERD/C/USA), *available at* http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/CERD_C_USA_CO_7-9_18102_E.pdf.

³³ See, e.g., Nat'l Immigration Forum, The Math of Immigration Detention: Runaway Costs for Immigration Detention Do Not Add Up to Sensible Policies (Aug. 2013), *available at* <http://www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf>.

³⁴ See, e.g., Daniel E. Martínez et al., Am. Immigration Council, No Action Taken: Lack of CBP Accountability in Responding to Complaints of Abuse (April 2014), available at <http://bit.ly/SwNbye>; The Ctr. For Latin Am. Studies, Univ. of Ariz., In The Shadow of The Wall: Family Separation, Immigration Enforcement and Security, Preliminary Data from the Migrant Border Crossing Study (2013), available at <http://las.arizona.edu/mbcs>.

³⁵ See, e.g., Southern Poverty Law Ctr., Close to Slavery: Guestworker Programs in the United States (2013), available at <http://bit.ly/1nAyuaW>; Jacinta Gonzalez and Jennifer J. Rosenbaum, New Orleans Workers' Ctr. for Racial Justice, Deporting the Problem: Migrant Workers in the South Expose How U.S. Immigration Enforcement against Human Rights Defenders Violates the International Covenant on Civil and Political Rights (Aug. 2013), available at <http://www.guestworkeralliance.org/category/documents/>.

³⁶ Concluding Observations of the Committee on the Elimination of Racial Discrimination, U.N. Doc. CERD/C/USA/CO/7-9 (August 29, 2014) (hereafter, CERD/C/USA), available at http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/CERD_C_USA_CO_7-9_18102_E.pdf.