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The Growth of Corporate Influence in Sub-National Political & Legal Institutions Undermines U.S. Compliance with International Human Rights Obligations

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Summary

1. Corporate concentration and market monopolization—which has been enabled by U.S. international economic policies, anti-trust law and implementation, taxation, campaign financing and other policies—undermine human rights in cities and communities across the United States and affect human rights conditions in countries around the world.

2. Economic globalization has contributed to the growth and concentration of transnational corporations, and a large and growing majority of the world's leading economies are corporations rather than states. The number of businesses in the top 100 economic entities jumped to 69 in 2015 from 63 in the previous year. The ten biggest corporations make more money than most countries in the world combined.[2] This poses a critical challenge for human rights implementation, as corporations impact many dimensions of human rights, but most governments lack the capacity or political will to effectively govern corporate human rights practices.

3. In particular, corporations and business elites have been able to exert pressure on political processes and politicians, and they use their disproportionate wealth to impact legal proceedings in ways that pose fundamental challenges to the realization of human rights in communities around the United States.[3] Corporate influences on politics and policies have contributed to persistent inequalities and disparate impacts on vulnerable groups, particularly African descendants, other peoples of color, indigenous peoples, women, children, refugees and immigrants, people with disabilities, and LGBTQ individuals.

4. As a result of policies shaped disproportionately by corporate and business interests, many cities around the country are seeing similar patterns of human rights violations and erosion of protections in the following selected areas we address in this report: democracy and political participation; housing; water and basic necessities; environmental rights; and equity and freedom from discrimination.

5. Communities are thus denied protections in the Universal Declaration of Human Rights and treaties ratified by the United States, including the Convention on the Elimination of All Forms of Racial Discrimination, the Covenant on Civil and Political Rights, as well as principles articulated in the UN Guiding Principles on Business and Human Rights and other human rights documents, as well as findings and recommendations of UN Special Rapporteurs to the United States,[4] and the Sustainable Development Goals.

6. The 2019 Final Report of the Human Rights Council Advisory Committee, "Role of Local Government in the Promotion and Protection of Human Rights"[5] cited as one of the key obstacles to local human rights implementation the impacts of international financial institutions and global aid policies that promote global trade, privatization, and investment by corporations. Global policies promoted by the U.S. government have contributed to the growth of transnational corporations and undermined the capacities of other national governments and of sub-national governments in the United States to determine policies that directly impact the lives and well-being of individuals and communities.

Democracy/ Political Participation (UDHR Article 21)

7. Corporate involvement in policy processes and politics impacts local democracy and the right to political participation.

8. In New Orleans' case, city government did not have access to or representation in allocation decisions on tax dollars generated by New Orleans tourism since the 1970s. When the voters of New Orleans elected their first African American Mayor, the overwhelmingly white state legislature removed appointment power from the Mayor's Office to a number of key state boards governing New Orleans tourism and allocations of tax dollars from the tourism industry. This silenced the voices of residents and their representative in decision-making, exemplifying institutional racism.

9. These same policies have contributed to political dynamics in cities where elected officials develop economic development plans with business interests and private foundations in non-transparent settings that prevent adequate public oversight and input early in the planning of projects that directly impact residents.[6]

10. One noteworthy example is Amazon's 2017 bidding war among cities vying to become host to the company's second headquarters. More than 200 cities submitted formal bids offering tax breaks, public subsidies, and other amenities aimed at attracting the company and its promised benefits. Many cities withheld the content of their bids from residents,[7] despite the fact that billions of dollars of public monies were at stake. The city of Pittsburgh refused to make its bid public even after losing a court challenge under open records laws.[8]

11. Given the impacts of corporate development in cities on the ability of all residents to enjoy the full range of human rights, this obstruction of local democracy by increasingly large corporate players warrants special attention from human rights defenders. Developments like the Amazon headquarters displace many local residents and contribute to spiraling housing costs that exacerbate housing security for a growing segment of the population. That they do so while preventing residents from having a meaningful voice in decisions about such developments is of grave concern for the future of human rights in our cities.[9]

12. The same dynamic is visible in the everyday politics of U.S. cities. In recent years several hundreds of largely African American residents of Pittsburgh's East Liberty neighborhood have been displaced as planners demolished large tracts of affordable housing and replaced them with luxury housing and retail developments.[10] Efforts of residents to replace lost affordable units and to establish effective measures for conducting and enforcing social impact assessments on new developments have not gained much ground, largely due to opposition from the business community.[11]

13. Some cities have begun to enact legislation to counter these trends. Birmingham is promoting transparency and accountability with a new online portal showing the city's finances.[12] Jackson, Mississippi enacted a Customer's Bill of Rights to protect residents.[13] In Pittsburgh, residents are developing tools to enable effective resident participation in the design and development of public transit policies.[14] Such rights-protecting local practices should be encouraged and supported by federal policies.

14. Business entities also use of the courts to discourage human rights defenders and advocacy groups from publicizing problematic corporate practices and educating the public about corporate practices' threats to health and other public goods. Federal action is needed to protect advocacy groups and individuals speaking out in the public interest from abusive lawsuits, legal intimidation tactics, and criminalization of free speech and freedom of assembly.[15]

Housing (UDHR Article 25)

15. Globally, we face an unprecedented housing crisis, linked to U.S. policies that have encouraged the financialization of housing. This has substantially aggravated racial inequities and reduced

the enjoyment of the human right to housing in communities across the country. Close to 111,000 African Americans were displaced from gentrifying neighborhoods in U.S. cities between 2000 and 2013.[16]

16. In a 2019 letter to the U.S. Government,[17] UN Special Rapporteur on the Right to Adequate Housing, Leilani Farha, and Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Surya Deva, emphasized how U.S. policies were promoting the financialization of housing, calling this a "retrogressive step, [which] accordingly puts the State at odds with its obligations under international human rights law." The letter called on the U.S. to "develop policies and laws that include a full range of taxation, regulatory and planning measures in order to re-establish housing as a human right, promote an inclusive housing system, prevent speculation and limit the extraction of profits at the expense of tenants." Such measures "will require a transformation of the relationship between [the] Government and the financial sector, whereby human rights implementation becomes the overriding goal." Such transformation of federal policies is needed, and would dramatically improve access to housing for people across the country, while also reducing racial and other disparities in the enjoyment of human rights.

17. The letter to the United States also emphasized several ways that current law and policy undermine U.S. human rights obligations and violate human rights treaties to which the U.S. is a party, including CERD due to their disproportionate impact on African American households and other groups: financial supports and tax breaks that encourage the institutional investment in housing; and failure to enact legislation to ensure adequate supplies of affordable housing, such as rent control and policies linking housing prices with minimum wage regulations.

18. Affordable housing and homelessness are acute problems in Washington, DC. In a survey of DC residents, housing and homelessness was identified as the most important human rights issue in the District. Because city officials treat housing as a commodity, rather than a right, has resulted in developers building more expensive luxury apartments in lieu of low-income housing. As a result, there has been both extensive losses in affordable housing and skyrocketing rents. A recent study showed that DC has the highest intensity of gentrification of any U.S. city, which translates into the displacement of the city's low-income residents, who are disproportionately from low-income, people of color, and other vulnerable groups.[18]

19. According to Medical Whistleblower's Advocacy Network, for people with disabilities, housing has become the single biggest barrier to community integration in Washington, DC. A lack of affordable rental housing has a disparate impact on low income populations, and disabled persons are particularly harmed because they often are totally dependent on social programs and, when working, they earn less than their able-bodied counterparts. Inadequate incomes and high rents, coupled with the need for accessible features in their homes means many disabled are especially vulnerable. Deep cuts in the Fair Housing programs and inadequate funding to The

National Housing Trust Fund (NHTF) have supported an inadequate supply of affordable wheelchair accessible apartments and left many disabled persons homeless or chronically under housed. Limited housing subsidies and lack of eviction protections mean that many persons are precariously housed, couch surfing, doubling up or in temporary shelter – thus at risk of homelessness. Not only is there a lack of accessible temporary shelter for homeless disabled individuals, but shelters are also ill equipped to address needs of disabled homeless persons.

Privatization of Public Utilities and Services

20. Privatization of public utilities and services has denied or undermined equitable access to basic rights such as water, education, and health, and the privatization of prisons and detention centers is linked to a variety of human rights challenges disproportionately impacting immigrants and people of African Descent.[19]

21. Over recent years, the United States has seen a steady trend of privatization of its prison system. Private companies have not brought the expected cost savings, and their operations rely on the use of non-unionized workers receiving lower salaries and benefits than publicly run institutions.[20] They incentivize mass incarceration and exacerbate racial inequities that already characterized the U.S. prison system,[21] as a lack of law enforcement accountability enables human rights violations including torture, debtors prison bond practices, and criminalization of poor people.[22]

22. The City of New Orleans reports that the conditions resulting from mass incarceration, prison-for-profit systems, and the long-term impacts of racism in criminal justice decision-making have had serious consequences for the human rights of residents there, and community members and leaders have made this a priority area for attention. The prison system has widespread detrimental impacts on not only those subjected to detention and incarceration but to the families and communities of those individuals.[23]

Environment, Climate and Health

23. The disproportionate influence corporations have had on local economic development undermines municipalities' ability to address threats from climate change and other environmental health threats, preventing the realization of the UN Sustainable Development Goals (SDGs).

24. Patterns of **discrimination in hiring and pay** in many of the leading industries contribute to the reproduction of racial and gender inequalities in many cities, and they violate article 23 of the UDHR.[24] These inequities translate into disparate possibilities for the enjoyment of many human rights, such as rest and leisure (UDHR Article 24), adequate standard of living for health and

well-being (UDHR Article 25), education (UDHR Article 26), and the right to freely participate in the cultural life of the community (UDHR Article 27).

25. In many cities, policies conditioned by corporate-centered development and political influence exacerbate **patterns of environmental injustice**. This is often reflected in the lack of access to a clean, safe, and healthy environment that includes safe drinking water, healthy and well-maintained residential buildings, access to healthy foods, and safe and nurturing school environments. In New Orleans, the petrochemical industry has seen large spills that have had wide environmental and health repercussions.[25] And despite its poor air quality, the city of Pittsburgh faces new challenges from the growth of petrochemical developments in the region.[26]

26. Another problematic area of corporate influence is water. Between 1990 and 2006, water and wastewater bills increased by 105.7 percent nationally, although median household incomes increased only three percent per year. The biggest factor contributing to rising water costs in the United States is aging and failing infrastructure, and the U.S. federal government has not devoted adequate resources to addressing this problem. This has shifted much of the costs to local governments, where some municipalities have turned to privatization as a way to finance water system improvements. But privatization has been linked to higher prices, less accountability, and poorer water quality and service for residents. [27]

27. Research by numerous national groups such as the NAACP and Food and Water Watch have revealed clear patterns of disproportionate and detrimental impacts on Black neighborhoods and homeownership.[28] In cities like Baltimore and Cleveland, residents have had liens placed on their homes for as little as $300-$350 in unpaid water bills, and in Cuyahoga County, where Cleveland is located, more than 11,000 water liens were placed on properties between 2014 and 2018.[29] A 2014 visit to Detroit by UN Special Rapporteurs on the right to adequate housing and on safe drinking water documented discriminatory impacts of water shutoffs in that city and reiterated the importance of government action to ensure due process for affected residents and safe access to water as a component of the right to housing.[30] Residents of both Pittsburgh, Pennsylvania and Flint, Michigan "unknowingly drank water with high levels of the potent neurotoxin, which has long-term health consequences."[31] Both of these crises have been linked to the privatization of water services and government negligence. Concerns by residents of Flint were ignored for over a year, while government leaders and regulators put off critical infrastructure investments and prioritized economic concerns over the provision of clean, safe water. "Because this is Flint, an economically depressed, and mostly black community, this was allowed to go on," Pastor Will Morgan of the Apostolic Church in Flint told Circle of Blue.[32] Five officials, including the head of the state's health department, have been charged with involuntary manslaughter on June 14, 2017.

28. The problem of **gun violence** is a critical concern for many cities, and public health advocates and policymakers are calling for greater federal regulation and funding to support research on

this issue. The burden of gun homicide falls heaviest on communities already facing structural disadvantages. Within cities, gun homicides are most prevalent in racially segregated neighborhoods with high rates of poverty and low educational attainment.[33]

29. Black Americans represent the majority of gun homicide victims and are 10 times more likely than white Americans to die by gun homicide. Young Black men in particular are even more at risk as they are 19 times more likely than young white men to die by gun homicide. 23 percent of Black American adults and 22 percent of Hispanic American adults' report that someone they cared for has been killed with a gun.[34]

30. Firearms are the second leading cause of death for children and teens and the first leading cause of death for Black children and teens. Every year, nearly 3,000 children and teens are shot and killed and approximately 15,600 are shot and injured.[35]

31. Approximately 4.5 million American women alive today have been threatened with a gun by an intimate partner. Women in the U.S. are 25 times more likely to be killed by guns than women in other high-income countries. In an average year in the US, over 600 women are shot to death by an intimate partner. This type of violence disproportionately affects Black women, who are twice as likely to be fatally shot by an intimate partner than white women.[36]

32. Also significant for human rights protection is that guns are associated with the growing wave of hate crimes. Over 10,300 violent hate crimes in an average year involve a gun. The vast majority of hate crimes are directed against communities of color, religious minorities, and LGBTQ people. In 2017, about 58 percent of reported hate crimes were motivated by racism, nearly half of which were motivated by bias against Black people.[37]

33. Unlike any other major industry, the gun industry is largely shielded from accountability for business practices that directly threaten public safety and put American lives at risk. This is primarily due to the Protection of Lawful Commerce in Arms Act (PLCAA), a federal statute that prohibits certain lawsuits against gun manufacturers and retailers. To address the serious human rights challenges these weapons cause, policy makers must take more forceful action to develop laws regulating gun sales and licensing and promoting responsible sales and marketing practices.

34. Another industry that affects equity and human rights in important ways is the debt collection industry. African Americans are disproportionately impacted by **deregulation of debt collection industry**: More than one in three Black consumers (34%), nearly half of LatinX consumers (48%), or consumers with incomes under $50,000 (33%) were contacted by debt collection firms, according to a recent poll.[38] Advocates also raised concerns about the need for greater protections for consumers with limited English proficiency.[39] These disparities will be exacerbated by the Trump Administration's "consistent and focused" deregulation effort

targeting the Consumer Financial Protection Bureau, an agency set up to protect residents following the 2008 financial crisis.

Taxation, Public Subsidies, and Military Spending

35. National and local policies related to the regulation of corporate practices, taxation and the use of public subsidies, and the allocation of military versus social spending undermines the ability of government to implement human rights. The defense industry also produces substantial amounts of radioactive waste that threatens community health. The hundreds of billions of tax dollars dedicated to the military drain the resources needed to build peaceful, sustainable cities as is called for with the SDGs. The U.S. predilection for war and violence abroad mirrors the aforementioned gun violence epidemic at home.

36. Federal and local policies must be designed to ensure that adequate resources are devoted to the health and well-being of all residents. Public funding in the U.S. to support affordable housing, education, and health has declined over recent decades, while the military budget has grown to over $700 billion. A fraction of this money would go a long way to help reduce inequities in our cities and promote greater resilience and sustainability. In 2017 the U.S. Conference of Mayors "[urged] the U.S. Congress to move our tax dollars in exactly the opposite direction proposed by the President, from militarism to human and environmental needs," and called for more federal support for U.S. cities.[40]

37. Federal tax policies are also implicated in the perpetuation of inequities and violations of economic human rights. As Philip Alston observed: The United States has the highest rate of income inequality among Western countries. The $1.5 trillion in tax cuts in December 2017 overwhelmingly benefited the wealthy and worsened inequality…. the policies pursued over the past year seem deliberately designed to remove basic protections from the poorest, punish those who are not in employment and make even basic health care into a privilege to be earned rather than a right of citizenship."[41]

Legal Framework

38. The U.S. is a member of the United Nations and the UN Charter obliges all member nations to promote "universal respect for, and observance of, human rights" and to take "joint and separate action" to that end. According to *Economic, Social, and Cultural Rights: Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights* (2003), the United Nations has recognized that Member States have the primary responsibility to secure the fulfilment and protection of human rights recognized in international as well as national law, including "ensuring that transnational corporations and other business

enterprises respect human rights."[42] It also notes that transnational corporations and other business enterprises, their officers and persons working for them are obligated to respect generally recognized responsibilities and norms contained in United Nations treaties and other international instruments.[43]

39. Despite its international legal obligations to protect and defend human rights, the U.S.' record of integration and implementation of human rights concerns regarding business practices "has been piecemeal and limited" due to the U.S. lack of comprehensive human rights legislation or an independent national human rights institution.[44] Additionally, the adequacy of U.S. federal laws, regulations and enforcement procedures to ensure that companies respect human rights has been weak. For example, the weakness of U.S. labor laws and weak enforcement has created a "climate and culture of corporate lawlessness on a massive scale."[45] The current U.S. administration has demonstrated its disregard for international human rights institutions, as indicated with the U.S. June 2018 withdrawal from the UN Human Rights Council, and failing in its leadership role and commitment towards fundamental rights and freedoms.[46]

40. Furthermore, there have been a number of actions and executive orders taken by the current administration that have amounted to a stunning rollback of protections on a wide array of human rights and related to business activities, including: the Department of Justice (DOJ) withdrawal of a goal of reducing and ultimately ending the department's use of private prisons; an executive order outlining principles for regulating the U.S. financial system seen as attack on consumer protection laws; the DOJ abandoned an initiative to rehabilitate drug users and reducing the enormous costs of 'warehousing' inmates; the administration halted an EEOC rule that required large companies to disclose what they pay employees by sex, race, and ethnicity – "a rule that was intended to remedy the unequal pay that remains rampant in the American workplace."[47]

41. The U.S. is party to three of the nine core international human rights treaties: The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Key provisions in several of these treaties require states to regulate the behavior of non-state actors, to stop or prevent corporations abusing the rights guaranteed in them.[48]

42. International Covenant on Civil and Political Rights (ICCPR) was signed by the U.S. in 1977 and ratified in 1992. As such, the U.S. is obligated to protect and preserve basic human rights such as the right to life and to human dignity, equality before the law, freedom of speech, assembly and association, religious freedom and privacy, freedom from torture, ill-treatment and arbitrary detention, gender equality, fair trial and minority rights.[49] The Human Rights Committee, which monitors State compliance with the ICCPR, has interpreted some of the

treaty's provisions as imposing obligations on states to stop or prevent abuses by private actors through law or other means.[50]

43. The Human Rights Committee clarifies that, as public services that were provided by governments are increasingly privatized, the State is *not absolved of its human rights responsibilities*. The Human Rights Committee, commenting on the right of everyone deprived of their liberty to be treated humanely (Art. 10, ICCPR) has said that this principle applies to all detainees held "under the laws and authority of the State... in all institutions within their jurisdiction where persons are being held."[51]

44. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was ratified by the U.S. in 1994. Accordingly, the U.S. is responsible to protect individuals and groups from discrimination based on race, whether the discrimination is intentional or the result of seemingly neutral policies. Article 2 of ICERD requires parties to prohibit and stop racial discrimination by any persons, groups or organisations, without any distinction between public and private actors and to "undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination."[52] The UN Committee that monitors ICERD reaffirms in General Comment 20 on "Non-discriminatory implementation of rights and freedoms, (Art. 5)", that to the extent that "private institutions influence the exercise of rights or the availability of opportunities, the State Party must ensure that the result has neither the purpose nor the effect of creating or perpetuating racial discrimination."[53]

45. As a member of the International Labour Organization, the U.S. has an obligation to respect, promote and realize the principles concerning the fundamental rights enshrined in the ILO Declaration on Fundamental Principles and Rights at Work and its follow-up concerning "freedom of association and effective recognition of the right to bargain collectively; prohibition of forced labour and child labour; and non-discrimination in employment."[54] Additionally, the U.S. Government has "committed to protecting and respecting those rights and has detailed constitutional provisions, laws and policies that protect labour rights in its annual reports to ILO."[55]

46. In 2011 the Human Rights Council universally adopted the Guiding Principles on Business and Human Rights, which the U.S. co-sponsored. This is an authoritative, albeit legally non-binding, framework that seeks to prevent and address adverse human rights impacts of business activities and which state duties to protect, based on the three pillars of the United Nations "Protect, Respect and Remedy" framework.[56] The Guiding Principles stipulate that States have a duty to protect against human rights abuses by business and companies have a responsibility to respect human rights as expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO Declaration on Fundamental Principles and Rights at Work.

47. On July 16, 2019 the UN Intergovernmental Working Group on the articulation of a business and human rights treaty (IGWG) released a revised draft of the treaty on business and human rights.[57] The current iteration states the treaty shall apply to all business activities, including particularly but not limited to those of a transnational character; and, makes reference to the Guiding Principles in its preamble. The U.S. stated in October 2018 it is not participating in the UN business and human rights treaty process and that it "remains opposed to the treaty process and the manner in which it has been pursued."[58]

48. In December 2016, the Department of State published the first U.S. National Action Plan on Responsible Business Conduct which underscored the importance of human rights risk assessments and encouraged businesses to conduct human rights risk assessments in the form of ''human rights due diligence."[59]

49. In general, human rights in the U.S. consist of a series of rights which are legally protected by the Constitution of the US, including the amendments, state constitutions, conferred by treaty and customary international law, and enacted legislatively through Congress, state legislatures, and state referenda and citizen's initiatives.[60] Within this context, there are several significant federal human rights laws that protect individuals from unlawful discrimination by businesses, and these must be better enforced.[61]

50. On 10 July, 2019 a discussion draft of the Corporate Human Rights Risk Assessment, Prevention, and Mitigation Act of 2019 was introduced in the U.S. House of Representatives.[62] This piece of legislation would require publicly listed companies that file an annual report with the U.S. Securities and Exchange Commission (SEC) to provide critical information regarding their human rights risks and impacts to investors and consumers annually. The introduced version of this bill would require companies to: Undertake an annual analysis to identify human rights risks and impacts in their operations and value chain; Rank any risks and impacts based on their severity; and Disclose the process and results of their assessment, as well as any actions the company has taken to avoid, mitigate, or remediate the identified risks or impacts. The draft bill is the first in the U.S. to require broad scale human rights information disclosure. It defines 'human rights risk' as an adverse impact an action of the issuer has had on the enjoyment of human rights, including those rights encompassed in: the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social, and Cultural Rights; and the 8 core conventions of the International Labor Organization. This would be a noteworthy improvement, yet the bill is only at the "earliest stages of the legislative process and is unlikely to be passed in the near future."[63]

51. Increasingly, local authorities and municipalities in the U.S. are claiming a key role in the realization of international human rights law.[64] Local governments and municipalities play a vital role in promoting human rights "in their delivering of public services that address local needs and priorities related to the realisation of human rights at the local level."[65] For example in

2012, following the UN General Assembly declaration that drinking water is a human right, the State of California passed a law—the first in the nation—establishing the human right to water. The law recognizes that "every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes."[66] Furthermore, A growing number of cities have symbolically ratified international human rights treaties and demonstrated hands-on impact by "explicitly enforcing them, positioning themselves as human rights cities and invoking international human rights law locally *vis-à-vis* national governments and in international fora and networks."[67] During their official visit to the U.S. in 2013, the IGWG highlighted the power cities have to guide and regulate business conduct. [68] They pointed to efforts of San Francisco to improve local labor conditions and establish non-discrimination requirements for businesses domiciled within the city that "stipulated that there should be human and labour rights provisions in city procurement contracts and encouraged business to engage with local communities and support human rights initiatives in urban rejuvenation programmes."[69]

Recommendations

52. Enhance the U.S. National Action Plan (NAP) on Responsible Business Conduct to: accord with the UN Guiding Principles on Business and Human Rights; include key concerns raised by civil society and labor organizations during the NAP consultation process; address domestic challenges of business activity on human rights in parity with current focus on international challenges; specify government action points to discern the concrete steps the NAP is committing specific government agencies to take; and, specify monitoring and follow-up provisions of the NAP that demonstrates commitment to a comprehensive NAP process.

53. Take steps to promote and implement national legislation and international mechanisms to strengthen corporate accountability to international human rights law, including the Draft treaty to regulate, in international human rights law, the activities of transnational corporations and other business enterprises;

54. Advance/Pass legislation of the "Corporate Human Rights Risk Assessment, Prevention, and Mitigation Act of 2019," currently under draft discussion in the House of Representatives, that will require U.S. companies to provide critical information regarding their human rights risks and impacts to investors and consumers.

55. Link federal funding to local and municipal policies that ensure and protect residents' rights to be consulted about economic developments that impact their communities. These consultations must happen early in the planning process, and residents must be able to significantly shape the nature and terms of economic investment and development. Federal funds should require localities to conduct meaningful social and environmental impact assessments and to establish

reliable means of holding violators accountable when community expectations are not met, or when accidents or unforeseen occurrences contribute to unfulfilled promises and/or rights violations.

56. Shift spending priorities away from militarism and towards greater support for human needs and environmental protection/restoration. Ensure that cities are provided the resources they need to enable all U.S. residents to enjoy equitable access to opportunities to fully participate in community life and enjoy dignified lives.

57. Strengthen U.S. participation in all international human rights treaties and establish a national human rights commission in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The Government should establish within this body a specific division to monitor the human rights of people of African descent.

58. Ensure accountability for police violence against people of African descent: by improving the reporting of violations involving the excessive use of force and extrajudicial killings by the police, and ensuring that reported cases of excessive use of force are independently investigated; by ensuring that alleged perpetrators are prosecuted and, if convicted, are punished with appropriate sanctions; by ensuring that investigations are re-opened when new evidence becomes available; and by ensuring that victims or their families are provided with remedies.

59. Pass H.R. 40 — the Commission to Study Reparation Proposals for African-Americans Act — which would establish a commission to examine enslavement and racial discrimination in the colonies and the United States from 1619 to the present and to recommend appropriate remedies. The Act should include the issuance of a formal apology, health initiatives, educational opportunities, an African knowledge programme, psychological rehabilitation, technology transfer and financial support, and debt cancellation.

End Notes

[1] Contributions to this report were provided by the following groups: All Aboard for Justice (South Carolina); Creative Educators International Network (CEIN); DC Human Rights City Alliance; Malcolm X Grassroots Movement; Medical Whistleblower Advocacy Network (Washington D.C.); Pittsburgh Human Rights City Alliance; Protect the Protest Task Force; Ubuntu Institute for Community Development (South Carolina); Turn South; Westside Justice Center (Chicago). *NOTE: *Other groups have participated in this process, but we have not been able to confirm their endorsement of the final report prior to the UPR Stakeholder Report deadline.*

[2] Global Justice Now, September 12, 2016. At: https://www.globaljustice.org.uk/news/2016/sep/12/10-biggest-corporations-make-more-money-most-countriesworld-combined. For a more detailed analysis, see *Journal of World-Systems Research* Symposium on Corporate Power and Local Democracy, Winter 2019. At: http://jwsr.pitt.edu/ojs/index.php/jwsr/issue/view/74

[3] See, e.g. *Lethal but Legal*, Nicholas Freudenberg. Oxford University Press, 2014.

[4] See, for instance, the country reports of the Special Rapporteur on the Right to Adequate Housing (2010) (At: http://www.ohchr.org/EN/Issues/Housing/Pages/CountryVisits.aspx), Special Rapporteur on Extreme Poverty (2018) (At: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22533&LangID=E), and the UN Expert Working Group on People of African Descent (2016) (At: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/183/30/PDF/G1618330.pdf?OpenElement).

[5] "Role of Local Government in the Promotion and Protection of Human Rights" (September 2019). At: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/30/49

[6] Pittsburghers for Public Transit has pointed out an important national concern over the role of companies promoting autonomous vehicles in cities, and their recent report shows how local political processes have excluded residents from having a role in shaping decisions about the use of public monies and the introduction of technologies with far-reaching implications for public safety, workers, and economic inequities (Wait: *Who's Driving this Thing?* Pittsburghers for Public Transit, July 2019. At: https://www.pittsburghforpublictransit.org/preview-ppts-new-literature-review-on-autonomous-vehicles/).

[7] Cities' Offers for Amazon Base Are Secrets Even to Many City Leaders By Julie Creswell, August 5, 2018. *New York Times*. https://www.nytimes.com/2018/08/05/technology/amazon-headquarters-hq2.html.

[8] After Amazon announced its decision to build in another city, Pittsburgh made its bid public, revealing that more than $4 billion in city and state funds were being promised in the bid to attract the company to the region. (J. Dale Shoemaker, *Public Source*, Nov. 14, 2018. https://www.publicsource.org/pennsylvania-offered-up-to-4-6-billion-in-attempt-to-land-amazon-hq2/).

[9] In contrast, an example of community led governance aimed at upholding human rights in municipalities is work by the Malcolm X Grassroots Movement to convene popular assemblies: https://issuu.com/center4ideas/docs/bamn-v1_3. Work is needed in the United States and elsewhere to develop comprehensive policies and strategies to address participatory democracy that leads to centering human rights and dignity at the core of municipal vision, governance and accountability.

[10] *Black Homes Matter*, Pittsburgh Fair Development Action Group, January 2016. At: https://prrac.org/pdf/Black_Homes_Matter-Pittsburgh.pdf

[11] https://pennplaza.wordpress.com/2018/06/10/ppsa-statement-on-the-city-planning-commissions-resolution-of-concern/

[12] "Open Checkbook" documents budgeting and expenditures every year: http://www.wbrc.com/story/38731570/bham-promotes-transparency-with-new-open-checkbook.

[13] https://www.wlbt.com/2019/06/25/mayor-lumumba-issues-statement-response-citizens-lawsuit-against-city-jackson/

[14] https://www.pittsburghforpublictransit.org/campaigns/ongoing-campaigns/

[15] Protect the PublicProtest Task Force contributed this submission to the UNUN Human Rights Committee on USUS Compliance with the ICCPR http://www.protecttheprotest.org/wp-content/uploads/2019/01/SLAPPs-Protect-the-Protest-ICCPR-Submission.pdf.

[16] National Community Reinvestment Coalition, https://ncrc.org/research/

[17] https://www.ohchr.org/Documents/Issues/Housing/Financialization/OL_USA_10_2019.pdf

[18] https://www.washingtonpost.com/transportation/2019/03/19/study-dc-has-had-highest-intensity-gentrification-any-us-city/

[19] This is a point that Philip Alston stressed in his recent report on his visit to the United States:

"Solutions to major social challenges in the United States are increasingly seen to lie with privatization, especially in the criminal justice system. Bail bond corporations, which exist in only one other country in the world, precisely because they distort justice, encourage excessive and often unnecessary levels of bail, and lobby for the maintenance of a system that by definition penalizes the middle class and the poor." https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22533&LangID=E

[20] https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/

[21] See the 2016 country visit report of the UN Working Group on Arbitrary Detention (https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/193/37/PDF/G1719337.pdf?OpenElement); International Convention on the Elimination of All Forms of Racial Discrimination 2014 Concluding Observations Report (http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhspzOl9YwTXeABruAM8pBAK1Q%2fDZ6XAqlyobgts1zwlHPkQhsSqMrVxuS6brQbHYpDYGXBUCX1bgRtTg3HaweAr5PBs9soaesD5KdByekI9OS); and the Convention Against Torture 2014 Concluding Observations Report (http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsuLMmIdNURtE47fFHU%2bcDW3YqC%2f3zHkM7HdrMe8Ha0T3LrxFZw2DBuPPjJtmrR1GUBC%2fjzvD8gcT%2fCPPgMygXRPGjD4yWY90dyGDoPyZiQO4).

[22] https://www.aclu.org/blog/smart-justice/mass-incarceration/aclu-un-tomorrow-testify-horrific-human-rights-record-us ; "Inside a Private Prison: Blood, Suicide, and Poorly Paid Guards" *New York Times* April 3, 2018. https://www.nytimes.com/2018/04/03/us/mississippi-private-prison-abuse.html

[23] "Mass incarceration, public health, and widening inequality in the USA." Christopher Wildeman, Emily A Wang *The Lancet* (2017). DOI: https://doi.org/10.1016/S0140-6736(17)30259-3.

[24] https://iwpr.org/publications/gender-wage-gap-2018/; RACIAL PAY GAP DATA "Pittsburgh's Inequality Across Gender and Race", September 17, 2019, City of Pittsburgh Gender Equity Commission. At: https://www.documentcloud.org/documents/6417271-Pittsburgh-s-Inequality-Across-Gender-and-Race.html?embed=true&responsive=false&sidebar=false. The following report details patterns of gender and racial disparities in hiring and pay for employees at Amazon: "Is this For Everyone? Questions about Amazon's HQ2" Jason Beery, Urbankind Institute. October 2017.

[25] "Gulf Oil Spill." 2018. March 1, 2018. http://ocean.si.edu/conservation/pollution/gulf-oil-spill.

[26] Beery, Jason (2018) *The Fierce Urgency of Our Environmental Now: Present and Future Environmental Health Threats in Pittsburgh*. White Paper. UrbanKind Institute.

[27] Montag, Coty. *Water/Color: A Study of Race & the Water Affordability Crisis in America's Cities*. The Thurgood Marshall Institute at the NAACP Legal Defense Fund. 2019. Available at: https://www.naacpldf.org/our-thinking/issue-report/economic-justice/water-color-a-study-of-race-and-the-water-affordability-crisis-in-americas-cities/, p. 22.

[28] Montag, Coty. Water/Color: A Study of Race & the Water Affordability Crisis in America's Cities. The Thurgood Marshall Institute at the NAACP Legal Defense Fund. 2019. Available at: https://www.naacpldf.org/our-thinking/issue-report/economic-justice/water-color-a-study-of-race-and-the-water-affordability-crisis-in-americas-cities/

[29] Montag, Coty. *Water/Color: A Study of Race & the Water Affordability Crisis in America's Cities*. The Thurgood Marshall Institute at the NAACP Legal Defense Fund. 2019. Available at: https://www.naacpldf.org/our-thinking/issue-report/economic-justice/water-color-a-study-of-race-and-the-water-affordability-crisis-in-americas-cities/, p. 4.

[30] https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15188&LangID=E

[31] From Pittsburgh to Flint, The Dire Consequences of Giving Private Companies Responsibility for Ailing Public Water Systems (October 2019). The Intercept. 20 May 2018. Available at: https://theintercept.com/2018/05/20/pittsburgh-flint-veolia-privatization-public-water-systems-lead/

[32] Flint Water Crisis: Infrastructure, Economy, Health, and Politics (October 2019). Circle of Blue. Available at: https://www.circleofblue.org/flint/

[33] https://everytownresearch.org/reports/nationofsurvivors/#section-bookmark-4. We highlight one example of a promising response to this violence is in the city of Jackson, which partners with the People's Advocacy Institute to prevent cycles of violence and develop pilot programs such as Credible Messenger Mentoring and Violence Interrupter Training to stop crime before it happens (https://www.wjtv.com/news/local-

news/grant-awarded-to-help-prevent-violent-crime-in-jackson/)

[34] https://everytownresearch.org/reports/nationofsurvivors

[35] https://everytownresearch.org/reports/nationofsurvivors/#section-bookmark-6

[36] https://everytownresearch.org/reports/nationofsurvivors/#section-bookmark-7

[37] https://everytownresearch.org/reports/nationofsurvivors/#section-bookmark-8

[38] The poll was commissioned by Americans for Financial Reform and the Center for Responsible Lending, and reported in: "Debt Collectors Target People of Color" Charlene Crowell, *New Pittsburgh Courier*, September 25-October 1, 2019. At: https://newpittsburghcourier.com/2019/09/26/debt-collectors-target-people-of-color/

[39] http://ourfinancialsecurity.org/2019/09/joint-letter-2/

[40] U.S. Conference of Mayors Resolution Calling for Hearings on Real City Budgets Needed and the Taxes our Cities Send to the Federal Military Budget (2017)

[41]Report of the Special Rapporteur on extreme poverty and human rights on his mission to the United States of America, May 2018, par. 5. At: https://undocs.org/A/HRC/38/33/ADD.1. Alston went on to observe: "The visit of the Special Rapporteur coincided with the dramatic change of direction in relevant United States policies. The new policies: (a) provide unprecedentedly high tax breaks and financial windfalls to the very wealthy and the largest corporations; (b) pay for these partly by reducing welfare benefits for the poor; (c) undertake a radical programme of financial, environmental, health and safety deregulation that eliminates protections mainly benefiting the middle classes and the poor; (d) seek to add over 20 million poor and middle class persons to the ranks of those without health insurance; (e) restrict eligibility for many welfare benefits while increasing the obstacles required to be overcome by those eligible; (f) dramatically increase spending on defence, while rejecting requested improvements in key veterans' benefits; (g) do not provide adequate additional funding to address an opioid crisis that is decimating parts of the country; and (h) make no effort to tackle the structural racism that keeps a large percentage of non-Whites7 in poverty and near poverty." (Par. 6).

[42] UN Econ. & Soc. Council [ECOSOC], Sub-Comm'n on the Promotion and Prot. of Human Rights, *Economic, Social, and Cultural Rights: Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, 20, E/CN.4/Sub.2/2003/12/Rev.2 (Aug. 26, 2003), P. 4. Available at: https://digitallibrary.un.org/record/501576/files/E_CN.4_Sub.2_2003_12_Rev.2-AR.pdf

[43] Ibid., p. 2.

[44] "Taking Stocking of Business and Human Rights in the United States: Reflections on the visit of the UN Working Group" (September 2019). Institute for Business and Human Rights. 3 April 2013. At: https://www.ihrb.org/other/governments-role/commentary-business-human-rights-united-states

[45] Baker, Jim. "Global Agreements and Protect, Respect, Remedy". Council of Global Unions (CGU). 2011. Available at:https://www.business-humanrights.org/sites/default/files/media/documents/global-agreements-ictur-2011.pdf

[46] USA Leaves the UN Human Rights Council (September 2019). Amnesty International. 19 June 2018. Available at: https://www.amnesty.org/en/latest/news/2018/06/usa-leaves-un-human-rights-council/

[47] Trump Administration Civil and Human Rights Rollback (September 2019). The Conference on Civil and Human Rights. Available at: https://civilrights.org/trump-rollbacks/#2018

[48] Beyond Voluntarism: human rights and the developing international legal obligations of companies, 2002, International Council on Human Rights Policy, Versoix, Switzerland,

[49] FAQ: The Covenant on Civil & Political Rights (ICCPR) (September 2019). ACLU. Available at https://www.aclu.org/other/faq-covenant-civil-political-rights-iccpr?redirect=human-rights/faq-covenant-civil-political-rights-iccpr

[50] Ibid., note 10, p.48.

[51] Ibid., note 10, p.57.

[52] Ibid., note 10, p.46.

[53] Committee on the Elimination if Racial Discrimination *General Recommendation 20, "Non-discriminatory implementation of rights and freedoms, (Art. 5)"*, 15 March 1996. Available for download at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7492&Lang=en

[54] Human Rights Council resolution 26/24, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises to the United States*, A/HRC/26/25/Add.4 (4 May 2014). Para. 38. Available from

https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A_HRC_26_25_Add.4_ENG.DOC

[55] Ibid., para 38.

[56] Human Rights Council resolution 17/31, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, A/HRC/17/31 (21 March 2011). Available from https://undocs.org/en/A/HRC/17/31

[57] Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises (September 2019). OEIGWG Chairmanship Revised Draft. July 7, 2019. Available at: https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/OEIGWG_RevisedDraft_LBI.pdf

[58] The United States' Opposition to the Business and Human Rights Treaty Process (September 2019). U.S. Mission to International Organizations in Geneva. October 15, 2019. Available at https://geneva.usmission.gov/2018/10/15/the-united-states-opposition-to-the-business-and-human-rights-treaty-process/

[59] Responsible Business Conduct: First National Action Plan for the United States of America (September 2019). U.S. Department of State. December 16, 2016. Available at: https://2009-2017.state.gov/e/eb/eppd/csr/naprbc/265706.htm

[60] Lauren, Paul Gordon (2007). "A Human Rights Lens on U.S. History: Human Rights at Home and Human Rights Abroad". In Soohandoo, Cynthia; Albisa, Catherine; Davis, Martha F. (eds.). *Bringing Human Rights Home: Portraits of the Movement*. III. Praeger Publishers. p. 4. ISBN 0-275-98824-4.

[61] Such national legislation includes, e.g.,: Title VII of the Civil Rights Act of 1964 (§ 7, 42 U.S.C. § 2000e et seq), as amended, prohibits employment discrimination based on race, color, religion, sex and national origin; the Americans with Disabilities Act (ADA) of 1990 (1990, Pub. L. No. 101-336, 104 Stat. 328) which prohibits employment discrimination against qualified individuals with disabilities by employers above a certain size - The Supreme Court in Olmstead v. L.C, 527 U.S. 581 (1999) held that unnecessary institutionalization constitutes discrimination under the ADA though this ruling has not been incorporated into federal housing policies; Age Discrimination in Employment Act of 1967 prohibits employment discrimination against persons 40 years of age or older (ADEA; 29 U.S.C. § 621 to 29 U.S.C. § 634); the Equal Pay Act prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort and responsibility under similar working conditions (Pub. L. 88-38) (29 U.S.C. §206(d)); Pregnancy Discrimination Act amends Title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy (§ 7, 42 U.S.C. § 2000e et seq).

[62] USA: Discussion draft of mandatory human rights disclosure legislation introduced in U.S. Congress (September 2019). Business and Human Rights Resource Centre. 12 July 2019. Available at: https://www.business-humanrights.org/en/usa-discussion-draft-of-mandatory-human-rights-disclosure-legislation-introduced-in-us-congress - c191101

[63] Mandatory human rights due diligence on the cards in the US? (September 2019). Lexology.com. July 25 2019. Available at: https://www.lexology.com/library/detail.aspx?g=f3df7999-2a19-4476-8d7c-a4467df55c54

[64] Ibid., note 22.

[65] Human Rights Council resolution 30/49, *Role of local government in the promotion and protection of human rights – Final report of the Human Rights Council Advisory Committee*, A/HRC/30/49 (7 August 2015), available from https://digitallibrary.un.org/record/848739

[66] Ibid., note 13.

[67] Barbara Oomen, Moritz Baumgärtel, Frontier Cities: The Rise of Local Authorities as an Opportunity for International Human Rights Law, *European Journal of International Law*, Volume 29, Issue 2, May 2018, Pages 607–630, https://doi.org/10.1093/ejil/chy021

[68] Human Rights Council resolution 26/24, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises to the United States*, A/HRC/26/25/Add.4 (4 May 2014), available from https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A_HRC_26_25_Add.4_ENG.DOC

[69] Ibid.