CHALLENGING A CLIMATE OF HATE AND FOSTERING INCLUSION: THE ROLE OF U.S. STATE AND LOCAL HUMAN RIGHTS COMMISSIONS

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INTRODUCTION

We are in an era clearly marked by an assault on human rights. The U.S. federal government, the traditional duty-bearer in the global human rights regime, is taking actions that contravene core international human rights protections established to prevent and address discrimination in all its forms—obligations the United States has accepted as a party to several core human rights treaties.¹

Recent federal initiatives not only flout international human rights principles,² but also foment distrust between and among vulnerable communities and the governments meant to serve them. Local officials in jurisdictions that limit cooperation with federal authorities to enforce federal immigration law, so called “sanctuary jurisdictions,”³ have been threatened with a loss of funding.⁴ The

1. For discussion of the International Convention on the Elimination of All Forms of Racial Discrimination, and the International Covenant on Civil and Political Rights, see infra Section III.A.

2. Throughout this paper, “international human rights standards,” “international human rights principles,” and “human rights framework” are used interchangeably to refer to international human rights treaties and agreements, as well as interpretations of human rights treaties by U.N. human rights experts.

Department of Justice has declared that investigations designed to uncover systemic and institutionalized racism in police departments are on the chopping block.\(^5\) Federal executive orders, such as the "Muslim and Refugee Travel Ban" foster xenophobia and distrust.\(^6\) Not surprisingly, the new political context is marked by an uptick in acts of bias and discrimination.\(^7\) While discrimination and bias are challenges the United States has long faced, the increasing attention on these incidents, and the veneer of legitimacy that current public policy and discourse offer to discriminatory attitudes and actions, brings a renewed urgency to addressing them.

The assault on rights, and on people, is destabilizing for local communities. And, increasingly, state and local officials are leading the charge to challenge federal policies that are discriminatory by design. State attorneys general spearheaded litigation against the Muslim and Refugee Travel Ban\(^8\) and mayors are front and center in the fight to ensure "sanctuary cities" do not lose federal funding.\(^9\) But


\(^6\) See Muslim and Refugee Travel Ban, supra note 4.

\(^7\) See, e.g., Katie Reilly, Racist Incidents Are Up Since Donald Trump's Election. These Are Just a Few of Them, TIME MAG. (Nov. 13, 2016), http://time.com/4569129/racist-anti-semitic-incidents-donald-trump/ (noting that immediately following Election Day, the country experienced “increased incidents of racist or anti-Semitic vandalism and violence, many of which have drawn directly on the rhetoric and proposals of President-elect Donald Trump”); COREY SAYLOR ET AL., CIVIL RIGHTS REPORT 2017: THE EMPOWERMENT OF HATE (Council on Am.-Islamic Relations, 2017) (documenting a 57% increase in anti-Muslim incidents in 2016 as compared to 2015, and noting that such incidents were also on the rise between 2014 and 2016). See infra Part I for discussions of efforts to track incidents of hate, bias, and harassment in the wake of the 2016 elections.


less attention has been paid to other local actors: state and local civil and human rights agencies ("human rights commissions")\(^{10}\) and the ways they can, and are, responding to and resisting the climate of hate, bias, and intimidation at the city, county, and state level.

As local initiatives emerge daily, this Article offers a snapshot of some human rights commissions' efforts to counter xenophobia and bigotry. The Article also connects local efforts to international human rights standards as a potential framework to deepen and expand this work. Human rights commissions were initially established in the 1940s to address racial tensions and to monitor compliance with domestic anti-discrimination laws.\(^{11}\) This Article introduces these commissions and highlights some of the ways they are already working to counter bias, harassment, and discrimination in the face of increasingly divisive national policies and rhetoric. Building on these examples, the Article offers concrete steps that commissions can take to advance their work using international human rights principles.

The overarching thesis of this Article is that human rights commissions should be considered as potential allies in bringing international human rights home to the local level and that international human rights standards offer a valuable tool to enhance commissions' work to identify, prevent, and respond to discrimination, bias, and harassment, particularly in the arenas of legal and policy advocacy, awareness-raising and outreach, and data collection.

International human rights standards have the power to transform governance—both how institutions operate and the principles that guide decision-making.\(^{12}\) Indeed, the human rights

cities to Trump's executive order saying he would end federal funding to municipalities that did not comply with federal immigration policy).

10. These agencies go by a number of designations, including civil rights agencies, human relations commissions, civil rights commissions, and human rights commissions. This Article will refer to them by their most common designation: "human rights commissions." See infra Section II.A.


12. See Peggy Levitt & Sally Merry, Vernacularization on the Ground: Local Uses of Global Women's Rights in Peru, China, India and the United States,
framework emphasizes the importance of shifting norms and attitudes and calls for government action to proactively and effectively address bias and discrimination, with the goal of achieving equality in outcomes regardless of identity. A human rights based approach requires measures to identify and modify laws and policies with "the effect of creating or perpetuating racial discrimination" and calls on governments to use "all appropriate means" to eliminate racial discrimination. This approach emphasizes addressing the causes of discrimination and prioritizes prevention.

Local governments have a critical role to play in advancing human rights protections domestically. They often have the

4 GLOBAL NETWORKS 441, 457 (2009) (emphasizing that "[t]o have impact, human rights ideas must be adopted locally, must transform the consciousness of those who claim them and have some institutional teeth so that people who demand rights are at least recognized if not satisfied").

13. See, e.g., International Convention on the Elimination of All Forms of Racial Discrimination art. 4, opened for signature Mar. 7, 1966, 660 U.N.T.S. 195 [hereinafter CERD] ("States Parties condemn . . . all organizations which are based on . . . theories of superiority of one race or group of persons of one colour or ethnic origin . . . and undertake to adopt immediate and positive measures . . . to eradicate . . . such discrimination."); Convention on the Elimination of All Forms of Discrimination Against Women art. 5(a), opened for signature Dec. 18, 1979, 1249 U.N.T.S. 13 (entered into force Sept. 3, 1981) [hereinafter CEDAW] ("State Parties shall take all appropriate measures to modify the social and cultural patterns of . . . men and women, with a view to . . . eliminating prejudices and . . . practices . . . based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.").


15. See CERD, supra note 13, art. 2.
community connections that are essential to effective human rights protection. Likewise, local governments are well placed to educate and raise awareness, and they can serve as a bridge between communities, other government actors, and non-governmental organizations. Significantly, human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination, to which the United States is a party, apply to local authorities.16

Local human rights commissions serve an array of functions that align with human rights norms. They seek to prevent discrimination, enforce civil anti-discrimination law, make policy recommendations, and foster positive community relations. Their missions and mandates are compatible with international human rights standards, and that nexus is at the heart of existing partnerships between the International Association of Official Human Rights Agencies (IAOHRA) and U.S. human rights advocates.17 A number of commissions use international human rights standards in their work. In Oregon, for instance, city level human rights commissions have developed human rights assessments tools.18 Tennessee's State Human Rights Commission

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16. See infra note 139 and accompanying text (discussing applicability of relevant treaty provisions).
18. The Eugene and Portland Human Rights Commissions have both incorporated human rights principles into tools to assess impacts of government policies and decisions. See EUGENE, OR., Triple Bottom Line, https://www.eugene-or.gov/512/ Triple-Bottom-Line (last visited Sept. 20, 2017); Off. of Equity &
has recently used the Universal Declaration as a basis to gather information and data on emerging civil and human rights issues in a series of state-wide hearings. However, the potential of commissions to integrate international human rights standards into their work has been overlooked for both pragmatic and ideological reasons. As a result, these efforts exist on an ad hoc basis. The adverse effects of human and financial resource constraints and the lack of guidance on the relevance of intentional human rights standards within the United States impede more comprehensive efforts by commissions to adopt international human rights standards.

Yet, as the human rights framework becomes more accepted in the United States and cities and states increasingly serve as sites of human rights innovation, there are new opportunities for human


rights commissions to translate international human rights standards into local practice to build on their existing anti-discrimination efforts. This Article seeks to catalyze further exploration into the ways that commissions can localize human rights.

Part I situates the discussion within the context of increased incidents of discrimination, bias, and harassment. It discusses efforts to track these incidents and describes some of the initiatives commissions are undertaking to respond, as well as actions to resist federal action, particularly related to sanctuary jurisdictions. Part II describes the historical genesis of human rights commissions and introduces their current modes of work. It further highlights how commissions’ origins, rooted in addressing racial tensions, and their emphasis on discrimination, make them appropriate sites for translating international human rights standards into practice locally, as well as some of the challenges in doing so. Part III distills human rights recommendations made to the United States in order to address discrimination, bias, and harassment, and suggests how commissions can integrate these recommendations into their legal and policy advocacy, awareness-raising and outreach, as well as data collection efforts, and work in partnership with local stakeholders.

I. THE DOMESTIC LEGAL CONTEXT

A. Surge in Hate, Bias, and Intimidation

In the wake of the 2016 presidential election, communities across the United States experienced a surge in hate crimes and acts of bias and discrimination, galvanizing progressive social justice advocates to respond. A national coalition of organizations working on a range of civil and human rights issues impacting Arab, Muslim, transgender, Latinx communities, communities of color, and others came together through the Communities Against Hate initiative to aggregate data and provide legal and social support to those experiencing threats and violence. The election also triggered the development of a number of new platforms that aim to document identity-based threats and harassment, which are described briefly here.

Challenging a Climate of Hate and Fostering Inclusion

The Southern Poverty Law Center (SPLC), one of the first organizations to track hateful intimidation, bias, and harassment, collected information on 1,372 hate incidents between the election and February 2017, based primarily on news stories and individual reporting to SPLC. ThinkProgress’ Mapping Hate project also focuses on the three months following the election and provides a visual map of acts targeting particular individuals or communities. The map tracks incidents targeting Black, Muslim, LGBTQ, Latinx, and Jewish individuals, as well as women and immigrants more broadly, and can be sorted by state. ProPublica is currently working with journalists and other organizations across the country to create a national data set of hate crimes and bias, known as “Documenting Hate,” based on independent data collection, self-reported stories, and social media reports. The City University of New York embarked on a parallel and ongoing project, a Hate Tracker, that draws primarily from news sources to aggregate instances of hate and intolerance and makes them searchable by victim identity, location and relationship of alleged perpetrator, and the underlying news story.

The number of recent efforts to document and track bias, harassment, and intimidation reflect a renewed sense of urgency in understanding and responding to xenophobia and ethnic and racial discrimination. While these problems have deep history in the United States, those who harbor hate and prejudice appear emboldened to act on these attitudes at a new level. Comprehensive data on hate

24. The Southern Poverty Law Center defines its mission as “fighting hate and Bigotry and . . . seeking justice for the most vulnerable members of our society” through longstanding efforts that include tracking hate groups and extremists and initiatives focused on building tolerance. See About Us, S. POVERTY LAW CTR., https://www.splcenter.org/about (last visited Sept. 9, 2017).


27. Id.


29. Id.

30. The last FBI hate crime report available at the time of writing was from 2015, making it difficult to measure recent trends against this benchmark. In November of 2016, law enforcement in New York noted that there was a 31% increase in hate crimes since 2015. Interview by AM 970 The Answer with James P. O’Neill, N.Y.C. Police Comm’r (Nov. 20, 2016). California also saw an 11.2% increase in hate crimes between 2015 and 2016. See CAL. DEP’T OF JUSTICE ET AL.
and bias activities is limited, yet general trends indicate that these incidents are on the rise.\textsuperscript{31}

ProPublica's project explicitly aims to fill the data void that exists as a result of a lack of "reliable national data on hate crimes" and the fact that "no government agency documents lower-level incidents of harassment and intimidation."\textsuperscript{32} While the federal government is authorized to collect data on hate crimes from state law enforcement,\textsuperscript{33} which serves as the basis of FBI hate crime reporting, there is no requirement that states report this data.\textsuperscript{34} The Federal Bureau of Justice Statistics publishes data on hate crimes as well, based on reporting by hate crime victims.\textsuperscript{35} These data sets

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HATE CRIME IN CALIFORNIA, 2015, https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/hatecrimes/hc15/hc15.pdf (last visited Nov. 14, 2017). Another recent study shows an increase in hate crimes across an array of U.S. localities. BRIAN LEVIN & KEVIN GRISHAM, CAL. STATE UNIV. SAN BERNARDINO: CTR. FOR THE STUDY OF HATE & EXTREMISM, SPECIAL STATUS REPORT: HATE CRIME IN THE CITIES AND COUNTIES IN THE U.S. (2017); see also Reilly, supra note 7 (noting that immediately following Election Day the country experienced "increased incidents of racist or anti-Semitic vandalism and violence, many of which have drawn directly on the rhetoric and proposals of President-elect Donald Trump").


35. The Bureau of Justice Statistics bases its data on the National Crime Victimization Survey (NCVS), [which] measures crimes perceived by victims to be motivated by an offender's bias against them for belonging . . . or being associated with a group . . . identified by these characteristics. For a crime to be classified as a hate crime in the NCVS, the victim must report at least one of three
typically yield vastly different results, with consistently lower numbers reported by the FBI.  

Accurate data is vital to understanding trends related to bias, discrimination, and harassment—where it is occurring and who is being impacted. Further, data collection is an area in which state and local human rights commissions can positively contribute. Data, however, does not necessarily address the root causes and consequences of the bias and discrimination that undergird expressions of intimidation and hate—information that is critical to developing meaningful solutions. It is often the communities disrupted by identity-based bias, harassment, and hate that can articulate the impacts on individuals, families, religious congregations, and communities. These communities can also help identify potential responses and solutions.

Within the United States, efforts to respond to bias, discrimination, and harassment often focus on individual perpetrator accountability. An array of federal, state, and local criminal and civil laws are in place to prohibit and punish discriminatory actions,

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types of evidence that the act was motivated by hate: (1) the offender used hate language, (2) the offender left behind hate symbols, or (3) police investigators confirmed that the incident was hate crime.


36. *See, e.g.*, INT'L CTR. FOR ADVOCATES AGAINST DISCRIMINATION, PERPETUATING DISCRIMINATION: HOW THE U.S. GOVERNMENT'S COMPLIANCE WITH THE UNDERREPORTING OF HATE CRIMES LEADS TO A FAILURE TO PROTECT MINORITY GROUPS AND EFFECTIVELY COMBAT HATE CRIMES 1 (2014) (highlighting the significant variance in reports and a “34-fold gap” between the number of reports from the Bureau of Justice Statistics versus the FBI and describing significant limitations to the FBI data collection, which lead to “underreporting”).


including hate and bias motivated conduct.\textsuperscript{39} Litigation is one of the key tools these laws put in place to address discrimination.\textsuperscript{40} Litigation can dissuade harmful conduct through criminal and civil sanctions, financial penalties, and injunctive relief.\textsuperscript{41} Yet, litigation has a number of limitations as a tool for accountability: it is

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\textsuperscript{39} Criminal law figures prominently in efforts to address bias and hate where violence, force, and injury are involved. Federal hate crime laws provide for prosecution of an individual who "willfully injures, intimidates or interferes with" another person, or attempts to do so, by force because of a person's race, color, religion, or national origin and because of the victim's attempt to take part in a number of federally protected activities. Civil Rights Act of 1968, 18 U.S.C. § 245(b)(2) (1968). Pursuant to the Violent Crime Control and Law Enforcement Act, 42 U.S.C. ch. 136 (1994), hate crimes include violent crimes motivated by gender, sexual orientation, or disability, regardless of victim's engagement in federally protected activities. See also the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, 18 U.S.C § 249 (2009) (provides funding and technical assistance to state, local, and tribal jurisdictions to assist with investigation and prosecution of hate crimes). All but five states offer some level of hate crime protection as well; though protections vary. See State Map on Laws and Policies: Hate Crimes, HUMAN RIGHTS CAMPAIGN, http://www.hrc.org/state-maps/hate-crimes# (updated Apr. 25, 2017); see also Jack Levin, The Invisible Hate Crime, PAC. STANDARD (Mar. 1, 2011), https://psmag.com/news/the-invisible-hate-crime-27984 (discussing that, at the time of the article's publication, "[t]hirty-two states have hate crime statutes to protect people who have disabilities, but 18 states still [do] not"). Sixteen of these statutes include sexual orientation and gender identity, while fourteen include gender identity only. Most hate crime enforcement occurs at the state level.

Further, adding to the challenge of documentation and accountability, state laws do not uniformly require reporting on the number of hate crimes. HUMAN RIGHTS CAMPAIGN, A GUIDE TO STATE-LEVEL ADVOCACY FOLLOWING ENACTMENT OF THE MATTHEW SHEPARD AND JAMES BYRD, JR. HATE CRIMES PREVENTION ACT 10–11 (2014). Studies further indicate that hate crime prosecutions are rare and incidents are under-reported to authorities. One of the few studies of federal prosecution indicates that less than 11% of referred cases were prosecuted in 2015. See TRANSACTIONAL RECORDS CLEARINGHOUSE (TRAC) REPORT, CONVICTIONS IN FEDERAL HATE CRIMES CASES SINCE FY 2010 (2015). On the state level, where data is harder to access, a 2013 study shows that four percent of crimes reported at the state level led to an arrest. See Special Report: Hate Crime Victimization, 2003-2011, U.S. DEPT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATS. (Mar. 2013), https://www.bjs.gov/content/pub/pdf/hcv0311.pdf [hereinafter BJS Special Report]. Federal, state, and local civil anti-discrimination protections are described further in Section II.A infra.

\textsuperscript{40} See infra notes 41–44 and accompanying text.

individually focused and perpetrators are not always easily identifiable.\textsuperscript{42} Often victims are not willing to come forward.\textsuperscript{43} Even where legislation is in place to prohibit discrimination—and litigation is pursued—the current approach is not calibrated to address widespread bias and discrimination in society.\textsuperscript{44} As civil rights advocates have noted, "[b]igotry, racism, homophobia, and anti-Semitism cannot be legislated out of existence."\textsuperscript{45} Meeting these challenges will require approaches that include communities and address the factors that perpetuate discrimination and bias.

\begin{enumerate}
\item \textsuperscript{42} See, e.g., Samuel R. Bagenstos, \textit{The Structural Turn and the Limits of Antidiscrimination Law}, 94 CALIF. L. REV. 1, 40–41 (2006) (arguing that the antidiscrimination principle, which has the objective of "eliminating the unfairness particular individuals experience," dominates courts); RICHARD T. FORD, RACIAL CULTURE: A CRITIQUE 194 (2005) ("[A]nti-discrimination law . . . retains an exclusively individualist orientation that is ill suited to the compelling policy imperative to dismantle social practices of segregation and hierarchy . . . ."). \textit{But see} OLATI JOHNSON, \textit{BEYOND THE PRIVATE ATTORNEY GENERAL: EQUALITY DIRECTIVES IN AMERICAN LAW}, Columbia Public Law & Legal Theory Working Papers (2012) 2–20, 22–28 (emphasizing that U.S. domestic antidiscrimination law not only includes individually-focused mechanisms, but also has a more forward-looking emphasis on affirmatively fostering equality by "placing a set of positive duties on state actors to promote equality and inclusion").

\item \textsuperscript{43} See J. Nicole Shelton & Rebecca E. Stewart, \textit{Confronting Perpetrators of Prejudice: The Inhibitory Effects of Social Costs}, 28 PSYCHOL. WOMEN Q. 215, 220–21 (2004) (explaining how perceived personal costs can influence likelihood of victims confronting discrimination); see also CHERYL R. KAISER, \textit{STIGMA AND GROUP INEQUALITY: SOCIAL PSYCHOLOGICAL PERSPECTIVES} 47–50 (Shana Levin & Colette van Laar eds., 2006) (describing research showing that claiming to be a target of discrimination can have negative interpersonal ramifications, limiting reporting by victims even when there is strong evidence of discrimination).

\item \textsuperscript{44} See, e.g., Audrey J. Lee, \textit{Unconscious Bias in Employment Discrimination Litigation}, 40 HARV. CIV. RTS.-CIV. LIBERTIES L. REV. 481, 482–88 (2005) (stating that the nature of discrimination has changed from that of overt discrimination that existed prior to the 1964 Civil Rights Act, and is at odds with current discrimination doctrinal framework); see also Bagenstos, supra note 42, at 3–4 (arguing unconscious bias and current workplace structures generate inequalities that current antidiscrimination law is not well-equipped to solve).

\item \textsuperscript{45} Michael Lieberman, \textit{Hate Crime Laws: Punishment to Fit the Crime}, DISSENT MAG. (Summer 2010), https://www.dissentmagazine.org/article/hate-crime-laws-punishment-to-fit-the-crime; see also Colbert King, \textit{The Key Reason Why Racism Remains Alive and Well in America}, WASH. POST (June 26, 2015), https://www.washingtonpost.com/opinions/why-racism-still-flourishes/2015/06/26/ d0e1f2e4-1b6e-11e5-ab92-c75ae6ab94b5_story.html?utm_term=.00b4983b8268 (highlighting that prevalent responses to discrimination, including litigation, focus on the symptoms of racism rather than root causes).
Communities across the United States are currently grappling with questions of how to address the increased reports of bias, intimidation, and harassment in their communities. What recourse is available when an individual is harassed on their way to work for wearing particular religious garb? When parents are intimidated on the bus while taking children to school on the basis of their perceived race or national origin: to whom should they turn? What if they are followed home and told to return to a real or perceived country of origin? What should a group of religious leaders do when they are at a gathering in a public park that breaks up because fireworks are repeatedly thrown over the area where they are gathering? Who can you turn to in the short-term, and what responses can prevent similar incidents in the future?

These are the situations and questions that human rights commissions in a number of jurisdictions are taking up—and responding to—through a range of initiatives. Human rights

46. See Emma Whitford, Muslim Woman Says She Was Told To ‘Take That Disgusting Piece Of Cloth Off’ Her Head On Queens Bus, GOTHAMIST (Nov. 11, 2016), http://gothamist.com/2016/11/11/mta_bus_muslim_hate_queens.php (recounting a middle-aged Caucasian couple accosting a Muslim woman and telling her to take off her hijab on the bus); Maria Sanchez Diez, Hispanic Woman Defends ‘Muslim Indian’ Passengers on New York City Subway Being Harassed by Another Latina, UNIVISION NEWS (Mar. 15, 2017), http://www.univision.com/univision-news/united-states/hispanic-woman-defends-muslim-indian-passengers-on-new-york-city-subway-being-harassed-by-another-latina (reporting on a man and woman who were verbally assaulted for appearing to be “Indian Muslim”).

47. See Christopher Mathias, 97 Ways of Saying the Same Hateful Thing: ‘Get Out of America’, (Mar. 10, 2017), http://www.huffingtonpost.comlentry/american-xenophobia_us_58bc3190e4b0b9989418321173jmvkf428gyfd2t9& (collecting ninety-seven incidents of language conveying the message to “get out of America,” whether by yelling, spray-painting on buildings, or writing).


commissions not only monitor compliance with local, state, and federal anti-discrimination law, but many also adjudicate complaints of violations of these laws. Many human rights commissions also undertake discrimination prevention efforts, including awareness-raising, trainings, and community outreach; some commissions are further mandated to make policy recommendations.50

The following section describes the ways that a number of human rights commissions are taking steps to address and prevent scenarios similar to those described above. This is just a sampling, with a focus on activities undertaken since the 2016 presidential election to respond to increased reports of bias and discrimination and to resist recent federal policies that foster distrust and fear in local communities.

B. Recent Commission Initiatives to Tackle Bias, Discrimination, and Harassment, and Foster Inclusion

A number of commissions have been spurred into action by the increasingly hateful rhetoric occurring at the national level and the increased community tensions it has bred. This section gives a snapshot of some recent efforts undertaken in the wake of the election, focusing on two modes of activity: first, community outreach and documentation in response to incidents of bias, discrimination, and harassment; and second, policy initiatives that resist discriminatory federal policies. The activities mentioned here provide a basis for Parts II and III of this Article and an entry point to discuss how international human rights can enhance the work of human rights commissions.

1. Community Outreach and Data Collection

Human rights commissions in jurisdictions across the country—big and small—are taking action to engage with local communities, to provide education on their rights, and to identify and address the increased reports of bias, discrimination, and harassment.

New York City’s Human Rights Commission has launched an “I am Muslim” campaign in partnership with the Mayor’s Community

50. See infra Section II.A (discussing human rights commissions’ core competencies).
Affairs Unit and the Office of Immigrant Affairs. The campaign has a significant public awareness component, with ads on subways, in community newspapers, on the radio, and on social media. But the aim is to engage in a range of activities to improve community relations, educate community members and government employees about their rights and responsibilities, bring together diverse perspectives to promote cultural competency and develop policy recommendations, and engage in comparative learning with other jurisdictions. Key groups involved in the campaign are representatives of faith communities, with a focus on Muslim communities, immigrants, and refugees. As part of the campaign, the Commission is convening focus groups and roundtables in communities to not only discuss what legal protections exist, but also to explore what more city agencies can do to effectively combat xenophobia and islamophobia and prevent discrimination. This campaign complements the Commission's expanded bias and discrimination hotline, which saw exponential growth in the volume of calls in the wake of Election Day. To reach the array of diverse constituents it serves, the Commission has also expanded its internal language capacity and publishes materials in over two dozen languages.

Similarly motivated by the increased instances of harassment and intimidation, Seattle's Office for Civil Rights launched a "Bias Hurts" campaign in early 2017. This campaign includes a reporting

52. Id.
55. See #IamMuslimNYC, supra note 51.
hotline to track incidents of discrimination and harassment, coupled with community outreach meetings and a public media campaign. The main message the campaign seeks to convey is that “all of us are welcome in Seattle.” Several commissions have also specifically organized events that bring together communities to address religious difference. As one example, in 2017, the Los Angeles County Human Relations Commission partnered with local groups around a “Ramadan in LA” initiative that aims to further positive relationships and cultural awareness across religious lines. The website notes expressly that “[w]ith the rise of Islamophobia and the fear of a Muslim registry/ban, #RAMADANinLA is needed now more than ever to bring communities together.”

The San Francisco City and County Human Rights Commission has also developed several initiatives to foster a feeling of safety and inclusion in direct response to the 2016 election outcomes. The “Help Against Hate” campaign is designed to reach vulnerable immigrant communities, particularly undocumented individuals, as well as Muslim and LGBTQ community members.

57. Id.
58. Id.
The campaign’s community toolkit highlights the impact of San Francisco’s Sanctuary Cities Ordinance and answers questions about what services are available for different communities and how citizenship status affects access to these services. The toolkit also identifies partners and resources for further support. The Commission has signaled its intent to “facilitate a series of presentations for other City departments and community based organization [sic] to introduce the Help Against Hate Campaign and how to best utilize the Toolkits to create more socially conscience [sic] and inclusive environments.”

In December of 2016, the Orange County Human Relations Commission launched a public campaign to “cultivate a hate-free environment in Orange County, bring diverse communities together, and promote a safe, peaceful, respectful, and inclusive community for ALL . . . .” The campaign #HateFreeOC includes raising public awareness, calling on individuals to pledge to create an inclusive environment, report bias, and address all forms of prejudice. It also promotes reporting of hate crimes. This complements the Commission’s historic hate crime tracking.

These community outreach efforts aim to advance reporting and tracking of hate and bias incidents, so it is important to note that a number of commissions have historically tracked hate crimes data.

65. Id.
68. Id.
71. The Los Angeles County Commission on Human Relations, for instance, has been publishing a comprehensive annual hate crimes report with detailed statistics on hate crimes in Los Angeles County since 1980. HUMAN RIGHTS WATCH, “WE ARE NOT THE ENEMY”: HATE CRIMES AGAINST ARABS, MUSLIMS, AND THOSE PERCEIVED TO BE ARAB OR MUSLIM AFTER SEPTEMBER 11, at 38 (2002). The Orange County Human Relations Commission has collected hate crime data
The Los Angeles County Human Relations Commission has expressly grounded this work in the international human rights framework for several years.\textsuperscript{72} New bias tracking efforts have also been born out of the current context. One modest, yet potentially impactful example is the Columbus, Indiana, Human Rights Commission's launch of an online tracking portal.\textsuperscript{73} This effort is not part of the formal complaints process that would lead to legal action, but serves "as a way to gather information about the tenor of Columbus' inclusiveness and acceptance." The Commission's director has highlighted that the information will provide "a bridge to conversation about inclusion and diversity," and to "talking about the uncomfortable." In Fargo, North Dakota, the city commission decided to create a hate speech task force in the face of local incidents of bias, working with both law enforcement and community members to develop appropriate responses.\textsuperscript{76}

This sampling of community outreach efforts reflects some of the ways that commissions can take very local action to bring community members together across cultural and religious lines, educate the community about their rights, build support for inclusive communities, and gather community input to inform policy responses. It is too early to assess the replicability and sustainability of these initiatives, or their long-term impact, but the initiatives offer insight into the role commissions can play. To date, the most public examples of commission activity appear to be in jurisdictions that are considered fairly progressive and where state and local politics run

\begin{itemize}
  \item \textsuperscript{74} Id.
  \item \textsuperscript{75} Id.
  \item \textsuperscript{76} Nicole Johnson, \textit{Fargo Human Relations Commission To Create Hate Speech Task Force}, VALLEY NEWS LIVE (Dec. 15, 2016), http://www.valleynewslive.com/content/news/-Fargo-Human-Relations-Commission-to-create-hate-speech-task-force-406918125.html (reporting that the task force "was sparked by hateful graffiti written on the parking ramp of the Radisson Hotel in Downtown Fargo").
\end{itemize}
counter to that of the current administration. Yet efforts need not be limited to these jurisdictions and some of the examples highlighted here—as well as in the section that follows—are occurring in more unexpected places. There is also some indication that additional human rights commissions want to do more to respond to acts of intolerance. For one, the Fall 2017 IAOHRA conference features several sessions on addressing hate and bias. However, initiatives to date have been fairly ad-hoc and it is unclear how long they will continue. Ultimately, developing more comprehensive and coordinated efforts will require longer-term planning, political will, and resources for commissions to continue this work.

2. Policy Initiatives

In addition to the above community outreach and data collection efforts spurred on by increased reports of bias and discrimination, human rights commissions are speaking out and taking positions to resist harmful federal policies. This section highlights one such example: commissions in a range of communities—from Austin, Texas to Traverse City, Michigan—are standing up to federal efforts to enforce immigration policy through local law enforcement and undermine sanctuary cities.

Elected officials in many U.S. cities have gained prominence as defenders of sanctuary city policies. What is less known is that local human rights commissions often make policy recommendations to mayors and city councils and can drive efforts to designate jurisdictions as “sanctuaries,” “welcoming cities,” “safe cities,” and “inclusive communities.” Commissions across the country have

78. See supra notes 3–4 and accompanying text for discussion of the federal efforts in this arena.
79. See Robbins, supra note 9; see also Elisa Foley, New York Defiant As Trump Threatens Funds Over ‘Sanctuary’ Immigration Policies, HUFFINGTON POST (Mar. 28, 2017), http://www.huffingtonpost.com/entry/new-york-trump-sanctuary-cities_us_58d9890ae4b0f0805b3222c76f (discussing a two-day summit on sanctuary cities hosted by a network of progressive local officials (Local Progress) and the Center for Popular Democracy).
proposed ordinances, passed symbolic resolutions, and otherwise supported these designations. Commissions can also speak in opposition to policies that are harmful to communities. In the context of sanctuary cities, for example, the City of Austin’s Human Rights Commission issued a resolution calling on the City Council to take action to prevent implementation of law enforcement policies that harm immigrant communities. Such efforts build on a history of commission engagement on matters related to local policing and federal immigration enforcement. By way of example, in 2007, when Prince William County, Virginia, passed a resolution requiring local law enforcement and county service providers to ask about immigration status in the course of certain interactions, the county’s Human Rights Commission held public hearings and issued a report


85. See Angela Arboleda & Robin Toma, Strengthening Relations Between Local Police and Immigrant Communities: The Role for Human Rights Commissions (June 2008), http://publications.unidosus.org/bitstream/handle/123456789/58/police_and_immigration.pdf?sequence=1&isAllowed=y (EXECUTIVE SESSION PAPERS: HUMAN RIGHTS COMMISSIONS AND CRIMINAL JUSTICE No. 6) (discussing strategies human rights commissions can adopt to strengthen relationships between law enforcement and immigrant communities).
highlighting the discriminatory nature of the resolution, documenting the community unrest it caused, and recommending the policy be revisited.\textsuperscript{86}

While many of these efforts are symbolic, they nevertheless offer an opportunity for local governments to signal priorities and commitments to community members, local government, and federal authorities.\textsuperscript{87} Their impact will depend on many factors, including the mandate of a human rights commission, its position within a given local jurisdiction, as well as whether a commission’s policy positions form a part of a broader strategy. For example, in Eugene, Oregon, the Human Rights Commission worked with the city council to pass a non-binding sanctuary city resolution as a step towards drafting a binding ordinance on the issue.\textsuperscript{88} Even where direct policy or legal action does not result from a human rights commission’s actions, symbolic positions can spur community conversations. In Traverse City, the Commission’s sanctuary vote drew community members to come to the Commission meeting in record numbers.\textsuperscript{89} Commissions can enhance the impact of policy initiatives by engaging with stakeholders to identify pressing local issues, develop position statements, and coordinate these activities with longer-term strategies.

The examples discussed above demonstrate just two of the ways in which human rights commissions are responding to a surge in bias and discrimination and resisting federal policies that foster distrust and fear in local communities. The following section situates these initiatives within the broader work of human rights commissions and their historical roots. As Sections II.A and II.B describe, many human rights commissions emerged specifically to diffuse racial tensions and foster inclusion, lending them unique expertise and institutional mandates to take action in the current context. Section II.C introduces how commissions have already begun

\textsuperscript{86} Id. at 15–16.

\textsuperscript{87} See, e.g., Miguel Sanchez-Rutledge, \textit{Human Rights Commission Pushes to Make Eugene a Sanctuary City}, \textit{DAILY EMERALD} (Dec. 2, 2016), http://www.dailyemerald.com/2016/12/02/human-rights-commission-pushes-make-eugene-sanctuary-city/ (quoting a Eugene Human Rights Commission member’s statement that “[i]t is important to send a message to residents in Eugene to say it is a safe place for immigrants and that it recognizes the contributions of immigrants to our community”).

\textsuperscript{88} Id.

\textsuperscript{89} Milligan, \textit{supra} note 80; see also \textit{IOWA CITIZENS FOR CMTY. IMPROVEMENT, supra} note 83 (discussing community turnout for the Des Moines, Iowa Human Rights Commission’s vote on a welcoming city resolution).
to connect their own work to international human rights standards, locally and at the international level.

II. STATE AND LOCAL HUMAN RIGHTS COMMISSIONS: A FIRST LINE OF DEFENSE AT THE COMMUNITY LEVEL

A. Core Functions

There are more than 150 civil rights, human rights, and human relations agencies across the country that monitor and enforce civil and human rights laws at the state, city, and county level.90 State-level commissions exist in all but three U.S. states: Alabama, Arkansas, and Mississippi.91 Therefore, in almost every state in the country there is an agency in place to address discrimination and promote equal opportunity,92 marking the collective reach of commissions and their connections to local community and local government networks.

While their mandates and specific functions vary, just as the laws under their purview differ, the work of human rights commissions has been defined in three broad categories: (1) enforcement of local, state, or federal anti-discrimination law.

90. Risa E. Kaufman, State and Local Commissions as Sites for Domestic Human Rights Implementation, in HUMAN RIGHTS IN THE UNITED STATES: BEYOND EXCEPTIONALISM 89, 91 (Shareen Hertel & Kathryn Libal eds., 2011) ("There are more than 150 state and local commissions or agencies mandated by state, county, or city governments to enforce human and civil rights and/or to conduct research, training, and public education, and issue policy recommendations on human intergroups relations and civil and human rights."). The International Association of Official Human Rights Agencies (IAOHRA) maintains a database of member agencies, which offers the most comprehensive list of commissions operating today. See IAOHRA Members and Human Rights Agencies Database by State, IAOHRA, http://www.iaohra.org/members (last visited Sept. 7, 2017).


92. Id. at 1.

93. A patchwork of federal, state and local civil anti-discrimination laws prohibits discrimination, harassment, and exclusion of protected groups in many facets of life, including some of the arenas where increased instances of hate and bias are taking place. State and local commissions enforce the law of their local jurisdiction, and in many cases, federal law as well, in conjunction with the Equal Employment Opportunities Commission (EEOC) and the Department of Housing and Urban Development (HUD).

Two of the key federal statutes in this area are the Civil Rights Act of 1964 and the Civil Rights Act of 1968. The Civil Rights Act of 1964 has broad reach,
prohibiting discrimination and harassment on the basis of race, color, sex, and national origin in employment; public accommodations; and by entities that receive federal funding, including schools and transportation authorities. See Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (2012); Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a(b); Title VI of the Civil Rights Act, 42 U.S.C. § 2000d et seq. The Civil Rights Act of 1968, also known as the Fair Housing Act, prohibits discrimination in the sale and rental of housing on the basis of race, color, national origin, disability and family status, religion, or sex. Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601–19, 3631 (2012). State and local human rights commissions resolve cases and conduct outreach and education related to these laws. See 42 U.S.C. § 2000e-8(b) (giving the EEOC authority to cooperate with local human rights commissions to “engage in . . . research and other projects . . . and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services”); 42 U.S.C. § 3610(f)(1) (providing for HUD referral of complaints to state and local entities that have jurisdiction under state or local law or are otherwise certified as Fair Housing Practice Agencies); Housing and Community Development Act, 42 U.S.C. § 3616(a) (1987), amended by Housing and Community Development Act, 24 C.F.R. § 125 (1992) (authorizing grants to state and local agencies to conduct education and outreach as part of the HUD Fair Housing Initiatives Program).

research, writing reports, and issuing policy recommendations.94 The overarching aim of these agencies is to "encourage[e] and facilitate[e] institutional change through policy and practice to eradicate discrimination and promote equal opportunity."95

A recent comprehensive study on equity in cities highlights that human rights commissions are a valuable predictor of how well cities are addressing discrimination:

[Even in jurisdictions where LGBTQ equality isn't explicitly a part of the commission's charter, these commissions investigate complaints, educate the city, and sometimes enforce non-discrimination laws. Human Rights Commissions serve as important bridges between constituents and their city. [. . .] These commissions may hold community discussions, screen movies, present panels, take public comment, advise the city on matters of diversity and inclusion, develop policies and strategies for making the city more inclusive, and undertake other similar types of endeavors. Where, in addition to the functions listed above, a Human Rights Commission has the authority to conciliate, issue a right to sue letter, or otherwise enforce non-discrimination protections . . . [they elevate a city's equity standing].96

This makes sense, as the step of establishing a human rights agency demonstrates a long-term government commitment to identifying and addressing the causes and impacts of inequality. The origins of human rights commissions, which go back to the first half of the twentieth century, affirm why they are important sites for tackling bias and intolerance today.

B. Genesis of Human Rights Commissions

The precursors of human rights commissions emerged largely in three historical waves, which track surges in racial tension and violence in the United States. The first is marked by the emergence of city- and state-level "interracial committees" or "race relations
committees” that formed in the United States in the aftermath of World War I, when in 1919 race riots plagued U.S. cities.97 These committees, comprised of both non-governmental and governmental representatives, focused on fostering race relations through activities that included mediation, research, and community engagement.98 The Chicago Commission on Race Relations is seen as one of the blueprints for current commissions.99

A second wave of official government bodies—committees focused on “unity,” “friendly relations,” and “community relations”—emerged in the 1940s in Detroit, Cincinnati, New York, and Los Angeles, after race riots rippled across U.S. cities.100 Connecticut and Illinois established the first state-level commissions.101 It was in this same time period that the first federal-level agencies focused on discrimination were established: the Fair Employment Practices Committee and the Truman Committee on Civil Rights (a precursor to the current U.S. Commission on Civil Rights).102

The third wave of commissions emerged in response to the civil rights movement. As the federal government enacted key civil rights laws and established enforcement agencies,103 states and localities also created formal bodies to enforce the law and promote greater tolerance and understanding among diverse community members.104

97. See Saunders & Bang, supra note 11, at 6–7; SONIA CARDENAS, CHAINS OF JUSTICE: THE GLOBAL RISE OF STATE INSTITUTIONS FOR HUMAN RIGHTS 24–25 (2014) (focusing on committees in the South, noting that over 800 interracial committees were in existence by 1922, but many were primarily comprised of moderate white members and focused on fostering positive relations rather than addressing segregation and structural discrimination).

98. Saunders & Bang, supra note 11, at 4–7; CARDENAS, supra note 97, at 26.

99. Saunders & Bang, supra note 11, at 7 (discussing the model of a more permanent agency that emerged in Chicago); see also CARDENAS, supra note 97, at 24–25 (explaining that these committees “promoted local activism, interracial collaboration, and a willingness to cooperate with the government”).

100. Saunders & Bang, supra note 11, at 8–9.

101. CARDENAS, supra note 97, at 24.

102. Id. at 25; Saunders & Bang, supra note 11, at 8–9.

103. See HUMAN RIGHTS CAMPAIGN FOUND. & EQUAL. FED’N INST., supra note 96.

104. Saunders & Bang, supra note 11, at 9; CARDENAS, supra note 97, at 26.
Not all civil rights, human rights, and human relations commissions emerged in response to violence or specific tensions, or follow this timeline. The Portland Human Rights Commission was established in 2008, for example.\textsuperscript{105} Some of these agencies also emerged in response to changes in federal law and some started as a civil rights division within a state attorney general's office.\textsuperscript{106} In some jurisdictions, the formal designation has changed, as have commissions' functions. At the state level, a number of commissions began with a narrow focus on employment, and their jurisdiction has expanded over time.\textsuperscript{107} By 1970, most states had a human rights commission in some form.\textsuperscript{108} Taken together, these commissions play an important role in ensuring that bias, discrimination, intolerance, and their impacts on communities are on the radar of local government, and they signal that community members and government actors have resources to foster improved community relations and promote equality.\textsuperscript{109} Commissions with an enforcement function also guarantee rights can be vindicated in practice.

As U.S. demographics have changed, so has the work and constituency of human rights commissions.\textsuperscript{110} The growth of Latinx, Asian, Muslim, and Arab communities in the United States has led to new challenges and initiatives,\textsuperscript{111} some of which were discussed in Section I.B. Notably, at least one such agency has been created since the 2016 presidential election. The Claremont City Council in California voted to create a Committee on Human Relations in

\begin{footnotesize}
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\item See Kaufman, State and Local Commissions, supra note 90, at 92.
\item Saunders & Bang, supra note 11, at 3.
\item Id.
\item CARDENAS, supra note 97, at 26.
\item It is important to note that, as creations of government established to respond to conflict, commissions may often promote a moderate agenda. See id. at 27 ("warning of the dualities often inherent in state institutions").
\item Saunders & Bang, supra note 11, at 10.
\item One of the emerging challenges is changing community demographics, which have shifted the issues that commissions address and dynamics within the communities they serve. See Saunders & Bang, supra note 11, at 10 (discussing a corollary emphasis on undocumented immigrants and challenges in securing affordable housing). Demographic shifts have been widely documented. See, e.g., PEW RES. CTR., MODERN IMMIGRATION WAVE BRINGS 59 MILLION TO U.S., DRIVING POPULATION GROWTH AND CHANGE THROUGH 2065, (2015), http://assets.pewresearch.org/wp-content/uploads/sites/7/2015/09/2015-09-28_modern-immigration-wave_REPORT.pdf (providing "a 100-year look at the impact of immigration on the nation's demographics since passage of the 1965 Immigration and Nationality Act"). The impact of changing demographics is also a topic that has been addressed at past annual conferences of IAOHRA.
\end{enumerate}
\end{footnotesize}
January 2017, when the community experienced attacks on a local mosque. The Committee will be responsible for proactively "developing ongoing public dialogue to address hate crimes and intolerance" in partnership with police, city staff, and other such commissions in the region.

This section has elucidated the very local—and clearly domestic—origins of human rights commissions. Their work is grounded in domestic anti-discrimination legal provisions and their jurisdictions are shaped by state and local law. However, commissions have also looked outward to international standards and practice to inform their work and existing scholarship underscores how commissions’ mandates and functions align with international human rights principles. The following section introduces the relationship between commissions and international human rights principles, laying a foundation for the discussion in Part III on the specific ways that commissions can use international human rights standards to strengthen their advocacy, awareness-raising, and data collection efforts.

C. Nexus Between U.S. Human Rights Commissions and International Human Rights Standards

While the designation "human rights commission" is the most common designation for U.S. state and local civil and human rights agencies today, their historic link to the international human rights framework is somewhat tenuous. As noted above, these institutions emerged to address community tensions, and their mandates emanate from domestic civil rights and anti-discrimination laws. However, in the past two decades, U.S. human rights commissions have begun to integrate international human rights standards into their work. A growing body of literature captures not only how these commissions foster domestic compliance with international human rights standards and serve as innovators in implementing these standards, but also the legal and practical challenges that surround

113. Id.
115. See supra notes 90–94 and accompanying text.
these efforts. These challenges range from the possibility of preemption of local law, to limited staff capacity and threats of being defunded. These challenges can be compounded by invoking


118. See COLUMBIA LAW SCH. HUMAN RIGHTS INST. & IAOHRA, supra note 17, at 19–22, 31–32; Kaufman, State and Local Commissions, supra note 90, at 101–07.
international human rights principles, particularly because many state and local actors are unaware of international human rights treaties and their associated obligations to proactively identify and address the causes of discrimination.\textsuperscript{119}

Despite these challenges, several commissions are incorporating human rights into their work.\textsuperscript{120} Individual commission representatives and the umbrella association of human rights commissions, IAOHRA, have also participated in reviews of U.S compliance with its international human rights commitments and obligations,\textsuperscript{121} submitted shadow reports to treaty bodies,\textsuperscript{122} and joined U.S. delegations to the United Nations.\textsuperscript{123} In these ways, commissions

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\item[\textsuperscript{119}] \textit{See} COLUMBIA LAW SCH. HUMAN RIGHTS INST. \& IAOHRA, \textit{supra} note 17, at 20, 31. In 2008, Human Rights Watch documented the limited awareness of the CERD and its relevance among local officials. The organization conducted outreach to the attorneys general of every state to assess awareness of the treaty. The Attorney General of Kansas responded: "It does not appear that Kansas was a party to any agreement or resolution passed by this body or the federal government' and requested a 'cite to the pre-emptive federal law and/or Kansas Statute . . . creating a legal duty.' Others responded simply that they were unaware of the treaty. HUMAN RIGHTS WATCH, \textit{Submission to the Committee on the Elimination of all Forms of Racial Discrimination During its Consideration of the Fourth, Fifth, and Sixth Periodic Reports of the United States of America CERD 72nd Session 64} (Feb. 2008), https://www.hrw.org/report/2008/02/06/submission-committee-elimination-racial-discrimination/during-its-consideration.
\item[\textsuperscript{120}] \textit{See supra} notes 18–19 and accompanying text (describing initiatives grounded in the Universal Declaration of Human Rights (UDHR)); Kaufman, \textit{State and Local Commissions, supra} note 90, at 91–95 (noting examples that include the Washington State Human Rights Commission’s incorporation of the UDHR in a report documenting challenges faced by farmworkers in securing housing, and the incorporation of the UDHR in the Eugene Human Rights Commission’s bylaws, among other examples).
\item[\textsuperscript{121}] COLUMBIA LAW SCH. HUMAN RIGHTS INST. \& IAOHRA, \textit{STATE AND LOCAL HUMAN RIGHTS AGENCIES, supra} note 116, at 11.
\item[\textsuperscript{122}] \textit{See e.g., Closing the Gap, supra} note 17, at 10–11 (suggesting that, "[t]o ensure that state and local governments can reach their full potential to implement the ICCPR, the United States must develop a more comprehensive and coordinated approach to human rights," and specifically, recommending that the United States "[e]stablish institutionalized, transparent and effective mechanisms to coordinate with . . . officials to ensure comprehensive monitoring and implementation of international human rights standards at the federal, state and local levels").
\end{itemize}
have engaged in efforts to give local meaning to international human rights standards and have influenced human rights dialogues at the global level.\footnote{124}{See Koen De Feyer, Sites of Rights Resistance, in THE LOCAL RELEVANCE OF HUMAN RIGHTS 11, 36 (Koen De Feyer et al. eds., 2011) (noting that human rights can be infused into local policy “by exploring the opportunities that international human rights law already offers in giving locally relevant content to abstract treaty norms; and . . . by developing global human rights law and practice further in directions that will improve its local effectiveness”); see also George Ulrich, Epilogue: Widening The Perspective On The Local Relevance Of Human Rights, in THE LOCAL RELEVANCE OF HUMAN RIGHTS 337, 343 (Koen De Feyer et al. eds., 2011) (emphasizing that “[t]he agenda of integrating a human rights perspective into public administration, and, in general, into processes and structures that are not explicitly mandated to deal with human rights, bears strong similarities with what has in recent discourse come to be known as the mainstreaming of human rights,” and should be considered as an important area of study of the “localization of human rights”).}

institutions. The United Nations has adopted a set of guiding principles for NHRI, known as the Paris Principles, which focus upon NHRI competence, composition and independence, and methods of operation.

The existing scholarship identifies commonalities between core functions of NHRI and state and local human rights commissions, as well as ways that subnational commissions in the United States could expand their work to more robustly foster awareness of international human rights principles, participate in international reviews of the United States' human rights record, and harmonize domestic law with international human rights standards. U.S. human rights advocates and scholars have also made repeated calls for the United States to establish a federal level National Human Rights Institution and emphasized that any efforts to create a Paris Principles-compliant national institution should include coordination with state and local human rights institutions.


130. See Dam, supra note 125, at 10-13 (juxtaposing the Paris Principles with DOJ guidelines, and suggesting how states and local human rights institutions can emulate the approach taken by NHRI).
commissions. 131 Echoing these calls, U.N. experts have repeatedly recommended that the United States create a human rights monitoring mechanism at the national level. 132

This Article proceeds to bring a level of specificity to the discussion, focusing more precisely on how the current moment offers an opportunity for state and local commissions to translate international human rights standards to the local level to address the increased reports of bias, harassment, and discrimination affecting communities across the United States given their current institutional mandates.

Part III situates U.S. human rights commissions’ current efforts to respond to bias, discrimination, and harassment, and to resist harmful federal policies within the context of international human rights standards, including U.N. recommendations to the United States on how to strengthen its human rights record. It concludes with specific recommendations that state and local commissions can adopt to further advance these human rights principles at the state and local level. The recommendations focus solely on local level action and reflect the current context in which state and local commissions face ongoing capacity constraints while the United States continues to lack a national level human rights institution or federal resources and support for human rights monitoring and implementation.


III. THE ROLE OF U.S. STATE AND LOCAL HUMAN RIGHTS COMMISSIONS IN TRANSLATING U.N. HUMAN RIGHTS PRINCIPLES INTO PRACTICE

A. U.N. Recommendations to the United States to Address Discrimination, Harassment, and Bias

Human rights law emphasizes the importance of changing attitudes, policies, and structures that reflect and perpetuate bias and discrimination. 133 Discrimination is defined broadly to include distinctions and exclusions with "the purpose or effect" of limiting the human rights of protected groups. 134 A rights-based approach focuses not only on addressing the systemic causes of discrimination but, more importantly, on preventing it from occurring in the first place. 135 International human rights law counsels towards an intersectional approach to discrimination, which recognizes that individuals experience multiple forms of discrimination based on their sex, race,

133. See CERD, supra note 13, art. 2(c) ("Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists . . . ."); CEDAW, supra note 13, art. 2 (stating that states should "take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women"); id. art. 5 (calling on states to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles"), Human Rights Comm., General Comment No. 18: Non-discrimination, ¶ 10, U.N. Doc. HRI/GEN/1/Rev.6 (2003), http://www.refworld.org/docid/453883fa8.html ("[T]he principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant.").

134. CERD, supra note 13, art. 1.

135. See id. art. 2, ¶ 1 ("States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races . . . ."); Comm. on the Elimination of Racial Discrimination, General Comment No. 32, The Meaning and Scope of Special Measures in the International Convention on the Elimination of All Forms Racial Discrimination, ¶¶ 7–8, 12, U.N. Doc. No. CERD/C/GC/32 (Sept. 24, 2009) (defining direct and indirect discrimination, as well as state obligations to undertake special measures to eradicate all forms of discrimination).
national origin, ability, religion, and other identities, and highlights the importance of targeted and culturally appropriate solutions.\textsuperscript{136}

The United States is a party to two core human rights treaties that focus squarely on ensuring equality and eradicating discrimination: the International Convention on the Elimination of All Forms of Racial Discrimination (the CERD)\textsuperscript{137} and the International Covenant on Civil and Political Rights (the ICCPR).\textsuperscript{138} As a party to these treaties, the United States has agreed to undertake a range of substantive obligations, which apply to the federal government as well as state and local authorities.\textsuperscript{139}

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\textsuperscript{136} See Special Rapporteur on violence against women, its causes and consequences, Addendum, Mission to the United States of America, \textsuperscript{141} 1, 50, 61, U.N. Doc. A/HRC/17/26/Add.5 (June 6, 2011) (highlighting that some groups of women face "multiple, intersecting forms of discrimination" due to factors like gender, race, and immigration status, so that violence has a "particularly pernicious effect" on them); Comm. on Economic, Social, and Cultural Rights, General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (art. 3), \textsuperscript{142} 5, U.N. Doc. E/C.12/2005/4 (Aug. 11, 2005) ("Many women experience distinct forms of discrimination due to the intersection of sex with such factors as race, colour, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status, resulting in compounded disadvantage."); Comm. on Economic, Social, and Cultural Rights, General Comment No. 14: The Right to the Highest Attainable Standard of Health (art. 12), \textsuperscript{143} 27, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000) (emphasizing that health services for indigenous peoples must be culturally appropriate).

\textsuperscript{137} See CERD, supra note 13.


\textsuperscript{139} See Human Rights Comm., General Comment No. 31, Nature of the General Legal Obligation on States Parties to the Covenant, \textsuperscript{137} 7, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 26, 2004), http://www.unhchr.ch/tbs/doc.nsf/58f5d4646e861359c1256ff600533f5f; CERD, supra note 13, art. 2. When ratifying the ICCPR, the United States attached an understanding that indicates that the federal government will implement the ICCPR "to the extent that it exercises legislative and judicial jurisdiction over the matters covered therein, and otherwise by the state and local governments." The understanding stated that, "to the extent that state and local governments exercise jurisdiction over such matters, the Federal Government shall take measures appropriate to the Federal system to the end that the competent authorities of the state or local governments may take appropriate measures for the fulfillment of the Covenant." See 138 CONG. REC. S4781-01 (daily ed. Apr. 2, 1992); see also 140 CONG. REC. 14,326 (1994) (similar understanding for the CERD).
The United States has also committed to undergo periodic reviews of compliance with their provisions.\(^{140}\) In each review, a U.N. committee of independent experts assesses the United States’ human rights record and publishes a series of observations and recommendations for how to improve human rights protections.\(^{141}\) The United States also participates in comprehensive periodic reviews of its human rights record at the U.N. Human Rights Council, known as the Universal Periodic Review (UPR), which culminates in a set of recommendations from U.N. member states.\(^{142}\) U.N. independent experts with particular thematic mandates, including on people of African descent, religious intolerance, women, and xenophobia, have also addressed the human rights situation in the United States in recent years based on visits to the United States.\(^{143}\) These experts, known as “Special Procedures,” are appointed by the U.N. Human Rights Council to monitor human...


\(^{141}\) Kaufman & Kamuf Ward, supra note 140, at 262.


rights around the world through an array of tools including country visits and issue-specific reports.\textsuperscript{144}

The following section distills the recommendations the United States has received regarding ways to improve responses to persistent forms of bias, harassment, and discrimination. The focus is on the recommendations that human rights commissions can implement to strengthen human rights protections at the state and local levels and foster compliance with U.S. human rights obligations and commitments, building upon the initiatives discussed in Section I.B.\textsuperscript{145} Notably, these recommendations were made prior to the 2016 presidential election. Indeed, many of the challenges that the United States is facing are not new, but they have taken on a new urgency, as bias and discrimination is on the rise and hate and xenophobia are increasingly legitimized in public discourse and policy.

B. General Concerns and Recommendations

International human rights experts have repeatedly expressed concern regarding the persistence of discriminatory attitudes and outcomes in American society despite laws that prohibit discrimination.\textsuperscript{146} U.N. reviews have highlighted that the impacts of

\begin{itemize}

  \item \textsuperscript{145} Treaty Bodies and Independent Experts have made an array of recommendations that relate to discrimination in housing and employment relevant to human rights commissions, most of which are distilled in the Toolkit for Commissions, supra note 142, and a companion publication, HUMAN RIGHTS INST. FOR THE INT’L ASS’N OF OFFICIAL HUMAN RIGHTS AGENCIES, COLUMBIA LAW SCH., HUMAN RIGHTS RECOMMENDATIONS TO THE UNITED STATES: A DESK REFERENCE FOR STATE AND LOCAL HUMAN RIGHTS AGENCIES (2016), http://www.law.columbia.edu/sites/default/files/microsites/human-rights-institute/desk_reference.pdf.

  \item \textsuperscript{146} See U.N. Human Rights Comm., Comments on United States of America, ¶ 5, U.N. Doc. CCPR/C/79/Add.50 (Apr. 7, 1995), http://tbinternet.ohchr.org/-layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F79%2FFADD.50&Lang=en [hereinafter HRC Concluding Observations 1995] (“The Committee notes that, despite the existence of laws outlawing discrimination, there persist within society discriminatory attitudes and prejudices based on race or gender. Furthermore, the effects of past discriminations in society have not yet been fully eradicated.”); Comm. on the Elimination of Racial Discrimination, Concluding Observations on the Combined Seventh to Ninth Periodic Reports of
discrimination and inequality manifest in numerous ways, particularly in relation to vulnerable groups on the basis of race, ethnicity, religion, socioeconomic status, sex, and gender identity. \textsuperscript{147} Discrimination and bias against Muslim communities;\textsuperscript{148} lesbian, bisexual, transgender, and intersex persons;\textsuperscript{149} and targeting of groups and individuals including African-Americans, Latinx, and Jewish communities are consistently raised.\textsuperscript{150} The lack of uniform

the United States Of America, ¶¶ 16–20, U.N. Doc. CERD/C/USA/CO/7-9 (Sept. 25, 2014), https://www.state.gov/documents/organization/235644.pdf [hereinafter CERD Concluding Observations 2014] (highlighting that “members of racial and ethnic minorities, particularly African Americans, continue to be disproportionately arrested, incarcerated and subjected to harsher sentences, including life imprisonment without parole and the death penalty [and are]...overrepresented...in the criminal justice system...”).


sources of information about race-based violence and related incidents has also been noted at the international level.\textsuperscript{151}

Based on these recurring concerns, international bodies have made broad recommendations to the United States to improve responses to “persisting discriminatory attitudes and prejudices against persons belonging to minority groups and women . . . .”\textsuperscript{152} The United States is also consistently called upon to strengthen measures to counter discrimination, to prevent and prosecute hate crimes,\textsuperscript{153} and to work with impacted communities in order to ensure “protection to those most vulnerable to hate crimes and discrimination, and to better understand their circumstances . . . .”\textsuperscript{154}

\begin{footnotesize}
\begin{enumerate}
\item See SR on Racism 1995, supra note 150, ¶ 71 (noting that “knowledge of the extent of racist violence in the United States continues to suffer from the lack of a uniform and accurate source of information”); CERD Concluding Observations 2014, supra note 146, ¶ 9 (expressing that the “Committee is also concerned at the underreporting of instances of hate crimes by the victims to the police, as well as by law enforcement officials to the FBI, given the voluntary nature to comply with the request of the FBI for hate crime statistics”).
\item HRC Concluding Observations 1995, supra note 146, ¶ 30 (noting the need to bring state level laws in compliance with the non-discrimination protections of the ICCPR); see also Working Group on Discrimination Against Women, supra note 149, ¶¶ 43, 78, 88 (noting social and political difficulties faced by women due to stereotyping and discrimination in the United States); CERD Concluding Observations 2014, supra note 146, ¶ 25 (recommending the adoption of a national plan to combat racial discrimination in the United States).
\end{enumerate}
\end{footnotesize}
Human rights experts have repeatedly emphasized the need to strengthen and expand existing mechanisms to monitor human rights at the federal, state, and local levels. Recommendations also encompass more specific calls for the United States to undertake law and policy reform, improve awareness-raising, and enhance data collection, which relate closely to the work of human rights commissions in addressing bias and discrimination. These recommendations are distilled below.

1. Law and Policy Reform

In the arena of law and policy reform, U.N. experts have called on the United States to amend federal and local legislation to foster greater consistency with international standards on discrimination, in order to benefit vulnerable and disadvantaged groups that continue to experience discrimination.

such collaboration will “improve coordination, community involvement, training, education and data collection” and help prevent “racism, racial discrimination, xenophobia and related intolerance” and the violence that results from these attitudes).

155. See, e.g., HRC Concluding Observations 2014, supra note 147, ¶ 4(d) (“Strengthen and expand existing mechanisms mandated to monitor the implementation of human rights at federal, state, local and tribal levels, provide them with adequate human and financial resources or consider establishing an independent national human rights institution . . . .”); see also Comm. on the Elimination of Racial Discrimination, Consideration of Reports Submitted By States Parties Under Article 9 Of The Convention, ¶ 12, U.N. Doc. CERD/C/USA/CO/6 (May 8, 2008) [hereinafter CERD Concluding Observations 2008] (“The Committee recommends that the State party consider the establishment of an independent national human rights institution in accordance with the Paris Principles.”).

156. See CERD Concluding Observations 2014, supra note 146, ¶ 5 (calling for prohibition of racial discrimination, including indirect discrimination at all levels of government); id. ¶ 13 (focusing specifically on housing); id. ¶ 20 (recommending that the United States “[a]mend[ ] laws and policies leading to racially disparate impacts in the criminal justice system at the federal, state and local levels and implement[ ] effective national strategies or plans of action aimed at eliminating structural discrimination”); CERD Concluding Observations 2008, supra note 155, ¶ 10 (recommending “that the State party review the definition of racial discrimination used in the federal and state legislation . . . . to ensure . . . that it prohibits racial discrimination in all its forms, including practices and legislation that may not be discriminatory in purpose, but in effect”); id. ¶ 22 (calling on the United States to assume “measures to eliminate the disproportionate impact that persistent systemic inadequacies in [the criminal justice system] have on defendants belonging to racial, ethnic and national minorities . . . . by increasing . . . efforts to improve the quality of legal
Recommendations to eliminate laws and policies that directly and indirectly condone racial and ethnic profiling by law enforcement, adopt measures to address housing segregation, and reform law and policy to address the educational achievement gap are just three examples. Additional recommendations highlight the need for policies that eliminate profiling and harassment of racial, ethnic, and religious minorities. The committee of U.N. experts that monitors compliance with the CERD has further recommended that the federal government develop a national action plan to combat discrimination.

2. Outreach and Awareness-Raising

To enhance awareness of human rights protections, and to address discrimination and bias, international experts have called on representation provided to indigent defendants and ensuring that . . . legal aid systems are adequately funded and supervised”.

157. CERD Concluding Observations 2014, supra note 146, ¶ 8 (referencing the Ending Racial Profiling Act and the eradication of Immigration and Nationality Act section 287(g) agreements as two examples).

158. Id. ¶ 13 (urging the state to “intensify . . . efforts to eliminate discrimination in access to housing and . . . segregation based on race, colour, ethnicity or national origin” by increased implementation of discrimination laws, “prompt, independent and thorough investigation[s],” and “effective remedies, including appropriate compensation, guarantees of non-repetition and changes in relevant laws and practices”).

159. Id. ¶ 14 (recommending that the United States “intensify its efforts to ensure equal access to education by . . . [d]eveloping . . . a comprehensive plan to address racial segregation in schools and neighbourhoods, with concrete goals, timelines and impact assessment mechanisms; . . . [i]ncreasing federal funding . . . [t]o promote racially integrated learning environments . . . [a]nd work[ing] closely with state and local education authorities”).

160. See, e.g., CERD Concluding Observations 2014, supra note 146, ¶¶ 8, 8(b) (recommending, among other measures, that the United States increase efforts to more efficiently fight “and end the practice of racial profiling by federal, state and local law enforcement officials, including by . . . [s]wiftly revising policies insofar as they permit racial profiling, illegal surveillance, monitoring and intelligence gathering, including the 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies”); Report on U.S. UPR 2011, supra note 154, ¶ 92.190 (calling on the United States to “[t]ake effective measures to counter insults against Islam and Holy Quran, as well as Islamophobia and violence against Moslems, and adopt necessary legislation”).

161. See, e.g., CERD Concluding Observations 2014, supra note 146, ¶ 25 (recommending that the United States “adopt a national action plan to combat structural racial discrimination, and to ensure that school curricula, textbooks and teaching materials are informed by and address human rights themes and seek to promote understanding among racial and ethnic minority groups”).
the United States to carry out systematic anti-discrimination and awareness-raising trainings at the federal, state, and local levels to ensure that members of the general public are aware of their rights and how to protect them. 162 Experts have also focused on the need for government officials, including law enforcement officials, to receive training on hate crimes investigation and cultural awareness. 163 Recommendations also emphasize that educational materials should promote understanding among racial and ethnic minority groups. 164

These recommendations are echoed in U.N. human rights experts' guidance to all countries to proactively counter xenophobia, 165 which includes calls for local governments to foster awareness of positive contributions of refugees and immigrants to their

162. Id. ¶ 6 (calling for national human rights institutions with a broad mandate, including "anti-discrimination training and awareness-raising activities at the federal, state and local levels"); id. ¶ 32 ("The Committee recommends that the State party increase its efforts to raise public awareness and knowledge of the Convention . . . and widely publicize the concluding observations of the Committee in the official and other commonly used languages, as appropriate."); CERD Concluding Observations 2008, supra note 155, ¶ 36 ("The Committee recommends . . . public awareness and education programmes on the Convention and . . . efforts to . . . [raise awareness of the ICERD and its protections among] government officials, the judiciary, federal and state law enforcement officials, teachers, social workers and the public . . . ").

163. CERD Concluding Observations 2014, supra note 146, ¶ 9(c) ("Ensure that all law enforcement officials and all new recruits are provided with initial and ongoing in-service training on the investigation and reporting of complaints of hate crimes."); HRC Concluding Observations 2014, supra note 147, ¶ 7(b) (emphasizing that the United States should "[c]ontinue[e] to train state and local law enforcement personnel on cultural awareness and the inadmissibility of racial profiling.").

164. See, e.g., CERD Concluding Observations 2014, supra note 146, ¶ 25 (highlighting the need for a national action plan on racial discrimination that would "promote understanding among racial and ethnic minority groups").

165. Human rights law does not explicitly define xenophobia. See Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, ¶ 2, U.N. Doc. A/HRC/32/50 (May 13, 2016) [hereinafter SR on Racism 2016]. It has been interpreted to include "attitudes, prejudices and behavior that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity." INT'L LABOUR ORG. (ILO) ET AL., INTERNATIONAL MIGRATION, RACISM, DISCRIMINATION AND XENOPHOBIA 2 (2001).
communities\textsuperscript{166} and encourage cross-cultural interactions in order to bolster community resilience.\textsuperscript{167}

3. Data Collection

International bodies have recommended that the United States enhance data collection on hate crimes, including through uniform and comprehensive national data collection measures.\textsuperscript{168} Such data should be disaggregated by race, ethnicity, age, and religion, at a minimum, and should be regularly publicized.\textsuperscript{169} This builds on the CERD Committee's prior recognition that disaggregating data allows governments to more specifically understand the causes and impacts of discrimination and generate more effective solutions.\textsuperscript{170} This reflects recommendations from other treaty bodies as well.\textsuperscript{171}

The treaty body recommendations discussed above offer guidance to the United States on ways to strengthen domestic efforts to prevent and address persistent forms of discrimination and bias. The following, and final, section of this Article suggests ways that

\begin{itemize}
  \item \textsuperscript{166} SR on Racism 2016, supra note 165, ¶ 73 (discussing how efforts to highlight "positive contribution of refugees or other immigrants" may promote inclusion and noting efforts in Canada in relation to immigrant integration).
  \item \textsuperscript{167} \textit{Id.} ¶¶ 73–74 (emphasizing how intergroup interactions foster resiliency and highlighting that "[a]ll actors—including local officials, leaders, private actors, and service providers—who have the power to bring about immediate positive change need to be sensitized to the value of social solidarity").
  \item \textsuperscript{168} See SR on Racism 1995, supra note 150.
  \item \textsuperscript{169} CERD Concluding Observations 2014, supra note 146, at ¶ 9(b) (suggesting that the United States "[i]mprove its data collection system for statistics on complaints of hate crimes, including by officially requiring all law enforcement agencies to record and transmit all such instances to the FBI, disaggregated by factors such as race, ethnicity, age and religion, and regularly publicize such information").
  \item \textsuperscript{170} Comm. on the Elimination of Racial Discrimination, General Recommendation No. 25, ¶ 6, U.N. Doc. A/55/18, annex V (Mar. 20, 2000), http://minoritycentre.org/library/cerd-general-recommendation-no-25-gender-related-dimensions-racial-discrimination ("Data which have been categorized by race or ethnic origin, and . . . are then disaggregated by gender within those racial or ethnic groups, will allow the States parties and the Committee to . . . take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.").
\end{itemize}
U.S. human rights commissions can translate these recommendations into practice given their unique mandates and status within state and local governments.

C. Localizing Human Rights Standards and Recommendations to Address Bias, Discrimination, and Harassment

Grounding efforts to address bias and discrimination in an international human rights framework provides a new lens for commissions and their constituents to view and respond to persistent forms of discrimination. A human rights-based approach can take the focus away from individual acts of discrimination and shift it to the underlying factors that perpetuate xenophobia, discrimination, and bias. It also counsels towards an approach where local communities serve as a resource for enhancing human rights protection. Adopting international human rights standards also provides a common minimum floor that commissions across the country can adopt, explicitly connecting their efforts to a set of global agreed-upon standards.

As government institutions with the aim of promoting equality and eliminating discrimination, U.S. state and local human rights commissions are uniquely situated to bring international human rights principles home to their communities. What follows are suggested pathways for commissions to incorporate U.N. recommendations into their work to address discrimination, bias, and harassment, paving a path towards more comprehensive international human rights promotion and protection at the local level. The following section outlines how human rights commissions can shape local law and policy to reflect human rights standards aimed at countering persistent forms of discrimination and

172. CERD General Comment No. 32, supra note 135.
174. George Ulrich, Epilogue: Widening the Perspective On The Local Relevance Of Human Rights, in THE LOCAL RELEVANCE OF HUMAN RIGHTS 336, 342 (Koen De Feyer et al. eds., 2011) ("[H]uman rights . . . rarely dictate a particular course of action or . . . specific solution to a . . . problem. Rather, by proscribing certain acts and establishing a set of limits beyond which it is not permissible to venture in the quest to . . . [achieve] legitimate . . . objectives, human rights . . . demarcate a range of acceptable policy options.")
inequality, strengthen outreach and awareness-raising to address bias and discrimination, and develop more robust data collection efforts to more effectively respond to all forms of discrimination. It should be noted that, in the process of incorporating international human rights standards into local policy and practice, it is inevitable that commissions and communities will engage in their own process of "interpreting and elaborating human rights." This process will impact how these principles ultimately translate into domestic practice and may vary across jurisdictions.

1. Advocate for Local Laws and Policies Compatible with International Human Rights Standards

Building on recommendations from the U.N. Committee on the Elimination of All Forms of Racial Discrimination to the United States, commissions can develop local action plans aimed at fostering equality and eradicating discrimination. Some cities, like Eugene, Oregon, have already developed strategic plans that reflect principles from the CERD, highlighting the need to "take positive measures to promote equity for all and eliminate discrimination." A local human rights action plan could build on this example and provide a roadmap for local government action to advance the right to be free from discrimination, with benchmarks and timelines for action, as well as performance indicators and ongoing mechanisms to monitor progress. Commissions should develop local plans in

175. Oré Aguilar, supra note 173, at 7.
176. This process of "vernacularization" has been the subject of increasing attention over the past two decades. See, e.g., THE LOCAL RELEVANCE OF HUMAN RIGHTS, supra note 174 (examining what factors determine whether local level human rights initiatives are successful, and whether the UDHR adequately responds to current concerns or should be revised to increase its contemporary relevance). The literature on the localization of human rights highlights the tensions that arise in efforts to apply universal human rights principles locally. See Levitt & Merry, supra note 12, at 457–58 (describing how the process of adoption of universal norms inherently challenges their universality as rights are given a localized meaning, and highlighting the phenomenon that it is often the human rights principles that are most consistent with existing local norms that are most resonant, which may limit their transformative impact).
177. CERD Concluding Observations 2014, supra note 146.
179. These recommendations reflect guidance that the Office of the U.N. High Commissioner for Human Rights has developed for national level action plans. See U.N. OFFICE OF THE HIGH COMM’R FOR HUMAN RIGHTS,
cooperation with community members to promote participation and foster inclusion. An action plan also offers an opportunity to explicitly address how different communities experience discrimination by incorporating an intersectional approach to analyze the current context and shape recommendations. U.S. civil and human rights advocates have already called for the United States to adopt a National Plan of Action for Racial Justice "to address persistent contemporary forms of racial discrimination and race disparities," emphasizing that "our current civil rights laws are simply not enough to advance racial equity and human rights for all." The advocacy for a national plan emphasizes the need for action at all levels of government. It is unlikely that the United States will adopt such a plan in the near future, but human rights commissions could look to the models developed by other national governments to inform their efforts to develop local plans.

A number of commissions already make recommendations to mayors and legislators regarding local laws, as we have seen in relation to sanctuary jurisdictions in Section II.B. To further foster alignment with U.N. recommendations, commissions can build on these efforts and use international human rights standards as a basis


180. Id. at 26.

181. See id. at 81 (noting that Argentina has adopted a National Plan recognizing the impact of multiple forms of discrimination and establishing policies to prevent discrimination that are specific to a range of particular target groups).


183. Id.

184. Canada’s Action Plan Against Racism offers one model, which lays out a six-point action plan identifying six key activities to “combat racism and discrimination”: 1) Assist victims and groups vulnerable to racism and related forms of discrimination 2) Develop forward-looking approaches to promote diversity and combat racism 3) Strengthen the role of civil society 4) Strengthen regional and international cooperation 5) Educate children and youth on diversity and anti-racism 6) Counter hate and bias.” DEPT’ OF CANADIAN HERITAGE, A CANADA FOR ALL: CANADA’S ACTION PLAN AGAINST RACISM 13–44 (2005). The Plan gives a snapshot of inequality in Canada and identifies goals for progress, as well as steps to develop indicators to assess progress in addressing racism and discrimination. See id.
to evaluate how well local laws prevent and respond to discrimination and harassment; identify gaps in protections; and advocate for policies that address intentional discrimination, as well as disparities that may exist in the many areas of life addressed by the CERD, including housing, health, and education.\textsuperscript{185} Commissions could further integrate recommendations from the CERD Committee relating to these topics,\textsuperscript{186} along with racial and ethnic profiling, in their own recommendations. In these efforts, key areas that merit consideration include how well current laws and policies address community members' experiences with bias and discrimination; how well they foster inclusion of diverse community members; whether measures are in place to shift discriminatory attitudes and adequately deter bias, discrimination, and harassment; whether additional laws and policies are needed to adequately protect particular communities; and what strategies can be put in place to deter harmful behavior and foster accountability when discrimination and bias occurs.

A number of local governments in the United States have adopted equity and human rights assessments to analyze the possible positive and negative outcomes of proposed policies, budgets, and programs on communities and to inform recommendations for moving forward, which provide a starting point for how to assess local law and policy.\textsuperscript{187} National governments in Australia\textsuperscript{188} and the United Kingdom\textsuperscript{189} also offer examples of governments conducting reviews of compliance with international human rights obligations.

When undertaking any of these suggested activities, commissions should work to ensure that community

\textsuperscript{185} See CERD, supra note 13, art. 5.
\textsuperscript{186} See supra notes 157–59 and accompanying text.
\textsuperscript{187} See Human Rights Assessments, supra note 116 (describing foundational human rights and key considerations when conducting human rights assessments, and including assessments from five U.S. jurisdictions).
\textsuperscript{188} AUSTRALIAN PARLIAMENTARY JOINT COMM. ON HUMAN RIGHTS, GUIDE TO HUMAN RIGHTS (2015), http://www.aph.gov.au/~media/Committees/Joint/PJCHR/Guide%20to%20Human%20Rights.pdf (noting that the Joint Committee is tasked “to examine bills for Acts, and legislative instruments, that come before either House of the Parliament for compatibility with human rights, and to report to both Houses of the Parliament on that issue” and describing Australia’s obligations under ratified treaties).
members—especially those most impacted by discrimination—have opportunities to participate in planning, implementing, and evaluating policies. This work should follow human rights principles of inclusion and participation and focus on prevention, including changing underlying norms and attitudes.190

2. Prioritize Prevention Through Awareness Raising and Community Building

Human rights experts have noted the importance of addressing “persisting discriminatory attitudes and prejudices.”191 Commission initiatives that seek to promote tolerance, diversity, and respect for all cultures—as Orange County’s Commission has done with #HateFreeOC,192 as well as the Ramadan in LA campaign, co-sponsored by the Los Angeles County Human Relations Commission193—illustrate starting points for challenging biased attitudes.

It is also vital that communities understand the mechanisms and protections that exist to protect against discrimination and harassment. Accordingly, commissions should ensure that information on what constitutes prohibited harassment, bias, and intimidation under local, state, and federal law, and the mechanisms for reporting discrimination, are easily accessible to all community members. Clarifying and widely disseminating this information in an array of languages would align with recommendations from a number of U.N. experts to the United States.194

191. Supra note 152 and accompanying text.
192. Supra notes 67–70 and accompanying text.
193. See supra notes 60–61 and accompanying text.
194. See supra notes 162–67 and accompanying text.
The New York City Human Rights Commission, for instance, has developed fact sheets explaining that under the City's law, everyone in NYC is prohibited from committing acts of discriminatory harassment, just as everyone is protected against harassment. A neighbor who harasses you, a person who attacks you on the street, or a passenger on the bus are all prohibited from this kind of discriminatory act. In addition, while an attacker could have multiple reasons for harassing you, discriminatory harassment is prohibited even if it is only partly motivated by the victim’s protected category.\textsuperscript{195}

These documents also clarify that targets of discriminatory harassment can pursue a claim for damages or injunctive relief, and that the Commission can also take community-oriented action on the basis of reports of discriminatory harassment, even when reporting is anonymous.\textsuperscript{196}

Human rights experts have also repeatedly emphasized the importance of ensuring that government officials—including law enforcement—and communities vulnerable to discrimination and harassment receive human rights training that includes cultural competency.\textsuperscript{197} Some commissions have undertaken training and education already,\textsuperscript{198} but ensuring that such conversations focus explicitly on incidents of bias and harassment and involve diverse community stakeholders can help foster greater cross-cultural

\textsuperscript{195} See N.Y.C. Human Rights Comm’n, 5 Things You Should Know about Discriminatory Harassment, https://www1.nyc.gov/assets/cchr/downloads/pdf/materials/DiscriminationHarassment_5ThingsToKnow.pdf. The fact sheets aim to bring clarity to the N.Y.C. Admin. Code § 8-603(a) (providing for civil action and remedies in the case that a person does “by force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her” in a case where “such injury, intimidation, oppression or threat is motivated in whole or in part by the victim’s actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, partnership status, disability or alienage or citizenship status”) (emphasis added). This information is currently available in English and Spanish. N.Y.C. Human Rights Comm’n, Discriminatory Harassment, https://www1.nyc.gov/site/cchr/law/discriminatory-harassment.page.

\textsuperscript{196} 5 Things You Should Know about Discriminatory Harassment, supra note 195.

\textsuperscript{197} CERD Concluding Observations 2014, supra note 146; HRC Concluding Observations 2014, supra note 147.

\textsuperscript{198} See, e.g., Saunders & Bang, supra note 11, at 1–2 (discussing how “state and local commissions are engaged in three broad activities: enforcement, prevention, and training”).
learning and build trust. Efforts of the New York City Human Rights Commission to bring together local government and community members as part of the "I am Muslim" campaign offer one example. Public hearings, dialogues, consultations, and community roundtables all offer additional opportunities to facilitate discussions about which policies and practices can foster tolerance, as well as how to respond to manifestations of conscious and unconscious bias and discrimination.

Public campaigns should have maximum reach and should be designed with the input of community members of diverse backgrounds, ages, and genders. In Seattle, the Office of Civil Rights has undertaken a media campaign targeting public transportation, radio outlets, and social media to get the word out about behaviors that constitute illegal harassment. Public materials emphasize that actions that interfere with individual's civil rights based on their "race, religion, gender and/or gender identity, sexual orientation, disability, [or] national origin," including "threats, slurs or epithets, intimidation or coercion, violence or use of force, damaging or defacing property and cyberbullying" may constitute illegal harassment, which should be reported to the Office.

199. See, e.g., Dorothy Roberts & Sujatha Jesudason, Movement Intersectionality: The Case of Race, Gender, Disability, and Genetic Technologies, 10 DU BOIS REV. 313, 314–24 (2013) (discussing Generations Ahead, a social-justice organization focusing on reproductive justice that brought together diverse groups such as women of color, indigenous women, and disability rights advocates, leading to successful collaborations and greater cross-movement understanding).

200. See supra notes 51–55 and accompanying text.

201. The Los Angeles County Human Relations Commission has been tasked by the County Board of Supervisors to develop and implement trainings on implicit bias and cultural competency. See Countywide Implementation of Implicit Bias and Cultural Competency Training, L.A. Cty. Bd. of Supervisors Motion by Supervisor Mark-Ridley Thomas (Apr. 11, 2017), http://file.lacounty.gov/SDSInter/bos/supdocs/113083.pdf.


3. Collect, Disaggregate, and Publicize Data

Commissions can collect and publish data on incidents of bias, harassment, and intimidation in their jurisdictions. Commissions in Seattle, Washington, Columbus, Indiana, and Los Angeles County, California offer a few examples of commissions already undertaking data collection efforts.204

To align with human rights principles, data should be disaggregated by the identities of the target of discrimination or harassment, type of harassment, and possible relationships between victim and perpetrator. Collecting data on the multiple identities of a target of discrimination could foster a better understanding of the diverse experiences of different community members, as well as foster responses grounded in an intersectional approach.205 Such responses account for differential experiences of community members, and also seek to change both the attitudes that underscore discrimination and bias and the structural and institutional factors that perpetuate discrimination and inequality.206 More uniform data collection would

204. See discussion supra Section I.B.1.
also align with recommendations from human rights experts to the United States.\footnote{CERD Concluding Observations 2014, supra note 146.}

By adopting international human rights principles into their legal and policy advocacy, awareness-raising and outreach, and data collection efforts—including in the three concrete ways described above—human rights commissions can build on a strong history of strengthening civil and human rights protections to challenge the current climate of fear and hate. These efforts can also contribute to broader awareness of international human rights principles, and their relationship to local policy within the United States.

**CONCLUSION**

State and local human rights commissions are positioned to play a vital role in strengthening human rights protections at the local level through sustained efforts to identify and tackle the causes of discrimination, harassment, and bias, and to foster equality and inclusion, and work in partnership with local communities.

There is no one-size-fits-all approach to human rights implementation that will work across all jurisdictions. The menu of strategies presented here offers a starting point for commissions to consider and adapt to their own contexts. These suggestions for advancing human rights compliance include an array of activities that commissions can undertake to bolster compliance with human rights standards, recognizing that commissions already face legal, practical, and political constraints in their work. Overcoming these challenges to more comprehensively “bring human rights home” will require activating a wide range of domestic stakeholders beyond human rights commissions. Yet, as we enter a new moment in human right activism in the United States, commissions should lead the charge and continue to set examples in communities across the country by standing up for the values they were created to uphold.

\footnote{Human Rights Claims (2001), http://www.ohrc.on.ca/en/intersectional-approach-discrimination-addressing-multiple-grounds-human-rights-claims (discussing the trend in Canadian jurisprudence toward an intersectional approach, and examples of cases that recognize how multiple grounds of discrimination relate to each other).}