



UNITED STATES MISSION  
TO THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS  
IN GENEVA  
February 19, 2013

The Honorable  
Ms. Navanethem Pillay  
High Commissioner for Human Rights  
Office of the High Commissioner for Human Rights  
52 rue de Paquis  
1201 Geneva, Switzerland

OHCHR REGISTRY

21 FEB. 2013

Recipients : ... ADS ...  
HC... Correspondence ...  
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Dear High Commissioner:

In response to your December 3, 2012 to provide “information on the three topics discussed by the Ad Hoc Committee during its fourth session and covered in its report (xenophobia, national mechanisms and procedural gaps), including legal and judicial frameworks and practices, substantive and procedural measures in line with the mandate of the Ad Hoc Committee, and possible recommendations,” the United States hereby provides the following information:

**U.S. Legal Framework and Mechanisms**

The United States is a vibrant, multi-racial, multi-ethnic, and multi-cultural democracy, in which individuals have the right to be protected against discrimination based, *inter alia*, on race, color, and national origin in virtually every aspect of social and economic life. The essential guarantees of human rights and fundamental freedoms within the United States are set forth in the Constitution and statutes of the United States, as well as the constitutions and statutes of the states and other constituent units. The United States Constitution and federal laws prohibit discrimination based on race, color, or national origin in a broad array of areas, including education, employment, public accommodation, transportation, voting, housing and mortgage credit access, as well as in the military, and in programs receiving federal financial assistance; and protections also exist against discrimination based on sex, disability, and in some cases on sexual orientation and gender identity, and age. State, local, tribal and territorial constitutions and laws also play an important role in affording protection to human rights

Discrimination that may be motivated by xenophobia in the United States is addressed within this overarching legal framework. For more details regarding these legal protections, please see paragraphs 108-206 of the [Common Core Document of the United States of America: Submitted With the Fourth Periodic Report of the United States of America to the United Nations Committee on Human Rights concerning the International Covenant on Civil and Political Rights](http://www.state.gov/j/drl/rls/179780.htm) (<http://www.state.gov/j/drl/rls/179780.htm>) (“Common Core Document”). Regarding national entities which focus on enforcement of these protections and prevention of discrimination and promotion of peaceful resolution when problems do occur, please see paragraphs 159-186 of the Common Core Document. Each year, the Federal Bureau of Investigation (FBI) publishes data

concerning bias-motivated offenses reported by law enforcement to gauge the scope and nature of hate crime in the nation, including crime motivated by bias against race, religion, sexual orientation, ethnicity/national origin, or disability. This data is available at [http://www.fbi.gov/about-us/cjis/ucr/ucr#cius\\_hatecrime](http://www.fbi.gov/about-us/cjis/ucr/ucr#cius_hatecrime).

**The International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”)**

The CERD clearly prohibits discrimination based on race, color, descent or national or ethnic origin and acts of violence against any race or group of persons of another color or ethnic origin. Accordingly, the United States does not believe that there are gaps in the CERD regarding xenophobia.

There are, however, evident gaps in effective implementation by governments of their existing obligations under international human rights law, including the CERD. To address this gap in implementation, the United States has presented to the Ad Hoc Committee an “[Action Plan to Combat Racial and Religious Discrimination and Intolerance](#)” (<http://www.state.gov/documents/organization/153516.pdf>) that begins to lay out a roadmap for practical action, transparent reporting, and greater civil society input and that the international community should pursue to strengthen implementation of their existing obligations and commitments in these areas. Implementation of this Action Plan would help address the challenges of racial discrimination and xenophobia without infringing on the freedom of expression. For further information regarding the views of the United States on protecting freedom of expression while taking effective actions to combat racial discrimination, please see the [Observations of the United States of America on the Committee for the Elimination of Racial Discrimination’s Thematic Discussion on “Racist Hate Speech”](#) (<http://www2.ohchr.org/english/bodies/cerd/docs/discussion/TD28082012/USA.pdf>)

Sincerely,



Peter F. Mulrean  
Deputy Permanent Representative