

Table of Contents

CHAPTER 6	168
Human Rights	168
A. GENERAL	168
1. Country Reports on Human Rights Practices.....	168
2. Role of U.S. State, Territorial, and Local Governments in Implementing Human Rights Treaties.....	168
3. ICCPR.....	174
4. Human Rights Council.....	174
a. <i>Overview</i>	174
b. <i>Universal Periodic Review</i>	175
c. <i>Actions regarding Syria</i>	178
d. <i>Actions regarding Sri Lanka</i>	179
e. <i>Actions regarding North Korea</i>	180
f. <i>Actions regarding Ukraine</i>	181
g. <i>Actions regarding Burundi</i>	182
h. <i>Actions regarding Boko Haram</i>	184
5. UN General Assembly’s Third Committee	184
6. UN Security Council Meeting on Human Rights Situation in the DPRK.....	186
B. DISCRIMINATION	188
1. Race	188
a. <i>Committee on the Elimination of Racial Discrimination</i>	188
b. <i>Human Rights Council</i>	195
2. Gender.....	196
a. <i>General Assembly</i>	196
b. <i>U.S. Actions on Women, Peace, and Security</i>	197
3. Sexual Orientation and Gender Identity.....	200
a. <i>General</i>	200

b. <i>Human Rights Council</i>	201
c. <i>Security Council</i>	202
4. Age.....	204
a. <i>Human Rights Council</i>	204
b. <i>Inter-American Convention on the Human Rights of Older Persons</i>	205
C. CHILDREN	206
1. Rights of the Child.....	206
a. <i>Human Rights Council</i>	206
b. <i>UN General Assembly</i>	207
2. Children and Armed Conflict	208
a. <i>United Nations</i>	208
b. <i>Child Soldiers Prevention Act</i>	210
D. ECONOMIC, SOCIAL, AND CULTURAL RIGHTS	210
1. ESC Rights Generally and Cultural Rights	210
a. <i>General</i>	210
b. <i>Cultural Rights</i>	211
2. Food	213
3. Water and Sanitation.....	214
4. Education	217
E. HUMAN RIGHTS AND THE ENVIRONMENT	219
F. RESPONSIBLE BUSINESS CONDUCT	221
G. INDIGENOUS ISSUES	224
1. HRC	224
2. UN General Assembly	226
H. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT	226
I. JUDICIAL PROCEDURE, PENALTIES, AND RELATED ISSUES	231
1. “Mandela Rules” for Treatment of Prisoners	231
2. Independence of the Judiciary.....	233
3. Arbitrary Detention.....	233

4. Death Penalty	236
J. FREEDOM OF ASSEMBLY AND ASSOCIATION	237
K. FREEDOM OF EXPRESSION	238
1. General.....	238
<i>a. Protection of Journalists</i>	238
<i>b. Freedom of expression, including artistic and creative expression</i>	240
2. Freedom of Expression and Encryption and Anonymizing Technologies	242
L. FREEDOM OF RELIGION	242
1. U.S. Annual Report.....	242
2. Human Rights Council.....	243
M. RULE OF LAW, DEMOCRACY PROMOTION, AND CIVIL SOCIETY	247
N. OTHER ISSUES	249
1. Protecting Human Rights While Countering Terrorism.....	249
2. Countering Violent Extremism.....	251
3. Remotely Piloted Aircraft Resolution.....	253
4. Putative Right to Peace	254
5. Putative Right to Development.....	254
6. Privacy	255
7. Human Rights and Firearms.....	256
8. Persons with Albinism	256
9. Human Rights and the World Drug Problem	257
10. Protection of the Family	258
11. Labor Rights	259
Cross References	260

CHAPTER 6

Human Rights

A. GENERAL

1. Country Reports on Human Rights Practices

On June 25, 2015, the Department of State released the 2014 Country Reports on Human Rights Practices. The Department submits the reports to Congress annually in compliance with §§ 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (“FAA”), as amended, and § 504 of the Trade Act of 1974, as amended. These reports are often cited as a source for U.S. views on various aspects of human rights practices in other countries. The reports are available at <http://www.state.gov/j/drl/rls/hrrpt/2014humanrightsreport/index.htm#wrapper>. Secretary of State John Kerry’s remarks on the release of the reports are available at <http://www.state.gov/secretary/remarks/2015/06/244358.htm>. A media note on the reports is available at <http://www.state.gov/r/pa/prs/ps/2015/06/244352.htm>.

2. Role of U.S. State, Territorial, and Local Governments in Implementing Human Rights Treaties

On February 25, 2015, Acting Legal Adviser Mary McLeod addressed the national conference of the National Association of Attorneys General on the role of state, territorial, and local government in promoting, respecting, and defending human rights. Her remarks are excerpted below and available at <http://www.state.gov/s/l/releases/remarks/239960.htm>.

* * * *

The United States is and has always been a leader in respecting, promoting, and defending human rights, both at home and around the world. To be sure, we are constantly seeking to more

fully realize the high standards we set for ourselves, but we can and should be proud of our record of implementing our international human rights obligations.

To be a leader in human rights means, first and foremost, leading by example. Our nation's founding documents reflect the depth of our commitment to equality and freedom, and the United States was at the forefront of the movement to enshrine these values, first in the Universal Declaration on Human Rights and then in a series of international treaties.

When the United States ratifies a treaty, it becomes the supreme law of the land, like the Constitution and federal statutes. It is only through robust efforts at all levels of government—federal, state, territorial, and local—that we can live up to the obligations we have undertaken for ourselves.

At the federal level, a wide variety of departments and agencies have a role in implementing our human rights obligations.

For example, in addition to helping negotiate international treaties and conventions, one of my office's many responsibilities is to interpret U.S. obligations under international law, including our human rights treaty obligations.

The Justice Department investigates and prosecutes civil rights violations, the Department of Housing and Urban Development combats housing discrimination, and other departments and agencies at the federal level play a similarly important role in promoting and defending human rights.

But our efforts at the federal level are only one small component of our efforts as a nation. Because ours is a Federal system, it is largely through the work of officials like you—acting at the state, territorial, and local level—that the United States ensures compliance with its human rights treaty obligations. And Attorneys General, as the chief legal officers for our states and territories, play a particularly critical role in this regard.

So today I'll provide a brief overview of our obligations and of the reporting we and all other countries must do. I'll then focus in particular on the role of state, territorial, and local actors in implementing our human rights obligations and presenting our record on the global stage.

Overview of Five Human Rights Treaties

The United States is a party to five core human rights treaties: the International Covenant on Civil [and] Political Rights (or ICCPR); the Convention on the Elimination of Racial Discrimination (or CERD); the Convention Against Torture (or CAT); and two optional protocols to the Convention on the Rights of the Child (or CRC).

The ICCPR, which the United States ratified in 1992, is one of the fundamental human rights treaties negotiated after World War II, and it covers a wide range of civil and political rights, many of which find analogues in our Bill of Rights. For example, it protects freedom of speech, freedom of religion, and the right of peaceful assembly; it guarantees equal protection and fair trial rights; and it prohibits cruel treatment and slavery.

The CERD, which we ratified in 1994, requires countries to take various actions to work towards the elimination of racial discrimination, including with respect to housing segregation, voting rights, and access to education and health care.

The CAT, also ratified in 1994, augments the core prohibition on torture and cruel treatment under international law by, for example, creating universal jurisdiction to prosecute acts of torture, and prohibiting the deportation or extradition of individuals to countries where they would likely face torture.

And while the United States has not ratified the CRC itself, we ratified two optional protocols to that treaty in 2002. One requires States Parties to prohibit child trafficking, child pornography, and child prostitution, while the other addresses recruitment and use of children in armed conflict.

U.S. Approach to Implementation

Although these treaties do not give rise directly to judicially enforceable rights in U.S. courts, the United States is bound under international law to implement these obligations, which we do through federal and state law.

Prior to becoming a party to each of these treaties, the State Department, coordinating with other federal agencies, carefully determined whether existing laws in the United States were sufficient to implement the treaty, which has generally been the case.

Moreover, with each treaty the United States has issued a set of what are known as Reservations, Understandings, and Declarations, which clarify or in some cases limit our obligations under the treaty in order to ensure that we can comply.

We have issued one such “understanding” regarding our Federal system when ratifying many human rights treaties. This understanding confirms that we are bound by the treaty and will implement it at the appropriate governmental level—federal, state, territorial, or local.

Reporting Process

One important mechanism for promoting compliance with human rights treaties is the reporting process.

Under each of the five treaties we have ratified, the United States—like other Parties to these treaties—is obliged to prepare a report every few years regarding our implementation of the treaty, which is submitted to a committee of experts created under that treaty.

Usually about a year after filing such a report, we send a delegation to Switzerland to present the report to that committee and answer their questions. We made three such presentations in 2014: the ICCPR in March, the CERD in August, and the CAT in November. Our next set of reports relating to the Children’s Protocols is due next January.

Each of these committees is made up of between 10 and 18 independent experts in that substantive area from around the world. These committees review individual country reports, issue general comments on particular provisions, and in some cases address individual complaints. The views and recommendations of the committees are not legally binding but are often given great weight by the international community.

The preparation of these reports requires input from a wide range of federal agencies, such as the Departments of Justice, Homeland Security, and Education.

Over the last few years, we have also consistently reached out to state and territorial governors and tribal leaders to solicit input for our reports.

To fail to represent the trailblazing work you are doing every day would sell the United States short. We need your help.

The presentation of our reports occurs over a 1 or 2 day session with the treaty committee in Geneva. Although the atmosphere is not quite like an oral argument, there is certainly a buzz in the air, especially when we face difficult questioning.

These presentations are usually attended by a large contingent of U.S. civil society activists, and the “shadow reports” filed by civil society groups often inform the questions we receive from members of the committee. For this reason, the State Department organizes several consultations with civil society groups throughout the reporting and presentation process, which themselves serve as vital opportunities to receive input on our human rights record.

No matter what, our delegations are always prepared to tell the world about the myriad ways in which our nation's commitment to human rights is manifested in our policies and practices.

A few days after each presentation, the committee issues a set of "Concluding Observations [and] Recommendations," which presents the committee's views and recommendations on how the United States can further our implementation of the relevant treaty.

Our delegations generally feature high-level participation by multiple federal agencies. For example, our recent CERD delegation included officials from nine different agencies.

Moreover, to reflect our Federal system of government, we have included one or more state or local representatives on each of our delegations since 2008. ...

Universal Periodic Review

Having completed the three presentations last year, we are currently busy preparing for the Universal Periodic Review process (or UPR), which is another important opportunity to present our human rights record internationally.

The UPR process, which started in 2006 and is conducted through the UN Human Rights Council, involves a review of the human rights records of all 192 UN Member States once every five years.

Each country submits a report addressing the full range of its human rights obligations and commitments. The UPR is a peer review process, so other countries have the opportunity to make recommendations for future action. The country indicates which of these recommendations it supports, and it is then expected to address progress on those recommendations in its next UPR report.

We just submitted our second UPR report in February and will present this report in Geneva in May. We will finish the process in September by announcing which recommendations we accept.

Role of State Attorneys General in Implementation

So what does all this mean for the work of the Attorneys General?

The federal government has limited or overlapping jurisdiction with the States on many of the issues covered by these treaties, which is why it is all-the-more important for federal officials to engage with state, territorial, and local government officials.

You are, truly, at the frontlines. When you formulate policies, open civil rights investigations, and take other steps to protect individuals against discrimination, reduce racial disparities in education or housing, or prosecute those exploiting children, you are helping to fulfill our country's human rights obligations.

While the treaty committee recommendations and the recommendations that come out of the UPR process are not legally binding, it is incumbent on all of us—at all levels of government—to be familiar with them because they reflect what domestic issues are of concern to the international human rights community.

We also strongly encourage you and your colleagues to engage in the reporting processes I mentioned, and there are a number of ways to get involved. Perhaps the easiest is by providing information we can use in our reports to highlight the important work happening within the states and territories to promote and protect human rights.

Our strong and effective engagement in the reporting process helps the United States in our efforts to make sure that other countries, like China, Russia or Venezuela, live up to their own human rights obligations and commitments.

Our next report, which is due in January 2016, relates to the children's protocols I mentioned earlier. We would greatly appreciate hearing about the work you are doing to combat child prostitution, child pornography, and child trafficking.

We have provided a letter today, which will soon go to many state and local officials, that includes more information, as well as an email address where you can send us input for our upcoming report.

Conclusion

My hope is that this very brief overview provides a foundation for sustained collaboration between my office and yours on human rights issues. My colleagues and I look forward to the opportunity to work with many of you in the months and years to come.

* * * *

On April 25, 2015, Ms. McLeod wrote to the governors of the U.S. states, as well as the mayor of the District of Columbia and tribal leaders, regarding treaty body recommendations, the Universal Periodic Review, and the Children's Protocol report. Excerpts follow from Ms. McLeod's April 25, 2015 letter to state governors, which is available at <http://www.state.gov/s/l/releases/2015/241814.htm>.

* * * *

I am writing to you as part of the U.S. Department of State's ongoing efforts to keep officials at all levels of government informed about U.S. human rights obligations and commitments. As you know, the United States has a long and proud tradition of advancing the protection of human rights around the globe. Our country also upholds these values by protecting human rights here at home, which we achieve not only through actions taken at the federal level, but also through the dedicated efforts of state, local, insular, and tribal governments in areas such as protecting civil and political rights, combating racial discrimination, and protecting children from harms like trafficking and prostitution. We thus believe it is important to distribute broadly information regarding the U.S. government's human rights obligations and commitments and our efforts to present and defend our country's human rights record to the international community.

2014 Treaty Presentations

The United States is a party to five core human rights treaties: the International Covenant on Civil and Political Rights (ICCPR); the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and two optional protocols to the Convention on the Rights of the Child (CRC). As part of our obligations under these treaties, the U.S. government must submit reports periodically to a committee of independent experts created by the terms of each of these treaties and then appear before that committee to present the report and answer questions. Over the last 12 months, the U.S. government made three such presentations in Geneva, Switzerland with respect to the following treaties: the ICCPR on March 13 and 14, 2014; the CERD on August 13 and 14, 2014; and the CAT on November 12 and 13, 2014.

These presentations were valuable opportunities to demonstrate to the world our country's commitment to protecting human rights domestically through our comprehensive system of laws, policies, and programs at all levels of government—federal, state, local, insular, and tribal. Reflecting our federal system of government, each of the U.S. delegations to these presentations featured not only senior officials from a range of federal agencies, but also elected or other high-level officials from state and local governments.

Shortly after each presentation, the respective committee issued a set of Concluding Observations [and] Recommendations (CORs), which presented the committee's views and recommendations on how the United States can further our implementation of the relevant treaty. Although these CORs are not legally binding, the United States carefully considers the views expressed by each committee, regardless of whether we agree with the factual or legal assertions on which they are based or whether they bear directly on obligations arising under the relevant treaty. These CORs provide constructive input from respected human rights actors in the international community and, as such, they merit consideration by officials at every level of government within the United States when taking actions or formulating and implementing policies that impact human rights.

In addition, CORs can serve as helpful reference points for consultations with civil society organizations and advocates on issues related to human rights in the United States. The federal government conducts civil society consultations in connection with the human rights treaty reporting process, which are important opportunities to receive input and feedback on ways that we can improve our implementation of human rights obligations and commitments. Similar human rights consultations could be useful at other levels of government.

The three sets of CORs from our 2014 presentations are available on the State Department website at:

ICCPR: www.state.gov/documents/organization/235641.pdf

CERD: www.state.gov/documents/organization/235644.pdf

CAT: www.state.gov/documents/organization/234772.pdf

These documents can also be found, along with a wealth of other materials regarding U.S. human rights treaties and U.S. reports and presentations related to our human rights treaty obligations, at: www.state.gov/j/drl/reports/treaties/index.htm.

Upcoming Universal Periodic Review Presentation

The U.S. government will make its next human rights related presentation as part of the UN Human Rights Council's Universal Periodic Review (UPR) mechanism, on May 11, 2015, after filing our second UPR report on February 2, 2015. Unlike the treaty reporting process, the UPR is a process applicable to every UN Member State and UPR reports are filed approximately every five years. At the May presentation, other UN member states will have the opportunity to pose questions and make recommendations to the U.S. delegation related to implementation of our human rights obligations and commitments across a broad range of issues. The UPR provides the United States with the opportunity to reflect on the progress we have made in the promotion of human rights domestically, and to continue to consider ways to improve protection of human rights in our country. The content of our presentation, and the recommendations that we receive and ultimately support, will be available online at www.humanrights.gov.

Upcoming Reports on Children and Human Rights

We will also soon begin drafting our next human rights treaty reports, which will provide information on U.S. implementation of the two Optional Protocols to the Convention on the Rights of the Child (CRC) that were ratified by the United States in 2003: (1) the Optional

Protocol to the CRC on the Involvement of Children in Armed Conflict and (2) the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography. ...

* * * *

3. ICCPR

As discussed in *Digest 2014* at 168-78, the United States made its presentation to the Human Rights Committee on its Fourth Periodic Report Concerning the International Covenant on Civil and Political Rights (“ICCPR” or “Covenant”) in 2014. On March 31, 2015, the United States conveyed to the Committee its one-year follow-up response to the Committee’s priority recommendations on the U.S. Periodic Report. The follow-up response is available at <http://www.state.gov/documents/organization/242228.pdf>. The United States also submitted a reply to the Committee Co-Rapporteur’s August 6, 2015 follow-up letter on October 9, 2015. That reply is available on the Committee website at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/USA/INT_CCPR_FCO_USA_21976_E.pdf.

On July 2, 2015, at the 29th session of the HRC, the United States joined consensus on a resolution entitled “The fiftieth anniversary of the adoption and the fortieth anniversary of the entry into force of the International Covenants on Human Rights.” Wesley J. Reisser delivered a U.S. explanation of position, available at <https://geneva.usmission.gov/2015/07/02/anniversary-of-international-covenants/>, which includes the following:

The United States joins other countries in celebrating the anniversaries of the entrance into force of the international covenants on human rights, which will take place late next year. We firmly believe that all human rights are equally important. We join consensus on this resolution with the understanding that it does not imply that states must implement obligations under human rights instruments to which they are not a party.

4. Human Rights Council

a. Overview

The United States participated in three sessions of the HRC in 2015. The key outcomes of each session for the United States are summarized in fact sheets issued by the State Department. The key outcomes at the 28th session are described in a March 27, 2015 fact sheet, available at <http://www.state.gov/r/pa/prs/ps/2015/03/239846.htm>. They include: resolutions on the human rights situations in Burma, Iran, North Korea and Syria; resolutions on freedom of religion and combatting religious intolerance; and a joint statement on countering violent extremism. The key outcomes at the 29th session

are described in a July 9, 2015 fact sheet, available at <http://www.state.gov/r/pa/prs/ps/2015/07/244761.htm>. They include: resolutions on the human rights situations in Burma, Ukraine, South Sudan, and Syria; a resolution on eliminating violence against women; and a joint statement on human rights violations based on sexual orientation and gender identity. The key outcomes at the 30th session are summarized in the State Department's October 8, 2015 fact sheet, available at <http://www.state.gov/r/pa/prs/ps/2015/10/248047.htm>. They include resolutions on the human rights situations in Burundi, Sri Lanka, Sudan, Syria, and Yemen; resolutions on countering violent extremism and equal participation in public affairs; and joint statements on freedom of expression, reprisals, civil society, and Bahrain.

On March 27, 2015, at the 28th session of the HRC, Ambassador Keith Harper delivered a general statement on international law matters to supplement points raised in several statements on resolutions on a variety of topics, including the right to education, and human rights and climate change. The statement follows and is available at <https://geneva.usmission.gov/2015/07/06/general-statement-on-international-law-matters-relevant-to-the-following-resolutions-of-the-un-human-rights-council-29th-session-right-to-education-child-early-and-forced-marriage-violence-again/>.

The United States understands that these resolutions do not imply that states must join human rights instruments to which they are not a party, or that they must implement those instruments or any obligations under them. These resolutions do not change the current state of conventional or customary international law. The United States understands that any reaffirmation of prior documents in these resolutions applies only to those states that affirmed them initially. We also underscore that human rights are held and exercised by individuals, not groups. And while we recognize that development facilitates the enjoyment of all human rights, we reiterate the primary responsibility of states to protect and promote human rights.

b. *Universal Periodic Review*

The United States submitted its Universal Periodic Review (“UPR”) report on February 2, 2015 to the Office of the UN High Commissioner for Human Rights. See February 6, 2015 media note, available at <http://www.state.gov/r/pa/prs/ps/2015/02/237252.htm>. For background on the previous U.S. UPR report submitted in 2010, see *Digest 2010* at 202-04. As explained in the media note, the 2015 report “is the result of robust collaboration between 14 U.S. federal agencies, civil society across the country, and the White House.” The report and further information about the UPR process are available at <http://www.state.gov/j/drl/upr/index.htm>.

On May 11, 2015, the United States delegation delivered the U.S. Universal Periodic Review presentation in Geneva. The opening statement of Ambassador Harper is excerpted below and available at <https://geneva.usmission.gov/2015/05/11/34432/>.

* * * *

In 2010 a number of states made recommendations related to Indigenous peoples. One was that the United States endorsed the UN Declaration on the Rights of Indigenous Peoples. On December 16, 2010, President Obama did indeed announce support for the Declaration, as further explained in the accompanying Statement of Support.

There has been a concerted effort to address challenges while adhering to the principles enunciated in the Declaration. The United States has made significant advances working in partnership with tribal communities in areas including healthcare, community safety and law enforcement, education, economic development, and land rights.

In 2010, for example, the President signed into law the Tribal Law and Order Act to, among other things, empower tribal governments to safely and effectively provide public safety in Indian Country. Then in 2013, to further address disproportionately high levels of violent crimes committed against Indigenous women, he signed into law the Violence Against Women Reauthorization Act of 2013. Under this law, tribal courts can assert jurisdiction over non-Native Americans who commit certain violent crimes against Indigenous women. This initiative is perfectly in accord with the overarching principal in the DRIP to involve Indigenous communities—indeed empower those communities to—address their challenges.

* * * *

Acting Legal Adviser Mary McLeod followed Ambassador Harper with her opening statement, excerpted below and available at <https://geneva.usmission.gov/2015/05/11/34437/>. Ms. McLeod was followed by James Cadogan, Senior Counselor to the Assistant Attorney General in the Civil Rights Division of the Department of Justice, whose opening statement is available at <https://geneva.usmission.gov/2015/05/11/james-cadogan-department-of-justice-statement-at-the-upr-of-the-united-states/>.

* * * *

Since our last UPR in 2010, we have carefully considered the recommendations we accepted from our fellow States and have taken many steps to implement them.

The desire to “form a more perfect union” is woven into our nation’s founding documents, and this same desire inspires our efforts to confront the challenges of today. Indeed, the strength of our democratic system is that it allows for constant scrutiny, advocacy, and debate, which fuels progress and reform.

The progress that democracy, free expression, and civil society can achieve in the United States is illustrated by the battle against all forms of discrimination.

One form of discrimination we have worked to address, especially since our last UPR, concerns the human rights of LGBT individuals.

These issues have been the subject of wide-ranging discussion in our country, as in many others. Peaceful demonstrations were held, public campaigns were launched, thoughtful articles were written, and the powerful words of civil society advocates echoed throughout our nation. These voices were heard by our legislators and before our free and independent judiciary. We have not shied away from the issue because it was challenging—we have embraced it. At the core of these efforts is our belief that what is most important is to recognize the common humanity, the common human dignity, and the need for equal treatment of all people.

At the federal level, we have prioritized the fight to end violence and discrimination against LGBT persons. We have prosecuted crimes motivated by bias, including those based on sexual orientation or gender identity. We have put an end to the discriminatory “Don’t Ask, Don’t Tell” Policy in the U.S. Armed Forces. We have prohibited discrimination against LGBT persons in federal employment. And just last month, the President announced his support for efforts, including at the state level, to ban the use of conversion therapy for minors, or practices by mental health providers that seek to change an individual’s sexual orientation or gender identity.

At the state and local level, many important changes have also taken place. In response to citizens’ demands, laws have been passed to prohibit employment discrimination based on sexual orientation and gender identity. A combination of advocacy and litigation before an independent judiciary has paved the way for meaningful changes in public opinion and law on the issue of marriage equality, allowing equal access to numerous federal and state benefits.

As you will hear today, we have many successes to report, and we’re proud of the work we’ve done since our last UPR. Still, we know we have faced challenges. For example, in December the declassified summary of the Senate Select Committee on Intelligence report was publicly released, which detailed the former CIA detention and interrogation program. As President Obama has acknowledged, we crossed the line, we did not live up to our own values, and we take responsibility for that. We have since taken steps to clarify that the legal prohibition on torture applies everywhere and in all circumstances and to ensure that the United States never resorts to the use of those harsh interrogation techniques again.

As you will hear from my colleagues representing seven federal agencies and the State of Illinois, we continue to work through this and other human rights issues as a nation, and we look forward to hearing your questions, comments, and recommendations today. There is more work to be done—there always is—but we’re proud of what we’ve achieved in our democracy to advance human rights.

* * * *

At its UPR presentation in May, the United States received 343 recommendations from other UN member states. On September 24, 2015, the United States presented to the Human Rights Council its positions on each of those recommendations. Ambassador Harper and Deputy Assistant Secretary of State Scott Busby delivered remarks, available

at <https://geneva.usmission.gov/2015/09/24/ambassador-harper-im-very-proud-to-be-before-you-today-for-the-adoption-of-the-second-upr-of-the-united-states/> and <https://geneva.usmission.gov/2015/09/24/statement-by-das-scott-busby-at-the-upr-adoption-of-the-united-states/>. The United States filed an Addendum to its report, explaining its positions on each recommendation, which is available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/USSession22.aspx>.

In November, the United States voluntarily filed an appendix to the addendum with extended explanations of its positions on recommendations it supported in part. That appendix is available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session22/US/AdditionalInfo_US_22session.pdf.

c. *Actions regarding Syria*

On March 27, 2015, at the Human Rights Council's 28th session, Ambassador Keith Harper delivered a general comment on behalf of the U.S. delegation on the resolution entitled "The continuing grave deterioration in the human rights and humanitarian situation in the Syrian Arab Republic." The resolution was adopted by a vote of 29 to 6, with 12 abstentions, on March 27. Ambassador Harper's statement is excerpted below and available at <https://geneva.usmission.gov/2015/03/27/human-rights-council-resolution-on-continuing-grave-deterioration-of-human-rights-in-syria/>. The proposed amendment mentioned in this statement was rejected by a vote of 10 (for adopting the amendment) to 23, with 14 abstentions.

U.S. statements on similar resolutions regarding Syria at the 29th and 30th sessions of the Human Rights Council are available at <https://geneva.usmission.gov/2015/07/02/us-statement-syria/> and <https://geneva.usmission.gov/2015/10/01/the-grave-and-deteriorating-human-rights-and-humanitarian-situation-in-the-syrian-arab-republic/>.

* * * *

The United States is pleased to co-sponsor the resolution on "the continuing grave deterioration of the human rights and humanitarian situation in the Syrian Arab Republic" and urges all members to support it.

With the passage of this resolution, the Human Rights Council continues to fulfill the important role of drawing global attention to the atrocities taking place in Syria and collecting the evidence necessary to ensure future accountability for these acts.

The Commission of Inquiry has described continued atrocities by the Asad regime, including those involving systematic attacks on civilians, restriction of humanitarian assistance, torture, and the detention and disappearance of civilians on the basis of their associations. Extremist groups also continue to commit widespread human rights abuses. The COI has

assessed that in many instances, the Asad regime and non-state actors have committed war crimes and crimes against humanity. The United States condemns atrocities committed by all sides.

Let us not forget the aims of the peaceful protesters in March 2011, who called for the end of torture and demanded respect for human rights. We deplore the growing suffering and torture in detention centers throughout Syria, as the COI's reports have depicted. We reiterate our calls for the immediate release of jailed human rights defenders, including Mazen Darwish, head of the Syrian Center for Media and Freedom of Expression, as well as the release of human rights activists abducted by anti-government armed groups, including Razan Zeitouneh, founder of the Violations Documentation Center.

The COI, despite denials of access, continues to provide critical reporting on the ongoing gross violations and abuses in Syria. The United States strongly supports the renewal of the COI's mandate and urges other states to do so as well.

We also applaud the courageous Syrian human rights defenders who, despite the grave risks, continue to document atrocities committed by all sides and share their findings with the international community. United with the Syrian community and the international community, we reiterate our call, for an immediate end to all violations and abuses of human rights and violations of international humanitarian law, especially those egregious, widespread, and continued violations committed by the Asad regime.

The United States supports the text as presented, and urges all members to reject the proposed amendment to operative paragraph 13. That list of militia groups, whose participation in the conflict in Syria has exacerbated the situation there, has previously appeared in Syria resolutions at this Council and at the UN General Assembly, and those groups have also been named by the COI in its reporting. We urge all member states to vote "NO" on that proposed amendment and "YES" on the resolution as presented.

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d. *Actions regarding Sri Lanka*

On September 24, 2015, the United States and others tabled a resolution on Sri Lanka at the UN Human Rights Council. The resolution was adopted on October 1, 2015. U.N. Doc. A/HRC/RES/30/1. Ambassador Harper delivered an adoption statement on the resolution on October 1, 2015, available at <https://geneva.usmission.gov/2015/10/01/ambassador-harper-sri-lanka-resolution-supports-path-to-lasting-peace/>. Secretary Kerry's press statement on the vote is excerpted below and available at <http://www.state.gov/secretary/remarks/2015/09/247268.htm>. For discussion of previous Sri Lanka resolutions at the HRC, see *Digest 2014* at 188-89, *Digest 2013* at 131, and *Digest 2012* at 140.

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Today the United States, Sri Lanka, and our partners tabled a resolution at the UN Human Rights Council in Geneva that represents a landmark shared recognition of the critical importance of truth, justice, reparations, and guarantees of non-recurrence in promoting reconciliation and ensuring an enduring peace and prosperity for all Sri Lankans.

The Sri Lankan government's decision to join as a co-sponsor paves the way for all of us to work together to deliver the commitments reflected in the resolution.

In the past year, the Sri Lankan people have twice voted to put Sri Lanka on the path to peace and turned their country away from a divisive approach that for too long sapped Sri Lanka's strength. This resolution demonstrates our support for Sri Lanka as it takes courageous steps to strengthen its democracy and restore civil liberties for all Sri Lankans, while also addressing the painful experiences of the past to ensure they never recur.

This resolution marks an important step toward a credible transitional justice process, owned by Sri Lankans and with the support and involvement of the international community. The resolution will help families of the missing find answers about their loved ones. And it lays out a path to provide truth, justice, reparation, and guarantees of non-recurrence that the Sri Lankan people deserve while safeguarding the reputation of those, including within the military, who conducted themselves with honor and professionalism.

As I promised in Colombo earlier this year, the United States will remain steadfast in our commitment to walk with Sri Lanka as it takes these important but challenging steps.

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e. *Actions regarding North Korea*

At the Human Rights Council's 28th Session, the United States co-sponsored a resolution expressing deep concern about human rights violations in North Korea (the "Democratic People's Republic of Korea" or "DPRK"). The general comment, delivered by the U.S. delegation on March 27, 2015, on the resolution appears below and is available at <https://geneva.usmission.gov/2015/03/27/u-s-co-sponsors-resolution-expressing-deep-concern-about-human-rights-violations-in-north-korea/>.

The United States will again co-sponsor this important resolution on human rights in the Democratic People's Republic of Korea and urge all Member States to support it. The United States government, like many of the other states here today, is deeply concerned about human rights violations in the DPRK. The UN Commission of Inquiry has determined that these violations constitute, in many instances, crimes against humanity, and that they are committed "pursuant to policies established at the highest level of the State."

The United States thanks Japan and the European Union for introducing a resolution that holds the DPRK accountable for its serious and ongoing violations of human rights. We support the extension of the mandate of the Special Rapporteur, and look forward to the establishment of the OHCHR office in Seoul. We note that this resolution calls for a panel on the human rights situation in DPRK. Victims' voices are what made the Commission of Inquiry

report on the DPRK especially powerful, and it is a worthwhile endeavor for the Council to hear them firsthand.

The DPRK is among the world's most pervasive deniers of freedoms and violators of human rights. As such, Member States should vote YES on this resolution, which condemns the systematic, widespread and gross violations of human rights in the DPRK. Thank you, Mr. President.

f. *Actions regarding Ukraine*

On July 3, 2015, Ambassador Harper delivered the U.S. explanation of vote on a resolution on assistance to Ukraine. His remarks are excerpted below and available at <https://geneva.usmission.gov/2015/07/06/u-s-eov-on-hrc-cooperation-and-assistance-to-ukraine/>.

* * * *

The United States applauds the Government of Ukraine for bringing forth this resolution. We also commend Ukraine for its continuous cooperation with the Office of the High Commissioner and Ukraine's willingness to have frank conversations about the challenges it is facing.

...

Members of this Council are fond of stressing the need for cooperative approaches to human rights challenges. It is therefore disheartening that many of the same members who yesterday justified their votes against resolutions under Item 4 by emphasizing the need for collaboration, today have voiced opposition to this Item 10 resolution.

This resolution is a purely procedural one tabled by the concerned state. It highlights cooperation between the Ukrainian Government and an existing OHCHR Mission in the country—facts that are incontrovertible. It seeks to build upon the OHCHR's reporting on current human rights challenges. After speaking with many delegations, I have not heard a single objection to the text. In short, this resolution calls for precisely the kind of cooperation and collaboration with OHCHR and this Council that many states often call for.

There is no explanation then for why some states want to say no to Ukraine when it is reaching out for support through this resolution. There is no explanation other than rank politics. It is this Council's duty to provide support to states that are willing to ask for it. The United States will voice its support by voting YES on this draft text. We urge all other states who value the Council as an institution and who believe in the importance of promoting and protecting the human rights of all to vote YES as well.

* * * *

On September 29, 2015, Ambassador Harper delivered a statement on Russian aggression in Ukraine at the 30th session of the HRC. His remarks are excerpted below and available at <https://geneva.usmission.gov/2015/09/29/ambassador-harper-russian-aggression-in-ukraine-is-blattant-and-contrary-to-international-law/>.

* * * *

The United States strongly supports the ongoing work of the High Commissioner's Office to monitor and report on the situation in Ukraine. We urge other member states to contribute to the mission, whose work remains critical. During the last reporting period, the monitoring mission reported 413 civilian casualties and massive disruption to the human rights of Ukrainians, caused overwhelmingly by combined Russian-separatist forces in eastern Ukraine and the occupation authorities in Crimea.

The United States is deeply disturbed by ongoing abuses by Russian occupation authorities in Crimea and we demand that OHCHR monitors be allowed into Crimea, as they are to other parts of Ukraine. Crimean Tatars are facing growing harassment by occupation authorities, including arbitrary arrests, political prosecutions, and crackdowns on Tatar media outlets and civil society organizations. Russian authorities have shown a pattern of mistreatment of the Tatars including by depriving them of health care and education, and Russia has exiled Tatar leaders who dare speak out for their constituents.

In addition, the United States condemns in the strongest possible terms the ongoing violations and abuses routinely perpetrated by combined Russian-separatist forces and illegitimate separatist authorities in the Donetsk and Luhansk oblasts in Ukraine's east. Separatists use egregious tactics including forced disappearances, mock executions, acts of brutality and other atrocities, to spread fear among the local population. Members of religious minorities such as Jehovah's Witnesses and Baptists face severe persecution. Russia-backed separatists also deny humanitarian access which in turn leads to ever-growing shortages of basic goods, including food and medicine.

Russian aggression in Ukraine is blatant and contrary to international law. Russia's egregious actions extend to measures taken against Ukrainian citizens transferred to Russia. We call for the immediate and unconditional release of Nadiya Savchenko, and Oleg Sentsov, Olexander Kolchenko, and Gennadiy Afanasyev.

The United States commends the government of Ukraine for its ongoing cooperation with OHCHR and its willingness to improve human rights in Ukraine. The government is taking important steps to combat corruption and improve policing. They are also taking steps towards combatting impunity by arresting and trying Ukrainians who have accused of committing abuses during the conflict, including members of the military and militia groups.

More must be done, and we will stand by the Ukrainian people as they continue their struggle for their independence and their country's territorial integrity.

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g. *Actions regarding Burundi*

On December 17, 2015, Ambassador Harper delivered a statement at the Human Rights Council's special session on the human rights situation in Burundi, in support of the session and the resolution that it adopted. His statement is excerpted below, and is available in full at <https://geneva.usmission.gov/2015/12/17/ambassador-harper-hrc-special-session-on-burundi-now-is-the-time-to-stand-against-violence/>. Ambassador Harper's December 11, 2015 letter requesting that the President of the Council hold

that special session is available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/SpecialSession/Session24/A.HRC.RES.S-24.1_E.docx. Ambassador Harper's statement at the December 16, 2015 organizational meeting for the special session is available at <https://geneva.usmission.gov/2015/12/16/us-deeply-alarmed-at-spiraling-violence-in-burundi-u-s-supports-hrc-special-session/>. Ambassador Harper's statement presenting the resolution to the December 17, 2015 special session is available at <https://geneva.usmission.gov/2015/12/17/u-s-presents-resolution-on-burundi-at-human-rights-council-special-session/>.

* * * *

The United States is pleased to be part of the overwhelming support for calling the Special Session today. We wholeheartedly cosponsor the resolution before us.

The United States is deeply alarmed by the spiraling violence in Burundi perpetrated or directed by government and non-government actors alike. President Nkurunziza's pursuit of a third term in office has led to a humanitarian, economic, and security crisis, which in turn has resulted in more than 200,000 Burundians fleeing for neighboring countries. The United States joins the Council today for this important session because we strongly believe that the international community must use all of the tools available to push for an immediate end to the cycle of violence perpetrated by both the security forces and elements of the armed opposition.

...

Increasing government repression of civil liberties and recent dangerous and divisive rhetoric by government officials have contributed to the climate of fear in Burundi. We continue to see large numbers of arbitrary arrests of individuals solely based on their political views. On December 12, rebel insurgents initiated attacks on military installations, exacerbating an increasingly unstable situation. In response, Burundian security forces reportedly rounded up dozens of men, some of whom later were found dead on the streets of Bujumbura. We condemn the attacks on the military installations. We call for an immediate, independent investigation into the civilian deaths and for the Government of Burundi to publicly reject excessive use of force. We have also heard deeply disturbing statements from Burundi President Nkurunziza and President of the Senate Ndikuriyo in recent weeks that evoke the horrors of previous episodes of mass violence in Burundi. We urge the Government and other parties to refrain from any statements or actions that could heighten tensions in Burundi.

Amid the calamity, we see bravery and hope in Burundi. Mr. Pierre Claver Mbonipa, who joins us for this session today, is a shining example. He and other courageous human rights defenders, such as Marguerite Barankitse who is also here today, are under attack in Burundi. We condemn the killings of Pierre's son, Mr. Welly Nzitonda, and of his son-in-law, Pascal Nishirimana. These attacks must stop immediately. We urge Burundian authorities to conduct a thorough and independent investigation of these and other crimes, and to bring the perpetrators to justice.

The United States is committed to the goal of restoring peace and stability in Burundi. We call upon all parties in Burundi to reject unlawful violence. We believe that there is a clear path for Burundi's leaders to avoid further violence and reach a political solution to the current

crisis. Ordinary Burundians deserve to live in peace, without constant fear for their own lives or those of their children. It is time for all sides in Burundi to look beyond their own gain and demonstrate strength and leadership by engaging in an internationally-mediated dialogue outside Burundi. Now is the time to stand against violence and begin the hard work of uniting.

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h. Actions regarding Boko Haram

On April 1, 2015, Ambassador Harper delivered an explanation of position at the special session of the Human Rights Council to address the terrorist group Boko Haram. His statement is excerpted below, and is available in full at <https://geneva.usmission.gov/2015/04/01/eop-on-boko-haram-special-session-resolution/>.

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The United States joins consensus on the resolution presented at this special session in solidarity with the countless individuals affected by Boko Haram-related violence.

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While supporting this important initiative of the Council today, we do note our concerns on the inclusion of language that falls outside the scope of this Council.

In particular, we note that the Human Rights Council lacks the mandate and expertise to address topics such as efforts to limit the flow of funding to non-state groups as well as discussions related to the provision of assistance in efforts to counter terrorism. Other bodies are more appropriate fora for such discussions.

We strongly condemn the atrocities committed by Boko Haram and, simultaneously, we reaffirm that the principal role for members of this Council is to hold each other, as States, accountable for fulfilling our human rights obligations and commitments.

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5. UN General Assembly's Third Committee

On November 19, 2015, Ambassador Samantha Power, U.S. Permanent Representative to the United Nations, delivered a statement on behalf of the United States at the UN General Assembly's Third Committee on North Korea, Syria, and Iran. Her statement follows and is available at <http://usun.state.gov/remarks/6989>.

* * * *

On North Korea, in an extremely strong vote, the world has condemned the government's egregious human rights violations—including torture, public executions, arbitrary detentions, and the extensive use of forced labor—and affirmed that those most responsible must be held accountable. The resolution encouraged the Security Council to continue to consider the relevant recommendations of the North Korean Commission of Inquiry, including on accountability.

On Syria, 115 member states renewed their condemnation of the Syrian regime's continued indiscriminate use of weapons such as barrel bombs and the starvation of civilians as a method of combat, as well as the atrocities carried out by ISIL. Together, member states condemned the killing and persecution of human rights defenders and journalists, enforced disappearances, and the killing of peaceful protestors. The resolution also demanded the Syrian regime release all arbitrarily detained persons. As the sole body representing the entire membership of the United Nations, we must work together to end the atrocities, lay a foundation for justice, and build a sustainable peace in Syria.

On Iran, the General Assembly expressed deep concern regarding ongoing human rights violations, including the targeting of journalists, persecution of minorities, public executions in violation of Iran's international obligations, and restrictions placed on the fundamental freedoms of assembly, opinion, and expression. The United States remains deeply concerned about the human rights conditions in Iran and will continue to engage internationally and speak out forcefully in support of the fundamental rights of the Iranian people.

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Ambassador Michele J. Sison, U.S. Deputy Permanent Representative to the United Nations, delivered remarks expressing U.S. support for the resolution on the human rights situation in Syria that was adopted by the Third Committee. Ambassador Sison's November 19 remarks follow and are available at <http://usun.state.gov/remarks/6988>.

* * * *

The United States strongly supports the draft resolution before us today regarding the grave human rights situation in Syria. We call on all delegations present to join us in voting in favor of this text.

As documented in the numerous reports by the UN Commission of Inquiry on Syria, the Assad regime, associated militias, and ISIL are committing extensive and ongoing violations and abuses. These include mass killings, rape, torture, public executions, chemical weapons attacks, and enforced disappearances—all horrific acts that we must forcefully condemn and for which we must seek accountability. In its September report, the COI rightly calls attention to the impact of the Syrian regime's continued air assault on Syria's people and cities, often through the use of barrel bombs. The United States echoes Special Envoy Staffan de Mistura's strong condemnation of the severe effects on civilians and infrastructure of the Assad regime's on-going bombing across Syria.

The Assad regime continues to imprison tens of thousands of individuals, many arbitrarily, and subjects many to torture, sexual violence, inhumane conditions, denial of fair trials, and execution. These prisoners include children, women, doctors, humanitarian aid providers, human rights defenders, journalists, and average citizens. Tens of thousands have been detained or forcibly disappeared due to their human rights activism or perceived familial ties to anyone who opposes the regime, including their children. Those who survive Assad's torture chambers suffer devastating and lasting damage, as do their families. The international community must collectively support these victims.

We reiterate our call, united with the Syrian people and members of the international community, for an immediate end to all violations and abuses of human rights and violations of international humanitarian law, especially the egregious, widespread, and continued violations committed by the Assad regime. We urge continued support to UN Special Envoy de Mistura's efforts to promote a political transition based on the Geneva Communiqué toward a genuine, negotiated political transition that leads to a future that fulfills Syrians' aspirations for peace, freedom, and dignity. We must work together to end the atrocities, lay a foundation for justice, and build a sustainable peace in Syria. Part of this effort requires our continued robust response, as the sole body representing the entire membership of the United Nations, in condemning these appalling actions and calling for accountability.

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6. UN Security Council Meeting on Human Rights Situation in the DPRK

In December 2015, the UN Security Council held its second meeting on the human rights situation in the DPRK. The United States advocated for the Security Council to include this issue on its agenda in the face of some opposition. U.S. Permanent Representative to the UN Samantha Power's December 10, 2015 remarks, excerpted below, and available at <http://usun.state.gov/remarks/7035>, describe the grave human rights situation in the DPRK.

* * * *

Almost a year ago, on December 22nd, 2014, the Security Council met for the first time ever to discuss the human rights situation in the DPRK. The Council brought this issue into the chamber because the widespread and systematic human rights violations being committed by the North Korean government were not only deplorable in their own right, but they posed a threat to international peace and security.

I would like to address those who believe that what is happening in the DPRK is not a threat to peace and security. I would like to ask whether those countries think that systematic torture, forced starvation, and crimes against humanity are stabilizing or good for international peace and security? I assume they don't think that. So, could this level of horror be seen as neutral? A level of horror unrivaled elsewhere in the world. ... It stretches credulity and it sounds more like cynicism. These arguments—some of which we've heard here today—will not go down well in history, particularly when North Korea opens up. ...

The Commission of Inquiry Report itself said that the human rights situation in North Korea “does not have any parallel in the contemporary world.” The comprehensive report produced by the UN Human Rights Council’s Commission of Inquiry was based on more than 200 interviews with victims, eyewitnesses, and former DPRK officials, whose testimony was corroborated by other evidence such as satellite imagery. The Commission concluded in February 2014 that “systematic, widespread and gross human rights violations have been and are being committed by the Democratic People’s Republic of North Korea.”

The Commission found evidence that provided reasonable grounds to determine that, in the DPRK, “crimes against humanity have been committed... pursuant to policies established at the highest level of the State.”

The Council is meeting again on this issue today, Human Rights Day—for the first time since it was formally added to the agenda last year—because the North Korean people continue to endure a real-life nightmare, and because that nightmare is a threat to peace and security. The UN’s reporting is explicit. The Secretary-General’s report, released in September, found that from September 2014 to August 2015, “there were no indications of improvements in the exercise of freedom of expression.” This is in a country where, according to the COI’s report, the State “operates an all-encompassing indoctrination machine that takes root from childhood... to manufacture absolute obedience to the Supreme Leader,” and where “citizens are punished for any ‘anti-State’ activities or expression of dissent.”

The Secretary-General’s report similarly found that “there were no indications of changes in the use of political prison camps.” Political prison camps where, by UN estimates, between 80 and 120 thousand people are currently being held; and prison camps where, according to the Commission of Inquiry’s report, tens of thousands of prisoners have for generations been “gradually eliminated through deliberate starvation, forced labor, executions, torture, rape, and the denial of reproductive rights enforced through punishment, forced abortion, and infanticide.”

It is not only the blanket denial of enjoyment of freedom of expression and these infernal conditions in the prisoner camps that persist—but all of the grave human rights violations perpetrated by this regime: the summary executions; the use of torture; the decades of enforced disappearances with no accountability, including of citizens from neighboring countries, whose families continue to suffer from not knowing the fate of their loved ones. The list is long, the abuses vast, and the anguish profound.

Also unchanged is the immeasurable suffering experienced by many millions of North Koreans who continue to go hungry as a result of the regime’s actions ...

The systematic human rights violations persist for a simple reason: the North Korean government wants them to. They continue because the State still seeks to intentionally dehumanize, terrorize, and abuse its own people. The regime depends on this climate of fear and violence to maintain its grip on power.

* * * *

No member of this Council, or of the UN, can afford to ignore this situation. North Korea continues to demonstrate that regimes which flagrantly violate the human rights of their own people almost always show similar disdain for the rules that help ensure our shared security. We see this in the DPRK’s flouting of prohibitions imposed by the Security Council on its nuclear and ballistic missile activities, including by undertaking launches. We see it in the destabilizing rhetoric the DPRK routinely uses to threaten the annihilation of its neighbors. And we see it in

the DPRK's aggressive response, as the High Commissioner has mentioned, to the opening of an office in Seoul by the OHCHR—an office aimed at gathering ongoing information on human rights conditions in the DPRK.

* * * *

If we accept that the human rights situation in the DPRK is as abysmal as ever, as the UN's reporting informs us that it is; and if North Korea continues to flout the rules that ensure our shared security, as we have seen that it does—then it is clear that we must continue to shine a light on the human rights situation in North Korea, as we are doing today. Even more, it is incumbent upon this Council to ask what we can do, individually and collectively, to change the situation.

We must continue to take steps that one day will help us hold accountable the individuals responsible for the horrors like those experienced by our guests today. We cannot let immediate obstacles to accountability undermine our determination to document atrocities and identify those who order and carry them out, so that one day the perpetrators will be brought to justice. That is why the comprehensive report compiled by the Commission of Inquiry is so essential, and it is why it is so crucial that the UN's new office in Seoul provide a place where individuals can continue to recount their experiences and provide key information.

Of course, multilateral and human rights organizations should continue to seek unconditional access to the DPRK And this is access that the regime has too long denied, no doubt because of what it would reveal. But it would be a grave mistake to think that in order to obtain such access any country or anybody should soften its criticism of, what is by every measure, the most repressive regime on the planet. We must do the exact opposite, speaking with objectivity and firmness about the real conditions on the ground.

For the UN Security Council it is critical not just to meet on the DPRK, but to consider the Commission's recommendation that the situation in North Korea be referred to the International Criminal Court, and that we consider other appropriate action on accountability—as 112 Member States urged the Council to do just a few weeks ago.

Our continuing spotlight on this situation sends a clear message that we hope will reach the North Korean people, tight as the regime's control over information may be: We will not turn a blind eye to your suffering. ...

And UN Member States, and particularly members of this Council, must stop sending people who try to flee the DPRK back to the country. ...

* * * *

B. DISCRIMINATION

1. Race

a. Committee on the Elimination of Racial Discrimination

As discussed in *Digest 2014* at 191-94, the United States appeared before the Committee on the Elimination of Racial Discrimination in 2014 to present its periodic report on the implementation of U.S. obligations under the International Convention on

the Elimination of All Forms of Racial Discrimination. On September 21, 2015, the United States provided its one-year follow-up response to the Committee regarding its priority recommendations from its Concluding Observations on the U.S. report. Excerpts follow from this one-year follow-up response, which is available in full at http://www.state.gov/j/drl/rls/cerd_report/247203.htm.

* * * *

Recommendation 17(a) & (b) (Police use of force): The Committee urges the State party to:

(a) Ensure that each allegation of excessive use of force by law enforcement officials is promptly and effectively investigated; that the alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions; that investigations are re-opened when new evidence becomes available; and that victims or their families are provided with adequate compensation.

2. U.S. federal, state, and local authorities take vigilant action to prevent use of excessive force by law enforcement officials and to hold accountable persons responsible for such use of force. ...when there is improper conduct, the U.S. Department of Justice (DOJ) has criminal jurisdiction to investigate and prosecute use of excessive force by federal, state, and local officials that violates the U.S. Constitution or federal law. Successful prosecution of any case, including consideration of re-opening a case for prosecution, is dependent on the availability of evidence to support conviction beyond a reasonable doubt. DOJ also has civil jurisdiction to address state and local law enforcement patterns and practices that violate the Constitution or federal law, including the use of excessive force.

3. Federal Prosecutions: In the last six years, DOJ has brought criminal charges against more than 350 law enforcement officials. The following are recent examples of federal prosecutions involving the alleged use of excessive force by police against members of racial or ethnic minorities:

...

4. State-Level Prosecutions: The following are recent examples of prosecutions at the state or local level involving the alleged use of excessive force by police against members of racial or ethnic minorities:

...

5. Effective Remedies: In addition to bringing criminal prosecutions, the DOJ Civil Rights Division continues to institute civil suits for equitable and declaratory relief pursuant to the pattern or practice of police misconduct provision of 42 U.S.C. § 14141. DOJ has opened more than 20 investigations of discriminatory policing and/or excessive force in the last six years and has reached 19 agreements with state or local law enforcement agencies, working toward long-term solutions in those jurisdictions.

Recent cases include:

...

6. DOJ is also working proactively to prevent such incidents through training of police officers and helping to strengthen police-community relations. ...

7. Effective remedies are also provided at the state level. The following are recent examples of compensation or other remedies for incidents involving members of racial or ethnic minorities:

...

(b) Intensify its efforts to prevent the excessive use of force by law enforcement officials by ensuring compliance with the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and ensure that the new Customs and Border Protection directive on the use of force is applied and enforced in practice.

8. Use of excessive force by law enforcement officials has increasingly become an issue of widespread public focus and concern in the United States in the face of a number of highly publicized recent incidents. Authorities at all levels have intensified their efforts to prevent such conduct through numerous mechanisms, including revised use of force policies; increased capacity for crisis intervention with specially-trained personnel; enhanced early warning systems to identify gaps in policy, training and supervision; increased community oversight; use of new types of equipment; and expedited investigations of misconduct complaints. In March 2015, President Obama's Task Force on 21st Century Policing released a report with approximately 60 recommendations, and in May 2015, a \$20 million Body-Worn Camera Pilot Partnership Program was announced. The efforts being undertaken include a number of methods addressed in the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and U.S. government policies on use of force by law enforcement officials are fully consistent with the Basic Principles and with the UN Code of Conduct for Law Enforcement Officials.

9. In addition, in December 2014, DOJ announced an updated policy on profiling applicable to all law enforcement activity under federal supervision. This policy instructs that law enforcement officers may not consider race, ethnicity, national origin, gender, gender identity, religion, or sexual orientation to any degree when making routine or spontaneous law enforcement decisions, unless the characteristics apply to a suspect's description.

10. There have also been recent legislative and policy efforts at the state and local levels to address and curb use of excessive force and discriminatory policing. The following are examples of such efforts:

...

11. With regard to the Department of Homeland Security (DHS) U.S. Customs and Border Protection (CBP) policy on use of force, DHS and CBP enforce strict standards of conduct applicable to all employees, whether they are on- or off-duty, investigate deaths resulting from use of force, and follow up on civil rights and civil liberties-related complaints. CBP has conducted comprehensive reviews of its use of force policies and practices, and continues actively to monitor and enforce those policies. On May 30, 2014, CBP released its current use of force handbook, along with an earlier Police Executive Research Forum report on use of force. Earlier, in 2010, CBP created a Use of Force Reporting System, which

electronically tracks all lethal and non-lethal uses of force by agents and officers. On December 9, 2014, DHS also established a CBP Integrity Advisory Panel as a subcommittee of the Homeland Security Advisory Council, tasked with benchmarking CBP's progress in response to CBP use of force reviews and a report by the DHS Office of Inspector General, as well as identifying best practices from federal, state, local, and tribal law enforcement on incident prevention and transparency pertaining to incident response and discipline.

Recommendation 18 (Immigration policy):

The Committee calls upon the State party to ensure that the rights of non-citizens are fully guaranteed in law and in practice, including inter alia by:

(a) Abolishing "Operation Streamline" and dealing with any breaches of immigration law through civil, rather than criminal immigration system.

12. Operation Streamline is a law enforcement initiative aimed at deterring the increase in illegal crossings on the U.S. Southwest border by prosecuting certain non-citizens under 8 U.S.C. § 1325 ("improper entry by alien"). Most of those prosecuted had attempted to re-enter the United States without inspection after previously being ordered excluded or removed. The goal of Operation Streamline is to reduce rates of alien re-entry recidivism. The United States is committed to making sure that this type of enforcement activity is conducted in a manner consistent with U.S. human rights obligations.

13. Individuals subject to Operation Streamline are entitled to and afforded due process in all criminal proceedings under the U.S. Constitution and laws, including rights provided to all criminal defendants, and consistent with applicable international obligations. Each Streamline prosecution is conducted openly in federal court, with the benefit of legal representation; a thorough, transcribed plea dialogue and rights discussion; a right to demand a trial to make the government prove each element of each allegation beyond a reasonable doubt; a right to be heard at sentencing; and access to courts for higher-level review.

14. As of December 2014, only the Tucson, Del Rio, and Laredo sectors participate in Operation Streamline; the Yuma, El Paso, and Rio Grande Valley sectors discontinued using Operation Streamline between 2013 and 2014. However, U.S. Attorney's Offices in these sectors continue to prosecute misdemeanor cases under 8 U.S.C. § 1325.

(b) Undertaking thorough and individualized assessments for decisions concerning detention and deportation and guaranteeing access to legal representation in all immigration-related matters.

15. Decisions concerning detention and deportation are made on the basis of individualized assessments in light of the totality of the circumstances, and the United States provides avenues for relief and favorable discretion, consistent with U.S. international obligations. ...

16. On November 20, 2014, President Obama announced executive actions within his authority in order to improve the U.S. immigration system. In part, these actions are designed to prioritize removals of individuals who threaten U.S. national security, public safety, and border security, while allowing for the provision of temporary relief from removal on a discretionary

and individualized basis to certain persons who have been in the United States for an extended period and meet certain guidelines for consideration, including national security and criminal background checks. Specifically, the reforms sought to: (1) expand the population eligible for consideration under Deferred Action for Childhood Arrivals (DACA) to people of any current age who had entered the United States before the age of 16 and had lived in the United States continuously since January 1, 2010; (2) extend the period of deferred action and work authorization under DACA from two years to three years; (3) allow parents of U.S. citizens and lawful permanent residents to request deferred action and employment authorization for three years under a new initiative, Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA), provided they have lived in the United States continuously since January 1, 2010, are not enforcement priorities, and pass required background checks; (4) focus enforcement priorities on the removal of national security, border security, and public safety threats; (5) implement a new Priority Enforcement Program in order to focus enforcement resources on those threats; (6) shift resources to the border; (7) modernize, improve, and streamline the legal immigration system; and (8) promote citizenship education and public awareness for lawful permanent residents.

17. DAPA and the modifications to DACA were challenged in federal court, leading to issuance of a preliminary injunction in February 2015 that temporarily blocked implementation of these two policies (but did not affect the original 2012 DACA policy). Despite the legal setback to two of these initiatives, the Obama Administration has taken tangible steps forward on its other immigration initiatives. ...

18. In November 2014, President Obama also announced his intention to focus immigration enforcement resources on criminals and persons who represent threats to our security and safety. ...

19. Many procedural protections for individuals are provided in proceedings before an immigration judge, including the requirement that immigration judges advise individuals of their right to be represented at no expense to the government, and notify them of and provide them with a list of free legal services providers. ...

20. To promote access to legal representation, DOJ offers the Legal Orientation Program to detained individuals, and the Legal Orientation Program for Custodians of Unaccompanied Alien Children (including a national call center). ...

21. On June 24, 2015, DHS Secretary Johnson announced a substantial change in the Department's detention practices with respect to families with children apprehended at the border. The new approach recognizes that, once a family has established initial eligibility for asylum or other relief under U.S. law, long-term detention of the family is an inefficient use of DHS resources and should be discontinued. ...

(c) Reviewing its laws and regulations in order to protect all migrant workers from exploitative and abusive working conditions, including by raising the minimum age for harvesting and hazardous work in agriculture under the Fair Labor Standards Act in line with international labour standards, and ensuring effective oversight of labour conditions.

22. The protection of migrant workers is vital to the United States, and we are committed to ensuring that all such workers in the United States receive the protections to which they are entitled under our Constitution and laws, consistent with applicable international obligations.

23. As previously reported to the Committee, U.S. laws that apply to migrant workers prohibit discrimination in employment on the bases of race, color, national origin (ethnicity), sex (including pregnancy, sex stereotyping, and gender identity), religion, age, disability, or genetic information (including family medical history). ...

24. U.S. federal labor and employment laws generally apply to all workers located in the United States, regardless of immigration status. ...

25. Temporary foreign workers brought into the United States in accordance with the Immigration and Nationality Act also acquire protection under the visa programs under which they are admitted. ...

26. As reported in our 2013 periodic report, DOL has established formal partnerships with foreign embassies and consulates of countries that are major countries of origin for migrant workers. ...

27. All workers, regardless of immigration status, are protected from forced labor by the U.S. criminal code, the Thirteenth Amendment to the U.S. Constitution, and the Trafficking Victims Protection Act (TVPA). ...

28. As reported to the Committee during the August 2014 presentation, in 2011, DOL sought comments on whether to amend and expand the list of agricultural occupations considered too hazardous for the employment of children under age 16. ... Th[e] decision to withdraw the rule was based on the Obama Administration's commitment to listening and responding to the comments of Americans in the public comment process.

29. In connection with this decision, DOL affirmed its intention to work to promote the safety and health of children employed as farm workers, including by collaborating with farming organizations to develop educational programs that address hazardous agricultural work practices and conditions. ...

30. Concurrent with President Obama's November 2014 executive actions, an Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment, and Immigration Laws was established. ...

(d) Ratifying ILO Convention No.29 concerning Forced or Compulsory Labour and ILO Convention No.138 concerning Minimum Age for Admission to Employment.

31. The 1998 ILO Declaration on Fundamental Principles and Rights at Work confirms that all ILO Members have an obligation, arising from the very fact of membership in the Organization, to respect, promote, and realize in good faith the principles concerning the fundamental rights that are the subject of the ILO's eight core conventions, including the elimination of all forms of forced or compulsory labor and the effective abolition of child labor. Although the United States has not ratified the majority of those conventions, the United States has demonstrated, in its follow-up reports under the Declaration, that U.S. workers do enjoy the fundamental principles and rights at work.

32. Under U.S. practice, prior to the President's transmitting any ILO convention to the U.S. Senate for advice and consent to ratification, a careful review of the convention is undertaken by the Tripartite Advisory Panel on International Labor Standards (TAPILS), a subgroup of the President's Committee on the ILO comprising representatives from the U.S. government and from employer and worker organizations. ...

33. TAPILS began a review of ILO Convention 29 on forced or compulsory labor when it began its review of Convention 105, but decided to concentrate on Convention 105. TAPILS has not completed reviews of either Convention 29 or Convention 138, and neither Convention has been transmitted by the President to the Senate for advice and consent to ratification.

Recommendation 22 (Guantanamo):

The Committee urges the State party to end the system of administrative detention without charge or trial and ensure the closure of the Guantanamo Bay facility without further delay. Recalling its general recommendation No.30 (2004) on non-citizens and general recommendation No.31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, it also calls upon the State party to guarantee the right of detainees to a fair trial in compliance with international human rights standards, and to ensure that any detainee who is not charged and tried is released immediately.

34. We preface this response by noting that the United States is committed, in the interest of promoting dialogue and cooperation, to providing information in response to the Committee's requests to the degree practicable, even where we may not agree that a given request bears directly on obligations under the Convention. The United States continues to have legal authority to detain Guantanamo detainees until the end of hostilities, consistent with U.S. law and applicable international law, but it has elected, as a policy matter, to ensure that it holds individuals no longer than necessary to mitigate the threat they pose.

35. President Obama has repeatedly reaffirmed his commitment to close the Guantanamo Bay detention facility, including during his State of the Union address to Congress on January 20, 2015. He has emphasized that the continued operation of the facility weakens U.S. national security by draining resources, damaging relationships with key allies and partners, and emboldening violent extremists. The United States is taking all feasible steps to reduce the detainee population at Guantanamo and to close the detention facility in a responsible manner that protects our national security.

36. More than 80 percent of those at one time held at the Guantanamo Bay detention facility have been repatriated or resettled, including all detainees subject to court orders directing their release. ...

37. The majority of Guantanamo detainees designated for transfer are Yemeni nationals, and in light of the current security situation in Yemen, the United States recognizes the need to identify appropriate resettlement solutions for that population as part of broader transfer efforts.

38. The United States remains of the view that in our efforts to protect our national security, both military commissions and federal courts can, depending on the circumstances of

the specific case, provide appropriate processes for criminal prosecution that are both grounded in applicable law and effective. U.S. law currently precludes the transfer of detainees from Guantanamo for prosecution in the United States. All current military commission proceedings at Guantanamo incorporate fundamental procedural guarantees that meet or exceed the fair trial safeguards required by Common Article 3 of the 1949 Geneva Conventions and other applicable law, and that are further consistent with those in Additional Protocol II to the 1949 Geneva Conventions. A conviction by a military commission is subject to multiple layers of review, including judicial review by federal civilian courts consisting of life-tenured judges.

39. All Guantanamo detainees have the ability to challenge the lawfulness of their detention in U.S. Federal court through a petition for a writ of habeas corpus. ...

* * * *

b. Human Rights Council

At each of the 2015 sessions of the HRC, the United States delegation provided statements on racism and racial discrimination at meetings held to discuss follow up on the Durban Declaration. Each of these statements provides examples of efforts in the United States to combat racial discrimination, for example, in policing. See March 24, 2015 statement delivered by Kelly J. Tucker at the 28th session, available at <https://geneva.usmission.gov/2015/03/23/item-9-general-debate-racism-racial-discrimination-xenophobia-and-related-forms-of-intolerance-follow-up-and-implementation-of-the-durban-declaration-and-programme-of-action/>; June 30, 2015 statement delivered by Wesley J. Reisser at the interactive dialogue with the special rapporteur at the 29th session, available at <https://geneva.usmission.gov/2015/06/30/hrc-29th-session-dialogue-with-the-special-rapporteur-on-racism/>; and September 28, 2015 statement delivered by Gerard Hodel at the 30th session, available at <https://geneva.usmission.gov/2015/09/29/u-s-statement-on-racism-racial-discrimination-xenophobia-and-related-forms-of-intolerance-follow-up-and-implementation-of-the-durban-declaration-and-programme-of-action/>.

At the 30th session of the HRC, the United States again voted no on the resolution on “Racism: from Rhetoric to Reality,” an annual follow-on to the Durban Declaration, to which the United States has consistently objected. U.N. Doc. No. A/RES/HRC/30/16. The resolution was adopted by a vote of 32 to 12, with 3 abstentions, on October 2, 2015. The U.S. provided the following explanation of vote, available at <https://geneva.usmission.gov/2015/10/06/u-s-explanation-of-vote-on-racism-from-rhetoric-to-reality/>:

The government of the United States of America is deeply engaged in combating racism and racial discrimination. We have welcomed and will continue to welcome opportunities to work together with other countries in implementing

the Convention on the Elimination of All Forms of Racial Discrimination. But we have significant concerns about this resolution. Our objections to the Durban Declaration and Programme of Action are well known. In addition, we cannot accept the resolution's legally incorrect implication that any and all reservations to articles 18, 19, and 20 of the International Covenant on Civil and Political Rights and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination are per se contrary to the object and purpose of those treaties; we note that this resolution has no effect as a matter of international law. As a result, the United States will call for a vote, and vote "no."

2. Gender

a. *General Assembly*

On September 27, 2015, President Obama issued a statement, which appears below, on the 20th anniversary of the Fourth World Conference on Women. Daily Comp. Pres. Docs. 2015 DCPD No. 00656. The White House released a report, "United States Report on the Implementation of the Beijing Declaration and Platform for Action," with this statement. The report is available at [https://geneva.usmission.gov/wp-content/uploads/2014/11/United States Beijing 20 Review.pdf](https://geneva.usmission.gov/wp-content/uploads/2014/11/United_States_Beijing_20_Review.pdf).

* * * *

I am proud to commemorate the 20th anniversary of the Fourth World Conference on Women. Today we recommit ourselves to the basic principle affirmed there, namely that "[w]omen's empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision-making process and access to power, are fundamental for the achievement of equality, development and peace."

The United States understands that women's rights are human rights and that empowered women and educated girls are critical to achieving lasting peace, security, and prosperity. Over the last 20 years, we have made tremendous strides toward gender equality:

- We have worked with Congress to reauthorize the groundbreaking Violence Against Women Act, enacting new protections and strengthening existing protections, including for LGBT individuals and Native American survivors of domestic violence.

- Through the Affordable Care Act, we have dramatically increased access to quality, affordable health care for women and girls across the United States and put an end to women being charged more for health care than men.

- With our National Action Plan on Women, Peace, and Security and by chairing the Equal Futures Partnership, we are encouraging and supporting women's economic and political empowerment both at home and abroad.

- Within the United States, we are taking steps to support working families, encourage women and girls to pursue careers in the STEM fields, and provide additional opportunities for women entrepreneurs.

But we know that much work remains. Women and girls continue to face violence and discrimination at home, at work, in school, and in their communities. Women continue to be paid less than men for equal work. In too many places around the world, girls do not have the same educational opportunities as boys. Too often, women's contributions are undervalued, underutilized, and suppressed. And in too many places—from China to Egypt, from Russia to Venezuela—women have been swept up in repressive crackdowns on civil society and deprived of their universal rights and fundamental freedoms.

That's why my administration continues to work to advance the empowerment and education of women and girls here and abroad. It's why we are dedicating additional resources to address violence against women and girls. It's why we are investing in job training and apprenticeships to help women earn better-paying jobs. It is why we launched "Let Girls Learn," to address the challenges adolescent girls around the world face in enrolling, completing and succeeding in school. And it is why my administration's "Stand With Civil Society" initiative is supporting the right of women and all people around the world to work peacefully for the betterment of their societies without fear that their rights and freedoms will be unjustly abridged.

Today we renew our resolve to work tirelessly toward a world where every woman and girl can enjoy the rights and freedoms that are her birthright. We pledge to continue this work in partnership with the independent civil society advocates and experts who have led the fight for women's empowerment, as envisioned when the international community convened 20 years ago. And we remind ourselves of all of the noble promises of that conference and rededicate ourselves to making them a reality.

* * * *

b. U.S. Actions on Women, Peace, and Security

On January 27, 2015, the United States commemorated the third anniversary of the National Action Plan on Women, Peace, and Security. Karen J. Hanrahan Deputy Assistant Secretary of State for the Bureau of Democracy, Human Rights, and Labor, delivered remarks on the occasion, excerpted below and available at <http://www.state.gov/j/drl/rls/rm/2015/236879.htm>.

* * * *

... I want to ... recognize USAID's leadership in implementing the National Action Plan. The team at USAID should be commended for its continued commitment to building a world where women are recognized as key actors in stabilizing their communities and in building peace between warring factions. ...

We are here to commemorate the third anniversary of the National Action Plan on Women, Peace and Security. As you know, this is the first of its kind. Even better, President Obama released the NAP through an Executive Order in which he laid out concrete steps that

this Administration would take to elevate and support women as critical participants in preventing and resolving conflict.

Together, the National Action Plan and the Executive Order represent a fundamental change in how the USG leverages its diplomatic, military, and development power to support women in conflict—by ensuring that women’s perspectives and gender considerations are woven into the DNA of how the United States approaches peace processes, conflict prevention, the protection of civilians, and humanitarian assistance. We have also used these foreign policy tools to influence other nations.

Over the past three years we have seen these efforts generate concrete steps across the world—from South Sudan to Egypt to Afghanistan to DRC—to bring more women to negotiation tables; to integrate solutions and justice for women into peace agreements; to ensure our humanitarian responses protect women; to recruit and retain more women throughout security sectors and criminal justice systems; and to restructure how soldiers, peacekeepers, and police officers are trained and equip them with tools to respond to the unique needs of men and women alike. We have invested in these efforts because we know from our own history that when women play key roles in decision making and leadership structures, the result is greater stability, stronger communities and more durable peace.

Progress had been hard fought and a result of herculean efforts from civil society groups here in the U[nited] S[tates] and in host countries, many of which are represented here today. Within the USG, the success of our efforts has required sustained collaboration across the State Department, USAID, and the Defense Department. And where our diplomacy, development, and defense reinforce each other, we have seen better outcomes, even as we face increasingly challenging threats to international peace and security.

One of many examples—the State Department’s Bureau of Democracy, Human Rights and Labor has galvanized a coalition within the US government to promote the inclusion of women in decision making for Syria’s future—including in peace negotiations. And while the United States is open-eyed about the prospects for near term stability in Syria and Iraq, the leadership and enthusiasm of these women offer a constant reminder that peace is possible. And we will continue to advocate for their formal inclusion in the peace process. At the same time, we are witnessing the Islamic State continues to kidnap, traffic and brutalize women and girls in Iraq and Syria—with a growing presence in other countries. We are discussing internally how to better protect these women and girls.

We are also looking internally at how to do more to implement the NAP; how to truly weave the spirit of UN Security Council Resolution 1325 into our diplomacy every day. The United States is committed to leading by example on Women, Peace, and Security, from investing in better training for diplomats to requiring gender analysis strategic planning for foreign assistance to integrating gender considerations into our procurement; we are improving how we do business.

But today, fifteen years after the passage of UN Security Council Resolution 1325 and twenty years since the Beijing Platform for Action, we must also be humble about the global track record. 2015 is truly the year for the agenda of women, peace and security—and it must be a year of resounding affirmation that including women in decision making isn’t a nice thing to do; it’s the strategic thing to do.

As many of you know, the United States’ review of our NAP is only one aspect of a global culmination of efforts to advance gender equality. The UN’s high level review of 1325 is converging with parallel efforts to take stock of the UN peacekeeping and peacebuilding

architectures that have significant impact on women. At the same time, we are pushing to place gender equality and the empowerment of women and girls at the heart of the Post-2015 Development Agenda—an unprecedented opportunity for the global community to come together around a new set of global development priorities. Together, we must seize on these efforts and continue to push for more action, to continue to be innovative in how we implement the NAP and move this global Women, Peace, and Security agenda forward.

* * * *

On October 14, 2015, the U.S. Department of State issued a fact sheet on U.S. Commitments to Women, Peace, and Security. The fact sheet is excerpted below and available at <http://www.state.gov/r/pa/prs/ps/2015/10/248207.htm>.

* * * *

Fifteen years since United Nations Security Council Resolution 1325 was adopted in 2000, the United States remains a strong advocate for women's equal and full participation in the prevention and resolution of conflicts, peace building, and peacekeeping. The U.S. National Action Plan on Women, Peace, and Security (NAP) remains the United States' signature strategy for implementing ongoing commitments to the women, peace, and security (WPS) agenda. During yesterday's UN Security Council Open Debate on WPS, the United States reaffirmed its continued support of women as equal partners in all aspects of peace and security and, in doing so, made a series of monetary commitments totaling \$31.3 million:

Yesterday's announcement includes \$8 million toward the Global Women, Peace, and Security Initiative and \$2.1 million toward the Africa Women, Peace, and Security Initiative. These initiatives improve the prospects for inclusive, just and sustainable peace by prioritizing projects that work toward protecting women from violence and promoting women's participation in the peace processes and decision-making.

From the Secretary of State's Full Participation Fund, the United States is committing \$6.58 million to incentivize the implementation of the U.S. NAP in Bosnia and Herzegovina, Burundi, Republic of Congo, Georgia, Guinea, Honduras, Lebanon, Liberia, Mali, Mauritius, Mexico, Papua New Guinea, Pakistan, the Philippines, Rwanda, Samoa, Sierra Leone, Sri Lanka, and Timor Leste.

Building on Secretary Kerry's 2014 announcement of the Accountability Initiative, an effort to develop specialized justice sector solutions to fight impunity for sexual violence in conflict-affected countries, the United States is committing \$8.35 million to implementation in the Central African Republic, the Democratic Republic of Congo, and Liberia.

In addition, the United States is also committing \$1 million for a justice initiative based in Democratic Republic of Congo's South Kivu province that will work with the justice sector and vulnerable communities with the goal of educating 50,000 women on human rights and basic judicial procedures.

Through USAID's Women, Peace, and Security Incentive Fund, the United States is devoting \$3.7 million to strengthen the roles of women and youth in political and peace processes in Mali, increase political empowerment and agency for Syrian women, and improve

services for survivors of gender based violence in Bosnia and Herzegovina and in the West Bank and Gaza.

Through USAID's Global Women's Leadership Program, the United States is dedicating \$500,000 to support the participation of women in peace processes, political transitions, and other decision-making processes. This investment builds on the activities under and lessons learned from USAID's \$2.6 million Global Women's Leadership Fund.

USAID is also committing \$1 million to a creative new USAID partnership that brings together the WPS and climate change agendas to tackle the critical intersections of gender, climate, security, and resilience.

Finally, USAID is making a new commitment of \$80,000 to support a mechanism to 'roll up' the experiences and findings of field based researchers into an international practitioner-researcher network. This network will focus on non-traditional researchers and opening the space for interacting with policy makers.

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3. Sexual Orientation and Gender Identity

a. General

On February 23, 2015, Secretary Kerry issued a press statement announcing the appointment of Randy Berry as the first U.S. special envoy for the human rights of LGBT persons. The Secretary's statement is excerpted below and available at <http://www.state.gov/secretary/remarks/2015/02/237772.htm>.

* * * *

I could not be more proud to announce Randy Berry as the first-ever Special Envoy for the Human Rights of LGBT Persons.

We looked far and wide to find the right American official for this important assignment. Randy's a leader. He's a motivator. But most importantly for this effort, he's got vision. Wherever he's served—from Nepal to New Zealand, from Uganda to Bangladesh, from Egypt to South Africa, and most recently as Consul General in Amsterdam—Randy has excelled. He's a voice of clarity and conviction on human rights. And I'm confident that Randy's leadership as our new Special Envoy will significantly advance efforts underway to move towards a world free from violence and discrimination against LGBT persons.

Defending and promoting the human rights of LGBT persons is at the core of our commitment to advancing human rights globally—the heart and conscience of our diplomacy. That's why we're working to overturn laws that criminalize consensual same-sex conduct in countries around the world. It's why we're building our capacity to respond rapidly to violence against LGBT persons, and it's why we're working with governments, civil society, and the private sector through the Global Equality Fund to support programs advancing the human rights of LGBT persons worldwide.

Too often, in too many countries, LGBT persons are threatened, jailed, and prosecuted because of who they are or who they love. Too many governments have proposed or enacted laws that aim to curb freedom of expression, association, religion, and peaceful protest. More than 75 countries still criminalize consensual same-sex activity.

At the same time, and often with our help, governments and other institutions, including those representing all religions, are taking steps to reaffirm the universal human rights of all persons, regardless of sexual orientation or gender identity. So while this fight is not yet won, this is no time to get discouraged. It's time to stay active. It's time to assert the equality and dignity of all persons, no matter their sexual orientation or gender identity. And with Randy helping to lead our efforts, I am confident that's exactly what we can and will do.

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b. Human Rights Council

On June 29, 2015, at the 29th session of the UN Human Rights Council, U.S. Special Envoy Berry delivered the statement on behalf of the U.S. delegation responding to the High Commissioner's new report on discrimination and violence against individuals based on their sexual orientation and gender identity. Mr. Berry's statement is excerpted below and available at

<https://geneva.usmission.gov/2015/06/29/hrc-29th-session-item-8-general-debate/>

* * * *

The United States welcomes the High Commissioner's new report on discrimination and violence against individuals based on their sexual orientation and gender identity. We share OHCHR's concerns regarding the continuing, serious, and widespread violations and abuses perpetrated against individuals based on their sexual orientation or gender identity. The United States also strongly supports the High Commissioner's call for continued robust engagement at the Human Rights Council to address violence and discrimination based on sexual orientation and gender identity.

While member states are taking a more proactive position toward addressing violence against Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons, homophobic and transphobic killings, and discriminatory practices continue to occur at alarmingly high rates in all regions of the world, including in the United States. Recognizing the hard work yet to be done, we continue to make progress at home by adopting measures to combat violence and discrimination. For example, we are implementing the Matthew Shepherd-James Byrd Jr. Hate Crimes Prevention Act and integrating openly gay servicemen and women into our armed forces.

Following former Secretary of State Clinton's declaration in 2011 that "gay rights are human rights and human rights are gay rights," the United States has continued to advance equality at home and around the world. My appointment as the first-ever Special Envoy for the Human Rights of LGBTI Persons signifies the United States' commitment to safeguarding the rights of members of LGBTI communities everywhere. Our commitment is also evidenced by President Obama's recent Presidential Proclamation declaring June as Pride month, which

outlines several strategies for eliminating discriminatory practices and strengthening protections for transgender persons.

We are not alone in exercising a commitment to make the world a safer place for people of various sexual orientations and gender identities. In this regard, the United States commends the leadership at the UN of many countries, including Colombia, Chile, Brazil, Uruguay, Argentina, and Mexico. We are pleased to join Brazil in co-sponsoring a side event on human rights, sexual orientation, and gender identity at this session.

When we work together to protect and promote the human rights of all persons regardless of sexual orientation or gender identity, we come closer to the creation of a more equitable world for everyone. As President Obama said welcoming the Supreme Court ruling, “if we are truly created equal, then surely the love we commit to one another must be equal as well.”

* * * *

c. Security Council

On August 24, 2015, the UN Security Council held its first “Arria-formula” meeting on LGBT issues, addressing in particular ISIL’s crimes against LGBT individuals in Iraq and Syria. A State Department press statement on the meeting, available at <http://www.state.gov/r/pa/prs/ps/2015/08/246296.htm>, explains:

Around the world, the UN has documented thousands of cases of individuals killed or injured in brutal attacks simply because they are LGBT or perceived to be LGBT. This abhorrent practice is particularly widespread in ISIL-seized territory in Iraq and Syria, where these violent extremists proudly target and kill LGBT individuals or those accused of being so. No one should be harmed or have their basic human rights denied because of who they are and who they love.

Ambassador Power delivered remarks on behalf of the United States at the inaugural meeting. Her remarks are excerpted below and available in full at <http://usun.state.gov/remarks/6799>.

* * * *

Today we are making UN history. The UN Security Council has never before had a meeting on LGBT issues.

It is an honor to co-host this meeting with Chile, which continues to be a strong advocate for LGBT rights and more generally for empowering civil society around the world.

* * * *

ISIL does not try to hide its crimes against LGBT persons—it broadcasts them for all the world to see. Many of us have seen the videos. ISIL parading a man through the streets and

beating him—for being gay. ISIL marching men to the tops of buildings and throwing them to their deaths—for being gay. In one of these videos, allegedly from Syria, we are told that the victim was found to be having a gay affair. He is blindfolded, walked up stairs of a building, and then heaved off its roof. His suffering did not end there. The victim miraculously survived the fall, only to be stoned to death by a mob that waited for him below. Kids in the crowd were reportedly encouraged to grab stones and take part.

The mob in this instance carries an important lesson: while the targeting of LGBT individuals in the region appears to have worsened as ISIL's power has grown, such violence and hatred existed well before the group's dramatic rise, and that violence and hatred extends far beyond ISIL's membership. The victim in that grotesque video may have been thrown to his death by ISIL, but he was ultimately killed by stone-throwing individuals who did not belong to the group. Similarly, before Subhi Nahas was forced to flee his country because of death threats from Jabhat al Nusra, he was targeted for being gay by Syrian government soldiers. And before ISIL came to power, Adnan was repeatedly attacked by gangs of thugs for being gay, once being beaten so severely that he could hardly walk.

Today, we are coming together as a Security Council to condemn these acts, to demand they stop, and to commit to one day bringing the perpetrators to justice. That unified condemnation matters. This is the first time in history that the Council has held a meeting on the victimization of LGBT persons. It is the first time we are saying, in a single voice, that it is wrong to target people because of their sexual orientation and gender identity. It is a historic step. And it is, as we all know, long overdue.

But crucial and unprecedented as this step is, condemning ISIL's violent and systematic targeting of LGBT individuals is the easiest step we can take today. Because while today's session is focused on the crimes against LGBT persons committed by ISIL, we know the scope of this problem is much broader. Consider the report released in June by the UN Office of the High Commissioner for Human Rights—a report that found that thousands of people have been killed or brutally injured worldwide because of their sexual orientation or gender identity. According to the report, “the overall picture remains one of continuing, pervasive, violent abuse, harassment and discrimination affecting LGBT and intersex persons in all regions...often perpetrated with impunity.”

We are all horrified by ISIL's videos of men being thrown to their death. But what is it about these crimes that so shocks our collective conscience? At its essence—it is the denial of a person's most basic right because of who they are. It is ISIL deciding that, because of a person's sexual orientation or gender identity, they do not deserve to live.

Yet if these crimes feel utterly unjust and wrong to us, we must also ask: Why is it acceptable to deny LGBT persons other human rights? Why should LGBT persons be imprisoned for who they are? Why should police be allowed to refuse to investigate attacks or threats against LGBT persons? Why should we accept LGBT persons being turned away from schools or jobs or social services because of who they love? The answer to all of these questions is the same: We should not accept it. But too often we do.

No religious beliefs justify throwing individuals off of buildings or stoning them to death because of who they love. No cultural values excuse refusing to investigate a killing, assault or death threat because the victim is gay. These are not Western-imposed rights, or the North trying to force its values on the South.

Yet in too many parts of the world, denying LGBT rights is still seen as moral and just. Laws are used to criminalize LGBT persons, rather than to prosecute the people who violate their rights. That must change.

That change begins by working to stop attacks against individuals based on their sexual orientation and gender identity. And by taking steps to ensure that those who commit these heinous and brutal crimes are held accountable, whether the perpetrators belong to ISIL or police forces or are members of our own communities.

* * * *

Let me conclude and hand the floor over to my esteemed co-host, Ambassador Barros-Melet. This year we mark seventy years since the creation of the United Nations. It is fair to say that in writing the charter, the drafters did not consider LGBT rights part of their conception of equal rights. But if we read the Charter today—and in particular its call to “reaffirm faith... in the dignity and worth of the human person”—it is impossible not to see a call for all of us to affirm LGBT rights. ... And it is impossible not to take up the struggle for their rights as our own, as we have other great human rights struggles over the last seven decades. Today, we take a small but important step in assuming that work. It must not be our last step.

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4. Age

a. *Human Rights Council*

At the 29th session of the Human Rights Council, the United States co-sponsored a side event on abuse and violence against older women, marking World Elder Abuse Awareness Day on June 15, 2015. Leslie Marks delivered remarks on behalf of the U.S. Mission in Geneva. Her remarks are excerpted below and available at <https://geneva.usmission.gov/2015/06/15/u-s-statement-at-hrc-side-event-on-elder-abuse-and-violence-against-older-women/>.

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The more we study elder abuse, the more we understand that elder abuse is a form of violence that predominantly impacts women. Global prevalence data is lacking, but we know that across the world, women comprise the majority of elder abuse victims. (In the United States, 2 out of 3 elder abuse victims are women). Some reasons behind the disproportionate impact of elder abuse on older women include higher rates of poverty, social isolation, and dependence on a caregiver (often a spouse).

In every country, older women who are abused are more likely to suffer illness and die sooner than those who are spared abuse. The negative health effects of abuse are particularly acute for older women and include higher incidences of many serious conditions, from

depression and anxiety to arthritis, breast cancer, and heart disease. In addition to the incalculable cost of human suffering, increased incidence of elder abuse will create significant costs to health systems across the globe.

The U.S. has focused on developing practical measures to address elder abuse both at home and globally. The “U.S. Strategy to Prevent and Respond to Gender-Based Violence” acknowledges violence against women and girls across the life cycle, including elder abuse. President Obama signed into law the Elder Justice Act in 2010 which is dedicated to the prevention, detection, treatment, intervention and prosecution of elder abuse, neglect and exploitation...

Every ten years, the White House hosts a Conference on Ageing, and this is one of those years. On the agenda for the first time is Elder Justice: preventing and responding to elder abuse, financial exploitation, and neglect.

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b. *Inter-American Convention on the Human Rights of Older Persons*

At the 45th regular session of its General Assembly in June 2015, the Organization of American States (“OAS”) passed a resolution adopting the “Inter-American Convention on the Human Rights of Older Persons.” OAS Doc. AG/RES. 2875 (XLV-O/15). The United States did not participate in negotiating the draft convention because, in its view, other means and actions would better address the challenges facing older persons. The United States added a footnote to the resolution adopting the convention, explaining its opposition. Canada likewise added a footnote registering its opposition and several other countries lodged reservations to the convention in footnotes to the resolution. The resolution with footnotes is included in the documents of the 45th regular session, available at <http://www.oas.org/consejo/GENERAL%20ASSEMBLY/Resoluciones-Declaraciones.asp>. The U.S. footnote reads as follows:

The United States has consistently objected to the negotiation of new legally binding instruments on the rights of older persons. We reiterate our longstanding reservations and concerns with that exercise and the resulting convention. The United States remains convinced of the importance of working in the OAS and in the United Nations to address the many challenges faced by older persons in this Hemisphere and throughout the world, including with respect to their enjoyment of human rights. However, we do not believe a convention is necessary to ensure that the human rights of older persons are protected. The United States believes that, rather than promoting this new instrument, the resources of the OAS and of its member states should be used to identify practical steps that governments in the Americas might adopt to combat discrimination against older persons, including best practices in the form of national legislation and enhanced implementation of the international human

rights treaties. Such efforts should be aimed at addressing immediately and practically the challenges faced by older persons.

C. CHILDREN

1. Rights of the Child

a. *Human Rights Council*

At the Human Rights Council's 28th Session, the United States provided an explanation of position on the resolution entitled "Rights of the Child: Towards better investment in the rights of the child." The U.S. explanation of position, delivered on March 27, 2015, is excerpted below and available at

<https://geneva.usmission.gov/2015/03/27/eop-on-item-3-resolution-entitled-rights-of-the-child-towards-better-investment-in-the-rights-of-the-child/>.

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The United States is pleased to join consensus on the Rights of the Child resolution. We thank the sponsors of this resolution and other member states for their collaboration during the negotiations. Streamlining this resolution was an important way to ensure the text was targeted to the issue at hand: improving investments in the rights of the child.

Investing in children is critical. The United States is consistently among the largest donors to UNICEF, and provided over \$500 million last year to help that organization improve the lives of children around the world. As we noted at the full day meeting on children's rights, the Obama Administration announced earlier this month that it is expanding its efforts to help adolescent girls through the *Let Girls Learn* initiative. This initiative will help ensure girls throughout the world get the education they deserve. A key part of Let Girls Learn is to encourage and support community-led solutions to reduce barriers that prevent adolescent girls from completing their education. We are excited about this initiative and look forward to building more partnerships in support of expanding access to education. In the United States, educational matters primarily are determined at state and local levels. We recognize the importance of quality education and of striving to strengthen and expand it.

The United States joins consensus on this resolution with the understanding that the resolution does not imply that states must join human rights instruments to which they are not a party, or otherwise implement obligations under those instruments. Moreover, the United States does not recognize any change in the current state of international law. Further we understand this resolution's reaffirmation of prior documents to apply to those who affirmed them initially.

The United States remains deeply committed to protecting the rights of children, and look forward to continuing our partnerships with other countries and international partners in pursuit of these goals.

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b. UN General Assembly

On November 24, 2015, the United States delivered an explanation of vote at the UN General Assembly on the resolution on the rights of the child. The resolution was subsequently adopted by the UN General Assembly in December. U.N. Doc. A/RES/64/146. The resolution calls upon States to give full effect to the right of all children to education. The U.S. explanation of vote follows.

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The United States is disappointed that this year's resolution on the Rights of the Child will not be adopted by consensus for the first time in many years. We will be voting yes, and encourage others to as well.

Numerous headlines of tragedies faced by children in or fleeing war-torn areas such as Syria, Yemen, Sudan, and South Sudan remind us of the importance of protecting the rights of children, including those most vulnerable. Efforts to protect and promote the well-being of children in our country and abroad remain a priority for the United States, and this resolution encourages all countries to take action in such regard.

As Secretary of State Kerry noted, "Unless we invest in our children, unless we open the doors of knowledge to everybody, unless we rise above discrimination and intolerance and work together, then we will steadily grow poorer together. That is why education is so critical." To this end, the United States, for instance, has invested billions of dollars domestically in early education in recent years, including through the Preschool Development Grants program that is expanding access to high-quality preschool for children from low-income families in communities with the greatest need. As education is primarily a state and local responsibility within the U.S. federal structure, the United States will address the goals of this resolution concerning education consistent with current U.S. law and the federal government's authority.

Regrettably, we continue to see acts of violence perpetrated against children, even in our own communities and schools. The United States places great importance on the protection of children, and will continue to abide by its applicable international legal obligations.

The U.S. works to eliminate exploitative child labor and forced labor around the world, including through our support of the International Labor Organization's International Program on the Elimination of Child Labor. Not all work is harmful to children, however. For example, many children help their families around the home, on the family farm or in a family business, or take on jobs to learn career and technical skills. In this way, children acquire skills, learn to take responsibility, and gain pride in their own accomplishments. We understand the resolution's call to end child labor by 2025 as not referring to this type of child work.

We join consensus on this resolution, as well as the Girl Child resolution and the Programmes and Policies Involving Youth resolution, with the understanding that they do not imply that States must become parties to instruments to which they are not a party or implement obligations under such instruments. Further, we understand any reaffirmation of prior documents to apply to those States that affirmed them initially. We also underscore that these resolutions do not change or necessarily reflect the United States' or other States' obligations

under treaty or customary international law, including international humanitarian law and with respect to the right to education, nor does this resolution add content to that right. Further, we note that reservations are an accepted part of treaty practice except when prohibited by a treaty or incompatible with the treaty's object and purpose.

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2. Children and Armed Conflict

a. *United Nations*

The UN Security Council adopted resolution 2225 on children and armed conflict on June 18, 2015. U.N. Doc. S/RES/2225. At the Security Council session on children and armed conflict on June 18, David Pressman, Alternate U.S. Representative to the UN for Special Political Affairs, delivered remarks on the issue of children and armed conflict as well as resolution 2225. He emphasized U.S. support for Resolution 2225's addition of child abduction to the bases for listing in the annexes to the Secretary General's annual reports on children and armed conflict. His remarks are excerpted below and available at <http://usun.state.gov/remarks/6570>.

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The Secretary General's Annual Report on Children and Armed Conflict should be a valuable and trusted resource for advancing accountability against the world's most serious abusers of children. This year alone, we have seen the Islamic State of Iraq and the Levant, ISIL, publicly execute and stone children; kids manipulated to literally explode themselves in service of Boko Haram terrorists; and the continued unlawful recruitment and use of children in South Sudan, the Democratic Republic of the Congo, and Sudan.

The Secretary-General's Annual Report should contribute to our common cause to protect children by using standards that are applied uniformly, when documenting the actions of all parties in conflict—so that it is perceived as credible, objective, and non-political. But if this report is politicized—if it becomes more of a political tool to advance political agendas, rather than a clear application of facts to objective standards—it will be seriously compromised. Let's be clear: the idea that the Government of Israel, as some have suggested in this debate, would be listed on the same page as ISIL, Boko Haram, or Syria is factually and fundamentally wrong. The comparisons we have heard from some today of casualty numbers are totally misleading. Multiple UN agencies and this year's Annual Report on Children and Armed Conflict itself have explicitly stated that the casualty numbers in Syria are unable to be verified and almost certainly underreported. Comparing these underreported numbers to documented deaths meets no standard of credibility and seems like a blatant attempt to vilify rather than illuminate.

Madame President, we welcome the adoption of Resolution 2225, and the addition of abductions as a "trigger" for being listed in the Secretary-General's annex. Mass abductions, especially of young women and children, are becoming part of the extremists' playbook for

terrorizing communities; and the United States supports fully the attention that this violation will now receive.

Today, I want to highlight what we can do better to help children victimized by armed conflict. First and foremost, obviously it is the responsibility of states and armed groups to stop taking children from their homes to engage in hostilities. We have made some progress—in places like the Central African Republic, where armed groups recently agreed to stop recruiting child soldiers and committed to releasing the 6,000 to 10,000 child soldiers currently in their ranks. But promising to release children is just the beginning and, in fact, releasing these children from armed forces and armed groups is itself also just the beginning. The work of reintegrating these children—meaningfully, compassionately, respectfully—is critical and all too often overlooked. It is a long path to recovery, and our collective attention span to the challenge needs to be expanded.

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Of course, the best way to give children the bright future that we want them to have is to protect them from harm in the first place. And that is why tools like The Child Soldier Prevention Act of 2008 in the United States are critical—and we urge other governments to adopt similar legislation to help end the practice of the unlawful recruitment and use of child soldiers by holding governments who violate these basic principles accountable. Under this U.S. law, foreign governments that unlawfully recruit or use child soldiers, or who support armed groups that do, are subject to restrictions on certain U.S. security assistance and commercial licensing of military equipment. As they should be.

We also lead by example when engaged in military operations. U.S. forces receive training throughout their careers in civilian protection; it is woven throughout military doctrine; and the imperative to avoid harming civilians, including children, has become even more explicit in recent tactical directives from our commanders to their forces—directives that go beyond what is required under international law, and often result in forces having to assume additional operational and other risks in order to minimize the possibility of harming children. It is the right thing to do, and other militaries should follow that example.

And when those engaged in, or supporting peacekeeping efforts are accused of abusing the very children they are sent to protect, there must be zero tolerance. There is no room in United Nations peacekeeping or in any regional or national missions for those who prey on the vulnerable.

Madame President, as the Secretary-General's report shows, too many states and armed groups are not living up to their minimum obligations under international law. That is why we have convened here today, and that is why we call on all of our colleagues to commit ourselves once again to documenting violations and abuses against children, to take seriously the need for rigorous standards and methodology in monitoring and reporting across all triggers—now including abductions—and to do all we can to help children who have been through such horrendous experiences in armed conflict to recover.

b. *Child Soldiers Prevention Act*

Consistent with the Child Soldiers Prevention Act of 2008 (“CSPA”), Title IV of Public Law 110-457, the State Department’s 2015 Trafficking in Persons report lists the foreign governments that have violated the standards under the CSPA, *i.e.* governments of

countries that have been “clearly identified” during the previous year as “having governmental armed forces or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit and use child soldiers,” as defined in the CSPA. Those so identified in the 2015 report are the governments of Burma, Democratic Republic of the Congo, Nigeria, Somalia, South Sudan, Sudan, Syria, and Yemen. The full text of the TIP report is available at <http://www.state.gov/j/tip/rls/tiprpt/2015/index.htm>. For additional discussion of the TIP report and related issues, see Chapter 3.B.3.

Absent further action by the President, the foreign governments designated in accordance with the CSPA are subject to restrictions applicable to certain security assistance and licenses for direct commercial sales of military equipment. In a memorandum for the Secretary of State dated September 29, 2015, President Obama determined, “that it is in the national interest of the United States to waive the application of the prohibition in section 404(a) of the CSPA with respect to the Democratic Republic of the Congo, Nigeria, and Somalia,” and that, with respect to South Sudan, it is in the national interest that the prohibition should be waived in part. 80 Fed. Reg. 62,431 (Oct. 16, 2015).

D. ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

1. ESC Rights Generally and Cultural Rights

a. General

On March 26, 2015, the U.S. delegation provided an explanation of position on a resolution entitled “Realization of Economic, Social [and] Cultural Rights.” The United States joined consensus on that resolution which was adopted without a vote. U.N. Doc. A/HRC/RES/28/12. The U.S. explanation of position is excerpted below and available at <https://geneva.usmission.gov/2015/03/26/resolution-entitled-realization-of-economic-social-cultural-rights/>.

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The United States is pleased to join consensus on this resolution concerning the realization of economic, social, and cultural rights. We engaged in the negotiations that developed this resolution and join consensus today as part of our efforts to work constructively with delegations on this important area.

As a matter of public policy, the United States continues to take steps to provide for the economic, social, and cultural needs of its people.

While we share the broad aims of this resolution, the United States is concerned about a few key points in it. As the International Covenant on Economic, Social, and Cultural Rights provides, each State Party undertakes to take the steps set out in Article 2.1 “with a view to

achieving progressively the full realization of the rights.” We interpret this resolution’s references to the obligations of States as applicable only to the extent they have assumed such obligations, and with respect to States Parties to the Covenant, in light of its Article 2(1). The United States is not a party to that Covenant, and the rights contained therein are not justiciable as such in U.S. courts.

The principle of non-discrimination that underpins the very concept of human rights is critical, and one the United States strives continually to fulfill. We read the references to non-discrimination in this resolution consistent with Article 2.2 of the Covenant.

While we recognize the importance of social protection floors, we note that countries have a wide array of policies and actions that may be appropriate in promoting the progressive realization of economic, social, and cultural rights. Therefore, we think that this resolution should not try to define the content of those rights.

Finally, we interpret this resolution’s reaffirmation of previous documents, resolutions, and related human rights mechanisms as applicable to the extent States affirmed them in the first place. In joining consensus on this resolution the United States does not recognize any change in the current state of conventional or customary international law.

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b. Cultural Rights

On March 26, 2015, at the 28th session of the HRC, the United States delegation provided an explanation of position on the resolution entitled “Mandate of the Special Rapporteur in the field of cultural rights.” The United States joined consensus on the resolution, which was adopted without a vote. U.N. Doc. A/HRC/RES/28/9. The U.S. explanation of position is excerpted below and available at <https://geneva.usmission.gov/2015/03/26/resolution-on-the-mandate-of-the-special-rapporteur-in-the-field-of-cultural-rights/>.

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Mr. President, the United States continues to support the promotion of cultural diversity, pluralism, tolerance, cooperation, and dialogue among people from all cultures. In this spirit, we are pleased to join consensus. Cultural diversity has played a critical role in our own country’s history. Respect for our differences has contributed to the development of significant legal protections for members of minority groups, showing that cultural diversity can strengthen human rights.

Human rights are universal, and all governments are responsible for abiding by their obligations under international human rights law. Under the UN Charter, we have committed ourselves not just to respecting human rights law domestically, but to promoting and encouraging respect for human rights and for fundamental freedoms abroad, without distinction as to race, gender, language, or religion. We believe that respect for human rights also substantially enhances respect for diversity.

We do have concerns, however, that the concept of cultural diversity, particularly when espoused in a human rights context, could be misused. Cultural diversity should neither be used to undermine or limit the scope of human rights, nor to justify or legitimize human rights abuses. We would like to reinforce that efforts to promote cultural diversity should not infringe on the enjoyment by individuals of their human rights. Instead, cultural diversity and international human rights can be mutually reinforcing concepts that help us all achieve a better world. Certain cultural rights are set forth in Article 27 of the Universal Declaration of Human Rights, as well as in other human rights instruments. Notably, in addition to the right of individuals to share in scientific advancement and its benefits referenced in the current resolution, there is a right to the protection of the moral and material interests resulting from any scientific, literary or artistic production. Intellectual property rights reflect that latter right, and must be respected. We appreciate the work of the Special Rapporteur on cultural rights over the past few years, but also note that the United States does not agree with many of her most recent report's recommendations and characterizations. These include ones related to copyright norm-setting activities at experts' discussions in other international fora and others suggesting that individual creators and corporations or businesses should merit different protections.

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On March 11, 2015, at the 28th session of the Human Rights Council, Ambassador Harper delivered an intervention in an interactive dialogue including the Special Rapporteur on Cultural Rights, in response to her report on copyright policy and the right to science and culture. That intervention is excerpted below and available at <https://geneva.usmission.gov/2015/03/11/human-rights-council-dialogue-with-special-rapporteurs-item-3/>.

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We appreciate the report's recognition of the importance of copyright in encouraging creativity. Copyright laws in the United States and other countries foster and promote culture, science, and the arts, for the benefit not only of their creators, but also the general public. A wide range of academic studies has found that when effective copyright protection exists, creators produce more work. If society does not provide authors, artists, and performers with sufficient incentives to create – by ensuring meaningful protections for what they create – we diminish not only their economic and other wellbeing, but also that of millions of individuals and businesses that rely on their creativity. In the end, we diminish the cultural life of our global community.

In the view of the United States, the report does not adequately acknowledge that copyright can serve as a means to promote human rights, including those expressed in Article 27(2) of the Universal Declaration of Human Rights. We also believe that the report should have fully addressed the pressing challenges posed to creators by lack of respect for intellectual property rights and for all individuals' human rights to freedom of expression.

The United States also does not agree with many of the report's recommendations and characterizations. These include ones related to copyright norm-setting activities at experts'

discussions in other international fora and others suggesting that individual creators and corporations or businesses should merit different protections.

Copyright, science, and culture are critically interconnected, and copyright plays a key role in incentivizing creative and scientific works for the benefit of all. We look forward to encouraging further in discussions on these important issues.

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2. Food

On March 26, 2015, at the 28th session of the HRC, the U.S. delegation provided an explanation of position on the resolution entitled “The Right to Food.” The United States joined consensus on the resolution, which was adopted without a vote on March 26, 2015. U.N. Doc. A/HRC/RES/28/10. The U.S. explanation of position reiterates the previously stated U.S. views on the right to food (see *Digest 2014* at 224-25) and is available at <https://geneva.usmission.gov/2015/03/26/u-s-explanation-of-position-on-resolution-on-the-right-to-food/>.

The UN General Assembly adopted a resolution on the right to food on December 17, 2015. U.N. Doc. A/RES/70/154. The United States joined consensus on the resolution, which was adopted without a vote. When the draft resolution was discussed in the UN General Assembly’s Third Committee in November, the United States delivered the following explanation of its position.

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Hunger and malnutrition have devastating consequences, and maintaining a focus on global food security is critical to realizing our vision of a world free from hunger. For more than a decade the United States has been the world’s largest food aid donor. In joining consensus on this annual resolution on the right to food, the United States reiterates our commitment to reducing hunger and addressing poverty sustainably through a variety of approaches. We are also pleased that this resolution emphasizes the important link between the empowerment of women and the progressive realization of the right to adequate food in the context of national food security and expresses concern about child mortality and morbidity and stunting. Our Feed the Future Initiative and programs to support women entrepreneurs and women farmers exemplify the United States’ commitment to incorporating a gender equality perspective in our efforts to address hunger and poverty.

Nevertheless, we have several concerns about this resolution, which continues to use outdated, inapplicable, or otherwise inappropriate language. For instance, trade and trade negotiations are the purview of the World Trade Organization and its membership, which is different from the UN’s, beyond the subject-matter and the expertise of this Committee, and should not have been included in this resolution. We do not accept any reading of this resolution that might suggest that protection of intellectual property rights has a negative impact on food security. Likewise, this resolution today will in no way undermine or modify the commitments of the United

States or any other government to existing trade agreements, nor does it represent agreement on any Doha Round issues or the future of the Doha Round or the mandates of ongoing trade negotiations. We are also concerned that the resolution's language concerning donor nations and investors is imbalanced. The text also should reflect the need for transparency, accountability, good governance, and other elements critical to providing an environment conducive to investment in agriculture.

We also underscore our disagreement with other inaccurate language in this text. For example, this resolution refers to a "global food crisis," when we are not currently in a global food crisis. Using this term detracts attention from important and relevant challenges that contribute significantly to the recurring state of regional food security, including long-term conflicts, lack of strong governing institutions, and systems that deter investment. Unfortunately, the resolution mentions none of these significant factors. We also reiterate our concern about unattributed statements of a technical or scientific nature in this resolution; the United States does not necessarily agree with such statements. Similarly, while the United States cares deeply about climate change, is taking ambitious steps domestically and internationally to address this serious issue, and is working hard toward an effective and ambitious agreement in Paris, we disagree with many of the observations and recommendations in the Special Rapporteur's interim report.

The United States supports the right of everyone to an adequate standard of living, including food, as recognized in the Universal Declaration of Human Rights. In joining consensus on this resolution, the United States does not recognize any change in the current state of conventional or customary international law regarding rights related to food. The United States is not a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR). Accordingly, we interpret this resolution's references to the right to food, with respect to States Parties to the ICESCR, in light of its Article 2(1). We also interpret this resolution's references to member States' obligations regarding the right to food as applicable to the extent they have assumed such obligations. The United States is working to achieve a world in which everyone has adequate access to food but does not treat the right to food as an enforceable obligation. We also do not concur with any reading of this resolution or related documents that would suggest that States have particular extraterritorial obligations arising from a right to food.

Finally, we interpret this resolution's reaffirmation of previous documents, resolutions, and related human rights mechanisms as applicable to the extent countries affirmed them in the first place. As for other references to previous documents, resolutions, and related human rights mechanisms, we reiterate any views we expressed upon their adoption.

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3. Water and Sanitation

On December 17, 2015, the UN General Assembly adopted resolution 169 entitled, "The human rights to safe drinking water and sanitation." U.N. Doc. A/RES/70/169. The United States joined consensus on the resolution, which was adopted without a vote, but dissociated from consensus on one of its operative paragraphs. The U.S. statement on the resolution, which follows, explains the rationale both for consensus on the resolution overall and for dissociation on operative paragraph 2.

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The United States recognizes the importance and challenges of meeting basic needs for water and sanitation to support human health, economic development, and peace and security. The United States is committed to addressing the global challenges relating to water and sanitation and has made access to safe drinking water and sanitation a priority in our development assistance efforts.

In joining consensus on this resolution today we reaffirm the understandings in our July 27, 2011 statement in the New York at the UNGA plenary meeting on this topic, as well as in our explanations of position on the Human Rights Council's September 2012, 2013, and 2014 resolutions on the human right to safe drinking water and sanitation. These statements are available, respectively, on the websites of the U.S. missions in New York and Geneva.

The United States joins consensus with the express understanding that this resolution, including its references to human rights to safe drinking water and sanitation, does not alter the current state of conventional or customary international law, which does not contain standalone rights to safe drinking water or sanitation. While we respect the importance of promoting access to sanitation and water both and that efforts to do so can involve distinctive approaches, we understand this resolution's references to human rights to water and sanitation to refer to the human right to safe drinking water and sanitation derived from economic, social, and cultural rights contained in the ICESCR. We also note that water resource management is a technical function that is distinct from international human rights law and underscore our view that preambular paragraph 18 of this resolution should not be understood as creating any international legal obligations.

The United States also joins consensus on the understanding that this resolution does not imply that States must implement obligations under human rights instruments to which they are not a party. The United States is not a party to the ICESCR, and the rights contained therein are not justiciable in U.S. courts. In addition, we read preambular paragraph 19 of this resolution to be consistent with the Human Rights Council's 2010, 2011, and 2012 resolutions on this topic, which noted that transboundary water issues fall outside the scope of the human right to safe drinking water and sanitation derived from the economic, social, and cultural rights contained in the ICESCR.

In addition, while the United States agrees that safe water and sanitation are critically important, we do not accept all of the analyses and conclusions in the Special Rapporteur's reports mentioned in this resolution.

Finally, we regret that the United States must dissociate from consensus on operative paragraph 2 of this resolution. The language used to define the right to water and sanitation in that paragraph is based on the views of the Committee on Economic, Social, and Cultural Rights and the Special Rapporteur only. That language does not appear in an international agreement and does not reflect any international consensus.

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On October 14, 2015, the United States delivered an explanation of its position on the Committee on World Food Security's adoption of the Committee's first-ever "Decision Box" (a non-binding resolution) on "Water for Food Security and Nutrition." The Decision Box was adopted by consensus. The U.S. explanation of position follows.

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The United States joins consensus on this Decision Box. Domestically, the United States pursues policies that promote access to food, and supports universal and non-discriminatory access to safe drinking water and sanitation, which are vitally important to human health and well-being. Globally, it is the objective of the United States to achieve a world where everyone has adequate access to food and safe drinking water and sanitation, and where water resources are managed in an integrated and sustainable manner for human health, economic growth and environmental well-being. However, while the Committee has addressed the nexus between water and food security and nutrition, which is well within its purview, we note that water has many other applications and roles within the context of sustainable development. When considering water for food security and nutrition, we believe these other roles for water must be taken into account as well.

The United States supports the right of everyone to an adequate standard of living, including food, as recognized in the Universal Declaration of Human Rights. The United States has also joined consensus on a number of resolutions of the UN Human Rights Council affirming that the human right to safe drinking water and sanitation is derived from the economic, social and cultural rights contained in the International Covenant on Economic, Social and Cultural Rights. The United States is not a party to this Covenant: accordingly, we interpret this Decision Box's references to rights related to food or safe drinking water and sanitation as with respect to States Parties to that Covenant, in light of its Article 2(1). In joining consensus on this Decision Box, the United States does not recognize any change in the current state of conventional or customary international law or obligations, including but not limited to trade obligations regarding human rights, agricultural incentives, or intellectual property rights. In particular, we underscore that human rights are held and exercised by individuals, not groups. The United States also understands that this Decision Box does not imply that states must join or implement obligations under human rights instruments to which they are not a party.

References to traditional knowledge do not relate to intellectual property rights and the United States underscores the importance of regulatory and legal environments that do not negatively affect innovation and development. The language in the document on technology transfer and traditional knowledge does not serve as a precedent for future negotiated documents, including other negotiations in or outside of the UN system, including bilateral and multilateral agreements.

The United States does not concur with any reading of the Decision Box that suggests states have particular extraterritorial obligations arising from rights related to food or safe drinking water and sanitation. Nor does the United States support policies that suggest that water resources should be managed for the sole purpose of food production or that food production should come at the expense of sound, sustainable, and integrated management of water resources. The United States recognizes that an open trading systems allows for food security through increased food availability without increasing food production.

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4. Education

In May 2015, the World Education Forum convened in Incheon, Korea. The outcome of the Forum was the adoption of the Incheon Declaration and Framework for Action on Education 2030. The U.S. statement upon adoption of the Incheon Declaration is excerpted below.

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The United States joins consensus with the express understanding that we attach high priority to early learning, closing achievement gaps and reducing barriers to learning in conflict and crisis affected countries. We emphasize agreement on a meaningful and ambitious post 2015 Development Agenda, as well as a strong Financing for Development Framework. Thus, we would like to underscore that the World Education Forum 2015 Declaration and the Framework for Action Education 2030 should not prejudice those continuing negotiations, specifically regarding the setting of global targets for Overseas Development Assistance (ODA) and sector specific spending. We look forward to discussing the path forward for finalizing the Framework for Action to reflect the outcomes of these on-going dialogues. In joining consensus the United States also does not recognize any change in the current state of conventional or customary international law, and joining consensus does not imply that States must implement obligations under human rights instruments to which they are not a party. While acknowledging the progress that has been made and respecting our various educational governing structures, the World Education Forum and the political support of the member states demonstrate our collective commitment to partnership to achieve inclusive and quality education for all and the eradication of extreme poverty by 2030.

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On July 3, 2016, at the 29th session of the HRC, Eric Richardson delivered a U.S. explanation of position regarding the Council's resolution on the right to education, on which the United States joined consensus. That explanation is excerpted below and available at <https://geneva.usmission.gov/2015/07/06/u-s-eop-on-hrc-right-to-education-resolution/>.

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The United States is firmly committed to providing equal access to education. We note that our judicial framework provides robust opportunities for redress, but it is appropriately limited to parties who have suffered harm. We interpret this resolution's references to obligations as applicable only to the extent that States have assumed such obligations, and with respect to

States Parties to the International Covenant on Economic, Social, and Cultural Rights, in light of its Article 2(1). The United States is neither a party to that Covenant nor to its Optional Protocol, and the rights contained therein are not justiciable as such in U.S. courts. We read this resolution to urge States to comply with their applicable international obligations.

As educational matters in the United States are primarily determined at the state and local levels, we understand the resolution's call on States to strengthen access to quality education in terms consistent with our respective federal, state, and local authorities.

With respect to this resolution's references to private providers, we underscore the importance of education as a public good, but note also that private providers can offer students a viable educational option. We support encouraging all providers to deliver education consistent with its importance as a public good, and take very seriously the responsibility of States to intervene in litigation as appropriate.

The United States does not regard the language in this resolution as assigning primacy to any one issue in the priorities or structure of the Post-2015 Development Agenda or in any other way pre-judging the outcome of these ongoing negotiations.

Despite these and other concerns with the resolution, we join consensus on this resolution because we support its focus on the right to education.

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On June 18, 2015, at the 29th session of the HRC, in an interactive dialogue with the Special Rapporteur on the Right to Education, in response to a report on "protecting the right to education against commercialization," the U.S. delegation delivered an intervention that is available at <https://geneva.usmission.gov/2015/06/18/hrc-dialogue-with-special-rapporteur-on-the-right-to-education/> and includes the following:

With respect to the comments concerning private education in the Special Rapporteur's recent report, we underscore that the role of public education in the United States has deep and strong historical roots. Today, public education is highly-valued as a mechanism for the advancement of all persons. At the same time, we appreciate that private schools play an important role and can provide a critical and viable option for students from all backgrounds. Education is stronger when students and their families have the opportunity to be informed honestly about the education programs offered and the results achieved. We support appropriate measures to address fraudulent practices in public or private schools, which harm all students. Finally, with respect to the reference to the use of public money in the United States in the Special Rapporteur's recent report, we note that the U.S. Supreme Court has upheld the use of public funds to support private school vouchers within certain limited circumstances.

E. HUMAN RIGHTS AND THE ENVIRONMENT

On March 26, 2015, at the 28th session of the HRC, the United States provided an explanation of its position on the resolution entitled “Human Rights and the Environment.” The U.S. explanation of position is available at <https://geneva.usmission.gov/2015/03/26/eop-on-item-3-resolution-entitled-human-rights-and-the-environment/> and includes the following:

The United States continues to agree with other members of the Council that protection of the environment and its contribution to sustainable development, human well-being, and the enjoyment of human rights are vitally important. In this spirit, we join consensus on this resolution.

At the same time, we remain concerned about the general approach of placing environmental concerns in a human rights context and about addressing them in fora that do not have the necessary expertise. For related reasons, while we recognize the efforts of the Independent Expert, soon to be renamed Special Rapporteur, and UN bodies in this area, we do not agree with a number of aspects of their work.

We also note our long-standing interpretation of Principle 7 of the Rio Declaration, to the effect that the principle does not imply any diminution in the environmental responsibilities of developing countries. We interpret this resolution’s references to the obligations of states as applicable only to the extent the State has assumed such obligations by becoming party to various human rights instruments. In joining consensus on this resolution the United States does not recognize any change in the current state of conventional or customary international law. Furthermore, we reiterate that states are responsible for implementing their human rights obligations. This is true of all obligations that a state has assumed, regardless of external factors, including the availability of technical and other assistance.

On March 6, 2015, at the 28th session of the HRC, the U.S. delegation made a statement in the Council’s full-day discussion on human rights and climate change. That statement is excerpted below and available at <https://geneva.usmission.gov/2015/03/09/us-intervention-for-the-unhrc-full-day-discussion-on-human-rights-climate-change/>

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Climate change is an urgent and complex global challenge, requiring cooperation among all nations. Any effective solution to climate change depends upon all nations taking responsibility for their own actions and cooperating for the benefit of our planet. The United States is firmly committed to addressing this challenge at home, with our partners around the world, and through

the appropriate fora, including in the ongoing negotiations by Parties to the UN Framework Convention for Climate Change.

We agree that the effects of climate change may have a range of implications for the effective enjoyment of human rights.

We remain firm in our conviction that any discussion of climate change in the Human Rights Council must be focused on these human rights implications in order to add meaningful value. When it comes to climate change efforts, we see this Council's role as helping ensure that countries respect the human rights obligations that they have assumed.

We remain concerned by attempts to insert the Human Rights Council into the complex and sensitive climate negotiations that experts are pursuing in other UN fora. Any such engagement by the Council could risk sabotaging or prejudicing initiatives that have the potential to address climate change in an effective and meaningful manner. While climate change is a global problem requiring a global solution, the search for a global solution is foremost an issue for the relevant environmental bodies.

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On July 2, 2015, at the 29th session of the HRC, the U.S. delegation provided a statement on resolution 29/15 on human rights and climate change, adopted on July 2 without a vote. U.N. Doc. A/HRC/RES/29/15. David Sullivan delivered the U.S. statement, excerpted below and available at <https://geneva.usmission.gov/2015/07/02/u-s-statement-at-the-hrc-29-on-human-rights-and-climate-change/>.

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... We recognize that climate change is an urgent, complex, and far-reaching global challenge. Addressing climate change requires cooperation among all nations—for any effective solution to climate change depends upon all nations taking responsibility for their own actions and for our planet. Furthermore, as we said about the Human Rights Council's last resolution on this topic, we agree that the effects of climate change have a range of direct and indirect implications for the effective enjoyment of human rights. On that basis, we are joining consensus on this resolution.

At the same time, this resolution raises some serious concerns for the United States. We regret that the sponsors missed an opportunity to discuss climate change issues through a true human rights lens. That means ensuring that States respect their human rights obligations to persons in their territories when they react to climate change.

Regarding the resolution's reference to the right to development, the United States position on this issue is well known, and applies here. Further, we understand the phrases used in this text to refer to many human rights as shorthand for the more accurate and widely accepted terms used in the applicable international covenants, and we maintain our longstanding positions on those rights.

Certain language in the resolution intrudes on expert climate negotiations taking place elsewhere. This is beyond the competence and expertise of the Council, and is particularly inappropriate in light of the ongoing negotiations in the UN Framework Convention on Climate

Change (UNFCCC). For example, the resolution's unnecessary and selective quotations from the UNFCCC, to which the United States is a party, and its Conference of Parties (COP) decisions, as well as its singling out of one bloc in the negotiations, raise concerns. We understand the quotations from the UNFCCC and COP decisions as simply acknowledging that they contain the stated provisions. The applicability of these quotations and concepts they describe are limited to the context of that carefully negotiated Convention. Furthermore, to the extent that some might attempt to misuse the language in this resolution in the context of the UNFCCC or elsewhere, including to misinterpret carefully negotiated climate change decisions, we underscore that this resolution will in no way affect what has been decided in the context of the UNFCCC, nor prejudice ongoing negotiations in any way.

While we appreciate the tremendous work by the participants in the negotiation of this resolution, this text does not reflect the diverse views expressed in the negotiations. We strongly urge that the Council's future work on this topic be led by a cross-regional core group that includes representation of diverse perspectives.

The United States stands ready to continue working with others on this important issue.

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F. RESPONSIBLE BUSINESS CONDUCT

In 2015, the United States continued to promote implementation of the UN Guiding Principles on Business and Human Rights. As discussed in *Digest 2014* at 234, President Obama announced that the U.S. government, in consultation with interested stakeholders, would develop a National Action Plan ("NAP") to promote responsible business conduct overseas. Additional consultations were held in 2015, including an open dialogue in Berkeley, California on February 6, 2015. See Deputy Assistant Secretary of State Scott Busby's remarks, available at <http://www.state.gov/j/drl/rls/rm/2015/237502.htm>. Consultations were also held in April 2015 in Norman, Oklahoma and Washington, D.C. See <http://www.humanrights.gov/dyn/issues/business-and-human-rights/national-action-plan.html>.

On August 31, 2015, the United States submitted its response to a 2015 questionnaire from the UN Working Group on Business and Human Rights on implementation of the Guiding Principles. The U.S. submission, excerpted below, is available at <http://www.ohchr.org/Documents/Issues/Business/2015Survey/USA.pdf>.

* * * *

In addition to the U.S. NAP, in June President Obama met with the leaders of other G7 nations in Schloss Elmau, Germany, where the leaders' final Summit Declaration announced our shared commitment to addressing issues of "responsible supply chains," including by noting strong support for the Guiding Principles; welcoming efforts to establish substantive National Action Plans; encouraging human rights due diligence; supporting a "Vision Zero Fund" in coordination

with the International Labor Organization (ILO) to prevent and reduce workplace deaths and serious injuries; and extending a commitment to strengthening the National Contact Point for the OECD Guidelines to ensure effectiveness and leadership by example. This declaration by the 07 represents significant progress for the global business and human rights agenda, and the United States is dedicated to addressing these commitments, including, in part, through our National Action Plan.

Business Enterprises and the State

The United States government does not own or control any corporate enterprises. That said, the government engages with the private sector through our facilitation of development finance, managed primarily by the Overseas Private Investment Corporation (OPIC). OPIC has worked hard to ensure that it has robust safeguards and due diligence systems in place. OPIC conducts project-level human rights reviews and for each project seeking OPIC support, OPIC works in close consultation with the U.S. Department of State prior to making any final commitment (see footnote 1 [“Worker and Human Rights”, <http://www.opic.gov/doing-business-us/OPIC-policies/worker-human-rights>]). Furthermore, OPIC’s Office of Investment Policy (OIP) works to ensure that OPIC-supported projects respect human rights and workers’ rights (see footnote 2 [“Our Investment Policies” <http://www.opic.gov/who-we-are/our-investment-policies>]).

Pursuant to Section 239 (i) of the Foreign Assistance Act, OPIC must take into account in the conduct of its programs in a country, in consultation with the U.S. Department of State, all available information pertinent to the observance of and respect for human rights and fundamental freedoms and any effect of its programs on human rights and fundamental freedoms in the country in question.

Additionally, OPIC’s Office of Accountability addresses environmental and social complaints, including human rights-related complaints, that result from OPIC-supported projects. This helps to ensure that OPIC’s policies on human rights and other issues match the practice on the ground, and when issues arise, that there are mechanisms in place for redress.

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In addition to promoting respect for human rights through bilateral U.S. development finance, the United States has also urged the World Bank to incorporate respect for human rights into its Safeguards policies and social impact assessments. The United States has issued several public statements on the World Bank’s Safeguards review process highlighting the need to address the potential human rights impacts of World Bank projects.

With respect to trade, the United States includes labor provisions in its trade agreements that help ensure trade partners are protecting internationally-recognized labor rights. Trade preference programs, which encourage economic growth in developing countries through expanded trade and investment, all condition preferential market access on meeting certain “eligibility criteria,” which include criteria relating to labor rights. While the specific labor criteria in each program are unique, the Obama Administration has made use of all of them to address a range of serious problems: from lack of worker voice, to building and fire safety concerns, to acts of violence and intimidation towards union organizers, to employment-related sexual harassment. Addressing these issues is not only critical to protecting workers’ rights, it is

necessary for strengthening developing countries' growth strategies.

The United States is also seeking the most robust ever labor commitments with the Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (T-TIP) countries, which collectively represent nearly two-thirds of the global economy. For example, in the TPP, the United States is seeking to include provisions that require parties to provide workers their fundamental rights, as stated in the ILO Declaration on Fundamental Principles and Rights at Work, and has insisted that labor provisions be at the core of the agreement, subject to full dispute settlement and the full range of trade sanctions.

Further, the United States has announced a joint "Initiative to Promote Fundamental Labor Rights and Practices in Myanmar," which aims to establish a partnership to advance labor rights and protections for workers in Burma. With recent changes in its posture towards the outside world, Burma is at an early and pivotal stage in its economic growth. The Initiative helps Burma lay the right foundation for ensuring that economic growth and development proceed on a basis that is inclusive and sustainable.

As a large purchaser of goods and services globally, the U.S. government recognizes its role in promoting and incentivizing responsible business conduct through its procurement practices. As such, the Obama Administration has consistently taken steps to refine and update procurement procedures to address social issues.

In July 2014, the President issued Executive Order 13673: Fair Pay and Safe Workplaces, which requires prospective federal contractors to disclose domestic labor law violations and gives agencies guidance on considering labor violations when awarding federal contracts. The Executive Order also ensures that contractors' employees are given the necessary information each pay period to verify the accuracy of their paycheck, and that workers who may have been sexually assaulted or had their civil rights violated get their day in court by ending pre-dispute arbitration agreements covering these claims at corporations with large federal contracts, except where valid contracts already exist.

Also in July 2014, the President issued EO 13672, which prohibits contractors from discriminating in hiring on the basis of sexual orientation and gender identity.

And in January 2015, a final Federal Acquisition Regulation (FAR) rule was published on strengthening prevention of trafficking in persons in federal contracts, released during a major White House forum on preventing human trafficking in supply chains (see footnote 4 [<https://www.whitehouse.gov/blog/2015/01/29/combating-human-trafficking-supply-chains> and <https://www.federalregister.gov/articles/2015/01/29/2015-01524/federal-acquisition-regulation-ending-trafficking-in-persons>]). The regulations implement Executive Order 13627, "Strengthening Protections Against Trafficking in Persons in Federal Contracts" and Title XVII of the National Defense Authorization Act for Fiscal Year 2013. These regulations prohibit trafficking or trafficking-related practices, such as charging recruitment fees to get work, confiscating workers' identity documents, and using fraudulent or misleading recruitment practices. In addition, the new Executive Order mandates additional protections for large overseas contracts, namely compliance plans that include awareness programs, whistleblower protections, and recruitment, wage, and housing plans, etc. In order to further these regulations, Department of State funded a leading labor rights to develop a framework for evaluating trafficking risks in global supply chains; research key sectors and commodities at heightened risk for human trafficking; and develop a set of tools including a sample compliance plan, sample set of criteria for screening and evaluating labor recruiters, and a labor recruiter performance assessment.

In addition to the Executive Orders listed above, this year the Department of State modified its Worldwide Protective Services contract to require that all private security firms bidding on these contracts be members of the International Code of Conduct for Private Security Service Providers (ICoC) Association. The ICoC provides guidance for private security service providers to promote adherence to international human rights and humanitarian law, and the ICoC Association oversees dissemination and implementation of the International Code of Conduct in practice. The U.S. government worked with other governments, industry, and civil society organizations to establish the ICoC Association, and continues to engage with the Association as a member of the Board. The U.S. government, through the Department of Defense, has also facilitated the development of management standards for the private security industry based on the International Code of Conduct. Currently, among other related activities, the Departments of Defense and State are incentivizing and promoting these standards by referencing them as contract requirements.

Besides utilizing its major procurement role to promote respect for human rights, several U.S. federal agencies are examining their “branding” through licensing agreements. Starting in 2014, the U.S. Marine Corps (USMC) Trademark Licensing Office (TMLO) launched a revised and more robust licensing policy for licensees who produce goods with USMC logos. This policy requires license holders to have a firm understanding and oversight of their supply chain. As a child and forced labor risk mitigation measure, the policy further prohibits licensees from sourcing products or components listed on the U.S. Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* (see footnote 5 [<http://www.dol.gov/ilab/reports/child-labor/list-of-goods/>]). For example, USMC licensees are prohibited from sourcing footwear from Bangladesh, Brazil, China, India and Indonesia since these industries show high risk for child or forced labor according to the Labor Department's listing.

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G. INDIGENOUS ISSUES

1. HRC

See Ambassador Harper's remarks at the UPR in section 6.A.4.b, *supra*, discussing U.S. actions relating to the human rights of indigenous peoples. At the 30th session of the HRC, the United States joined consensus on a resolution on human rights and indigenous peoples. U.N. Doc. A/HRC/RES/30/4. The U.S. explanation of position on the resolution is excerpted below and available at <https://geneva.usmission.gov/2015/10/01/u-s-explanation-of-position-human-rights-and-indigenous-peoples-resolution/>.

* * * *

...The United States strongly supports efforts at the Human Rights Council and throughout the UN system to promote and protect the rights of indigenous peoples. In particular, we support this resolution's call for a panel discussion on eliminating violence against indigenous women and girls at this Council's session next September. Addressing this serious problem is a priority for the United States and U.S tribal leaders, and one we believe this Council and other parts of the UN system should remain focused on.

We are joining consensus on this resolution despite its inclusion of the phrase "the right to health and indigenous peoples." We interpret the reference to that language in OP 5 of this resolution as referring to the equal right of indigenous individuals to the enjoyment of the highest attainable standard of physical and mental health, enshrined in the Declaration on the Rights of Indigenous Peoples. It relates to the Expert Mechanism's informal reference to this right and we do not agree that this language can serve as a precedent for future negotiated documents, and we will maintain this position in other fora. We look forward to the Expert Mechanism's report on the subject.

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Also at the 30th session of the HRC, the United States joined consensus on a resolution on the mandate of the Expert Mechanism on the Rights of Indigenous Peoples ("EMRIP"). U.N. Doc. A/HRC/RES/30/11. The U.S. general statement on the resolution follows and is also available at <https://geneva.usmission.gov/2015/10/01/resolution-on-the-expert-mechanism-on-the-rights-of-indigenous-peoples/>.

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... Governments and indigenous peoples want progress on reviewing EMRIP's mandate, which is called for in the outcome document of the World Conference on Indigenous Peoples. This resolution defines the critical first steps for those discussions, including setting up a timeline for specific actions aimed at gathering and analyzing substantive ideas for reform.

The United States would further thank Guatemala and Mexico for the leadership demonstrated through this process. The United States firmly believes that full and free participation of indigenous peoples is critical and a precondition to a successful process. Initially, some other states voiced less enthusiasm for full engagement of indigenous peoples and their representatives. Guatemala and Mexico were constructive in ensuring a consensus approach that ultimately harmonized those positions.

The United States is pleased that the resolution we will adopt today includes language on the importance of indigenous peoples' full and effective participation throughout the process and a call for states to hold consultations with indigenous peoples.

The United States has held numerous consultations with U.S. indigenous representatives throughout this process, and we intend to heed the resolution's call by holding additional consultations with U.S. indigenous representatives prior to the convening of the expert workshop, so that we may learn their views on how EMRIP may be reformed. We urge other countries to do the same.

Mr. President, we look forward to the workshop, to OHCHR's subsequent report, and to meeting with states at the July 2016 EMRIP meeting and in this forum a year from now to discuss how to move resolutely toward reform.

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2. UN General Assembly

At the 70th UN General Assembly, the United States co-sponsored and joined consensus on the resolution on the "Rights of indigenous peoples." U.N. Doc. A/RES/70/232. The resolution was adopted without a vote on December 23, 2015.

H. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

On November 27, 2015, the United States filed its one-year follow-up response to recommendations of the Committee Against Torture on the Combined Third to Fifth Periodic Reports presented by the United States in 2014. See *Digest 2014* at 242-46 for a discussion of the U.S. presentation of its periodic reports in 2014. The follow-up report is available at <http://www.state.gov/j/drl/rls/250342.htm>, and excerpted below.

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1. Pursuant to the Committee's request, the United States provides the following information pertaining to four of the Committee's recommendations (¶¶ 12(a), 14(c), 17, and 26(c-d) of its Concluding Observations adopted November 20, 2014), taking into consideration the Committee's follow-up guidelines.

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4. As a preliminary note, we wish to remind the Committee that in preparation for our presentation last November, senior lawyers across the U.S. government considered questions posed by the Committee about important U.S. legal positions with respect to the Convention, and our delegation in November 2014 conveyed a number of changes and clarifications agreed upon in the course of that review process. The United States affirmed its understanding that where the text of the Convention provides that obligations apply to a State Party in "any territory under its jurisdiction," such obligations extend to certain places beyond the sovereign territory of the State Party, and more specifically, "territory under its jurisdiction" extends to "all places that the State Party controls as a governmental authority."

5. We have concluded that the United States currently exercises such control at the U.S. Naval Station at Guantanamo Bay, Cuba, and over all proceedings conducted there, and with respect to U.S.-registered ships and aircraft.

6. The delegation also clarified the United States' view that although the law of armed conflict is the controlling body of law with respect to the conduct of hostilities and the protection

of war victims, a time of war does not suspend the operation of the Convention, which continues to apply even when a State is engaged in armed conflict. The obligations to prevent torture and cruel, inhuman, and degrading treatment or punishment in the Convention remain applicable in times of armed conflict and are reinforced by complementary prohibitions in the law of armed conflict.

7. Additionally, we wish to note one development since our presentation last November. In 2014, the Senate Select Committee on Intelligence asked the White House to declassify the executive summary, findings, and conclusions of its report on the CIA's former detention and interrogation program. President Obama determined that the report should be declassified with appropriate redactions necessary to protect national security, and supported the Senate Committee's release of the declassified report. The Senate Committee released the declassified executive summary, findings, and conclusions to the public in December 2014.

8. The Senate Committee's report contains a review of a program that included interrogation methods used on terrorism suspects in secret facilities at locations outside the United States. In one of his first Executive Orders after taking office in 2009, President Obama prohibited the use of harsh interrogation techniques and ended the detention and interrogation program described in the report. On November 25, 2015, he signed the National Defense Authorization Act for Fiscal Year 2016, which includes provisions codifying these key interrogation-related reforms from that Executive Order into U.S. law.

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On October 23, 2015, the Inter-American Commission on Human Rights of the Organization of American States held a thematic hearing on the "Human Rights Situation of Persons Affected by the U.S. Rendition, Detention, and Interrogation Program ("RDI Program")." For further information on thematic hearings held by the Commission relating to the United States in 2015, see Chapter 7. Kathleen Hooke, Assistant Legal Adviser for Human Rights and Refugees at the U.S. Department of State, delivered a statement at the hearing on the RDI Program, which is excerpted below.

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Last year, the Senate Select Committee on Intelligence asked the White House to declassify the executive summary, findings, and conclusions of the Committee report on the CIA's former detention and interrogation program. President Obama determined that the report should be declassified with appropriate redactions necessary to protect national security, and he supported and continues to support the Committee's release of the declassified report.

The Committee released the declassified executive summary, findings, and conclusions to the public in December 2014. In the interest of transparency, this public report is nearly 500 pages long and is only lightly redacted—93 percent of the summary report is entirely declassified. It details activities that took place under a CIA program that has since ended.

The decisions following the attacks of September 11, 2001, relating to this former program are part of our history and are not representative of the way we deal with the threat from terrorism we still face today. One of the great aspects of our democracy is that we have the

ability to look at our past and identify where we could and should do better. This report should be viewed as what it is: a recounting of a period in our history that has since passed.

The United States upholds the bedrock principle that torture and cruel, inhuman, and degrading treatment or punishment are categorically and legally prohibited always and everywhere, violate U.S. and international law, and offend human dignity. Torture is contrary to the founding principles of our country and to the universal values to which we hold ourselves and the international community.

I'd like to take a few moments to tell you about what we've done to prohibit and prevent torture going forward. First, as you know, six years ago President Obama issued an Executive Order formally ending the detention and interrogation program conducted by the CIA. Immediately upon taking office in 2009, President Obama issued Executive Order 13491, Ensuring Lawful Interrogations, January 22, 2009. The President directed the closure of any detention facilities operated by the CIA and prohibited the operation of any such facilities in the future.

Second, the President also mandated that, consistent with the Convention Against Torture and Common Article 3 of the 1949 Geneva Conventions, any individual detained in armed conflict by the United States or within a facility owned, operated, or controlled by the United States, in all circumstances, must be treated humanely, and not be subjected to violence to life and person nor to outrages upon personal dignity. This comports with the Detainee Treatment Act of 2005, which requires that "No individual in the custody or under the control of the U.S. Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment."

Third, the President directed that no individual in U.S. custody in any armed conflict "shall . . . be subjected to any interrogation technique or approach, or any treatment related to interrogation that is not authorized by and listed in [the] Army Field Manual." The Manual explicitly prohibits threats, coercion, and physical abuse.

The United States confirms that the interrogation techniques in the Army Field Manual are binding on the U.S. military, as well as all Federal government agencies, including the intelligence agencies, with respect to individuals in U.S. custody or under U.S. effective control in any armed conflict, without prejudice to authorized non-coercive techniques of federal law enforcement agencies. The Field Manual contains detailed procedural requirements that must be followed prior to the use of listed techniques, including safeguards and a legal review. These procedural requirements help to ensure that the techniques in the Manual are implemented consistently with the requirements that all prisoners and detainees, regardless of status, be treated humanely, and explicitly prohibiting cruel, inhuman, or degrading treatment.

The Department of the Army conducts yearly reviews of the Army Field Manual to ensure that its provisions remain consistent with applicable law, policy, and practice and to assess whether updates are needed due to evolving operational circumstances and lessons-learned. In making public the Manual's list of all interrogation techniques approved for use during armed conflict, the United States has sought to demonstrate our commitment to transparency and accountability in this area. We welcome further engagement with civil society, and will continue to promote a robust dialogue on these issues.

Finally, last month, the United States announced that it would join the Group of Friends of the Convention Against Torture Initiative, which is a growing group of states, civil society, and experts in the field dedicated to the pursuit of universal ratification of the Convention Against Torture and to finding new and innovative ways to prevent torture globally.

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I'd like to now spend a few moments discussing some of the actions that federal agencies have taken to investigate and punish torture and cruel, inhuman, or degrading treatment or punishment in the United States, and to train interrogators to ensure humane treatment. I'll also speak briefly about our efforts to provide for rehabilitation of torture victims.

As a preliminary matter, U.S. law provides several avenues for the domestic prosecution of U.S. government officials and contractors who commit torture and other serious crimes overseas. For example, 18 U.S.C. 2340A makes it a crime to commit torture outside the United States. Similarly, under the provisions of the Military Extraterritorial Jurisdiction Act (MEJA), persons employed by or accompanying the Armed Forces outside the United States may be prosecuted domestically if they commit a serious criminal offense overseas.

In addition, U.S. nationals who are not currently covered by MEJA are still subject to domestic prosecution for certain serious crimes committed overseas if the crime was committed within the special maritime and territorial jurisdiction of the United States—which includes, among others, U.S. diplomatic and military missions overseas, and the U.S. Naval Base at Guantanamo Bay, Cuba.

The U.S. government has investigated allegations of torture or cruel treatment. Prior to August 2009, career prosecutors in the Department of Justice carefully reviewed several cases involving alleged detainee abuse. These reviews led to charges in several cases and the conviction of a CIA contractor and a DoD contractor. Other cases were declined for prosecution by the Department for a variety of reasons, consistent with the Principles of Federal Prosecution.

In 2009, the United States Attorney General directed a preliminary review of the treatment of certain individuals alleged to have been mistreated while in U.S. Government custody subsequent to the 9/11 attacks. The inquiry was limited to a determination of whether prosecutable offenses were committed. The review considered all potentially applicable substantive criminal statutes as well as the statutes of limitations and jurisdictional provisions that govern prosecutions under those statutes. That review of the alleged mistreatment of 101 individuals, led by a career federal prosecutor and now known as the Durham Investigation, generated two criminal investigations. The Department of Justice ultimately declined those cases for prosecution because the admissible evidence would not have been sufficient to obtain and sustain convictions beyond a reasonable doubt.

Representatives of the ACLU and the Global Justice Clinic today raised the question of further investigations or prosecutions. As a general matter, the Department of Justice does not comment on ongoing investigations or plans to initiate future investigations. The Department of Justice and the relevant law enforcement components approach cases involving allegations of torture or detainee abuse in the same manner that they approach all allegations of serious crimes: by conducting a thorough examination of the available facts, following those facts wherever they lead, and undertaking an impartial application of the law and the principles of Federal prosecution.

Beyond the Department of Justice, there are many other accountability mechanisms in place throughout the U.S. Government aimed at investigating credible allegations of torture and prosecuting or punishing those responsible. First, the CIA Inspector General conducted more than 25 investigations into misconduct regarding detainees after 9/11. The CIA also convened six high-level accountability proceedings from 2003 to 2012. These reviews evaluated the

actions of approximately 30 individuals, around half of whom were held accountable through a variety of sanctions. Even so, the CIA has acknowledged that the results of these efforts are unsatisfying in view of the serious nature of these events, and in some instances it should have looked more deeply into leadership decisions to examine what could have been done better, and to determine what responsibility, if any, should have been assessed at a more senior level. Looking forward, the Agency will ensure that leaders focus more on management responsibility and systemic issues when reviewing accountability.

Second, the U.S. military investigates all credible allegations of misconduct by U.S. forces to determine the facts, including identifying those responsible for any violation of law, policy, or procedures; and multiple accountability mechanisms are in place to ensure that personnel adhere to those laws, policies, and procedures. The Department of Defense, or DoD, has conducted thousands of investigations since 2001 and it has prosecuted or disciplined hundreds of service members for misconduct, including mistreatment of detainees.

For example, more than 70 investigations concerning allegations of detainee abuse by military personnel in Afghanistan conducted by DoD resulted in trial by courts-martial. Close to 200 of these investigations of detainee abuse resulted in either non-judicial punishment or adverse administrative action, and many more were investigated and resulted in action at a lower level. The remainder were determined to be unsubstantiated, lacking in sufficient inculpatory evidence, or were included as multiple counts against one individual.

All courts-martial proceedings are a matter of public record. Convictions can result in, among other consequences, punitive confinement, reduction in rank, forfeiture of pay or fines, punitive discharge, or reprimand. Individuals have been held accountable for misconduct related to the abuse of detainees by personnel within their commands. These individuals include senior officers, some of whom have been relieved of command, reduced in rank, or reprimanded.

Beyond these accountability mechanisms, training measures are in place to safeguard against torture and cruel, inhuman, or degrading treatment or punishment in interrogations. For example, DoD intelligence interrogations are conducted only by properly trained and certified personnel. Training includes instruction on applicable law and policy; lawful interrogation methods and techniques; the humane treatment of detainees and how to identify signs of torture or cruel, inhuman or degrading treatment; and the procedures for the reporting of alleged violations. Routine refresher training is provided on a recurring basis. These are just some of the accountability and training measures in place in the United States to prevent torture and ill-treatment, and to ensure that credible allegations of torture or ill-treatment are investigated.

On the issue of rehabilitation, I'd also like to note that we support civil society organizations that campaign against torture and that treat its victims, and we are the leading donor to the UN Voluntary Fund for Victims of Torture. The Torture Victims Relief Act authorizes funding for a number of programs that provide rehabilitation services for survivors who suffered torture abroad, including funding the Department of Health and Human Services to support treatment centers inside the United States and programs for the treatment of survivors who suffered torture abroad. Funding in Fiscal Years 2013 and 2014 totaled \$21,300,000.

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I. JUDICIAL PROCEDURE, PENALTIES, AND RELATED ISSUES

1. “Mandela Rules” for Treatment of Prisoners

On October 7, 2015, U.S. Under Secretary of State for Civilian Security, Democracy, and Human Rights Sarah Sewall delivered remarks welcoming the UN’s rollout of global standards for the treatment of prisoners, the “Mandela Rules.” Her remarks are excerpted below and available at <http://www.state.gov/j/remarks/248021.htm>.

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Today—sixty years after the U.N. General Assembly adopted the landmark Minimum Standards for the Treatment of Prisoners, we bring those standards into the 21st century with the Mandela Rules. These 122 rules represent a historic step toward affirming the fundamental dignity of prisoners everywhere and provide a comprehensive foundation to bring new decency and humanity to their treatment. The United States whole-heartedly endorses these rules and is proud to have participated in the collaborative process to produce them.

Though we rightly celebrate these new standards, the real challenge is what comes next: translating them into our policies and practice. That will not be easy, and we must support and push each other through the challenges implementation may pose.

We all have important work ahead, and the United States is no exception. While we are home to just five percent of the world’s population, we have 25 percent of the world’s prisoners. This summer, President Obama became the first-ever sitting president to visit a federal prison, where he spoke about the urgent need for prison reform in the U.S. He declared—unequivocally—that “we should not tolerate conditions in prison that have no place in any civilized country.” Conditions like overcrowding, corruption, and rape. This was not just a moral argument, but a pragmatic one. How people are treated while incarcerated directly affects how they behave once they return to our communities.

That is why the Mandela Rules stress the need for prisoners to have opportunities for educational and vocational training, along with moral or spiritual counseling. Programs like these are critical to helping prisoners become contributing members of society when they are released. Yet in too many places, horrid conditions, poor management, torture, and abuse can turn prisons into incubators for criminality and even radicalization.

That is why, at the White House Summit on Countering Violent Extremism last February, and again just last week here in New York, we made prison reform a pillar of our global agenda to address extremist threats like ISIL. Well-managed prisons that help rehabilitate and reintegrate inmates can make it more difficult for extremists to radicalize this population. So these efforts are not just about advancing human rights, but they can also enhance our collective security. As we prepare to implement these rules, we must remember that governments are not alone in this effort. Just as we benefited from the active participation of civil society to develop these rules, we should enlist civil society to implement them. These groups can help facilitate religious learning to help counter the warped ideologies of violent extremists. Civil society can also ensure that governments uphold the commitments embodied in this document, and can advise us when the Mandela Rules need further improvement in the years to come.

The United States will continue to partner with any government willing to realize the Mandela Rules, and we have worked closely with Ministries of Justice and corrections bureaus around the world to do just that. For example, with U.S. assistance, Afghanistan employs professional training modules for its correctional staff to ensure a higher standard of management and care. U.S. support also helped Morocco launch drug treatment and vocational programs for prisoners, along with a system for inmates to express grievances. There are many other examples I could cite, but it should be clear that we stand ready to partner with any country willing to implement these rules.

After all, that is our real challenge ahead. So as we move forward, let us live up to Mandela's example of moral leadership and make these rules a reality in our time. Thank you.

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On October 1, 2015, at the 30th session of the HRC, the United States joined consensus on a resolution entitled, "Human rights in the administration of justice, including juvenile justice." U.N. Doc. A/HRC/RES/30/7. However, the United States expressed concerns about several aspects of the resolution. On October 2, 2015, Ambassador Harper delivered an explanation of position on behalf of the United States, excerpted below and available at <https://geneva.usmission.gov/2015/10/06/u-s-joins-consensus-on-human-rights-in-the-administration-of-justice/>.

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The United States is pleased to join consensus on this year's resolution on human rights in the administration of justice. We also welcome the adoption of the revised United Nations Standard Minimum Rules for the Treatment of Prisoners, or "the Mandela Rules," and appreciate this resolution's emphasis on those non-binding rules. We thank the sponsors of this resolution for incorporating some of our suggestions into this text.

We are joining consensus despite our concern that the resolution still calls for States to comply with various principles and goals that are not obligations the United States has undertaken and are not consistent with U.S. law, federal sentencing guidelines and practice. For example, while the resolution emphasizes the importance of the interests of the child when deciding on sentencing of a parent or primary caregiver, we focus on other factors such as public safety and the severity of the criminal activity. The resolution also calls upon States to ensure that life imprisonment is not imposed on individuals under the age of 18 and that all decisions to deprive children of their liberty are subject to periodic review for necessity and appropriateness. It also provides that pretrial detention must be avoided wherever possible. These are not obligations that customary international law imposes on States or that the United States has undertaken by treaty.

The United States certainly agrees with the principle that discretionary decisions to deprive juveniles of liberty should be reasonable, necessary, and appropriate to the individual circumstances and only reached as a last resort and for the shortest appropriate period of time. To frame these principles in mandatory terms, however, implies that they are legally required. International law has left such matters to the discretion of competent courts or administrative authorities within the domestic legal framework of individual States. We will

therefore interpret such provisions as recommendations rather than as a reflection of obligations under international law.

Finally, the assertion that States should consider establishing an independent mechanism to monitor places of detention, including by making unannounced visits, is inconsistent with U.S. policy and practice. We interpret the Mandela Rules' call for external and independent monitoring of prisons to include monitoring bodies that may or may not be governmental. We believe that accountability through monitoring can be achieved as long as the monitoring body is independent of the prison administration.

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2. Independence of the Judiciary

On July 2, 2015, at the 29th session of the HRC, the United States joined consensus on a resolution on "Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers." Divya Khosla delivered a U.S. explanation of position, available at <https://geneva.usmission.gov/2015/07/02/independence-of-the-judiciary/>, which includes the following:

The United States has been, and remains, committed to the independence and impartiality of the justice system.

The United States fully supports the mandate of the Special Rapporteur on the independence of judges and lawyers. We agree that the Special Rapporteur should consult with all the relevant UN stakeholders, including the UN Commission on Crime Prevention and Criminal Justice and the UN Office on Drugs and Crime.

Further, in the administration of justice, we believe that the best interests of the child should be a significant, but not always primary, consideration. For example, in criminal matters, the interest of victims and society are often the primary considerations.

3. Arbitrary Detention

As discussed in *Digest 2014* at 248-54, the United States has continued to express concerns regarding an effort undertaken by the working group on arbitrary detention of the Human Rights Council to develop draft principles and guidelines concerning the right to challenge the lawfulness of detention before a court, as contemplated in HRC resolution 20/16. On April 21, 2015, the United States provided observations on the working group's first complete draft of the principles and guidelines. The U.S. observations are excerpted below and are also available at http://www.ohchr.org/Documents/Issues/Detention/DraftBasicPrinciples/March2015/USA_Observations.pdf.

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The United States appreciates the opportunity to comment on the Working Group's first complete draft of "Basic Principles and Guidelines" that it is developing in response to Human Rights Council resolution 20/16. The United States also appreciates the Working Group's consideration in posting to its website observations that the United States provided on November 12, 2014, in response to an earlier preliminary draft, and on March 16, 2015, upon learning of the Working Group's more extensive first draft. The United States commends the Working Group for its efforts to engage governments and stakeholders in this important endeavor, especially the September 2014 stakeholders' consultation.

The Working Group's first complete draft, comprising 21 proposed principles and 22 separately proposed guidelines, raises serious and complicated issues that could have widespread and unintended implications if not more carefully reviewed and revised than time allows before the Working Group's session that begins today. A rush to adoption now would only complicate further consideration and action by States.

The following observations, which supplement the United States' preliminary comments of November 12, 2014, are not exhaustive but reflect our most serious concerns.

First, the United States reiterates its strong disagreement with the Working Group's conclusions on non-derogability with respect to arbitrary detention and the right to judicial relief, both with reference to relevant obligations under the International Covenant on Civil and Political Rights (ICCPR) as well as assertions regarding customary international law. Provisions of the current Working Group draft in this regard, notably in draft Principle 4, are incorrect as a matter of international law. The Working Group could include a basic principle discouraging derogation or stating that any derogation of a State's obligation to respect and ensure to an individual the right to take proceedings before a court must conform strictly to that State's obligations under applicable international law.

Second, as previously observed, there are differing legal views regarding the territorial scope of human rights law, including with respect to an individual's right to challenge the lawfulness of detention in court. The United States' position on the scope of a State's responsibility in this regard is based on explicit language in Article 2(1) of the ICCPR. A State's ICCPR obligations apply only with respect to individuals who are *both* within the territory of a State Party *and* within that State Party's jurisdiction.¹² This understanding of the territorial scope of the Covenant is also reflected in Principle 5 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted in 1988 by the General Assembly in its resolution 43/173. This is an issue of particular relevance when addressing the jurisdiction and authority of domestic courts to review and grant relief from unlawful detention, as court jurisdiction in many States, including the United States, is generally geographically limited.

With this fundamental consideration in mind, the United States supports the basic principle that anyone detained within the territory of a given State has the right to challenge the legal basis for that detention in a court and to obtain court-ordered release if determined unlawful, as set forth in ICCPR Article 9(4). This right extends to any form of detention by or on behalf of a government authority and whenever the individual detained is located in the State

¹² See Observations of the United States of America on the Human Rights Committee's Draft General Comment 35, June 10, 2014 and previous U.S. Observations cited therein. The United States does not agree with contrary views of the Human Rights Committee, including as expressed in its final General Comment 35.

and subject to the jurisdiction of that State. State obligations under Article 9 do not apply extraterritorially.

Third, the United States urges the Working Group to refrain from specifically addressing situations of armed conflict, which fall beyond the scope of this project and the competence of the Working Group. The applicability of international human rights obligations in situations of armed conflict raises difficult questions regarding the role of international humanitarian law (IHL) as the *lex specialis* with respect to the conduct of hostilities and the protection of war victims, which are not adequately accounted for in the current draft Principles and Guidelines. For example, Principle 16 cites the International Court of Justice's (ICJ) opinion in the Nuclear Weapons case affirming the applicability of the ICCPR in armed conflict, absent derogation, as support for the proposition that the "right and corresponding procedural guarantees" set forth in Principle 16 "complement and mutually reinforce the rules of international humanitarian law." In that same case, however, the ICJ recognized that the law of armed conflict provides the *lex specialis* in situations of armed conflict, which the draft Principles and Guidelines fail to do, and defined the scope and content of the ICCPR right at issue with reference to the applicable IHL rule.

Instead, Principle 16 states a broad rule indicating that all detained persons in a situation of armed conflict are guaranteed the right to bring proceedings before a court of law to challenge the lawfulness of their detention. Principle 16 goes on to specify that prisoners of war should be entitled to bring proceedings before a court in certain circumstances, and Guideline 17 specifies further procedures with respect to civilian internees. The draft Principles and Guidelines do not point to any clear basis in law for many of these proposed requirements and recommendations, and the United States disagrees that these provisions, as broadly drafted, reflect existing international obligations. Indeed, rather than reinforce IHL, as claimed, they are in tension with the detailed protections and procedures required by the Geneva Conventions with respect to prisoners of war in international armed conflicts, as well as with respect to civilian internees.

The United States refers the Working Group to Article 5 of the Third Geneva Convention of 1949, as well as Articles 43 and 78 of the Fourth Geneva Convention of 1949. The United States also refers the Working Group to The Copenhagen Process on the Handling of Detainees in International Military Operations, which was a State-led process to develop non-binding guidelines to help ensure respect for international law in the handling of persons detained in international military operations, including internationalized non-international armed conflicts, peacekeeping operations, and law enforcement operations. The Copenhagen Process: Principles and Guidelines reflect the United States' views regarding best practices for detention operations in such international military operations, and cover a wide range of issues, including the humane treatment of detainees and periodic review of the reasons for detention. The United States notes, in particular, the principle set forth in Principle 12, which calls for prompt initial review and periodic reconsideration "by an impartial and objective authority that is authorized to determine the lawfulness and appropriateness of continued detention." The United States is also engaged in further discussions regarding appropriate protections for persons detained in non-international armed conflicts pursuant to Resolution 1 of the 31st International Conference of the Red Cross and Red Crescent.

Finally, as a more general matter, the United States encourages the Working Group to scale back the draft, maintain a high level of generality, and differentiate more clearly between basic principles that reflect existing international law obligations, and guidelines that provide concrete *recommendations* to States regarding ways to avoid and redress arbitrary detention. As

currently drafted, the methodology employed by the Working Group for differentiating between principles and guidelines is unclear. The document might more usefully be structured by topic, eliminating redundancies and combining a basic legal principle under each topic together with relevant guidelines for States to consider in applying each basic legal principle.

We also encourage the Working Group to avoid using imperative terminology for recommendations intended to advance the progressive development of the law, including when advancing non-binding recommendations of treaty bodies and other UN or regional mechanisms, on subjects neither regulated by international law nor sufficiently standardized in State practice to constitute customary international law. At the very least, the draft needs to identify clearly, when it makes statements that purport to represent progressive development of the law in practice, that it is not characterizing the law as it currently exists. Use of imperative terms like “shall” and “must” are to be avoided in relation to these non-binding recommendations and goals. Although the Working Group has proposed a number of laudable recommendations that would improve the implementation of relevant rights in particular contexts, they may not have equal merit or practical application in all detention contexts or in different legal systems and likewise should not be expressed in mandatory terms.

The United States is grateful to the Working Group for the opportunity to review and comment on the Draft Principles and Guidelines as it progresses. The United States also looks forward to review and comment on the next draft the Working Group prepares based on further input from governments and stakeholders.

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4. Death Penalty

On October 1, 2015, at the 30th session of the HRC, the United States provided an explanation of its vote against resolution 30/5, “the question of the death penalty.” The resolution was adopted by a vote of 26-13, with eight abstentions. U.N. Doc. A/HRC/RES/30/5. The U.S. explanation of vote is excerpted below and available at <https://geneva.usmission.gov/2015/10/01/u-s-explanation-of-vote-hrc-resolution-on-the-question-of-the-death-penalty/>.

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The United States is disappointed that it must vote against this resolution. As in previous years, we had hoped for a balanced and inclusive resolution that would better reflect the position of states that continue to apply the death penalty lawfully. In particular, we cannot agree with this resolution’s orientation in favor of a moratorium or abolition. We reaffirm our longstanding position on the legality of the death penalty, when imposed and carried out in a manner consistent with a state’s international obligations.

We are deeply troubled whenever an individual subject to the death penalty is denied the procedural and substantive protections to which he or she is entitled. We likewise condemn any instance in which a method of execution or treatment during confinement is applied in such a manner as to amount to torture or cruel, inhuman or degrading treatment in violation of a state’s

international obligations. We cannot accept the implication, however, that all methods of execution have such a result.

The United States is committed to complying with its constitution, laws, and international obligations, and we encourage other countries that employ the death penalty to do so as well. It remains our hope that the upcoming biennial high-level panels to be convened on the death penalty, and the Secretary General's 2015-2017 supplement to his next report on capital punishment, will address all aspects of the issue, with due consideration to given to all national perspectives. This point is important given the wide divergence of views regarding its abolition or continued use both within and among nations.

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J. FREEDOM OF ASSEMBLY AND ASSOCIATION

At the 30th session of the HRC, the United States joined other countries in a statement on preventing reprisals. The joint statement follows and is available with the list of countries that joined at <https://geneva.usmission.gov/2015/09/25/u-s-joins-hrc-joint-statement-on-preventing-reprisals/>.

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We remain deeply concerned by continued acts of intimidation and reprisal against those who cooperate or seek to cooperate with the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council. We strongly condemn all acts of intimidation or reprisal and urge all States to prevent and refrain from such acts. As the Secretary General states in his Report on reprisals before this session, "all acts of intimidation and reprisal, no matter how subtle or explicit, are completely and utterly unacceptable and should be halted immediately and unconditionally."

We believe that everyone has the right to unhindered access to and communication with the United Nations, its representatives and mechanisms in the field of human rights. All Member States have a duty to respect, promote and ensure the realization of this right.

We welcome the increased attention devoted to reprisals by special procedures and treaty bodies. The recent adoption of the guidelines against intimidation or reprisals by the chairpersons of the human rights treaty bodies is especially welcome, as is the appointment by a number of treaty bodies of rapporteurs or focal points on reprisals.

States have the obligation and responsibility to prevent, investigate and ensure accountability for any acts of reprisal. The Secretary-General, the High Commissioner for Human Rights, as well as the President, together with the Bureau of the Human Rights Council also have a role in exposing and ensuring that States address such reprisals, and we especially welcome and appreciate the actions by the current President and Bureau in this regard.

Regional human rights bodies also have an important role to play. In this context, we particularly appreciate the resolution adopted last May by the African Commission on Human and Peoples' Rights extending the scope of the mandate of its Special Rapporteur on Human Rights Defenders in Africa, giving this mechanism the additional responsibility to document,

address, and report on cases of reprisals against civil society stakeholders and we would encourage other regional human rights bodies to take a similar approach.

As far as HRC resolution 24/24 is concerned, we take note of developments in New York and consider that it is now high time for the Secretary-General to appoint a focal point on the issue of reprisals, taking into consideration the concerns raised by some States on some of the provisions in the resolution. We trust that these concerns will be appropriately addressed while appointing the focal point.

Finally, we wish to reaffirm our conviction that the Human Rights Council has a moral and legal duty to address reprisals. During the last review of its work and functioning the Human Rights Council strongly rejected “any act of intimidation or reprisal” and urged “States to prevent and ensure adequate protection against such acts”. We are committed to continue making all necessary efforts in order to make this consensual decision by the Council a reality.

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On June 17, 2015, at the 29th session of the HRC, Eric Richardson delivered remarks at a clustered interactive dialogue including the Special Rapporteur for freedom of association and peaceful assembly. Mr. Richardson’s remarks include the following and are available at <https://geneva.usmission.gov/2015/06/17/u-s-statement-at-hrc-dialogue-on-freedom-of-expression-and-freedom-of-assembly/>.

We would like to thank S[pecial] R[apporteur] Kiai for his report. We applaud his emphasis on the importance of the Guiding Principles on Business and Human Rights. These play a significant role in helping states protect the rights to freedoms of peaceful assembly and association. We do not agree with some of the legal analysis, such as on extraterritorial obligations of states. We do agree, however, with many of the assertions presented in the report. Where States violate human rights, it is more difficult for businesses to respect those same rights. In some instances domestic law may require actions inconsistent with human rights. At times, State practices may encourage businesses to take actions that undermine the enjoyment of human rights. In contrast, States that respect human rights can create environments where businesses do not undermine the enjoyment of human rights. ...

K. FREEDOM OF EXPRESSION

1. General

a. Protection of Journalists

On May 27, 2015, Ambassador Power, U.S. Permanent Representative to the United Nations, addressed a UN Security Council open debate on the protection of journalists in

conflict situations. Her remarks are excerpted below and available at <http://usun.state.gov/remarks/6544>.

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[T]he first of three challenges I want to highlight today with respect to the protection of journalists [is]: How does the international community protect journalists from parties that deliberately target them? In the four-plus years since the Syrian conflict began, more than 80 journalists have been killed, and at least 90 more abducted, according to the Committee to Protect Journalists, CPJ. Countless more have been threatened, attacked, wounded, barrel-bombed or disappeared.

They have been targeted by both the Assad regime and violent extremist groups like ISIL, whose grotesque executions of journalists—alongside humanitarian aid workers, foreign soldiers, and people of different religions or political beliefs—seem aimed both at using their victims’ suffering as a recruiting tool, and at dissuading other journalists from covering the conflict. Unfortunately, their tactics seem to be working, as the videos of their executions are widely disseminated on social media, while both international and national coverage of the Syrian conflict itself has declined dramatically.

What the Assad regime, ISIL, and other State and non-State actors like them that target journalists have in common is that they do not want people to see them for what they really are—whether that is a regime willing to torture, bomb, gas, and starve its people in order to hold onto power, or a group masquerading as religious that routinely desecrates the basic dignity of human beings. ...

This brings me to the second challenge: How do we protect journalists and, more broadly, press freedoms, in situations in which violence is escalating and there is a risk of mass atrocities? This is important, as we know that a robust press can play a key role in helping prevent crises from metastasizing into full-blown conflicts and mitigating the conditions in which grave human rights violations tend to occur.

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Even in countries that are not experiencing conflicts or at imminent risk of sliding into unrest, the erosion of press freedoms is often a harbinger of the rolling back of human rights that are critical to healthy democracies. This is the third challenge I’d like to raise: How do we—and by we I mean the UN, bodies such as the Security Council, and our individual Member States—push back against the erosion of press freedoms by governments intent on silencing critical voices and other key outlets of free expression?

Look to any region, and you will see alarming warning signs of how the crackdown on press freedom is coupled with a broader crackdown on civil and political rights. ...

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It is worth noting that all around the world, for every individual or group targeted through prosecution, attacks and threats, there are countless more impacted—people who, seeing the

risks, either begin to self-censor, go into hiding, or flee the countries that so desperately need their independent voices.

Given the critical importance of press freedoms in advancing so many of the goals of this Council, let me make four recommendations in closing as to how we can meet these challenges.

First, we must condemn the governments and non-State actors that attack journalists, as well as the overly restrictive laws and regulations that undermine their freedom. It is much easier to prevent these spaces from closing than it is to fight to reopen them.

Second, we must give the journalists the tools they need to protect themselves, particularly working in conflict zones and repressive societies. The \$100 million that the United States has invested in training more than 10,000 at-risk journalists and human rights defenders in digital safety, and in providing them with anti-censorship tools, is one example. Another is the training provided by civil society groups such as the Institute for War and Peace Reporting, whose director in Iraq, Ammar al-Shahbender, was killed by a car bomb on May 2nd – a devastating loss for his family, the community of journalists he mentored, and his nation.

Third, we can be sure that the people who attack journalists are actually held accountable for their crimes. The failure to effectively investigate and prosecute these crimes sends a clear message to perpetrators that they can continue to commit these crimes without any consequences.

Fourth, and finally, we can help create programs to protect journalists operating in conflict zones, particularly those targeted for their work. Colombia shows how this can be done. The National Protection Unit established by the government in 2011 is empowered to protect nineteen vulnerable groups, including journalists and human rights defenders. As of last year, more than 80 journalists—this is extraordinary—were receiving protection measures ranging from cell phones and transport subsidies to bodyguards and armored cars. The program has an annual budget of \$160 million, which speaks to Colombia’s commitment to protecting these individuals, and the country’s recognition of the crucial role that these groups play.

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b. *Freedom of expression, including artistic and creative expression*

At the 30th session of the HRC, Latvia, Uruguay, and the United States led a joint statement reaffirming the right to freedom of expression, which was joined by 55 states and delivered by Ambassador Janis Karklins, Permanent Representative of Latvia to the United Nations in Geneva. The text of the joint statement follows and is also available with the list of states that joined at <https://geneva.usmission.gov/2015/09/18/hrc-statement-reaffirms-right-to-freedom-of-expression-including-creative-and-artistic-expression/>.

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We wholeheartedly reaffirm the right to freedom of expression. This right is enshrined in Article 19 of the ICCPR and guaranteed to all without discrimination. Its scope includes creative and artistic expression—as the ICCPR specifically addresses expression “in the form of art.” States

Parties to the ICESCR recognize the right, under Article 15, to participate in cultural life and benefit from the protection of interests resulting from one's artistic production. Under Article 27 of the UDHR, everyone has the right "to enjoy the arts."

We stand firm in our commitment to protect and promote the right to freedom of expression, including artistic and creative expression. In addition to being an integral part of the protected human right to freedom of expression, artistic and creative expression is critical to the human spirit, the development of vibrant cultures, and the functioning of democratic societies. Artistic expression connects us all, transcending borders and barriers.

Artistic expression can challenge us and change the way we view the world. Picasso's painting *Guernica* and the poetry of Wilfred Owen vividly highlighted the horrors of twentieth-century warfare. Art can also highlight injustices and inspire opposition to it. Artists from different parts of the world challenged the Latin American dictatorships in the 1970s and 1980s through their poetry, music and visual arts.

We witness on a daily basis the powerful social and emotional impact of artistic expression. We are transfixed and moved by Karim Wasfi playing his cello at the site of explosions in Baghdad. Artists like him all over the world, through their work, are drawing global attention to human rights issues. They stand in the face of terror, offering a very different narrative — one of humanity, beauty, and hope.

Artistic expression is critical to culture, heritage, and identity. In Mali, through the Timbuktu Renaissance Initiative, musicians and other artists are working with the government to revive and strengthen Mali's rich arts and culture. We welcome this good practice, in response to efforts to destroy the country's artistic heritage.

Those who suppress artistic expression fear its transformative effect. We have seen artistic expressions and creations come under attack because they convey specific messages and articulate symbolic values in a powerful way. There are many reasons used, wrongly, to silence artists, to quell their music, to hide their works from the world. Reasons for censorship may include the suppression of political dissent and of different values or beliefs. Women and persons belonging to minority groups are among those affected most.

Artists in many parts of the world are facing threats, censorship, and violations of their human rights. We condemn such violations, which may include extrajudicial executions, attacks on their physical integrity and arbitrary detentions. We strongly believe that reactions to controversial artwork should be expressed not through violence but through dialogue and engagement that are based on the exercise of the rights to freedom of expression and peaceful assembly. States must protect against and ensure accountability for violations of the right to freedom of expression.

We will continue to engage in the promotion and protection of the right to freedom of expression, including artistic and creative expression, wherever it is threatened.

We believe that this important topic merits the continued engagement of this Council and we look forward to doing so in a constructive manner.

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2. Freedom of Expression and Encryption and Anonymizing Technologies

On June 17, 2015, at the 29th session of the HRC, Eric Richardson delivered remarks at a clustered interactive dialogue with the Special Rapporteur on freedom of expression.

Mr. Richardson's remarks are excerpted below and available at <https://geneva.usmission.gov/2015/06/17/u-s-statement-at-hrc-dialogue-on-freedom-of-expression-and-freedom-of-assembly/>.

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The United States welcomes the report on the use of encryption and anonymizing technologies. While the United States is not in full agreement with some of the legal and technical analysis of the report, we certainly agree that these are topics worthy of careful consideration. We appreciate the report's focus on implications for the online security of Internet users, particularly human rights defenders and vulnerable populations. The report recognizes that encryption and anonymity technologies can both enable Internet users to freely express themselves and access useful information. At the same time they can be used by malicious actors to facilitate and conceal their abuses. How States promote the former and discourage the latter must be guided by their internationally-recognized human rights obligations.

Regulation of the use of such technologies follows a rule of law framework and abides by all applicable human rights obligations. There are important conversations to be had about appropriate legal regimes and due process protections in this regard. We must also take account of the practical and technological realities that impact access to information by law enforcement. The United States supports the adoption of strong encryption. We also encourage an informed discussion about how best to accomplish the twin goals of protecting privacy and public safety.

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L. FREEDOM OF RELIGION

1. U.S. Annual Report

On October 14, 2015, Secretary Kerry submitted to Congress the 2014 International Religious Freedom Report, pursuant to § 102(b) of the International Religious Freedom Act of 1998 (Pub. L. No. 105-292), as amended, 22 U.S.C. § 6412(b). The report is available at state.gov/religiousfreedomreport/. Secretary Kerry's remarks at the rollout of the report are available at <http://www.state.gov/secretary/remarks/2015/10/248198.htm>. Remarks by Ambassador-at-Large for International Religious Freedom David N. Saperstein are available at <http://www.state.gov/r/pa/prs/ps/2015/10/248201.htm>. A State Department media note summarizing key developments discussed in the 2014 report is excerpted below and available at <http://www.state.gov/r/pa/prs/ps/2015/10/248196.htm>.

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In 2014, non-state actors committed some of the world's most egregious abuses of religious freedom and other human rights. Government failure, delay, and inadequacy in combatting these groups often had severe consequences for people living under significant and dire restrictions on, and interference with, their exercise of freedom of religion. Other concerning trends over the year included significant increases in the number of recorded anti-Semitic incidents, and increasing restrictions on religious liberty imposed under the pretext of combatting terrorism and violent extremism.

Non-State Actors' Suppression of Religious Freedom

In the Middle East, Sub-Saharan Africa, and Asia, a range of non-state actors including terrorist organizations, set their sights on destroying religious diversity. Members of religious minorities were disproportionately affected. In these regions, religious intolerance and hostility, often toxically mixed with political, economic and ethnic grievances, frequently turned violent, resulting in death, injuries, and displacement.

Government Violations, Abuses, and Restrictions of Religious Freedom

The 2014 Report notes a continuation of many restrictive governmental policies affecting religious freedom including laws criminalizing religious activities and expression, the threat and enforcement of blasphemy and apostasy laws, prohibitions on conversion or proselytizing, and stringent or discriminatory application of registration requirements for religious organizations.

Combatting Terrorism and Violent Extremism as Justification for Restrictions on Religious Practice

In numerous authoritarian countries around the world, regimes co-opted the language of preventing and countering terrorism and countering violent extremism in their efforts to neutralize and repress political opposition emanating from peaceful religious individuals or groups.

Positive Developments in 2014

While the IRF report aims to shed light on a broad range of limitations on the exercise of religious freedom, it also seeks to highlight positive actions taken by some governments and civil society to provide greater protections for religious minorities and to take measures to ensure the human rights of individuals to worship, practice, learn, teach, and believe, or not believe—according to their own conscience. Across the globe, religious, and civil society groups, as well as interfaith coalitions took steps to promote greater respect for religious beliefs, practices and diversity.

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2. Human Rights Council

On March 10, 2015, the United States participated in an interactive dialogue with the Special Rapporteur on Freedom of Religion or Belief at the 28th session of the Human Rights Council. Ambassador Harper delivered remarks on behalf the United States, which are excerpted below and available

at <https://geneva.usmission.gov/2015/03/11/u-s-statement-at-hrc-dialogue-with-special-rapporteur-on-freedom-of-religion-or-belief/>.

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The United States thanks Special Rapporteur Bielefeldt for his excellent report and analysis on addressing violence in the name of religion. His choice of topic was unfortunately a prescient one. In recent months we have seen many horrific instances of violence related to religion, including in Western Europe, Africa, the Middle East, and my own country. This is an enormously important topic today.

The Special Rapporteur correctly states that a number of factors influence violence in the name of religion, including corruption, impunity, and exclusionary and repressive policies, as well as violent interpretations of religious texts. A holistic understanding of and approach to these factors are critical.

While many actors in society play important roles in addressing this type of violence, effective state institutions that respect human rights and are accountable to local populations are critical. When states oppress their people, or stifle dissent, or close the space for civil society, they sow the seeds of violent extremism.

As noted in the Special Rapporteur's report, states must protect the freedom of religion or belief and effectively enforce anti-discrimination laws so that all individuals are protected, regardless of whether they belong to minority religious groups. Religious leaders and other elements of civil society play an important role in countering violent extremism, but they can only fulfill their potential if the freedoms of religion, association and expression are fully protected.

The Special Rapporteur makes a number of prudent recommendations in his report.

We agree that states should revoke anti-blasphemy and apostasy laws, as they too often discriminate and create environments of fear and mistrust.

We agree that political and civil society leaders must speak out against violence and intolerance in the name of religion, because the best antidote to hate speech is more speech, including positive narratives that reinforce the values of tolerance and pluralism.

We agree that states must end impunity for human rights violations, and must create political systems that allow for full and equal participation by all members of society.

And we agree that education and community engagement are essential ingredients in promoting a culture of pluralism and respect throughout society.

Last month in Washington, President Obama hosted a Summit on Countering Violent Extremism, which brought together local, national, and international leaders from governments, the private sector, religious leaders and other members of civil society to discuss and collaborate on actions to address violent extremism. We look forward to continuing that conversation and joint action in the coming months.

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On June 3, 2015, the United States participated in the fifth meeting of the Istanbul Process for promoting implementation of UN Human Rights Council Resolution 16/18 on combating religious intolerance, discrimination, and violence, held in Jeddah, Saudi Arabia. The opening remarks of Arsalan Suleman, Acting U.S. Envoy to the Organization of Islamic Cooperation, are excerpted below and available at <http://www.state.gov/j/drl/rls/rm/2015/243260.htm>.

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This meeting comes at a critical time. We are all sadly familiar with the challenges we face in terms of violence, discrimination, and intolerance on the basis of religion or belief. In many parts of the world, religious minorities, including Christian, Shia, Sunni, Yezidi, Ahmedi, and Bahai communities, are facing discrimination and violence at the hands of state and non-state actors.

There is an urgent need to enhance global efforts to protect the rights of minorities, including religious minorities. In some cases, like for the Burmese Rohingya population, discrimination has reached such proportions that it has led to a regional humanitarian emergency. Non-state attacks against members of religious communities are also an urgent challenge. In April, for example, we were appalled by the murders of Christians in Libya and Kenya by terrorist groups.

We were shocked and saddened by the deplorable bombings in the past weeks of a mosque in Qatif, Saudi Arabia, where at least 21 people died and over 80 were injured, and the attempted attack on a mosque in Dammam, which killed four people. We condemn such deplorable, criminal acts and express our condolences to the families of the victims and the people of Saudi Arabia. Sadly, these are just the latest in a succession of actions seeking to foment sectarian tensions. Such terrorist acts, as well as divisive sectarian rhetoric, seek to tear societies apart.

We are also faced with intolerance and societal discrimination against members of religious communities in various parts of the world, including for Muslim communities in Europe and the United States. We have seen provocative demonstrations and efforts seeking to target such communities, and sadly we have also seen isolated incidents in which individual criminals have engaged in terrorist violence purportedly in response to certain forms of peaceful expression.

Effective implementation of Resolution 16/18 by governments can help address many of the challenges relating to religious intolerance, discrimination, and violence. Resolution 16/18 is a comprehensive action plan—it explicitly defines the shared values and commitments that serve as our foundation and guiding principles when dealing with religious intolerance. The resolution acknowledges that there is no justification for violence in response to peaceful expression.

It calls on governments to foster religious freedom and pluralism, to protect places of worship, to enforce anti-discrimination laws, to engage with members of religious communities, and to promote conflict resolution. It also encourages leaders in government and civil society to speak out against religious intolerance and to form collaborative networks to address these challenges.

The blueprint is clear and has the consensus of the international community. As the purpose of this gathering indicates, we must focus our attention on implementation. This discussion is both timely and necessary.

We must reaffirm our core values and strengthen political and civil rights protections for the members of all our communities, including members of religious and ethnic minority groups. Reaffirming our commitment to human rights will prevent the political marginalization that can drive members of vulnerable communities toward violent extremists. Freedom of expression, freedom of religion, and respecting religions and religious beliefs of others are critical to promoting peace and understanding worldwide.

President Obama and his Administration are wholly invested in this approach worldwide, and we are working with partners, including all of you, to promote peace and stability in the region and around the world.

Though the challenges are daunting, we've seen recent examples of how governments have responded to terrible tragedies in ways that further the values enshrined in Resolution 16/18. In Afghanistan, a young woman named Farkhunda was brutally killed by a mob following false allegations of blasphemy. On May 6, after an investigation and prosecution, an Afghan judge sentenced four of the individuals involved in the violence to death, with other participants receiving prison terms for their participation. Although we have concerns regarding due process, we welcome the Afghan justice system addressing the mob lynching of Ms. Farkhunda. In Pakistan, a mob beat, killed, and burned the bodies of a Christian couple, also on allegations of blasphemy. And on May 21, an anti-terrorism court charged 106 individuals involved with the crime.

As demonstrated in these cases, the appropriate way for governments to respond to such injustices is to take the necessary steps to ensure that perpetrators of violence are held accountable, and that there is no impunity for such crimes. Governments must act quickly, but they must also ensure that defendants are afforded due process and fair trial guarantees. That is the true essence of 16/18.

As to the way forward, it is important for us to continue having experts-focused meetings to discuss best practices for implementing each step of Resolution 16/18. Governments should then follow through and implement the experts' findings and recommendations as appropriate. And that implementation should focus on all aspects of the comprehensive action plan, not just one prong.

We encourage greater and more effective state reporting on implementation activity. Civil society can play an important role in promoting and monitoring implementation, as well as contributing to implementation directly as appropriate. For example, the Universal Rights Group's recent study on 16/18 implementation has provided useful analysis on the lack of reporting and gaps in implementation.

As we will discuss in further detail during the meeting, the United States has partnered with other states, namely Bosnia, Indonesia, and Greece, on workshops to discuss practical approaches to implementation. These technical engagements have focused in particular on best practices for promoting engagement with minority religious communities and enforcement of anti-discrimination laws. We welcome the opportunity to work with others on such workshops as a cooperative way to promote implementation of Resolution 16/18.

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On March 13, 2015, at the 28th session of the Human Rights Council, Ambassador Harper delivered a joint statement on behalf of 40 states. Ambassador Harper's statement followed after a joint statement on the human rights of Christians and other communities, particularly in the Middle East, on behalf of a group of states led by the Holy See, Lebanon, and the Russian Federation and including the United States. The statement delivered by Ambassador Harper is available at <https://geneva.usmission.gov/2015/03/13/joint-concurrence-statement-on-persecution-of-minority-communities-in-the-middle-east/>, and includes the following:

We share the well-founded concern about the situation facing Christians and members of other minority communities in the Middle East expressed in the previous statement. Cognizant that Muslims comprise the majority of victims of terrorism and persecution in the Middle East, we speak separately to underscore that our concern extends to all people facing persecution, without regard to religion or ethnicity.

M. RULE OF LAW, DEMOCRACY PROMOTION, AND CIVIL SOCIETY

On March 26, 2015, at the 28th session of the HRC, the United States provided an explanation of vote opposing an amendment to the resolution entitled “Human Rights, Democracy, and the Rule of Law.” The resolution was adopted by a recorded vote (35 to 0, with 12 abstentions) after the amendment failed. U.N. Doc. A/HRC/RES/28/14. China proposed the amendment on behalf of Russia, Cuba, Pakistan, Saudi Arabia, and Venezuela, calling for an added reference “to respect sovereignty, territorial integrity, and independence of states” and limiting NGO participation in the forum the resolution establishes. The resolution establishes a forum on human rights, democracy and the rule of law to allow dialogue and cooperation and identify best practices, challenges and opportunities. Participants in the Forum will include States, UN bodies, intergovernmental organizations, regional human rights organizations, academics and experts and non-governmental organizations. The U.S. explanation of vote is excerpted below and available at <https://geneva.usmission.gov/2015/03/26/eov-on-item-3-resolution-entitled-human-rights-democracy-and-the-rule-of-law/>.

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We regret the decision by some states to put forward an amendment to this resolution after the process of negotiations led by the core group has been extremely open and transparent.

We are seriously concerned that this amendment attempts to stifle the voices of civil society and restrict the space to provide differing views on the topics of human rights, democracy, and the rule of law. We are dismayed to see that the amendment is aimed at restricting civil society participation at the forum on a “no-objection basis.” The voices of civil society are vital to vibrant democracies and their participation in the forum should be welcome.

The United States strongly opposes the amendment before us today and will vote in favor of the resolution. We urge all Council members to do the same.

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On September 28, 2015, at the 30th session of the HRC, the United States led a joint statement entitled “Strengthening of a Pluralistic Civil Society,” which was joined by 58 states and delivered by Ambassador Harper. The joint statement follows, and is also available with the list of states that joined

at <https://geneva.usmission.gov/2015/09/28/joint-hrc-30-statement-on-strengthening-of-a-pluralistic-civil-society/>.

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The Vienna Declaration and Program of Action (VDPA) recommends actions to “promote democracy, development and human rights,” with special emphasis on “strengthening of a pluralistic civil society and the protection of groups which have been rendered vulnerable.” The VDPA recommends various efforts, including increased allocation of resources to programs that uphold the rule of law and promote human rights awareness, including through civil society.

We stand firm in our commitment, consistent with our human rights obligations, to support a pluralistic civil society. Protecting and promoting civil society space means recognizing the rights of individuals, as recognized by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to organize and meet peacefully in groups to discuss and affect the issues that matter to them. People working together freely bring us innovation, economic growth, vibrant pluralistic democracies. Moreover, pluralism is related to tolerance.

In order to promote these goals, we call upon States: not to criminalize freedom of association; not to label nonviolent associations as “subversive”; not to attack or imprison civil society actors for peaceful activities; not to undertake reprisals, such as harassing or jailing individuals for engagement with UN or other international human rights mechanisms; and not to hinder the work of civil society organizations through undue restrictions, such as on communication and financing, including funding from foreign sources. We deplore all such measures intended to prevent individuals from organizing and working together.

We will work individually and together to defend pluralistic civil society. We will strive to review our own legislation and policies to ensure that civil society actors do not have burdensome or vague registration requirements; that unregistered associations are not prohibited per se; and that groups are able to access the funding necessary to conduct peaceful and legitimate activities. We call on governments not to promulgate restrictive legislation, administrative measures, policies, or criminal penalties aimed at interfering with the exercise of the right to freedom of association.

Mr. President, we will continue raising this important issue at the Council. We appreciate the work being done by OHCHR and the special procedures, and hope that work will continue.

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On September 28, 2015, at the 30th session of the HRC, Ambassador Harper delivered a US statement on civic space and non-governmental organizations. That statement is excerpted below and available at <https://geneva.usmission.gov/2015/09/28/u-s-statement-on-civic-space-and-ngos/>

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In the past, the United States has recommended that other states repeal laws that restrict civil society. Some respond to the recommendation with the inaccurate claim that the U.S. has similar laws. I will take this opportunity to discuss U.S. regulations of nongovernmental organizations, or NGOs, and how they in fact encourage and assist NGOs to be active, rather than restrict and repress them.

The ability of a person to organize with others and form groups is highly valued in the United States. U.S. law is designed to support and help people who want to form civil society organizations.

There are about a million and half non-governmental organizations (NGOs) in the United States. One can find an NGO in the U.S. on virtually every conceivable topic. The U.S. does not interfere with how NGOs accomplish their missions. They are free to collaborate with foreign NGOs or foreign governments. There are no broad regulations that restrict U.S. NGOs from attending conferences abroad, finding donors overseas or performing work internationally.

To establish an organization, most U.S. states have a general incorporation statute that makes the process routine – with no requirement for approval by the legislature or any official. These statutes limit the possibility of government abuse of power.

To receive nonprofit status in the United States, an individual files a simple registration form on behalf of the organization. Typically this involves a short description of the NGO's mission, its name, and its address, and payment of a modest fee. Individuals do not need to be U.S. citizens to form a new NGO. This registration is not used to impose burdens on organizations or to penalize unregistered organizations – rather, it is the basis for special benefits to organizations that encourage their establishment. Among other things, registration usually allows the organization to claim tax-exempt status.

The Foreign Agents Registration Act (FARA) covers all “persons,” including any individual, corporation, and association that is an agent of a foreign principal, but provides a number of exemptions from registration. These exemptions include persons whose activities are in “furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts.” Unlike some other states' repressive laws, FARA is not tied to foreign government funding, does not impose a tax, does not limit advocacy, and applies equally, regardless of the foreign country involved. FARA provides transparency.

... We remain committed to maintaining the maximum amount of space and independence for civil society to operate.

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N. OTHER ISSUES

1. Protecting Human Rights While Countering Terrorism

Two resolutions relating to human rights and terrorism were presented at the 28th and 29th sessions of the HRC in 2015. The United States voted against the resolution sponsored by Egypt at the 28th session, entitled “Effects of Terrorism on the Enjoyment of Human Rights.” The U.S. explanation of vote is excerpted below and available at <https://geneva.usmission.gov/2015/03/26/resolution-entitled-effects-of-terrorism-on-the-enjoyment-of-human-rights/>.

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The United States is disappointed that this resolution has come up for a vote at this session, and before we had the collective opportunity to reach consensus on how best to further address the problem of the effects of terrorism on the enjoyment of human rights. The issue of countering terrorism while protecting human rights is of fundamental importance, as shown by ongoing international dialogue on that issue in this body and in the broader UN system. However, the draft resolution before us today is not the best way to advance that dialogue, and it contains many problematic elements that require us to vote against it.

It is essential that future efforts on this important topic are the result of careful deliberations and are able to garner consensus among the members of this body. Victims of terrorism deserve no less. Indeed, a divided Council is not inevitable on this issue. Many aspects of this text deviate from well-established consensus text on human rights and counterterrorism here in the HRC and in other fora. We realize that the sponsors of this text have sought to introduce a different perspective to ongoing discussions on terrorism before this Council. Had there been more time and sufficient negotiations, we believe that we could have overcome these problems yet again and produced a result that all delegations could have supported.

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The second resolution, entitled “Protection of Human Rights and Fundamental Freedoms while Countering Terrorism,” was presented by Mexico at the 29th session of the HRC in 2015. The U.S. co-sponsored the resolution and Ambassador Harper provided the following general comment on July 2, 2015. The general comment by the U.S. delegation on the subject of protecting human rights while countering terrorism is also available at <https://geneva.usmission.gov/2015/07/02/human-rights-and-fundamental-freedoms/>. The United States also cosponsored the resolution, presented by Mexico at the UN General Assembly Third Committee, on the same topic, which was adopted without a vote on December 17, 2015.

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The United States welcomes the continued attention of the Council to the issue of protecting human rights while countering terrorism. It is essential that this body returns to consensus on how best to further address this important issue and we appreciate the lead sponsors’ efforts to ensure all viewpoints are reflected in the final text of this resolution. States play a crucial role in protecting persons from acts of terrorism and, as is well-known, the United States has taken a range of measures to counter the scourge of terrorism. Further, each State has the primary responsibility to protect its populations from genocide, war crimes, crimes against humanity, and ethnic cleansing. Additionally, the United States wishes to clarify that the reference in operative

paragraph 4 to a responsibility of States to protect persons in their territory from acts of terrorism does not describe or give rise to any general international legal obligation.

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2. Countering Violent Extremism

At the 28th session of the HRC, 77 countries, including the United States, joined in a statement on countering violent extremism. The joint statement appears below and is available at <https://geneva.usmission.gov/2015/03/13/human-rights-council-75-country-joint-statement-on-countering-violent-extremism/>, along with a list of the countries that joined the statement.

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1. I have the honour to deliver this statement on behalf of a group of 77 countries. We wish to underscore our commitment to counter violent extremism in all of its forms and manifestations, while promoting and protecting human rights and fundamental freedoms.
2. We share the concerns expressed by the Human Rights Council regarding the increasing and serious human rights abuses and violations of international humanitarian law by violent extremist groups, including those involving unlawful killing, the deliberate targeting of civilians, forced conversions, targeted persecution of individuals on the basis of their religion or belief, displacement and abduction, abuses of women and minors, and acts of violence against members of ethnic and religious minorities, as well as sieges against civilians in villages inhabited by minorities.
3. We reaffirm that acts, methods and practices of violent extremism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of states and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat violent extremism.
4. We recognize that efforts to counter violent extremism will only succeed if citizens can address legitimate grievances through the peaceful democratic process and express themselves through strong civil societies, and reject the premise that violence is the only way to achieve changes in societies faced with violent extremism. We further recognize that violent extremism cannot and should not be associated with any religion, nationality, or civilization.
5. We deplore the suffering caused by violent extremism to the victims of violent extremism and their families in all its forms and manifestations, express our profound solidarity with them, encourage states to provide them with proper support and assistance while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth, in accordance with international law.

6. We reaffirm that states must ensure that any measures taken to counter violent extremism comply with all their obligations under international law, in particular international human rights law, international refugee law, and international humanitarian law.
7. We encourage states to engage with members of relevant local communities and nongovernmental actors in developing strategies to counter the violent extremist narrative that can incite terrorist acts and address the conditions conducive to the spread of violent extremism, including by empowering youth, women, religious, cultural and education leaders, and members of all other concerned groups of civil society and adopting tailored approaches to countering recruitment to this kind of violent extremism and promoting social inclusion and cohesion.
8. We reaffirm the commitment of states to take measures aimed at raising the awareness of and addressing the conditions conducive to violent extremism. These conditions include but are not limited to prolonged unresolved conflicts, dehumanization of victims of violent extremism in all its forms and manifestations; lack of the rule of law, respect for human rights, and good governance; and discrimination, political exclusion, and socioeconomic marginalization based on ethnicity, nationality, gender, or religion or belief. We also recognize that none of these conditions can excuse or justify acts of violent extremism.
9. We note that violations of human rights by states may contribute to radicalization and recruitment, and reaffirm the importance of Pillar 4 of the United Nations Global Counter-Terrorism Strategy. We call upon states and entities involved in supporting countering violent extremism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law.
10. We emphasize that effectively preventing the spread of violent extremism requires international, localized, specialized, and expanded efforts. We reinforce the need to further empower youth, and women, as well as religious, cultural and education leaders, and all other concerned civil society actors, and to adopt tailored approaches, including those sensitive to local cultures and religious beliefs, to address this phenomenon.
11. We note that laws and policies designed to address violent extremism should promote the enjoyment of the freedoms of expression, peaceful assembly, association, movement, and religion or belief. We also note the importance of ensuring that civil society has an enabling environment to develop, promote, and advance comprehensive solutions to address violent extremism, as the contributions of civil society are essential to these efforts.
12. As members and observers of the Human Rights Council, we believe that the international community must continue to take further steps building upon the UN Charter and prior work of this and other UN bodies on this critical issue. We look forward to further attention to this topic in the Council.

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At the 30th session of the HRC, the United States co-sponsored the first-ever resolution on human rights and preventing and countering violent extremism. The resolution was adopted on October 2, 2015 by a vote of 37 to 3 with 7 abstentions. U.N. Doc. A/HRC/RES/30/15.

3. Remotely Piloted Aircraft Resolution

On March 26, 2015, the United States again voted no on a resolution adopted by the HRC on “ensuring use of remotely piloted aircraft or armed drones in counterterrorism and military operations in accordance with international law, including international human rights and humanitarian law.” U.N. Doc. A/HRC/RES/28/3. A resolution on the same subject was adopted by the HRC in 2014. U.N. Doc. A/HRC/RES/25/22. See *Digest 2014* at 278-79. The U.S. explanation of vote on resolution 28/3 is excerpted below and available at <https://geneva.usmission.gov/2015/03/26/u-s-votes-no-on-hrc-resolution-on-remotely-piloted-aircraft/>.

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This is the second year in which a resolution focused specifically on remotely piloted aircraft has been offered, and, as was the case last year, the United States will vote no. Our reasons for not supporting a resolution on this subject were set forth in the Explanation of Vote we provided last year, and I will reiterate those points today. The United States firmly supports the Human Rights Council’s important role in promoting respect for human rights in the context of our collective efforts to counter terrorism. However, we do not believe that the examination of specific weapons systems is a task for which the Human Rights Council is well-suited or for which it possesses the requisite expertise. We do not support efforts to take this body in that direction, and in doing so usurping the mandates of bodies intended for such matters. And to the extent that this resolution deals with cross-cutting issues pertaining to human rights and counterterrorism, this resolution is largely duplicative of work being undertaken in the Council and other venues.

At the international level, we have engaged in discussions in this body and elsewhere about remotely piloted aircraft in the context of broader discussions about human rights and counterterrorism. We are a traditional co-sponsor of the Mexican-run counterterrorism resolutions in the Human Rights Council and UN General Assembly, the two most recent iterations of which have explicitly addressed remotely piloted aircraft.

With respect to our own counterterrorism operations, as we have stated publicly at the highest levels of our government, the United States is committed to ensuring that our actions, including those involving remotely piloted aircraft, are undertaken in accordance with all applicable domestic and international law, and with the greatest possible transparency consistent with our national security needs.

In our view, this resolution should not have been tabled. The fact that this resolution has been run for the second year in a row compounds the unfortunate effect of diverting this Council’s attention from critically important issues that fall squarely within its competency and expertise and that would benefit from the Council’s increased focus, and that the international community looks to this body to address. Within the realm of human rights and counterterrorism, these issues include the use of force against peaceful protesters, the suppression of civil society or opposition voices on the pretext of countering terrorism, and the detention of such individuals without minimum due process guarantees. We look forward to future council sessions where our efforts can be channeled in more productive directions.

In this context, and for the reasons we have already noted, the United States will vote NO. We urge others to do the same.

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4. Putative Right to Peace

The United States again voted against the resolution on the right to peace at the 30th session of the HRC. U.N. Doc. A/HRC/RES/30/12. The explanation of vote referred to the well-known concerns of the United States about the topic. The U.S. explanation of vote is available at <https://geneva.usmission.gov/2015/10/02/u-s-explanation-of-vote-on-resolution-on-right-to-peace/>.

5. Putative Right to Development

On March 27, 2015, Ambassador Harper delivered a general statement on the “right to development,” as referenced in nine resolutions adopted by the Council. The U.S. statement is available at <https://geneva.usmission.gov/2015/03/27/u-s-explanation-of-vote-with-regard-to-the-right-to-development/>, and includes the following:

The concerns of the United States about the existence of a “right to development” are long-standing and well known. The “right to development” does not have an agreed international meaning. Furthermore, work is needed to make it consistent with human rights, which the international community recognizes as universal rights held and enjoyed by individuals and which every individual may demand from his or her own government. Of course, this position does not suggest in any way that the United States is opposed to development per se. To the contrary, the United States contributes more to international development than any other nation and has provided donor assistance to those in need on every continent, including through the US Agency for International Development, the Millennium Challenge Corporation, and the PEPFAR program.

See also the October 2, 2015 explanation of vote on the “right to development,” delivered by Ambassador Harper, available at <https://geneva.usmission.gov/2015/10/06/u-s-explanation-of-vote-on-right-to-development/>. And see discussion in Chapter 13 of the U.S. role in reaching the 2030 Agenda for Sustainable Development.

6. Privacy

Ambassador Keith Harper delivered the explanation of position for the United States on the HRC resolution on “the right to privacy in the digital age,” at the 28th session of the

HRC on March 26, 2015. The resolution was adopted without a vote. U.N. Doc. A/HRC/RES/28/16. Ambassador Harper’s statement (as prepared for delivery) is excerpted below and available at <https://geneva.usmission.gov/2015/03/26/establishment-of-an-hrc-mandate-on-privacy-rights-comes-at-a-critical-time/>.

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We join consensus on today’s resolution because it reaffirms human rights the United States has long championed domestically and internationally—privacy rights and the rights to freedom of expression, peaceful assembly, and association—as set forth in the International Covenant on Civil and Political Rights (the ICCPR)—and the exercise of those rights online and offline. We have long viewed these rights as pillars of democracy.

The establishment of a mandate on privacy rights comes at a critical time. Today, human rights defenders, civil society activists, and ordinary citizens in all parts of the world increasingly face repression, censorship, reprisals, and arbitrary or unlawful interference with privacy. We support the mandate because of the need to strengthen respect for the right to protection from unlawful or arbitrary interference with privacy, in all contexts, as stated in the ICCPR.

The mandate established by this resolution is broad, encompassing issues related to privacy rights in all situations and contexts. We read the term “digital age” as a broad reference to the prevailing technologies of the era in which we live. The term is not limited to any particular technology. Nor does it limit the scope of this resolution or work of the Special Rapporteur to infringements on privacy rights via any particular type of technology or solely to technology-based infringements on privacy rights. We further note that human rights should not be limited to applying in a certain age but that they are universal, indivisible and applicable in all ages.

We understand this resolution to be consistent with longstanding U.S. views regarding the ICCPR, including Articles 2, 17, and 19, and interpret it accordingly. Further, we reiterate that under Article 17 of the ICCPR, the standard as to whether any interference with privacy is permissible is whether it is lawful and not arbitrary. We welcome the resolution’s endorsement of this key concept. An interference with privacy must be reasonable given the circumstances. Article 17 does not impose a standard of necessity and proportionality; such concepts are derived from certain regional jurisprudence, are not broadly accepted internationally, go beyond that which is required by the text of Article 17, and are not supported by the travaux of the treaty. We hope the Special Rapporteur will help promote respect for the right to protection from arbitrary or unlawful interference with privacy. We look forward to working together to achieve this important goal.

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7. Human Rights and Firearms

On July 2, 2015, at the 29th session of the HRC, the United States called for a vote and abstained on a resolution entitled “Human rights and the regulation of civilian acquisition, possession and use of firearms.” The resolution was adopted by a vote of 41-0, with six abstentions. The U.S. explanation of vote, delivered by Ambassador Harper, is excerpted below, and available at <https://geneva.usmission.gov/2015/07/02/human-rights-and-the-regulation-of-civilian-acquisition-possession-and-use-of-firearms/>.

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The United States has an unwavering commitment to protecting innocent lives from all forms of unlawful violence. We are still grieving over the incomprehensible loss of life in Charleston, South Carolina, and in a church that, as President Obama said, has “a sacred place in the history of Charleston and in the history of America.” These types of tragedies happen too frequently, and we continue to look inward as a nation for domestic solutions.

And that reflects the crux of our concern with this resolution, and why we regretfully have called a vote and abstained.

We understand the co-sponsors intend this resolution to raise awareness of the human rights implications of the misuse of firearms. We nonetheless remain concerned that this resolution could be interpreted by some to address topics far beyond the competency of the Human Rights Council.

To avoid such misinterpretation, the United States must state its position. We do not believe that a State’s regulation of the purely domestic acquisition, possession, and use of firearms is an appropriate topic for international attention generally or the Human Rights Council specifically. Further, we do not regard the domestic actions suggested by this resolution to be required by international human rights obligations. And we do not interpret this resolution as giving any international body or its representatives a voice in the domestic regulation of firearms.

We agree that domestic regulatory action can help deter the criminal misuse of firearms. We regard firearms transfer or possession by private persons or non-state actors as falling within the sovereign responsibility that each government has toward its population. And we believe that it is the sovereign and exclusive right of any state to regulate and control conventional arms within its territory, pursuant to its own legal or constitutional system.

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8. Persons with Albinism

On March 26, 2015, the United States joined consensus on a resolution at the 28th session of the Human Rights Council entitled “Independent Expert on the Enjoyment of Human Rights by Persons with Albinism,” and delivered an explanation of position, excerpted below and available at <https://geneva.usmission.gov/2015/03/26/u-s-joins-consensus-on-resolution-to-protect-human-rights-of-persons-with-albinism/>.

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The United States is pleased to join consensus on this resolution which establishes an Independent Expert to promote and protect the human rights of persons with albinism.

We believe that States must take effective measures to protect the human rights and fundamental freedoms of all persons, such as those with albinism, including effective prosecution of perpetrators of violence. Future discussions on how to prevent attacks against persons with albinism can be greatly informed by examining the root causes of discrimination.

We note the relevance of international instruments, including the Convention on the Rights of Persons with Disabilities, in addressing issues of stigma and violence, including against these persons and indeed all persons with disabilities. In that regard, we are pleased that this resolution underscores that persons with albinism have the same human rights as all other persons. In particular, we note that all persons are equal before the law and are entitled without any discrimination to equal protection of the law.

We encourage the future mandate holder to coordinate closely with other mandate holders addressing relevant thematic issues, including but not limited to the Special Rapporteur on the Rights of Persons with Disabilities.

The absence of a sunset clause in this resolution is regrettable. In addition to the need to prioritize use of limited resources, a sunset clause would allow the HRC membership to assess the effectiveness of the mandate and determine whether or not it should be continued.

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9. Human Rights and the World Drug Problem

On March 27, 2015, the United States joined consensus on a resolution at the 28th session of the Human Rights Council entitled “Contribution of the Human Rights Council to the United Nations General Assembly Special Session on the World Drug Problem of 2016,” and delivered an explanation of position, excerpted below and available at <https://geneva.usmission.gov/2015/03/27/eop-on-item-8-resolution-entitled-contribution-of-the-human-rights-council-to-the-united-nations-general-assembly-special-session-on-the-world-drug-problem-of-2016/>.

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The importance of respect for human rights is front and center in the UN drug conventions, a cornerstone of all international drug control policy, as well as in all the declarations and resolutions from the General Assembly and the Commission on Narcotic Drugs (CND). There is no dispute on the role of respect for human rights in drug control efforts. That is why we join consensus on this resolution.

The topic and the panels of the 2016 UNGASS were decided at the 2015 CND; one panel discussion highlights the cross-cutting nature of human rights in international drug policy. To make a serious contribution to that discussion, any contributions from this Council should be submitted as timely as possible. ...

We would also like to make clear that we appreciate this resolution's reference to "persons in vulnerable situations" in operative paragraph 1. This includes all persons belonging to marginalized and vulnerable groups, including those categories not specifically enumerated in the Universal Declaration of Human Rights such as persons with disabilities and LGBT persons.

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10. Protection of the Family

On July 3, 2015, the United States voted against HRC resolution 29/22, entitled "Protection of the family: contribution of the family to the realization of the right to an adequate standard of living for its members, particularly through its role in poverty eradication and achieving sustainable development." The resolution was adopted by a vote of 29-14, with four abstentions. A general statement delivered by the United States on behalf of Australia, Canada, and the United States, is excerpted below and available at <https://geneva.usmission.gov/2015/07/06/u-s-hrc-joint-statement-on-protection-of-the-family/>.

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Ensuring that families are safe environments where all members are able to reach their full potential and enjoy their human rights is essential to ensuring the social development of all people. This overarching principle would have been the basis for a strong, consensus text that would be reflective of our shared values. The text before us, however, fails to recognize both the diversity of families, and the fundamental primacy of ensuring the human rights of all family members.

All countries recognize that violence can occur in the context of families, and that this violence takes place in all regions of the world. Our countries remain deeply concerned about harmful practices such as child, early and forced marriage and female genital mutilation. We are also troubled by issues such as sexual abuse of children and domestic violence. These actions take place in the context of the family or are due to a decision by adult family members.

Though this resolution recognizes some of these human rights abuses, ..., the text appears to express more concern about the impact that these serious human rights abuses can

have on the family unit, and social policies aimed at the family, than on the victims themselves. We are deeply disappointed that the text appears to represent a deliberate attempt to prioritize family cohesion and “The Family,” above human rights of individual family members.

These abuses are intolerable. Their impact is often devastating and long lasting. This is why we cannot support a text that does not recognize the primacy of ensuring the human rights of individual family members above all else.

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11. Labor Rights

On March 27, 2015, at the 28th session of the HRC, Eric Richardson delivered the U.S. explanation of position for a resolution entitled “Right to Work,” on which the United States had joined consensus the preceding day. That explanation is excerpted below, and available at <https://geneva.usmission.gov/2015/03/27/eop-on-item3-resolution-entitled-right-to-work/>.

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We joined consensus yesterday on the resolution on the Right to Work in recognition that this right is enshrined in article 23 of the Universal Declaration on Human Rights. However, we are concerned that this resolution impinges upon the roles and responsibilities of the ILO. Although we are able to join consensus, we do not believe that this Council should undertake further action on this topic. We should not take up the limited time and resources of this Council and of the Office of the High Commissioner on a topic that is already well-resourced through another international institution.

The United States joins consensus on the understanding that this resolution does not imply that states must join human rights instruments to which they are not a party, or otherwise implement obligations under these instruments. Furthermore, in joining consensus, the United States does not recognize any change in the current state of treaty or customary international law. We interpret this resolution’s references to the right to work and the right to the enjoyment of just and favorable conditions of work with respect to States Parties to the ICESCR, in light of its Article 2(1).

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Cross References

Visa restrictions on human rights abusers in Venezuela, **Chapter 1.B.3.a.**

Asylum, refugee, and migrant protection issues, **Chapter 1.C.**

Submission to the IACHR on unaccompanied children, **Chapter 1.C.3.**

Trafficking in persons, **Chapter 3.B.3.**

Alien Tort Statute and Torture Victim Protection Act, **Chapter 5.B.**

ILC work on crimes against humanity, **Chapter 7.D.**

Submissions to IACHR on death penalty cases, **Chapter 7.E.1.**

Gatt case (discrimination by airline against citizen of Israel), **Chapter 11.A.4.**

Corporate Responsibility Regimes, **Chapter 11.I.2.**

Sustainable Development, **Chapter 13.A.2.**

Sanctions, including relating to human rights violators, **Chapter 16.A.**

Atrocities prevention, **Chapter 17.C.1.**

International humanitarian law, **Chapter 18.A.6.**

Detainees, **Chapter 18.C.**