



# General Assembly

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## Human Rights Council

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Agenda item 6

Universal Periodic Review

### **Written statement\* submitted by the Center for Women's Global Leadership (CWGL), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2011]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## Civil Society Response to US Universal Periodic Review\*\*

The Center for Women's Global Leadership and the US Human Rights Network UPR Steering Committee represent a diverse spectrum of civil society across the United States actively engaged in the U.S. Universal Periodic Review as a means towards advancing domestic human rights and developing a meaningful and transparent human rights dialogue at the international level.

### Civil Society Engagement

We commend the U.S. for its unprecedented level of engagement in the UPR, reflected in the inter-agency consultations held with civil society, and the large inter-agency delegation that participated in the November review. Through onsite consultations, or listening-sessions, held in communities across the U.S., members of civil society were given the opportunity to voice concerns from personal experiences, and those of their community members and constituencies, and to recommend affirmative steps the U.S. should take to ensure full compliance with its human rights obligations. We also commend the U.S. for sponsoring a Town Hall meeting in Geneva following its review, and the subsequent three consultations with civil society in Washington, D.C. in preparation for the UPR report adoption before the UN Human Rights Council.

These community-based consultations represent a positive step toward engagement with civil society. They also bring into sharp focus the need for ongoing open, transparent dialogue among members of affected communities and representatives from the federal, state, and local government, to collectively develop and implement durable solutions to the human rights concerns raised. The communities visited during the first set of onsite consultations took to heart the Administration's stated commitment to ongoing dialogue. They await concrete action by the government addressing the concerns raised during the consultations.

Moving forward, we call upon the Administration to develop a plan of action for ongoing dialogue with all sectors of civil society, coupled with affirmative steps towards improving domestic human rights protections. We recommend that future consultations resemble the model set forth in the Town Hall rather than the initial onsite-consultations, giving civil society representatives the opportunity to not only voice concerns and recommendations, but also ask questions of the U.S. government, to allow for a more constructive dialogue. We also urge the Administration to provide sufficient advanced notice, and allow sufficient time, to enable more of civil society to participate.

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\*\* NGOs without consultative status that also share the views expressed in this statement: the US Human Rights Network Steering Committee including Ajamu Baraka, US Human Rights Network; Andrea Carmen, International Indian Treaty Council; Vienna Colucci, Amnesty International USA; Joshua Cooper, Four Freedoms Forum, University of Hawaii; Jamil Dakwar, American Civil Liberties Union; Ejim Dike, Urban Justice Center; Connie de la Vega, University of San Francisco, CA; Theresa Harris, Human Rights USA; Daniel Hazen, US Network of Users and Survivors of Psychiatry; Risa Kaufman, Columbia Law School's Human Rights Institute; JoAnn Ward, Columbia Law School's Human Rights Institute; Sarah Paoletti, Transnational Legal Clinic, University of Pennsylvania Law School; Jennifer Prestholdt, The Advocates for Human Rights; Anja Rudiger, National Economic and Social Rights Initiative; Morton Sklar, former Executive Director of Human Rights USA; Cynthia Soohoo, Center for Reproductive Rights; Eric Tars, National Law Center on Homelessness and Poverty.

## **Need for Consideration of All Recommendations and Concrete Implementation Plan**

The U.S. has received an unprecedented number of Recommendations. While we acknowledge the role politics played in a few recommendations, as the U.S. seeks to strengthen the Human Rights Council and the UPR as means to advance human rights internationally, it is critical it give serious consideration to the substance of each recommendation. Furthermore, we recommend that the Administration note where the recommendations received from UN member states reflect key recommendations and priorities of civil society in the U.S., illuminating areas where the U.S. falls short in its human rights obligations at home.

## **Recommendations on Treaty Ratification**

As the U.S. noted in its preliminary response to the UPR Report, the majority of recommendations urged =ratification of core human rights treaties, and the withdrawal of inconsistent or illegitimate reservations, understandings, and declarations to ratified treaties. We are pleased with the Administration's stated intent to seek Senate advice and consent with regard to the CRPD, and urge prompt follow through. We are similarly pleased the U.S. changed its position vis-à-vis the UN Declaration on the Rights of Indigenous Peoples, but are disappointed with the qualifications taken in its endorsement. We encourage the US to withdraw those qualifications and state its full support.

But we are disturbed by the U.S.' statements that it will not ratify a treaty where it is not already in compliance. This fails to account for the fact that treaty ratification creates an obligation towards the progressive realization of rights and marks a commitment towards the advancement of the rights contained therein, specifically with regard to ICESCR, CEDAW, the CRC, OP-CAT, the American Convention, ILO Conventions 87, 98, and 111, and others. We call on the U.S. to commit to concrete steps toward ratification and strengthening treaty compliance, accompanied by a timeline to meet those benchmarks. If the U.S. is concerned it cannot ratify human rights treaties because domestic laws are not in full compliance, then a first step should be passing or amending the legislation necessary to achieve compliance.

Treaty ratification is important to strengthen the domestic human rights framework, but it is not sufficient. Ratification of treaties is meaningless unless the U.S. commits to adopting legislation and policies to protect and ensure the human rights set forth in them, according to international standards. The Administration should work with Congress to pass necessary implementing legislation and review and remove RUDs that violate the object and purpose of ratified treaties. Furthermore, the creation of federal human rights implementation and monitoring bodies, including an improved and reinvigorated Inter-Agency Working Group and a national human rights institution, would institutionalize processes to review domestic policy and practices. We urge the U.S. to formally establish an Inter-Agency Working Group on Human Rights, building on the current Inter-Agency collaboration demonstrated through the UPR process, as well as a national human rights commission. Both of these bodies should be mandated to support and coordinate state and local efforts to monitor and implement human rights commitments.

## **Recommendations Specific to Discrimination and CERD Obligations**

Many recommendations addressed ongoing discrimination, in all areas of life from criminal justice and immigration (with a significant recognition of the pervasive and pernicious racial profiling brought about by policies and tolerated practices), to the realization and

enjoyment of economic, social, and cultural rights, noting severe and persistent disparities. We call on the U.S. to introduce a federal plan of action to eliminate these disparities and realize the rights set forth under ICERD.

Weak constitutional protections for disparate impact under U.S. law have failed to achieve substantive equality in the U.S. The CERD expressed concern in both 2001 and 2008 that the U.S. law, policy, and court practice relies on a definition of racial discrimination at odds with their obligations under article 1, paragraph 1 of the ICERD to ensure prohibition of conduct discriminatory not only in purpose but also in effect.<sup>1</sup> It recommended in both years that the U.S. review its legislation and practices to ensure protection against all forms of racial and ethnic discrimination and any unjustifiably disparate impact upon persons from different racial and ethnic backgrounds, as well as Indigenous Peoples.

While we recognize the increased enforcement of existing discrimination laws, those efforts still fall far short of meeting our obligations under ICERD. Numerous U.N. human rights monitors, including the Special Rapporteurs on Education, Racism, Religious Intolerance, and Housing have highlighted the challenge of racial disparities in combating discrimination in the U.S.<sup>2</sup> Each of the Special Rapporteur's stressed the importance of policies to reduce these disparities.

Reduction of racial disparities in poverty, education, health, employment and incarceration are essential to a healthy and vibrant democracy and making progress on the path to eliminating racial discrimination. A Plan of Action should create concrete and measurable benchmarks in reducing disparities and promote a more proactive and systemic approach to policy.

## **Recommendations Specific to Economic, Social, and Cultural Rights**

The U.S. has not yet fully recognized economic, social, and cultural human rights, including the rights to social security, work, protection food, health, education, protection of Indigenous Peoples sacred sites, and housing. Nor does it protect and fulfill these rights. This negatively impacts the entire U.S. population undermining the U.S.'s ability to address high income inequality and poverty rates, and lack of adequate social safety nets.<sup>3</sup> Furthermore, macroeconomic policies impact the economy as a whole and monetary policies which focus on employment are directly linked to the realization of the right to work and the right to an adequate standard of living. We are disappointed by the failure of the U.S. to recognize economic, social, and cultural rights as human rights, and to demonstrate concrete measures to achieve these rights without discrimination.

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<sup>1</sup> As defined in Article 1 and General Recommendation XIV, racial discrimination includes distinctions and exclusions that have an “unjustifiable disparate impact” upon the rights of freedoms of particular racial or ethnic groups.

<sup>2</sup> See the report of Special Rapporteur on the Right to Education Katarina Tomasevski, E/CN.4/2002/60/Add.1. Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Doudou Diène's report on his 2008 visit is available at A/HRC/11/36/Add.3. Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context, Raquel Rolnik submitted a report on her 2009 visit in February 2010.

<sup>3</sup> Additional information on economic and social rights is available in the following joint submissions: Toward Economic and Social Rights in the United States: From Market Competition to Collective Goods; Right to Adequate Housing the United States; Right to Decent Work; Towards a Human-Rights Centered Macro-Economic and Financial Policy in the U.S.; Racial Health Disparities and Discrimination; and, United States' Compliance with its Human Rights Obligations in the Area of Women's Reproductive and Sexual Health.

To fulfill its commitment to pursue “policies that will build an economy and society that lifts us all,” the U.S. must take affirmative steps to ensure a proper social support system for workers so that an adequate standard of living may be maintained by low-wage workers and in the event of unexpected unemployment or incapacity; adopt full employment policies to bridge the current 27 million job deficit including through direct employment; ensure that public resources are used to meet urgent needs by implementing and fully funding existing housing and homelessness prevention programs; and discourage policies that criminalize poverty and place additional barriers for those trying to re-enter mainstream society.

## **Conclusion**

In recognition of the numerous challenges facing the U.S. today, we urge the Administration to take concrete positive action towards the adoption and implementation of the recommendations in the Review’s Report that directly reflect civil society’s input. The Administration has pledged ongoing dialogue and engagement with civil society. Ultimately, though, it is through action and measurable improvement that the U.S. will demonstrate its commitment to human rights at home and across the globe.

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