Department of Justice

STATEMENT OF

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"THE LAW OF THE LAND: U.S. IMPLEMENTATION OF HUMAN RIGHTS TREATIES"

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Statement of Thomas E. Perez
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Chairman Durbin, Ranking Member Coburn, and members of the Subcommittee, thank you for this opportunity to testify here this morning on the critical topic of the role of the Justice Department's Civil Rights Division in the domestic implementation of our nation's human rights treaty obligations.

The Universal Declaration of Human Rights, adopted on December 10, 1948, proclaims that "All human beings are born free and equal in dignity and rights...Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex language, religion, political or other opinion, national or social origin, property, birth or other status."

These are words that had great meaning then, just three years after the end of the Second World War, and they still resonate today.

From the time our nation was founded, in every generation, there are Americans who have sought and struggled to realize the promise of our Constitution to ensure equality, equal opportunity and fundamental fairness for all people, regardless of race, national origin, ancestry, gender, religion or disability. In recent years, Americans have also worked in earnest to combat discrimination against individuals based on sexual orientation or gender identity. All of this ongoing work – our civil rights work – is firmly rooted in the human rights movement of the 1940s and 1950s. In fact, our civil rights movement began as a human rights movement, with giants such as W.E.B. DuBois testifying, in 1947, before the United Nations General Assembly on the denial of the right to vote for African-Americans, the continued pervasive discrimination in educational opportunity, and the need for recognition of human rights for African Americans. And as President Obama has made clear on many occasions, the only way we can promote our values is by living them at home.

Since its founding in 1957, the Civil Rights Division has served as a primary force for realizing that promise, having the responsibility to fully and fairly enforce the civil rights laws within its jurisdiction, and to coordinate domestic civil rights enforcement across the Federal Government. Our national commitment to meeting our international human rights obligations is manifested by our enforcement of our nation's civil rights laws and by our recognition that civil rights, non-discrimination, and equal opportunity are human rights.

Today, the United States is party to three critical human rights treaties whose subject-matters coincide with the work of the Civil Rights Division authorized under the Constitution and U.S. laws.

The International Covenant on Civil and Political Rights, adopted by the U.N. General Assembly in 1966, and ratified by the United States Government in 1992, proclaims that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." This recognition is at the heart of the civil rights movement and of the civil rights law enforcement program headed by the Department of Justice.

The International Convention on the Elimination of All Forms of Racial Discrimination ("CERD"), adopted by the UN General Assembly in 1965, and ratified by the United States Government in 1994 commits States Parties to specific obligations regarding the elimination of racial discrimination.

Under Article 2 of the Convention, 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..." Article 5 creates a specific obligation to guarantee the right of everyone to equality before the law regardless of race, color, or national or ethnic origin. Article 6 obliges States Parties to provide "effective protection and remedies" through the courts or other institutions for any act of racial discrimination. This includes a right to a legal remedy and damages for injury suffered due to discrimination.

The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the General Assembly in 1984 and ratified by the United States Government in 1994 is a treaty that obliges States Parties, *inter alia*, to prevent torture and to establish criminal jurisdiction over U.S. nationals for acts of torture wherever they may occur and over any alleged perpetrator in territory under the jurisdiction of the United States.

Finally, in addition to the three treaties mentioned above, the United States became party in 2002 to the two Optional Protocols to the Convention on the Rights of the Child – one on the involvement of children and armed conflict, and the other on the sale of children, child prostitution, and child pornography. These protocols require parties to take certain measures to protect children with regards to these topics.

In recent years, the United States Government has come into compliance with our reporting requirements under the three important treaties and Optional Protocols mentioned above. Under President Clinton, the United States filed its first report on compliance with the ICCPR in 1994 and its first report on compliance with the CERD in 2000. During the Bush Administration, our government came into compliance with our additional reporting obligations. Under President Obama's leadership, we plan to work with our colleagues at the State Department and elsewhere in the Federal government to ensure to ensure that our reports are done in a timely and thorough fashion and that they accurately reflect both the strengths and areas of improvement in our civil and human rights enforcement program. Indeed, we aim to make these reports models for what we hope other countries will do in their own reports. We are

also actively participating in the newly revitalized interagency policy committee led by the National Security Council to explore ways in which we can enhance our compliance with and implementation of those international human rights norms by which we are bound.

At the same time that the United States works to meet its international obligations, the Civil Rights Division at the Department of Justice is committed to pursuing a more robust approach to civil rights enforcement and accomplishment. Using all of our available enforcement tools, our mission in the coming months and years is one of restoration – recommitting to the Division's core mission – and transformation – equipping ourselves to address effectively the challenges of the 21st Century.

To give a few examples, we are committed to ensuring full political participation by qualified voters in our democratic process through enforcement of our voting rights laws, including the recently reauthorized Voting Rights Act. Our voting rights work includes Federal preclearance of voting changes in jurisdictions covered by section 5 of the Voting Rights Act, challenges to practices that discriminate against minority voters, and enforcement of the Act's minority language provisions. In addition, we are actively supporting the 2010 Census, which will provide the data that is used to draw the political map that governs elections for the next decade. This support is vital, given the importance that we have accurate data on which to premise representation.

The Civil Rights Division is engaged in an affirmative program to reinvigorate our enforcement of Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin by recipients of Federal financial assistance.

We help protect the civil rights of institutionalized persons in prisons, mental health facilities, hospitals, and juvenile facilities, and have opened investigations, filed lawsuits, and entered into settlements with those institutions to ensure that institutions provide humane conditions of confinement, adequate mental health treatment services and health care, and protection from harm.

In addition, we are actively enforcing the requirements of the United States Supreme Court's decision in *Olmstead v. United States*, a ruling requiring States to eliminate unnecessary segregation of persons with disabilities and to move persons who can function in the community out of segregated facilities.

In enforcing our criminal civil rights laws, we have vigorously prosecuted those who threaten or harm others out of hate. Our Federal authority to prosecute hate crimes – and to assist State and local law enforcement to enforce their respective hate crimes laws – recently was strengthened significantly with the passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. Not only have unnecessary jurisdictional impediments been removed in cases involving hate crimes motivated by animus towards others on the basis of race, color, religion or national origin, the new law enables us to prosecute hate crimes against people when the crime is motivated by animus towards others based on sexual orientation, gender identity, or disability.

Protection from abuse of official authority is fundamental in a society governed by the rule of law and democratic principles. Using our criminal civil rights laws, we are vigorously prosecuting significant cases involving official misconduct by law enforcement officials, including Federal and State corrections officers, local police, and sheriff's deputies. We also have opened a number of investigations to determine whether there is evidence of a pattern or practice of discriminatory policing in violation of section 14141 of the Violent Crime Control and Law Enforcement Act of 1994.

We are also building on the important work of the last 10 years to continue to prosecute those who engage in human trafficking, a form of modern-day slavery that deprives its victims of their fundamental rights guaranteed by the Thirteenth Amendment. The Civil Rights Division has been a leader in Federal anti-trafficking efforts, and we have continued to bring unprecedented numbers of involuntary servitude and slavery prosecutions, restoring the Constitutional rights and dignity of human trafficking victims and bringing traffickers to justice.

In the employment area, because ensuring equal opportunity in the workplace is one of our top priorities, the Division has returned to vigorously enforcing Title VII, including pattern or practice cases. In pattern or practice cases, we seek, and have recently obtained, significant prospective and remedial relief to ensure equal employment opportunities for African Americans, Latinos, and women. We also are seeking to ensure that fundamental protections from workplace discrimination are extended to lesbian, gay, bisexual and transgender persons through passage of the Employment Non-Discrimination Act.

In other areas of our enforcement activities, we are reinvigorating enforcement of our laws ensuring equal access to housing, non-discriminatory lending and credit, educational opportunities, and environmental justice, to name a few. Overall, through an aggressive program of restoration and transformation, our commitment to solving today's civil rights challenges has never been stronger.

We are committed to continuing to work in close partnership with the State Department in carrying out government's first ever participation in the United Nations' Universal Periodic Review process. This effort, led by the Bureau of Democracy Human Rights and Labor at State, will begin by canvassing various Federal, State, and local agencies and stakeholders on the state of human rights in the United States and collecting that information in the report. In order to make sure that our report is adequately informed by input from a wide range of stakeholders, we plan to conduct a series of "listening sessions" around the country, in partnership with State and a number of crucial Federal agency partners. The report and its subsequent review promises to provide a useful snapshot of where we are and where we need to go to meet our constitutional promise of equality and equal opportunity for all and our compliance with the human rights treaties mentioned above.

I also note that within the Department of Justice, the Criminal Division and the National Security Division share the commitment of the Civil Rights Division to conduct our activities in a manner that is consistent with the human rights treaties discussed above.

Mr. Chairman, I look forward to working with you and the Human Rights Subcommittee in the coming months and years to ensure that our domestic civil rights program continues to meet the goals of both our domestic law and our international obligations.

For more than 50 years, the United States has been a leader in the fight for human rights around the globe. Now, more than ever, the world needs the United States to once again be a human rights beacon. In the Civil Rights Division and in the Department of Justice generally, we are prepared to work with our colleagues at the State Department and across the Federal agencies to make sure that, consistent with the approach outlined by President Obama, we model at home the very human rights we seek to promote around the world. Thank you.