

The State of Human Rights in the United States of America: Lessons Learned from the Last Three Universal Periodic Reviews

Jean-Marie Kamatali*

I.	INTRODUCTION	516
II.	THE UN HUMAN RIGHTS COUNCIL, THE UNIVERSAL PERIOD REVIEW, AND THE UNITED STATES	517
	A. <i>UPR as a Universal Review</i>	518
	B. <i>UPR as a Periodic Review</i>	519
	C. <i>The UPR as a Review</i>	519
	D. <i>HRC, UPR, and the United States</i>	521
	E. <i>Understanding UPR Reports</i>	523
III.	THE STATE OF HUMAN RIGHTS IN THE U.S: THREE REVIEW CYCLES, THREE EXTERNAL SOURCES OF REPORTING, AND TWENTY-TWO THEMATIC CATEGORIES	525
	A. <i>Equality and Non-Discrimination</i>	525
	B. <i>Administration of Justice</i>	527
	C. <i>Children</i>	528
	D. <i>Development, Environment, Business, and Human Rights</i>	530
	E. <i>Freedom of Religion or Belief, Expression, Association and Peaceful Assembly, and Right to Participate in Public and Political Life</i>	531
	F. <i>Human Rights and Counterterrorism</i>	533
	G. <i>Internally Displaced Persons</i>	534
	H. <i>International Humanitarian Law</i>	535
	H. <i>LGBTQ</i>	535
	I. <i>Migrants, Refugees, and Asylum Seekers</i>	536
	J. <i>Minorities and Indigenous Peoples</i>	538

* © 2025 Jean-Marie Kamatali, Professor and Ella A. and Ernest H. Fisher Chair of Law, The Claude W. Pettit College of Law, Ohio Northern University. The author is also director and founder of the Human Rights Database and Analysis project: hrdapproject.org.

516 *TULANE J. OF INT'L & COMP. LAW* [Vol. 33:515]

<i>K. Persons with Disabilities.....</i>	540
<i>L. Prohibition of All Forms of Slavery.....</i>	540
<i>M. Right to Education and Culture</i>	541
<i>N. Right to Health</i>	542
<i>O. Right to Life, Liberty, and Security of Persons.....</i>	544
<i>P. Right to Privacy, Marriage, and Family Life</i>	546
<i>Q. Right to Social Security and to an Adequate Standard of Living</i>	547
<i>R. Right to Work and to Just and Favorable Conditions of Work.....</i>	548
<i>S. Situation in or in Relation to Regions or Territories.....</i>	550
<i>T. Stateless Persons</i>	550
<i>U. Women.....</i>	551
IV. CONCLUSION	552

I. INTRODUCTION

In fall 2022, the Human Rights Council (HRC) began its new review cycle under the Universal Periodic Review (UPR) system. This review cycle, which will continue until fall 2026, marks the fourth time that the HRC will review the human rights records of every country in the world since its establishment in 2006.¹ The United States is scheduled to be reviewed in fall 2025. The three previous reviews of the United States took place in November 2010, May 2015, and November 2020.

Throughout the three previous reviews, various concerns, progresses, and recommendations were highlighted regarding the human rights situation in the United States. However, no comprehensive analysis has yet been conducted to identify the common themes or trends emphasized across these review cycles. As the U.S. prepares for its fourth review, undertaking such a study becomes crucial, not only to create a link between the upcoming review and the previous ones, but also to underscore persistent issues that still require attention.

Before delving into the main scope of this Article, it is essential to first understand the UPR mechanism and explore its significance both globally and specifically with respect to the United States.

1. United Nations Human Rights Council, Fourth cycle (2022-2027) focus: enhanced implementation of UPR recommendations, <https://www.ohchr.org/en/hr-bodies/upr/uprcycle4> (last visited Mar. 24, 2024).

II. THE UN HUMAN RIGHTS COUNCIL, THE UNIVERSAL PERIODIC REVIEW, AND THE UNITED STATES

In 2005, Kofi Annan, the then Secretary-General of the UN, proposed the creation of the Human Rights Council to replace the Commission on Human Rights.² The Commission, which was initially intended to serve as a forum for countries to debate, draw public attention, and provide opportunities to analyze human rights compliance by theme and country, had become politicized.³ It had turned into a conclave where countries sought membership “not to strengthen human rights but to protect themselves against criticism or criticize others.”⁴ Kofi Annan’s proposal was approved by world leaders, and the HRC was created by the UN General Assembly in 2006.⁵

The new Council introduced significant improvements: It elevated its institutional standing to a subsidiary body of the General Assembly, increased the frequency of meetings, incorporated the mainstreaming of human rights within the United Nations system and the prevention of human rights violations, distributed seats based on equitable geographical distribution, and made Council members ineligible for immediate reelection after two consecutive terms.⁶ More significantly, however, it was assigned the mission to undertake a “universal periodic review, based on objective and reliable information, of the fulfillment by each State of its human rights obligations and commitments.”⁷

The modality and necessary time allocation for the Universal Periodic Review mechanism were developed in 2007 under the umbrella of “institution-building of the United Nations Human Rights Council”⁸ and redefined during the 2011 review process.⁹ The operational

2. *In Larger Freedom: Towards Development, Security and Human Rights for All*, Report of the Secretary General, UN Doc. A/59/2005 ¶ 183. [hereafter “In Larger Freedom”].

3. *Id.* at 182. See also De Frouville, Olivier, *Building a Universal System for the Protection of Human Rights: The Way Forward*, in NEW CHALLENGES FOR THE UN HUMAN RIGHTS MACHINERY, WHAT FUTURE FOR THE UN TREATY BODY SYSTEM AND THE HUMAN RIGHTS COUNCIL PROCEDURES? 242 (Bassiouni, Cherif and Schabas, William eds., Intersentia, Cambridge 2011).

4. *Supra* note 1 at ¶ 182.

5. See G.A. Res. 60/251, Human Rights Council, at 2 (Mar. 15, 2006).

6. Press Release, United Nations, *General Assembly Establishes New Human Rights Council by Vote of 170 in Favour to 4 Against with Abstentions*, U.N. Press Release GA/10449 (Mar. 15, 2006).

7. G.A. Res. 60/251, *supra* note 5, at 3 ¶ 5e.

8. See Human Rights Council Res. 5/1, *Institution-Building of the United Nations Human Rights Council*, U.N. Doc. A/62/53 (June 18, 2007).

9. See Human Rights Council Res. 16/21, *Review of the Work and Functioning of the Human Rights Council*, U.N. Doc. A/HRC/RES/16/21 (Mar. 25, 2011); see also Human Rights

mechanism developed in these documents reflected the core characteristics of the UPR as a (1) universal, (2) periodic (3) review mechanism.

A. UPR as a Universal Review

The word “universal” in the Universal Periodic Review mechanism carries both geographical and thematic significance. This dual character makes the UPR system unique in the world.

Geographically, the UPR is the only human rights mechanism in the world to which all 193 UN member states have and continue to subject themselves to for review. At the beginning of each review cycle, the HRC establishes a calendar that ensures equitable geographical distribution when selecting countries for review.¹⁰ Geographical considerations also play a role in selecting the rotating forty-seven member states of the HRC. To ensure equitable representation, the HRC has created the following geographic distribution: the Group of African States, with thirteen seats; the Group of Asian States, with thirteen seats; the Group of Eastern European States, with six seats; the Group of Latin American and Caribbean States, with eight seats; and the Group of Western European and other States, with seven seats. Each member serves for a period of three years and is not eligible for immediate reelection after two consecutive terms.¹¹

Thematically, the universality of the UPR emphasizes the universality of human rights—the rights inherent to all individuals by virtue of being human, regardless of country, region, ethnicity, or gender. In this sense, its meaning aligns with other core human rights principles, such as interdependence, indivisibility, equality, and dignity. To reflect this principle, the UPR mechanism was designed to contribute to the broader mission of the HRC, which is “enhancing the promotion and protection of all human rights, civil, political, economic, social, and cultural rights, including the right to development.”¹² Furthermore, the UPR’s actions were called to be guided by the principle of “universality, interdependence, indivisibility, and interrelatedness of all human rights.”¹³

Council Res. 17/119, *Follow-up to the Human Rights Council Resolution 16/21 with Regard to the Universal Periodic Review*, U.N. Doc. A/HRC/DEC/17/119 (June 17, 2011).

10. H.R.C. Res. 5/1, *supra* note 8, ¶ 11-12.

11. G.A. Res. 60/251, *supra* note 5, at 3 ¶ 7.

12. G.A. Res. 60/251, *supra* note 5, at 2 ¶ 4.

13. H.R.C. Res. 5/1, *supra* note 8, ¶ 3(a).

To fulfill its thematic universal mission, the UPR is required to base its review on all human rights obligations recognized in the Charter of the United Nations, the Universal Declaration of Human Rights, the human rights instruments to which a state is a party, voluntary pledges and commitments made by the states under review, and international humanitarian law.¹⁴

B. UPR as a Periodic Review

The Universal Periodic Review is cyclical. This cyclical nature is reflected not only in the periodicity of the review but also in the follow-up and implementation of UPR recommendations. Initially, the review for the first cycle was set to take place every four years.¹⁵ However, the periodicity of the review for the second and subsequent cycles was later extended to four and a half years.¹⁶ This adjustment means that to cover all 193 UN member countries within one cycle, at least forty-two states must be reviewed per year. The periodicity of the review also dictates the regularity of reporting by the states under review, as well as by other entities called upon to submit additional reports used in conducting the review. Between reviews, the UPR cycle continues through national processes of follow-up and the implementation of UPR recommendations.¹⁷

C. The UPR as a Review

The review process unfolds in three phases: the preparation and submission of reports on the country to be reviewed, the review by the HRC, and the preparation and adoption of the report by the HRC working group on the reviewed country.

Reports on which the review is based come from three sources: (1) information provided by the state under review, which can take the form of a “national report”; (2) information contained in the reports of independent human rights experts and groups, known as the special procedures, human rights treaty bodies, and other UN entities, hereafter called “UN reports”; and (3) information from other stakeholders, including national human rights institutions and nongovernmental organizations, hereafter called “NGO reports.” Combining these three

14. H.R.C. Res. 5/1, *supra* note 8, ¶ 1.

15. H.R.C. Res. 5/1, *supra* note 8, ¶ 14.

16. H.R.C. Res. 16/21, *supra* note 9, ¶ 2.

17. UNHCR, <https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/UPR-Review-banner2.pdf> (last visited Mar. 25, 2025).

sources contributes to making the information used as a basis for review more complete, reliable, and credible. As past experience has shown, assessments relying solely on one of these three sources in isolation have faced serious criticism. State reports have been criticized for focusing only on positive achievements by the state under review, ignoring its violations and failures;¹⁸ NGO reports have been criticized for focusing on the negative records of the country under review, through a naming and shaming approach, ignoring positive steps and progress made by the same country;¹⁹ and UN reports have been criticized for focusing on treaty implementation,²⁰ which can sometimes be narrow and limited to specific mechanisms and thematic areas.

Once these three reports are received, the review proper is conducted by the forty-seven members of the HRC, beginning with the selection of a group of three states, known as “troikas,” who serve as rapporteurs on the country under review. The review takes place through an interactive discussion between the state under review and other UN member states, during a meeting of the UPR Working Group. During this discussion, any UN member state can pose questions, offer comments, and/or make recommendations to the state under review. The troikas ensure that the interactive dialogue occurs smoothly and in an orderly manner.²¹ This methodology makes the UPR a peer review mechanism conducted by state members of the HRC, based on three key documents: the national report by the state under review, the NGO report, and the UN organs

18. Morten Kjærum, State Reports, in *INTERNATIONAL HUMAN RIGHTS MONITORING MECHANISMS: ESSAYS IN HONOUR OF JAKOB TH. MÖLLER* 17, 20 (Gudmundur Alfredsson, Jonas Grimheden, Bertrand G. Ramcharan & Alfred Zayas eds., 2d rev. ed. 2009).

19. Blitt, Robert C., *Who Will Watch the Watchdogs?: International Human Rights Nongovernmental Organizations and the Case for Regulation*, 10 *BUFF. H.R. L. REV.* 261, 371 (2005). A lot of countries have also criticized reports of organizations such as the Human Rights Watch and Amnesty International for being biased and lacking objectivity. *See Israel Rejects HRW Report that It Is Committing ‘Crime of Apartheid’*, I24 NEWS (Apr. 27, 2021), <https://www.i24news.tv/en/news/israel/1619517758-israel-rejects-hrw-report-that-it-is-committing-crime-of-apartheid>; *see also*, *HRW Controversy: Rwanda Rejects Accusations of Extrajudicial Killings*, FRANCE 24, (Oct. 31, 2017), <https://www.france24.com/en/20171031-focus-rwanda-hrw-controversy-allegations-extrajudicial-killings-human-rights-watch>.

20. As stated earlier, the term “UN reports” is generically here used to mean “reports of independent human rights experts and groups, known as the Special Procedures, human rights treaty bodies, and other UN entities.” Most information provided by these sources is limited either to the scope of the mission of the “special procedure” or “UN entity” producing it, or to the theme of the treaty it is covers. For more details on both UN Charter and treaty-based human rights mechanisms, *See* HENRY J. STEINER, PHILIP ALSTON & RYAN GOODMAN, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT*, 735-924 (3d ed., Oxford University Press 2008).

21. H.R.C. Res. 5/1, *supra* note 8, ¶ 18-24.

report. The interactive dialogue with the state under review allows it to participate, contribute, and benefit from this review.

Once the review is completed, a report is prepared by the troika with the involvement of the state under review and assistance from the Office of the High Commissioner for Human Rights (OHCHR). This report, referred to as the “outcome report,” provides a summary of the actual discussion, as well as the comments and recommendations made by states to the country under review. The same report also includes the responses from the reviewed state. The final outcome is adopted by the plenary of the HRC.²² Although the outcome report is usually adopted after examining the three reports mentioned above as sources for review and following the interactive dialogue with the country under review, the outcome report can also be categorized as an external report by the body that reviewed the country under consideration. In other words, this “States report” becomes a third external source of review for the human rights situation in the concerned country, alongside the NGO reports and UN organs reports discussed earlier. In other words, at the completion of its review, a country is presented with three external perspectives on its human rights records: an NGO’s perspective, a UN organs’ perspective; and a peer states’ perspective.

D. HRC, UPR, and the United States

Although the United States voted against the UN General Assembly resolution that created the new Human Rights Council,²³ the reasons behind this vote were not due to opposition to the reforms introduced through the HRC. Rather, the U.S. voted against the resolution because it did not contain a provision that would exclude some of the world’s worst human rights abusers from membership in the new body.²⁴ To address this concern, the General Assembly approved the text, requiring members elected to the Council to “uphold the highest standards in the promotion and protection of human rights, fully cooperate with the Council, and be reviewed under the Universal Periodic Review mechanism during their term of membership.”²⁵ In his statement following the adoption of this GA resolution, John Bolton, then U.S. ambassador to the United Nations, promised that the United States would “do everything possible to make the Human Rights Council as strong as it could be, for it remains

22. H.R.C. Res. 5/1, *supra* note 7, ¶ 25-32.

23. *Supra* note 5, at *Council Elections*, ¶ 2.

24. *Supra* note 5, at *Statements*, ¶ 3.

25. *Supra* note 5, at *Background*, ¶ 6.

committed to supporting the United Nations' historical mission to promote and protect the human rights of all the world's citizens."²⁶

Despite some sporadic disagreements with the HRC regarding its composition, the United States has consistently supported the Universal Periodic Review mechanism. During its first UPR in November 2010, the U.S. expressed this support by recognizing the need for continued review and progress in enhancing the protection and enjoyment of human rights, especially since no country in the world can claim to have a perfect human rights record.²⁷ However, it also insisted that the UPR mechanism should not be a forum, particularly for repressive regimes, to compare human rights records or create doubts about human rights values.²⁸

After this first review, the U.S. delegate praised the UPR as "a useful tool to assess how our country can continue to improve in achieving its own human rights goals."²⁹ The U.S. support for the UPR mechanism was reiterated during its second³⁰ and third reviews. During the third review, although the Trump administration had withdrawn the U.S. from the UNHRC, accusing it of bias against Israel and failing to exclude countries with egregious human rights records from its membership,³¹ the U.S. still submitted its report and did not oppose the UPR. In 2021, President Biden reversed the U.S. withdrawal from the UNHRC, and the U.S. was elected

26. *Supra* note 5, at 4 "Statements¶."

27. Human Rights Council, *Working Group on the Universal Periodic Review: National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1*, U.N. Doc. A/HRC/WG.6/9/USA/1 (Aug. 23, 2010).

28. See A/HRC/WG.6/9/USA/1. As Secretary Clinton said in a speech on human rights, "democracies demonstrate their greatness not by insisting they are perfect, but by using their institutions and their principles to make themselves . . . more perfect. Progress is our goal, and our expectation thereof is justified by the proven ability of our system of government to deliver the progress our people demand and deserve." at ¶ 6.

29. Harold Hongju Koh, Legal Adviser, U.S. Dep't of State, *Statement upon Adoption of Universal Periodic Review Report, United Nations Human Rights Council*, Geneva, (Mar. 18, 2011), <https://geneva.usmission.gov/2011/03/18/us-upr-adoption/>.

30. UN General Assembly, *Working Group on the Universal Periodic Review, National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: United States of America*, UN Doc A/HRC/WG.6/22/USA/1, (Feb. 13, 2015), at ¶ 120. "The United States is committed to an open, inclusive, and transparent review before the UPR Working Group, and continues to strongly support the UPR process and the UN human rights system."

31. U.S. Dep't of State Press Briefing, Remarks on the UN Human Rights Council (June 19, 2018), at <https://2017-2021.state.gov/remarks-on-the-un-human-rights-council/> [hereinafter "June 19 Press Briefing"]; see also United States Mission to the United Nations, *Fact Sheet: Reforming the Human Rights Council*, New York, (Dec. 14, 2020), <https://usun.usmission.gov/fact-sheet-reforming-the-human-rights-council/>.

to rejoin the UNHRC.³² Upon its reelection to the HRC, the U.S. made the following three commitments: (1) advancing and supporting human rights within the United Nations system; (2) advancing human rights, fundamental freedoms, and human dignity and prosperity internationally; and (3) advancing human rights, fundamental freedoms, and human dignity and prosperity in the United States.”³³

It appears that both Republican and Democratic administrations, despite having different views on the UNHRC, still support the UPR mechanism. Under administrations of both parties, the U.S. has consistently submitted its reports and participated in UPRs. There is no evidence to suggest that this practice will be any different during the fourth review cycle, in which the U.S. is set to be reviewed in fall 2025.

E. Understanding UPR Reports

The following summary of the human rights situation in the U.S. is based on UPR reports from the three external sources mentioned earlier: NGO reports, UN reports, and states’ reports as submitted during the last three review cycles. Focusing on external reports, rather than internal reports, helps to create a complete and reliable picture of the human rights situation in the country under review. The Venn diagram presented by these three lenses offers a comprehensive view of the human rights situation in the country under review, with areas of undisputed similarities between these three reports; areas of intersection between two of these three sources; and, naturally, areas where these three human rights reports differ. The unique capacity of the UPR to create such a multifaceted image underscores the value of the UPR as a tool to produce reliable and shared data that states can use to develop human rights policies that actors can use to promote and protect human rights and ensure accountability for violations. Using these three sources to assess the human rights situation of all 193 countries as they are continuously reviewed forms the foundation of the Human Rights Database and Analysis Project (hrdaproject.org).³⁴

32. Antony Blinken, Secretary of State, *Election of the United States to the UN Human Rights Council (HRC)*, U.S. department of State, Press Statement, (Oct. 14, 2021), <https://www.state.gov/election-of-the-united-states-to-the-un-human-rights-council-hrc/>.

33. UN General Assembly, *Note Verbale Dated September 27, 2021, from the Permanent Mission of the United States to the United Nations Addressed to the President of the General Assembly*, UN Doc (A/76/353).

34. *Human Rights Database and Analysis Project*, originated by Ohio Northern University Law Professor (and Notre Dame Law School alumnus) Jean-Marie Kamatali in

From a structural perspective, NGO and UN organs reports have often been presented in 25 themes:³⁵ Equality and non-discrimination; Administration of Justice and the Rule of Law; Children; Development, Environment, and Business and Human Rights; Economic, Social, and Cultural Rights (General); Freedom of Movement; Fundamental Rights (often detailed as Freedom of Religion or Belief, Expression, Association, and Peaceful Assembly, and the Right to Participate in Public and Political Life); Human Rights and Counterterrorism; Internally Displaced Persons; International Humanitarian Law; LGBTQI Persons; Older Persons; Migrants, Refugees, and Asylum Seekers; Minorities and Indigenous Peoples; Persons with Disabilities; Prohibition of All Forms of Slavery; Right to Education and Culture; Right to Health; Right to Life, Liberty, and Security of Person; Right to Privacy, Marriage, and Family Life; Right to Social Security and an Adequate Standard of Living; Right to Work and to Just and Favorable Conditions of Work; Situations in or in Relation to Regions or Territories; Stateless Persons; and Women.³⁶

The presentation of reports in this structure may have initially started for practical reasons, but it has developed into a consistent custom, establishing these 25 themes as key areas in which countries under review are assessed.³⁷ Although state reports (Working Group reports) are not structured in this thematic format, we have tried to categorize the issues they cover within these twenty-five themes to harmonize them with those in NGO and UN organs reports.³⁸

collaboration with Notre Dame Law School's LL.M. Program in International Human Rights Law, <https://www.hrdaproject.org>, (2024).

35. It should be noted that this list has been increasing as the number of themes covered in the first review cycle was smaller than the list in the third review. Often new themes have developed as separate from more general ones (e.g.: during the first review cycle, LGBTQ discussions were included in the theme: "Right to Privacy, Marriage and Family Life.")

36. Although, on February 4, 2025, the Trump administration declared that "the United States will not participate in the UNHRC and will not seek election to that body," it did indicate that it will not submit to the U.S. Universal Periodic Review scheduled for fall 2025. It is worth indicating that in 2020, the U.S. agreed to be reviewed despite President Trump having already withdrawn the country from the Human Rights Council.

37. This does not mean, of course, that every report addresses, necessarily, these twenty-five themes. In some cases, one or several issues are not included in a report mainly because there is nothing to report about them.

38. Constance de la Vega and Tamara M. Lewis have criticized the lack of theme-related structure in working group reporting and have recommended that future reports follow a theme-based structure to reduce redundancy and "permit the country under review to more easily identify the sectors in which policy changes must occur." See Constance de la Vega & Tamara M. Lewis, *Peer Review in the Mix: How the UPR Transforms Human Rights Discourse*, in *NEW CHALLENGES FOR THE HUMAN RIGHTS MACHINERY*, 341, 341 (Cherif Bassiouni & William Shabas, eds., 2011).

III. THE STATE OF HUMAN RIGHTS IN THE U.S: THREE REVIEW CYCLES, THREE EXTERNAL SOURCES OF REPORTING, AND TWENTY-TWO THEMATIC CATEGORIES

This Part summarizes human rights issues highlighted by NGO reports, UN organs reports, and states reports during the first, second, and third review cycles of the United States.³⁹ The Part is organized by themes, with each theme analyzed across the three review cycles.

Rather than combining and summarizing the reports from NGOs, UN organs, and states together, this Part discusses each source separately, focusing on the key concerns raised on specific themes across all three review cycles. This approach facilitates the assessment of progress (or the lack thereof) on each theme as perceived by each source over time. It also helps the authors of these reports identify common or persistent issues that need to be reiterated as they prepare for the upcoming fourth review cycle.

By structuring each theme to include all three sources of reports, this Part also enables readers to easily compare common issues identified across these different perspectives.

A. *Equality and Non-Discrimination*

In both the first⁴⁰ and second⁴¹ reviews, NGOs emphasized systemic discrimination, racial disparities in law enforcement and justice, gender inequalities, and gaps in legal protections for minorities and LGBT communities in the United States. Both reviews call for legislative reforms and systemic changes to effectively address these entrenched inequalities. During the third review,⁴² NGOs highlighted that concerns regarding discrimination and inequality in the USA persist, with recent years witnessing a notable rise in acts of harassment and discrimination. Additionally, various NGOs submissions expressed alarm over statements and language from the executive branch affecting race

39. For more details on the contents of these reports see *Universal Periodic Review—United States of America*, at <https://www.ohchr.org/en/hr-bodies/upr/us-index>, accessed on Aug. 20, 2024.

40. See *Summary Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1*, Human Rights Council, 9th session, at 4, A/HRC/WG.6/9/USA/3/Rev.1 (2010).

41. See *Summary Prepared by the Office of the United Nations High Commissioner for Human Rights in Accordance with Paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of the annex to Council resolution 16/21*, Human Rights Council, 22nd session, at 4, A/HRC/WG.6/22/USA/3 (2015).

42. See *Summary of Stakeholders' Submissions on the United States of America*, Human Rights Council, 36th session, at 2, A/HRC/WG.6/36/USA/3 (2020).

relations, Indigenous peoples, individuals from African and Muslim countries, as well as immigrants and refugees. Other concerns were related to exclusion of transgender individuals from military service and the repeal of protections affecting LGBTQIA+ people's health care access and rights in educational settings, and the vulnerability of LGBTQ people to hate crimes, especially in states lacking specific protections.

During the first⁴³ and second⁴⁴ review, UN organs underscored persistent international concerns regarding racial discrimination, racial profiling, and barriers faced by marginalized groups in the United States. Furthermore, they highlighted the continued failure to align the definition of racial discrimination with the international standard. They advocated for reforms and enhanced protections to uphold human rights principles and combat systemic inequalities effectively. During the third review,⁴⁵ UN organs highlighted that serious racial discrimination and inequality continue in the United States. Specific cases include the structural discrimination based on race that persists in American society, and the enduring disparities faced by African Americans across human development indicators, exacerbated by issues such as mass incarceration, police violence, housing segregation, and educational disparities. There were also alarming racist demonstrations and activities by white nationalist, neo-Nazi, and Ku Klux Klan groups promoting white supremacy. Other concerns included the divisive political rhetoric marginalizing minorities and inciting violence, the discriminatory public discourse surrounding immigration, and the racial profiling in law enforcement, disparities in the criminal justice system, and the heightened vulnerability of LGBTQ+ individuals to hate crimes and violence.

In both the first⁴⁶ and second⁴⁷ reviews, states mainly underscored concerns regarding racial discrimination, racial profiling, especially in judicial practices, and the lack of comprehensive reforms to uphold

43. See *Compilation Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1*, Human Rights Council, 9th session, at 6, A/HRC/WG.6/9/USA/2 (2010).

44. See *Compilation Prepared by the Office of the United Nations High Commissioner for Human Rights in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21*, Human Rights Council, 22nd session, at 6, A/HRC/WG.6/22/USA/2 (2015).

45. See *Compilation of the United States of America*, Human Rights Council, 36th session, at 2-3, A/HRC/WG.6/36/USA/2 (2020).

46. See *Report of the Working Group on the Universal Periodic Review*, Human Rights Council, 16th session, at 4-5, 7, 9, 11, A/HRC/16/11 (2011).

47. See *Report of the Working Group on the Universal Periodic Review*, Human Rights Council, 30th session, at 6-11, A/HRC/30/12 (2015).

human rights and ensure equality for all individuals, irrespective of race or background. During the third review,⁴⁸ states reiterated these concerns and highlighted inadequate measures to combat structural discrimination and review policies at the federal, state, and local levels, the lack of adequate anti-discrimination training for government officials, and the absence of comprehensive national plans and legal reforms to combat racism, discrimination, and intolerance, particularly against marginalized groups.

B. Administration of Justice

During the first⁴⁹ and second⁵⁰ reviews, NGOs highlighted issues such as racial disparities in sentencing, problematic detention practices, including at Guantánamo Bay, inadequate legal protections for detainees and whistleblowers, and systemic failures in ensuring accountability and human rights protections. In both reviews, NGOs called for urgent reforms to address these persistent challenges, emphasizing the need for equitable justice, transparency, and adherence to international human rights standards within the U.S. legal framework. During the third review,⁵¹ NGOs expressed deep concerns about persistent racial disparities within the criminal justice system in the United States. Specifically, they emphasized that African Americans and Hispanics are disproportionately incarcerated compared to their representation in the population, with African Americans nearly six times more likely to be incarcerated and Hispanics over three times more likely to be incarcerated. NGOs also expressed concerns about the dramatic increase in the number of women, especially African American women, being incarcerated and their alarm about the high proportion of non-violent offenders serving long sentences due to harsh sentencing laws, exacerbated by the privatization of prisons, which incentivizes incarceration. NGOs stressed the need for comprehensive legislative changes at both federal and state levels to address these systemic issues effectively and to treat drug addiction as a public health issue rather than a criminal one.

48. See *Report of the Working Group on the Universal Periodic Review*, Human Rights Council, 46th session, at 11-13, A/HRC/46/15 (2021).

49. See 2010 OHCHR Summary, *supra* note 40, at ¶¶ 45-50.

50. See 2015 OHCHR Summary, *supra* note 41, at ¶ 48-57.

51. See 2010 OHCHR Summary, *supra* note 42, at ¶¶ 35-46.

In their reports for the first⁵² and second⁵³ review, UN organs criticized the United States' legal and justice systems. Particularly, they focused on the treatment of detainees, especially at Guantánamo Bay, calling for its closure; the issues of police brutality and excessive use of force, which often are not investigated to hold perpetrators accountable; the failures in addressing torture, racial discrimination in sentencing, and access to justice; and shortcomings in protecting women's rights and providing adequate reparations for Indigenous victims of violence. During the third review,⁵⁴ UN organs reiterated these same concerns. More particularly, they voiced serious concerns about various aspects of the U.S. criminal justice system, including the norm of lengthy pretrial detention and the issue of high bail bonds, often set beyond defendants' means. Other issues raised include inadequate legal representation, harsh sentencing practices, the confinement of inmates with psychosocial disabilities in prisons, and the inadequate conditions of detention centers marked by barriers to accessing health care, including mental health treatment, which particularly affects marginalized groups.

States' interventions during the first⁵⁵ and second⁵⁶ reviews focused on the absence of a national human rights institution that meets the Paris Principles in the U.S. and concerns about excessive use of force by law enforcement, particularly against minority groups such as Latinos and African Americans. Additionally, states criticized the U.S. for the lack of progress in its ratification of international human rights treaties and in aligning domestic laws with international human rights norms. In the third review,⁵⁷ states reiterated these same concerns and expressed their disappointment about the USA's withdrawal from the Human Rights Council (which the U.S. rejoined in 2001).

C. Children

Although NGOs did not submit any reports on children during the first and second review, during the third review,⁵⁸ several organizations voiced serious concerns regarding children's rights in the United States. These concerns included the fact that, despite progress, corporal punishment of children persists in various settings, including homes,

52. See 2015 OHCHR Summary, *supra* note 43, at ¶¶ 45-53.

53. See Compilations by the OHCHR, *supra* note 44, at ¶¶ 36-46.

54. See 2011 UPR Report, *supra* note 45, at ¶¶ 29-32.

55. See 2015 UPR Report, *supra* note 46, at ¶¶ 10, 21, 26, 78, 80, 82, 84.

56. See 2021 UPR Report, *supra* note 47, at ¶¶ 17.34, 120, 146, 148, 155.

57. See 2021 UPR Report, *supra* note 47, at ¶¶ 26.8, 26.63, 26.77-84.

58. See 2010 OHCHR Summary, *supra* note 42, at ¶¶ 84-85.

alternative care settings, daycares, schools, and penal institutions; that all fifty states allow children to be tried as adults in some capacity, leading to tens of thousands of children facing adult courts annually; and that over one thousand individuals are serving life without parole sentences for crimes committed while under eighteen. These organizations recommended that the U.S. cease trying children as adults, abolish life without parole sentences for crimes committed in childhood, and enact federal legislation prohibiting child marriage.

Similarly to NGOs, the UN organs did not submit reports on children during the first and second review; during the third review,⁵⁹ UN organs expressed apprehension over the government's lack of effort to decriminalize children's involvement in prostitution, enact safe-harbor laws nationwide, and undertake capacity-building among law enforcement officers and the judiciary to effectively investigate, prosecute, and punish buyers of children's sexual services. They also underscored issues around the prosecution of children as adults, their detention in adult facilities, and the imposition of life sentences for crimes committed in youth. Other concerns were related to the absence of a coordinated strategy and dedicated budget to combat the worst forms of child labor, particularly in agriculture where children work in hazardous, unhealthy, and unsafe conditions.

The only concern states raised during the first review was the failure of the U.S. to adhere to the Convention on the Rights of the Child (CRC).⁶⁰ During the second review,⁶¹ reference was made regarding inadequate protection services for sexually exploited children, concerns about individuals serving life sentences without parole for crimes committed when they were minors, and the health hazards faced by child laborers, particularly those engaged in farm work. In the third review,⁶² states reiterated the profound concern over the United States' lack of progress in ratifying the CRC, as well as its failure to ratify the Optional Protocol on a communications procedure for the Convention. They also highlighted the absence of relevant national legislation to prohibit life without parole sentences for juveniles and the lack of a federal mechanism to support the psychosocial development of boys and young men. Other concerns included the failure to adequately protect the rights of migrant children, whether arriving unaccompanied or with their families, and ensuring their access to alternatives to detention.

59. See 2011 UPR Report, *supra* note 45, at ¶¶ 70-73.

60. See 2015 UPR Report, *supra* note 46, at ¶¶ 59, 82.

61. See 2021 UPR Report, *supra* note 47, at ¶¶ 82, 94, 97, 103, 130.

62. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.10-17, 26.324-325, 26.344.

D. Development, Environment, Business, and Human Rights

During the second review,⁶³ NGOs raised several issues related to health, environmental protection, and climate change in the Marshall Islands; the lack of effort to support engagement and international partnerships for a comprehensive health treatment system; and the failure to halt uranium mining in minority communities and to enforce domestic environmental laws in line with human rights standards. During the third review,⁶⁴ several organizations expressed deep concerns over various aspects of the United States' environmental policies and practices. Their criticism included the country's continued emphasis on fossil fuels in its energy policy, which benefits from favorable taxation, neglecting significant shifts toward renewable energy sources; insufficient controls over corporations that contribute to greenhouse gas emissions, coupled with regulatory rollbacks that facilitate increased emissions; and the repeal of water pollution regulations for fracking on federal and Indigenous lands. Other concerns include the dominance of giant corporate monopolies in agriculture, characterized by practices like monocropping, genetically modified seeds, and harmful pesticides; the USA's withdrawal from international agreements such as the Paris Agreement; and the imposition of unilateral coercive measures on developing countries, impacting their right to health and food security.

Like NGOs, during the first review, UN organs did not submit reports on development, environment, and business and human rights. However, during the second review,⁶⁵ they expressed concerns about the negative health impacts on racial and ethnic minorities and Indigenous peoples due to pollution from extractive and manufacturing industries and called for the U.S. to enforce environmental protection laws and clean up toxic waste. They also criticized the U.S. for not addressing the adverse human rights effects of transnational corporations' activities abroad. Additionally, there was a lack of support for the Marshall Islands in protecting the environment, securing hazardous sites, and ensuring effective remedies and reparations for affected communities. During the third review,⁶⁶ they criticized the United States' record with respect to human rights and environmental issues. These concerns include the country's failure to review policies aimed at enhancing environmental protection, the inadequate assessment of environmental impacts related to

63. See 2020 OHCHR Report, *supra* note 41, at ¶¶ 98-100.

64. See 2010 OHCHR Report, *supra* note 42 at ¶¶ 12-15.

65. See HRC Compilation, *supra* note 44, at ¶¶ 69-70.

66. See 2011 UPR Report, *supra* note 45, at ¶¶ 16-18.

infrastructure and extractive industry projects affecting Indigenous communities, and the negative impact of unilateral coercive measures imposed by the United States on multiple countries that often lead to humanitarian crises. There was also the failure by the U.S. to uphold its obligations under international human rights law and the Guiding Principles on Business and Human Rights, particularly in regulating domestic business enterprises to prevent and address human rights abuses effectively.

In addition to general concerns about the U.S.'s failure to address human rights abuses by business corporations,⁶⁷ states, in their third review,⁶⁸ expressed particular concerns about the U.S.'s decision to withdraw from the Paris Agreement on climate change in 2017; the insufficient progress in combating climate change, particularly the lack of a stronger legislative frameworks for climate change adaptation and mitigation; and the USA's failure to ensure that its policies effectively prevent business involvement in human rights abuses, particularly in conflict situations and foreign occupations.

E. Freedom of Religion or Belief, Expression, Association and Peaceful Assembly, and Right to Participate in Public and Political Life

UPR often groups this list of rights under the same umbrella of fundamental rights. During the first⁶⁹ and second⁷⁰ reviews, NGOs criticized government prosecutions of individuals leaking classified information, which stifles journalistic reporting and free speech; the harsh treatment and lack of recognition for conscientious objectors' rights; and the failure to implement past UPR recommendations aimed at ending the criminalization, incarceration, and exile of political activists of the Civil Rights Era associated with the Counterintelligence Program. During the third review,⁷¹ several NGOs highlighted the misuse of the Espionage Act against whistleblowers and the chilling effect of anti-protest laws enacted by both federal and state governments; the criminalization of pipeline protests and anti-BDS (Boycott, Divestment, and Sanctions) laws across multiple states; and the criminalization and harassment of human rights defenders assisting migrants and asylum seekers, particularly along the

67. See 2015 UPR Report, *supra* note 46, at ¶ 22.

68. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.64-25, 26.150, 26.151-154.

69. See 2015 OHCHR Summary, *supra* note 40, at ¶ 53-55.

70. See 2020 OHCHR Report, *supra* note 41, at ¶¶ 61-66.

71. See 2020 OHCHR Report, *supra* note 41, at ¶¶ 42-47.

border. Additionally, concerns were raised regarding voting obstacles such as weekday voting requirements, registration and identification hurdles, voter roll purges, and the lack of voting representation for citizens of Washington, D.C. Furthermore, apprehension was expressed over proposed voter identification laws and the lack of independent bodies to ensure fair district boundary drawing, all of which potentially impact voting equality and freedom in the United States.

During the first⁷² and second⁷³ reviews, UN bodies highlighted specific cases involving journalists and their treatment under the law, raising concerns about journalistic independence and fair treatment; concerns about the protection of journalists' sources and the implications for press freedom and investigative journalism; and barriers facing racial and ethnic minorities and Indigenous peoples in exercising their right to vote. During the third review,⁷⁴ serious concerns were raised about the troubling pattern of intimidation targeting media outlets and journalists critical of the government; legislative proposals across several states aimed at criminalizing or obstructing peaceful assembly and expression, coupled with excessive permit requirements and fees that hinder the right to assemble freely; and the militarized tactics employed by law enforcement during assemblies, which include the use of military-style weapons and arbitrary arrests. Other concerns included the government's failure to protect human rights defenders, exemplified by cases of repression against advocates for migrant rights; voter disenfranchisement practices that disproportionately affect marginalized groups, such as those in poverty or with criminal records, who face barriers like fines and fees to restore their voting rights; and the outsized influence of money in elections which has created a major impediment to democratic participation.

During the first⁷⁵ and second review,⁷⁶ states' concerns focused mainly on religious intolerance and discrimination, especially toward Muslims. During the third review,⁷⁷ concerns raised by several countries included the lack of sufficient efforts to combat racial profiling and Islamophobia comprehensively across all religious groups; ineffective measures to guarantee freedom of expression on the Internet and guarantee journalists' safety; and the lack of adequate measures to respect

72. See 2015 OHCHR Report, *supra* note 43, at ¶¶ 55-56.

73. See 2020 OHCHR Report, *supra* note 44, at ¶¶ 49-50.

74. See 2011 UPR Report, *supra* note 45, at ¶¶ 33-38.

75. See 2015 UPR Report, *supra* note 46, at ¶ 24.

76. See 2021 UPR Report, *supra* note 47, at ¶ 96.

77. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.134, 26.267-278.

the right to peaceful assembly and address allegations of excessive use of force by law enforcement during protests.

F. Human Rights and Counterterrorism

During the first⁷⁸ and second⁷⁹ reviews, NGOs were particularly concerned about discriminatory profiling against ethnic and religious groups, such as Muslims, Arabs, South Asians, and Middle Easterners; the impunity for human rights violations in counterterrorism measures, including abuses against detainees in Guantánamo Bay and other facilities; and the government's failure to align counterterrorism actions and laws with international human rights and humanitarian standards. In their the third review,⁸⁰ NGOs reiterated their concerns regarding the Guantánamo Bay detention center, which, instead of closing as promised, was maintained by executive order and allowed for potential transfers of additional detainees. Other concerns regarding the Guantánamo Bay detention center include the poor detention conditions, medical care deficiencies, and deteriorating health of detainees. There is also the lack of accountability for crimes committed during the CIA-operated secret detention program from 2001 to 2009, where investigations have been limited and largely closed without holding perpetrators responsible. The U.S. was also criticized for refusing to allow the Special Rapporteur on torture to conduct unmonitored interviews with detainees at Guantánamo for a comprehensive assessment.

In their reports for the first⁸¹ and second⁸² reviews, UN organs emphasized concerns about the broad legal definition of terrorism under U.S. law; the lack of transparency and accountability in drone strikes, specifically regarding criteria for targeting and legal justifications; and the prolonged detention of non-U.S. citizens under immigration laws. Moreover, they underscored the overall lack of accountability in U.S. counterterrorism operations; the failure to implement exemptions for former child soldiers seeking asylum; and, more broadly, the government's failure to undertake legal reforms to uphold human rights standards and enhance transparency, accountability, and protections for all individuals impacted by U.S. counterterrorism policies. During the third review,⁸³ a number of UN organs expressed deep concerns regarding

78. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 84-92.

79. See 2020 OHCHR Report, *supra* note 41, at ¶ 101.

80. See 2020 OHCHR Report, *supra* note 41, at ¶¶ 16-18.

81. See 2015 OHCHR Report, *supra* note 43, at ¶¶ 71-74.

82. See 2020 Compilation, *supra* note 44, at ¶¶ 71-72.

83. See 2011 UPR Report, *supra* note 45, at ¶¶ 19-22.

the persistent impunity surrounding human rights and humanitarian law violations committed during the so-called Global War on Terror; the lack of accountability for ordering or executing practices such as extraordinary renditions, secret detentions, arbitrary arrests, and so-called enhanced interrogation techniques under the guise of counterterrorism efforts; and the fact that detainees at Guantánamo Bay Naval Base have endured the arbitrary deprivation of liberty without fair trials by independent and impartial courts for extended periods. Additionally, there were concerns about reports indicating that Guantánamo detainees lack avenues to seek judicial redress for torture and other human rights violations suffered while in U.S. custody; the U.S. government's refusal to grant access to Guantánamo and other high-security facilities; and its failure to close the Guantánamo Bay detention facility, expedite transfers of detainees to countries ensuring their human rights, and lift legal prohibitions preventing detainees' transfer to the continental U.S. for lawful prosecution.

States' comments during the three review cycles of the United States focused on two key concerns: one from Russia and another from Syria. The first was the lack of sufficient progress the by U.S. in acceding to the international human rights treaties and ensuring human rights in the process of the fight against terrorism,⁸⁴ and second was about the U.S.'s support of terrorists and separatist militias.⁸⁵

G. *Internally Displaced Persons*

Although during the second and third reviews, the UPR did not raise the issue of displaced persons, this issue was raised by both NGOs and UN organs during the first review in the context of the aftermath of Hurricane Katrina. NGOs⁸⁶ highlighted that significant challenges persist in the Gulf Coast region, particularly regarding access to housing and healthcare, and deficiencies within the criminal justice system. They stressed that these challenges disproportionately affect low-income communities and communities of color. Additional concerns were raised regarding the forced relocation of Indigenous peoples across the Americas.

Like NGOs, several UN organs⁸⁷ highlighted issues including the lack of affordable housing; limited job opportunities, low incomes, and

84. See 2015 UPR Report, *supra* note 46, at ¶¶ 19-22.

85. See 2021 UPR Report, *supra* note 48, at ¶ 26.169.

86. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 82-83.

87. See 2015 OHCHR Report, *supra* note 43, at ¶¶ 69-70.

uncertain long-term prospects; and the continued displacement of many low-income African American residents post-Katrina.

H. International Humanitarian Law

Although during the first and second review cycles, both NGOs and UN organs made no comments about U.S. international humanitarian law standards, a number of states criticized the U.S. on this issue during the third review.⁸⁸ Their concerns include the lack of substantial progress in closing Guantánamo and the ongoing human rights violations associated with the indefinite detention of prisoners; the U.S.'s failure to ratify Additional Protocols I and II to the Geneva Conventions, which provide protections for victims of armed conflicts; and the delay in ratifying the Rome Statute of the International Criminal Court (ICC). There was also broader concern about human rights violations, lack of accountability in U.S. detention, and lack of clear and fair counter-terrorism policies. In their third review,⁸⁹ states reiterated various concerns, most particularly the lack of progress toward ratifying important international agreements, such as Protocols I and II Additional to the Geneva Conventions of 1949 and the Rome Statute of the ICC; the U.S.'s failure to join the code of conduct regarding the Security Council action against genocide, crimes against humanity, or war crimes; and the executive order holding the Guantánamo Bay detention center open, with potential for additional detainees. Some states have also expressed concerns about U.S. sanctions against ICC staff, interference in other countries' internal affairs under human rights pretexts, and the continuation of embargoes against Cuba. Other concerns included the U.S.'s failure to cooperate with international investigations into military conduct in Afghanistan; allegations of arbitrary killings by drones and involvement in atrocities in Yemen and Palestine; and the U.S. practices of torture, military interventions, and human rights violations.

H. LGBTQ

Although concerns about LGBTQ in the U.S. were raised, by both NGOs and UN organs, as crosscutting issues in other sections, such as

88. See 2015 UPR Report, *supra* note 46, at ¶¶ 2, 29, 40, and 182; See also 20 2015 UPR Report, *supra* note 46, at ¶¶ 84, 99.

89. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.25, 26.29-34, 26.68, 26.107, 26.155-162, 26.177.

discrimination and the right to privacy,⁹⁰ they were specifically raised in a special section, mainly by states during the first and third reviews. During the first review,⁹¹ one country raised its concern about reports of violent crimes against persons of minority sexual orientations, while in the third review,⁹² several states criticized the U.S. for its lack of efforts to guarantee protection for LGBTQ persons and eliminate discrimination against them and its lack of effort to strengthen measures aimed at preventing and addressing violence within the LGBTQ community, particularly the alarming rate of murders of transgender women of color, as noted by Malta.

I. Migrants, Refugees, and Asylum Seekers

During the first⁹³ and second⁹⁴ reviews, NGOs criticized the conditions in immigration detention centers, emphasizing the lack of humane treatment and judicial oversight in these centers, as well as the inadequate legal representation and due process for immigrants. NGOs also condemned U.S. policies that lead to family separations and disparities in healthcare access, the exclusion of undocumented immigrants from public benefits, and the government's failure to meet its international obligations in refugee and asylum systems. During the third review,⁹⁵ concerns raised by various NGOs included the series of executive orders and proclamations, since 2017, aimed at restricting immigration, including what became known as "Muslim travel bans"; the implementation of a "zero tolerance" policy toward migrants crossing the border illegally, which led to criminal prosecutions for all adults, that resulted in family separations and inadequate reunification efforts following the 2018 executive order; and the adoption of the "Migrant Protection Protocols" (MPP) which forced asylum seekers to await hearings in neighboring countries, often under unsafe conditions. Concerns also extended to reports of excessive use of force by border officials, collaboration with armed militias, arbitrary and indefinite detention of asylum seekers, and inhumane conditions in detention facilities, including overcrowding, inadequate medical care, and limited access to basic necessities. More significant was the government's failure

90. With regard to NGOs, see 2015 OHCHR Report, *supra* note 40, at ¶¶ 29, 52. See also *supra* note 36, at ¶ 60; See also 2015 UPR Report, *supra* note 40, at ¶¶ 3, 11.

91. See 2021 UPR Report, *supra* note 46, at ¶ 42.

92. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.147-148.

93. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 76-81.

94. See 2020 OHCHR Report, *supra* note 41, at ¶¶ 94-97.

95. See 2010 OHCHR Report, *supra* note 42, at ¶¶ 93-103.

to undertake a comprehensive reform to ensure legal and social protection for migrants and asylum seekers within the United States.

In its report for the first review,⁹⁶ one UN agency expressed concerns about the United States immigration and asylum laws that are inconsistent with international standards. This inconsistency was reiterated during the second review,⁹⁷ when several UN agencies and bodies expressed concern about the United States' use of a mandatory detention system to incarcerate asylum seekers and immigrants upon arrival, often in prison-like facilities; insufficient action to address the root causes behind the increased incarceration of women; and the inadequate efforts to protect immigrant children and address issues relating to unaccompanied minors. Other concerns included the escalating use of racial profiling in determining immigration status and enforcing immigration laws, and the government's failure to ensure accountability for abuses or deaths in custody. During the third review,⁹⁸ UN organs, agencies, and special rapporteurs expressed concerns about the expansion of mandatory migration detention; the detention of unaccompanied children; and the detention system, which is punitive, excessively long, unnecessarily costly, and often conducted in degrading conditions that deter legitimate asylum claims. Furthermore, the implementation of the "zero tolerance" policy in April 2018, criminalizing irregular entry, led to the systematic detention and forced separation of families, which contravenes international human rights norms.

During the first⁹⁹ and second¹⁰⁰ reviews, several states converged on criticisms related to U.S. immigration policies and practices, highlighting concerns about discriminatory laws, harsh detention conditions, violations of migrants' rights, and the failure to undertake comprehensive reforms to ensure dignity and protections for migrants. During the third review,¹⁰¹ numerous states criticized the U.S. for its lack of progress in ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; lack of efforts to combat racism and hate speech directed at immigrants and asylum seekers; and the persistent poor treatment of migrants, asylum seekers, and refugees. Other criticisms included administrative measures penalizing unauthorized entry, inadequate conditions in detention

96. See 2015 OHCHR Report, *supra* note 43, at ¶¶ 65-68.

97. See 2020 HRC Report, *supra* note 44, at ¶¶ 64-68.

98. See HRC Report, *supra* note 44, at ¶¶ 81-89.

99. See 2015 UPR Report, *supra* note 46, at ¶¶ 23, 26, 47, 68.

100. See 2021 UPR Report, *supra* note 47, at ¶¶ 103, 134, 158.

101. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.19, 26.51-53, 26.327-343.

facilities, particularly for minors, and the punitive use of detention and family separation as deterrents.

J. Minorities and Indigenous Peoples

In their compiled report for the first¹⁰² and second¹⁰³ reviews, NGOs were concerned about issues such as noncompliance with international decisions, the destruction of sacred areas without consent, and historical injustices faced by American Indian, Alaska Native, and Native Hawaiian communities. They also criticized the U.S. for its failure to fully implement the UN Declaration on the Rights of Indigenous Peoples, ensuring protections for self-determination; free, prior, and informed consent; and rights to ancestral lands and cultural sites. Other concerns include the U.S.'s failure to take robust measures to safeguard sacred areas from environmental exploitation, support Indigenous efforts to reclaim traditional lands, and address ongoing challenges like disenrollment practices and cultural erosion. During the third review,¹⁰⁴ NGOs directed criticism towards the United States' persistent failures in implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); the lack of effort to protect sacred sites for Native American and Kanaka Maoli communities, especially against encroachments by business developments; and the fact that the federal government prioritizes commercial interests over Indigenous sovereignty, further exacerbating tensions and disputes over land rights and natural resources. Other concerns were related to environmental degradation leading to the forced displacement of Indigenous peoples; persistent challenges in ensuring their meaningful participation in decision-making processes; and the denial of self-determination rights to the Hawaiian people, as well as the failure to uphold the self-governance rights of Alaska and Hawaii.

UN organs and agencies, during the first¹⁰⁵ and second¹⁰⁶ reviews, criticized the U.S. for its persistent failures to conduct meaningful consultation and engagement with Indigenous communities on decisions directly affecting them; its deficiencies in addressing historical grievances such as treaty violations and land takings without consent; and its failure to implement comprehensive measures that include reconciliation efforts, redress for past injustices, and improved protections for sacred Indigenous

102. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 69-75.

103. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 86-93.

104. See 2010 OHCHR Report, *supra* note 42, at ¶¶ 88-92.

105. See 2015 OHCHR Report, *supra* note 43, at ¶ 64.

106. See 2020 HRC Report, *supra* note 44, at ¶¶ 61-80.

areas. During the third review,¹⁰⁷ UN organs expressed concerns over the disproportionate levels of multidimensional poverty and social exclusion faced by indigenous communities. They highlighted that Indigenous communities exhibit the highest unemployment rates among all ethnic groups, and that health disparities between Indigenous and non-Indigenous populations persist without adequate resolution. Moreover, they noted that approximately 400 tribes lack federal recognition and confront legal and cultural threats, with their way(s) of life unsanctioned and their access to federally funded programs restricted. There is also the government's failure to support tribes in developing self-determination, particularly in areas such as energy development and law enforcement; the absence of federal legislation mandating consultation with Indigenous communities on projects impacting their traditional territories, notably energy and infrastructure initiatives; and the failure to ensure that revenues from state taxation of lands held in trust for indigenous benefit are reinvested into tribal lands for infrastructure and services. Criticisms also were related to federal laws protecting sacred and cultural sites, which often fail to align with Indigenous definitions of sacredness and thus impede religious freedoms. Furthermore, the lack of mechanisms ensuring full access to redress for violations against Indigenous lands and territories, including timely judicial recourse and support to mitigate environmental and cultural impacts, underscores ongoing systemic shortcomings in Indigenous rights protection in the United States.

During the first review one state criticized the U.S. for its denial of Indigenous community rights.¹⁰⁸ During the second¹⁰⁹ review, concerns included racial profiling targeting religious minorities within the United States, highlighting ongoing issues of discrimination and bias affecting these communities, and insufficient efforts to prevent discrimination against indigenous peoples and individuals of African descent. During the third review cycle,¹¹⁰ states highlighted insufficient efforts to combat racism and discrimination against minorities and vulnerable groups, including failures to develop effective remedies for violence, intolerance, and hate speech; the lack of progress in strengthening laws and activities to eliminate discrimination based on race, ethnicity, sexual orientation, and gender identity, and to address systemic racism; and inadequate

107. See 2011 UPR Report, *supra* note 45, at ¶¶ 74-80.

108. See 2015 UPR Report, *supra* note 46, at ¶¶ 39.

109. See 2015 UPR Report, *supra* note 47, ¶¶ 96, 131.

110. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.116, 26.127-129, 26.140-141, 26.163, 26.215-216, 26.233, 26.236, 26.247.

norms for consulting Indigenous communities on projects affecting their territories.

K. Persons with Disabilities

Although NGOs did not report on persons with disabilities during the first review, during the second review,¹¹¹ they highlighted ongoing violations and discrimination faced by persons with disabilities, including denial of legal capacity and the heightened vulnerability of women with disabilities, who are statistically two to three times more likely to endure various forms of violence than nondisabled women. Concerns raised during the third review¹¹² included challenges faced by women, girls, and nonbinary persons with disabilities in accessing quality health information and services and the lack of effort to enforce the Americans with Disabilities Act's mandate on nondiscrimination and reasonable accommodation. No reports were submitted by UN organs on this issue during the three review cycles. States reviews during the first¹¹³ and third review¹¹⁴ cycles criticized the U.S. for its failure to ratify the Convention on the Rights of Persons with Disabilities (CRPD), and expressed concerns about the insufficient effort to ensure that police operations appropriately identify and protect individuals suffering from mental illness.

L. Prohibition of All Forms of Slavery

During the third review,¹¹⁵ NGOs criticized the United States' approach to human trafficking, which heavily focuses on domestic sex trafficking, potentially leaving victims of labor trafficking with fewer protections and failing to hold employers accountable in connection. Other concerns surrounded young girls coerced into sex trafficking, who are often treated as perpetrators rather than victims, and exposed to unnecessary prison sentences and the continued, inadequate screening by federal immigration enforcement officers to identify victims of human trafficking before detaining or removing individuals from the country.

During the third review,¹¹⁶ UN organs highlighted that, although the U.S. functions as a destination, transit, and source country for trafficking

111. See 2020 HRC Report, *supra* note 41, at ¶¶ 84-85.

112. See 2010 OHCHR Report, *supra* note 42, at ¶ 87.

113. See 2015 UPR Report, *supra* note 46, at ¶ 42.

114. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.22-13, 15, 26.17-18, 26.20, 26.22-23, 26.26-28, 26.31-32, 26.36, 26.38, 26.40, 26.55, 26.57-58.

115. See 2010 OHCHR Report, *supra* note 42, at ¶ 48-49.

116. See 2011 UPR Report, *supra* note 45, at ¶¶ 39-42.

victims, the number of identified victims receiving support remains disproportionately low compared to the scale of trafficking estimated. UN organs also echoed concerns raised by NGOs that U.S. legislation predominantly addresses trafficking for sexual purposes, neglecting trafficking for economic exploitation. Other concerns included the lack of comprehensive strategies to tackle the root causes of trafficking, such as poverty, gender discrimination, inadequate labor protections, and restrictive immigration policies; the failure to systematically implement the non-punishment principle for trafficked persons, ensuring they are not prosecuted for offenses linked to their trafficking situation; and the insufficient efforts to enhance the investigation and prosecution of labor trafficking cases.

Like NGOs and UN organs, state criticisms during the third review¹¹⁷ focused on the prohibition of all forms of slavery by states. States expressed concerns about the lack of sufficient measures to prevent both adult and child trafficking, combat human trafficking, and ensure adequate protection for trafficking victims and migrants. They also highlighted the inadequate protection of workers' rights, particularly the U.S. government's failure to strengthen sanctions against employers involved in unfair labor practices.

M. Right to Education and Culture

During the first¹¹⁸ and second¹¹⁹ reviews, several NGOs highlighted the persistently high levels of segregation exacerbated by inadequate funding and strict discipline policies in education. These issues that affect particularly African American, Hispanic, Native American, and immigrant students, are often coupled with disparities in school resources and educational outcomes. Another key concern was the absence of a national human rights education curriculum to promote equality and inclusivity across all educational levels. During the third review,¹²⁰ key issues raised by NGOs include the U.S.'s funding structure, in which school finances heavily rely on local taxes, leading to disparities where wealthier neighborhoods benefit from better-funded schools compared to low-income and predominantly communities of color. *This disparity results in unequal access to quality education for marginalized groups.*

117. See 2021 UPR Report, *supra* note 47, at ¶¶ 26.280-281, 26.257.

118. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 67-68.

119. See 2020 OHCHR Report, *supra* note 41, at ¶¶ 79-83.

120. See 2010 OHCHR Report, *supra* note 42, at ¶¶ 76-78.

The U.S. was also criticized for its lack of efforts to integrate human rights education into the curriculum of public schools and universities.

In their reports during the first¹²¹ and second¹²² reviews, UN organs criticized the government's failure to implement effective strategies aimed at promoting school desegregation and ensuring equal educational opportunities for all students, and the inadequate access to quality education for children detained in U.S. facilities in Afghanistan. During the third review,¹²³ key issues raised by UN organs included the use of police in schools and the criminalization of school discipline, which disproportionately affect African American children; the failure to ensure that state school curricula adequately reflect the history of the transatlantic slave trade, enslavement, and segregation; and the failure to mandate human rights education in schools, and ensure a scientifically based sex education in school curricula.

No significant concern was raised by states during the three review cycles on the issue of education.

N. Right to Health

During the first review cycle, NGOs, UN organs, and states did not report on the right to health. Key issues raised by NGOs during the second review¹²⁴ include the United States' failure to ensure universal access to health care, particularly the absence of federal laws guaranteeing universal health care coverage; the failure to provide equal access to quality maternal health care services for all women; the over-prescription of psychotropic drugs among African American girls in foster care; U.S. policies that restrict foreign assistance from supporting safe abortion services in cases of rape, life endangerment, or incest, which contravenes international human rights obligations under various conventions; the government's lack of effort in supporting universal access to voluntary sexual and reproductive health services; and the insufficient enforcement of care standards in nursing homes. During the third review,¹²⁵ some of these concerns were reiterated among the ongoing restrictions on health care access; the recent change to the Medicaid program and Affordable Care Act (ACA) provisions that threaten access to health care, which particularly affect lower-income individuals; the intersection of health care and socioeconomic disparities, where medical costs contribute

121. See 2015 OHCHR Report, *supra* note 43, at ¶ 63.

122. See 2020 HRC Report, *supra* note 44, at ¶¶ 59-60.

123. See 2011 UPR Report, *supra* note 45, at ¶¶ 62-64.

124. See 2020 OHCHR Report, *supra* note 41, at ¶¶ 72-78.

125. See 2020 OHCHR Report, *supra* note 41, at ¶¶ 62-75.

significantly to personal bankruptcies and risk of homelessness; the high mortality rates, including high suicide rates among Native Americans, Alaska Natives, and veterans, and substantial mortality due to tobacco-related causes and drug overdoses; maternal mortality rates, notably high among Black and Indigenous women and those in rural and low-income areas; and limitations on reproductive rights and access to services. Furthermore, they criticized efforts to criminalize pregnancy outcomes and restrict abortion rights which further jeopardize reproductive health. They also expressed concerns about federal and state policies allowing health care providers to deny critical services based on religious beliefs. The adoption of restrictive abortion laws across several states and limitations on foreign assistance related to abortion under the Mexico City policy add further concerns about reproductive rights and health care access in the USA.

Key concerns raised by UN organs during the second review¹²⁶ include the United States' exclusion of millions of undocumented immigrants and their children from coverage under the Affordable Care Act, as well as the limited access to Medicare and Children's Health Insurance for undocumented immigrants and immigrants in general. There was also the failure to ensure that nonconsensual use of psychiatric medication, electroshock therapy, and other coercive practices in psychiatric care settings are universally prohibited. During the third review cycle,¹²⁷ UN organs' concerns included substantial disparities in health care access and outcomes, particularly the persistence of disparities in disease prevalence, such as obesity, cancer, and HIV/AIDS, along ethnic, gender, and educational lines, and the poor response to the opioid crisis. On this last issue, they observed that although this crisis has further exacerbated health inequalities, with addiction often leading to further substance abuse, governmental responses have focused more on restricting access to health care than on addressing root causes and expanding support services. Furthermore, UN organs noted that African Americans continue to experience disproportionate barriers in accessing health care, including a lack of insurance coverage and preventive services, exacerbated by states' rejection of Medicaid expansion despite the Affordable Care Act's provisions. UN organs also highlighted restrictions on reproductive rights, including increasing barriers to abortion services and access to contraceptives, which further limit women's reproductive health choices.

126. See 2020 HRC Report, *supra* note 44, at ¶¶ 57-58.

127. See 2020 HRC Report, *supra* note 44, at ¶¶ 55-61.

States criticisms of the U.S.'s violation of the right to health were mostly raised during the third review.¹²⁸ They include the lack of comprehensive measures to guarantee universal healthcare access; insufficient efforts to address the impact of the COVID-19 pandemic on vulnerable groups; the persistent barriers to sexual and reproductive health services, including restrictive policies such as Title X restrictions, which limit comprehensive family planning services; and the U.S. foreign assistance policies that hinder access to reproductive health services globally, including restrictions on funding for abortion services under the Helms Amendment and the Protecting Life in Global Health Assistance Policy.

O. Right to Life, Liberty, and Security of Persons

During the first¹²⁹ and second¹³⁰ reviews, NGOs criticized the U.S. for its capital punishment system's arbitrariness, discrimination, and the application of the death penalty to individuals with mental illnesses. They also raised alarms about excessive use of force by law enforcement, conditions in supermaximum security prisons, and the treatment of vulnerable populations like pregnant inmates and marginalized communities facing hate crimes. During the third review,¹³¹ various NGOs expressed apprehension over the U.S.'s employment of lethal force globally under its "global war" doctrine, including through armed drones, with inadequate transparency on legal and policy standards governing such actions. They also highlighted ongoing issues with the death penalty in the U.S., noting its arbitrary application across states, often influenced by factors like race and socioeconomic status; the lack of accountability for excessive use of force by law enforcement; and concerns over gun violence, including the widespread impact on racial and ethnic minorities, high rates of firearm-related deaths, and legislative gaps in firearm safety, storage, and control measures.

Like NGOs, UN organs' first¹³² and second¹³³ review reports criticized the U.S. for its racial disparities in the application of the death penalty and its inadequate legislative review to ensure the fair application of capital punishment. They also expressed concerns about torture, extrajudicial killings, and excessive use of force by law enforcement;

128. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.288-317.

129. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 30-44.

130. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 37-47.

131. See 2010 OHCHR Report, *supra* note 42, at ¶¶ 19-34.

132. See 2015 OHCHR Report, *supra* note 43, at ¶¶ 25-44.

133. See 2010 HRC Report, *supra* note 44, at ¶¶ 17-35.

2025]

STATE OF HUMAN RIGHTS IN THE U.S.

545

inadequate compensation for wrongful convictions; opposition to international resolutions on death penalty moratoriums; and the use of untested execution methods. During the third review,¹³⁴ UN organs expressed deep concern over the United States' failure to adequately protect civilians, particularly children, in military operations; the persistence of the death penalty in thirty-one states and at the federal level; the high number of killings due to gun violence in the country and the failure to adopt comprehensive background checks on private firearm transfers to prevent access by prohibited individuals under federal law; and the failure to adequately investigate allegations of torture, including against CIA detainees. Other concerns include systemic issues such as excessive use of force; neglect and solitary confinement which disproportionately affect persons with psychosocial disabilities; and the increasing use of civil confinement and involuntary hospitalization based on discriminatory grounds, with special attention to mental health laws that permit such actions based on perceived disabilities.

States' concerns during the first¹³⁵ and second¹³⁶ review, focused on issues including prison overcrowding, the application of the death penalty, torture, and excessive force by law enforcement. They also highlighted racial disparities in the death penalty's application, inhumane treatment during executions, and the lack of effort to prevent torture and ill-treatment in detention facilities. During the third review,¹³⁷ several countries criticized the U.S., particularly its failure to make sufficient progress towards ratifying key international protocols, such as the Optional Protocol to the Convention against Torture and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at abolishing the death penalty. Several countries also expressed worry over the lack of efforts to curtail gun violence; end the sentencing of juveniles to life without parole; ensure fair trials and redress for detainees; and address systemic issues like overcrowding in prisons, racial bias in capital punishment, and police brutality.

134. See 2011 UPR Report, *supra* note 45, at ¶¶ 23-28.

135. See 2015 UPR Report, *supra* note 46, at ¶¶ 7, 40, 42-43, 46, 48, 50, 59, 64, 67, 69, 77.

136. See, 2021 UPR Report, *supra* note 47, at ¶¶ 9, 38, 45, 53, 55, 95, 132, 152.

137. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.17, 26.25, 26.28, 26.35, 26.55, 26.83, 26.164, 26.173, 26.216, 26.243, 26.277, 26.59, 26.178-215.

P. Right to Privacy, Marriage, and Family Life

During the first¹³⁸ and second¹³⁹ reviews, NGOs highlighted discriminatory laws excluding LGBT families from legal recognition and adoption rights, and discriminatory laws denying marriage and parental rights to LGBTQ+ individuals, secretive government practices of sweeping up digital communications globally without adequate oversight, and the government's failure to reinstate comprehensive privacy protections. In their third review reports,¹⁴⁰ multiple NGOs expressed concerns about U.S. foreign intelligence surveillance laws, especially the potential for arbitrary interference with privacy rights and ongoing wide-ranging surveillance practices. Concerns were also expressed about the absence of robust privacy protections in the private sector, noting the lack of a data protection authority and comprehensive legislation. Additionally, alarms were raised over surveillance practices targeting the Muslim community, and the complexities in international adoption procedures that have left many legally adopted individuals without U.S. citizenship.

One UN organ raised concerns, during the first review, about the U.S. practice of monitoring private communications of individuals both inside and outside of the country, without any judicial or other independent oversight.¹⁴¹ During the second review, several UN organs expressed profound concern over the surveillance of communications conducted by the U.S. government under the guise of national security, and its failure to ensure that such actions comply with principles of legality, proportionality, and necessity, regardless of the nationality or location of individuals affected. Concerns were also raised about the failure to enact laws that clearly define the circumstances under which interference with privacy, family, home, or correspondence is permissible, including detailed procedures for authorization and safeguards against abuse. Furthermore, concerns were raised about the historical and persistent removal of Indigenous children from their families and communities through the U.S. child welfare system and the failure to ensure strict enforcement of the Indian Child Welfare Act of 1978.¹⁴² During the third review, key concerns by UN organs were related

138. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 51-52.

139. See 2020 OHCHR Report, *supra* note 41, at ¶ 58-60.

140. See 2010 OHCHR Report, *supra* note 42, at ¶ 50-52.

141. See 2015 OHCHR Report, *supra* note 43, at ¶ 54.

142. See 2020 Compilation, *supra* note 44, at ¶¶ 47-48.

to laws and practices in the United States that afford a lower level of privacy protection to individuals who are not citizens or residents.¹⁴³

During the three review cycles, no significant concerns were raised by states regarding a U.S. violation of the right to privacy, marriage, and family life.

Q. Right to Social Security and to an Adequate Standard of Living

During the first¹⁴⁴ and second¹⁴⁵ reviews, NGOs focused on economic hardship, particularly affecting African Americans, women, and Indigenous communities, with high poverty rates and disparities in access to health care, housing, and education. They also emphasized systemic flaws in the health care system, including high mortality rates and insufficient coverage; and the government's failure to address housing insecurity, homelessness, and disparities in access to water and sanitation services. During the third review,¹⁴⁶ a significant number of NGOs expressed concern that racial minority populations, particularly African Americans and Hispanics, face higher hunger rates linked to the elevated poverty levels within these communities. They also highlighted the high rate of poverty, unemployment, and homelessness among Native American populations; the significant increase in encampments since 2007; and the criminalization of homeless individuals engaging in life-sustaining activities. Other concerns include disparities in mortgage lending, discriminatory rental practices, and the inadequate access to basic sanitation in rural communities.

In their reports for the first¹⁴⁷ and second¹⁴⁸ review cycles, UN organs and agencies emphasized disparities impacting sexual and reproductive health, forced evictions linked to public housing demolitions, and disproportionate homelessness among African Americans. They also underscored the systemic inequalities in housing policies and health care access, the criminalization of homelessness, racial segregation in housing, and inadequate water and sanitation policies. For the third review cycle,¹⁴⁹ UN organs highlighted the stark contrast between immense wealth and widespread deprivation, affecting Americans of diverse racial and ethnic backgrounds; a disproportionate increase in poverty rates among women,

143. See 2011 UPR Report, *supra* note 45, at ¶ 43.

144. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 59-66.

145. See 2020 OHCHR Report, *supra* note 41, at ¶¶ 70-72.

146. See 2015 OHCHR Report, *supra* note 42, at ¶¶ 57-61.

147. See 2015 OHCHR Report, *supra* note 43, at ¶¶ 59-62.

148. See 2020 Compilation, *supra* note 44, at ¶¶ 54-56.

149. See 2011 UPR Report, *supra* note 45, at ¶¶ 48-54.

particularly women of color, single-parent families, and older women; and an intergenerational poverty perpetuated through high child and youth poverty rates. They were concerned that the response to poverty often involves punitive measures such as incarceration for debt, inability to pay fines, or homelessness. Also, environmental justice concerns were raised, with poor minorities and rural communities disproportionately exposed to toxic emissions and environmental hazards, reflecting systemic inequalities in access to clean environments and essential services.

During the first review,¹⁵⁰ some states expressed concern over the higher incidence of poverty among African Americans, Latinos, and Native Americans; the widening income inequality within the country; and the lack of comprehensive strategies to address poverty and inequality both at the national and global levels. Although states did not make comments on the right to social security and adequate standard of living during the second review cycle of the United States, they did express serious concerns on this topic during the third review cycle. Among others, states criticized the U.S. for its failure to implement holistic measures that could mitigate socioeconomic disparities and reduce polarization between the rich and poor; the criminalization of poverty, which disproportionately impacts African Americans; and the lack of internal reforms to address poverty and inequality. Other concerns included inadequate efforts to combat homelessness among vulnerable groups nationwide, and the absence of effective strategies to address housing and sanitation challenges faced by marginalized communities, including Indigenous and migrant groups.¹⁵¹

R. Right to Work and to Just and Favorable Conditions of Work

During the first¹⁵² and second¹⁵³ reviews NGOs critiqued the limited scope and enforcement of labor protections under the National Labor Relations Act, particularly in the public sector where collective bargaining is prohibited in some states; the disparities in wage levels among ethnic groups and genders; the exclusion of certain workers from basic labor protections; and discriminatory practices against women, migrants, and children in the labor market, often expressed through disparities in promotion opportunities, unequal pay, workplace violations, and hazardous working conditions. In their reports for the third review,¹⁵⁴

150. See 2015 UPR Report, *supra* note 46, at ¶¶ 21; 24-25.

151. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.255, 26.283-287, 26.336, 26.146.

152. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 56-58.

153. See 2015 OHCHR Report, *supra* note 40, at ¶¶ 67-69.

154. See 2020 Summary, *supra* note 41, at ¶¶ 53-56.

NGOs expressed concern about minimal penalties for employers who violate federal and state labor laws, compounded by inadequate resources and complaint-driven enforcement agencies; the exploitation of workers which is particularly pronounced in industries with high subcontracting rates, where migrant workers, often with irregular status, face heightened vulnerabilities to labor abuses; and the fact that exemptions from the Fair Labor Standards Act (FLSA) leave domestic workers and farmworkers without essential protections, perpetuating inequities in workplace conditions. They also expressed alarm over the minimal child labor protections in agriculture, especially for predominantly Hispanic children who endure long hours in the fields, contributing to high dropout rates in school; the use of penal labor, where prisoners are paid significantly less than the federal minimum wage; and the fact that under the Voluntary Work Programs, detainees in immigration detention centers are compensated at rates as low as \$1 per day.

In their reports for the first¹⁵⁵ and second¹⁵⁶ review cycles, UN organs expressed concerns regarding the underrepresentation of African Americans in employment opportunities and the disproportionate rates of unemployment among minorities; discriminatory practices faced by minority workers, including women and undocumented migrants; and the U.S.'s failure to guarantee fundamental labor rights and protections as outlined in international standards. They also highlighted deficiencies in laws protecting migrant workers from exploitation and discrepancies in minimum age requirements for hazardous agricultural work, which do not align with international norms. During the third review,¹⁵⁷ UN organs highlighted that nearly a quarter of full-time workers and three-quarters of part-time workers lack access to paid sick leave, exposing them to economic insecurity and health risks; the government's failure to enhance penalties for employers engaging in unfair labor practices; and the inadequacies in increasing the minimum wage, ensuring robust paid sick leave policies, providing affordable medical care access, and facilitating union formation across all sectors. They observed that the absence of stringent sanctions, including fines, punitive damages, and compensation provisions, perpetuates a climate where workers' rights violations go unchecked, undermining efforts to protect labor rights and ensure fair working conditions nationwide.

155. See 2015 OHCHR Report, *supra* note 43, at ¶¶ 57-58.

156. See 2020 Compilation, *supra* note 44, at ¶¶ 51-53.

157. See 2011 UPR Report, *supra* note 45, at ¶¶ 45-47.

During the first¹⁵⁸ and second¹⁵⁹ reviews, the only concern expressed by states was related to forced labor against migrants and the lack of effort by the government to investigate and address it. During the third review,¹⁶⁰ criticisms by states included the government's failure to ratify the Protocol of 2014 to the Forced Labor Convention, 1930 (No. 29), which undermines efforts to combat forced labor effectively; the failure to strengthen legislation to eliminate all forms of gender discrimination in employment, reflecting a broader concern about gender equality in the workplace; and the lack of effort in advancing universal paid maternity leave and maternal health care, crucial for promoting workplace equality and supporting maternal well-being.

S. Situation in or in Relation to Regions or Territories

The only time the situation in or in relation to regions or territories was raised was during the third review by both NGOs and UN organs. NGOs highlighted the disenfranchisement of residents in the five permanently inhabited U.S. territories (Puerto Rico, Guam, U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands), emphasizing concerns over the non-self-governing status of the U.S. Virgin Islands and its impact on self-determination. They also pointed out the inadequate support for Puerto Rico following Hurricane Maria and criticized the lack of full Congressional representation and voting rights in presidential elections for citizens living in U.S. overseas territories.¹⁶¹ Concerns raised by UN organs included the lack of full voting rights for Puerto Ricans in Congress and their exclusion from presidential elections, despite their participation in presidential primaries; the crippling public debt crisis in Puerto Rico, which severely impacts the economic, social, and cultural rights of its residents; and the lack of an effective emergency response following Hurricane Maria in Puerto Rico.¹⁶²

T. Stateless Persons

It is during the third review that the issue of stateless persons was examined in detail by NGOs.¹⁶³ Some of the concerns expressed on this issue included the failure of the U.S. law to define statelessness or

158. See Secretary-General, Annotations to the agenda for the sixteenth session of the Human Rights Council, at 6; 12; U.N. Doc. A/HRC/16/1 (Jan. 11, 2011).

159. See 2021 UPR Report, *supra* note 47, at ¶¶ 176.263-264, 176.71.

160. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.61-62, 26.282, 26.314, 26.317-318.

161. See 2010 OHCHR Report, *supra* note 42, at ¶¶ 105-107.

162. See 2011 UPR Report, *supra* note 45, at ¶¶ 90-92.

163. See 2010 OHCHR Report, *supra* note 42, at ¶¶ 104.

establish a clear procedure for identifying stateless persons. This failure poses significant risks, particularly for children born to surrogate parents outside of the USA, leaving them potentially vulnerable to statelessness due to legal loopholes. The absence of a defined legal framework not only complicates the identification and protection of stateless individuals but also leads to depriving them adequate safeguards for their rights and access to essential services.

U. Women

No NGO reports on women were submitted during the first and second review cycles of the United States. During the third review cycle, NGOs reports emphasized the prevalence of sexual violence against women and girls, particularly affecting young girls and women of African descent; the risks faced by low-paid migrant women workers, who risk deportation if they report gender-based violence (GBV); abuse endured by women and girls with disabilities; the disproportionate rates of rape and sexual violence suffered by Indigenous women, exacerbated by jurisdictional complexities that hinder effective prosecution of crimes on tribal lands; as well as persistent issues such as workplace harassment, sexual misconduct in hostile environments, and the gender wage gap.¹⁶⁴

Like NGOs, UN organs did not report on women during the first and second review cycles. During the third review they highlighted the high levels of gender-based violence and criticized the government's inadequate efforts to ensure effective protection orders and expand the availability of shelters, programs, and housing support for women in need; the lack of progress in applying temporary special measures to achieve gender equality in public and political representation, including executive, legislative, and judicial branches; and the ongoing discrimination in employment, noting that federal and state laws do not mandate equal pay for work of equal value, resulting in a significant gender wage gap of twenty-one percent, which disproportionately affects African-American, Native American, and Hispanic women. Other concerns include the failure to amend the Equal Pay Act and implement policies to address occupational segregation; as well as the absence of mandatory standards for paid maternity leave and inadequate support for family caregiving responsibilities which further exacerbate gender inequalities, with women being disproportionately burdened compared to men.¹⁶⁵

164. See 2010 OHCHR Report, *supra* note 42, at ¶¶ 79-83.

165. See 2011 UPR Report, *supra* note 45, at ¶¶ 65-69.

During the first¹⁶⁶ and second¹⁶⁷ reviews, a number of states expressed concern about the prevalence of sexual harassment of women within the United States military; the lack of robust legislative and policy frameworks to combat domestic violence and address gender discrimination in the workplace; and the lack of specific steps toward ratifying the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). During the third review,¹⁶⁸ countries were concerned about the failure to expedite ratification of CEDAW and to implement commitments made at the Nairobi summit to increase financing for the prevention of female genital mutilation, child marriage, and forced marriage; the failure to ensure that laws allowing the refusal of care based on religious or moral beliefs do not restrict women's sexual and reproductive health rights; and the lack of efforts to guarantee access to sexual and reproductive health services and information for women and girls. Critics also highlighted the ongoing challenges in eliminating the wage gap, gender-based violence, and ensuring access to justice and reparations for victims, as well as the inadequate measures to prevent and respond to gender-based violence in institutional settings such as prisons.

IV. CONCLUSION

The above study assessed the human rights situation in the United States in the lens of the three UPRs conducted so far. It is in no way an attempt to denigrate the significant progress and historic leadership of the United States in the area of human rights. It is neither aimed at comparing the situation of human rights in the United States with those of other countries, whether democratic or undemocratic, developed or undeveloped. Rather, it subscribes to the ultimate objective of the UPR process which, far from comparing countries, seeks to help each country compare its own performance through different review cycles. After all, not all countries started on the same baseline of human rights records. Although human rights are universal, their experiences are local. The American human rights experience and progress, therefore, need to be assessed with reference to where they are and what their priorities are toward achieving universal human rights standards. This could be achieved by comparing the present records with the previous ones using

166. See 2015 UPR Report, *supra* note 46, at ¶¶ 22, 59-60, 64.

167. See 2021 UPR Report, *supra* note 47, at ¶¶ 33, 100, 103, 124, 137.

168. See 2021 UPR Report, *supra* note 48, at ¶¶ 26.10, 26.21-32, 26.36-48, 26.163, 26.192, 26.299, 26.301, 26.305-307, 26.310, 26.320, 26.324.

2025] *STATE OF HUMAN RIGHTS IN THE U.S.* 553

as a reference the universal human rights standards rather than by comparing present records with those of other countries. That's why a study like this needs to be undertaken in every country to assess progress, or lack thereof, as it undergoes UPR—not with the “naming and shaming” goal or by comparing one country's record with that of others, but rather with the goal of ensuring that each country's citizens' human rights experience is progressively assessed and steps are taken to ensure improvement in human rights. Each UPR should be an opportunity to look back, assess the present, and plan for the progress of human rights in each country.