

A PRACTICAL GUIDE TO IMPLEMENTING CERD

Fall
2007

Human Rights Project
a project of the Urban Justice Center

TABLE OF CONTENTS |

About the Human Rights Project	3
Making the Case for Human Rights	4
Human Rights Treaties	6
Using CERD to fight for Racial Justice	8
II The United States and CERD	8
II Opportunities Using CERD	9
II Components of CERD	10
II General Comments	11
II Reservations, Understandings, and Declarations	11
II Early Warning Measures and Urgent Action Procedures	12
Shadow Reporting	13
II CERD Shadow Reporting	14
II CERD Committee Concluding Observations	14
II 2007-2008 CERD Shadow Reporting Timeline	15
II Shadow Reports and Community Organizing	16
II Local Strategies for CERD Shadow Reporting	17
Implementation Strategies	20
II Process Principles	20
II The New York City Human Rights Initiative	21
II Examples of Local Implementation	22
II Global Examples	23
Glossary of Human Rights Terms	24
Human Rights Resources	25
Templates and Worksheets	26
II CERD Quick Reference	27
II General Recommendation XXV	28
II Shadow Reporting Template	29
II Sample Press Release	30
II Sample Outreach Letter	31
II Tips on Lobbying Members	32
II Testimonial Sheet	33
II Draft Action Plan	34
II Universal Declaration of Human Rights	35

This guide was made possible with the support of the US Human Rights Fund and the New York Foundation
 Written by Ramona Ortega and Ejim Dike

ABOUT THE HUMAN RIGHTS PROJECT |

The Human Rights Project (HRP) of the Urban Justice Center was originally founded as the Organizing Project, with the specific goal of organizing welfare recipients and advocates to dismantle the Work Experience Program (WEP), a workfare program instituted with the 1996 welfare reform act to require New York City welfare recipients to work in exchange for welfare benefits they received. The process of organizing welfare recipients to gain recognition of WEP as work with labor rights protection proved difficult. There was frustration among advocates and a growing realization that there was no common language or framework to hold the government accountable to protecting the rights of people living in poverty. The United States does not recognize rights associated with economic and social policies, as such the rights to housing, education, an adequate standard of living, are not recognized by the US constitution. This makes it almost impossible to make a case for government accountability in these realms. With limited domestic remedies, advocates looked toward human rights and opportunities found in the human rights framework and began experimenting with their utility for domestic issues. Shortly after utilizing the human rights framework to advance economic justice in New York, the Organizing Project became the Human Rights Project (HRP).

Since the release of the *Hunger is No Accident* report, HRP has been at the forefront of the domestic human rights movement demonstrating new models for applying human rights in the United States, and New York City in particular.

HRP is dedicated to strengthening the domestic human rights movement and creating effective strategies for using human rights domestically. Accordingly, HRP works across issue areas and methods to create change through education, organizing, and advocacy.

In 2004, HRP was among a handful of organizations that came together at Howard University to establish the US Human Rights Network with a vision of creating a grassroots human rights movement in the United States. With the support of the Network and its member organizations, the role of human rights in the United States has been elevated and the number of organizations that identify their work as human rights work is growing. Activists, lawyers, and those involved with progressive change are increasingly gravitating towards the human rights framework and taking advantage of its tools to advance equality and social justice.

The purpose of this guide is to provide advocates with concrete information on using the International Convention on the Elimination of all forms of Racial Discrimination to hold the United States government accountable to human rights standards in advancing racial justice.

In July of 2000, HRP published the *Hunger is No Accident* report, documenting human rights violations on the front lines of New York City Welfare Centers. The release of the report marked a new trajectory for the Human Rights Project as an organization dedicated to the implementation and advancement of human rights in the United States.

MAKING THE CASE FOR HUMAN RIGHTS |

People often ask “what is the value added of human rights and how is it different than the social justice organizing that is already underway in this country?” The answer is multi-faceted because there is no one specific “value added” element of human rights. It is not the magic bullet of justice. Using the rubric of human rights is about transforming the way in which people and governments conceptualize obligations, freedoms, and responsibilities towards the advancement of justice. Human rights also provides a universal framework that unites people, issues, and movements, while allowing for individual remedies and the freedom of local expression. Human rights has the power to expand what is imaginable in this country.

Movements for social justice have become increasingly fragmented due to the onslaught of attacks on civil rights and human dignity. The result is that activists often work in silos, pit against each other for limited resources and often not having the time or resources to engage in multi-issue, cross-method organizing. Human rights acts like a bridge between our silos, and brings a discourse that allows us to collectively frame our issues as human rights.

Exposure and Shaming |

It is often hard to believe that in the world’s richest country, human rights are not always realized. Every day in the United States, people go hungry, homeless, and without proper health care. Up until the civil rights movement, apartheid was openly accepted and condoned by the government, and the consequent marginalization of people of color persists today. These all amount to gross violations of human rights.

One of the most powerful aspects of human rights is the platform to shame one’s government on the global stage. No country likes to be publicly chastised by its own citizens, not even the US government. While legal enforcement of international treaties is weak, global shaming provides an avenue to elevate and expose domestic issues that often get ignored or downplayed because the issues are outside the scope of US law. Exposing domestic problem on a global stage can shame the government into action. For example, a Human Rights Watch publication—*All Too Familiar: Sexual Abuse of Women in U.S. State Prisons*—on sexual harassment and abuse by corrections officers in Michigan state prisons among others led to the Department of Justice joining in a class action case against the state Department of Corrections in 1997. This helped speed up proceedings on the case which had been languishing previously. The case was settled about a year later, and cash settlements made to the plaintiffs in 1999-2000.

The strength of U.S. racism resides in the capacity of the state to sustain and justify, in different historical periods, the economic, social, political, and cultural privilege of the white majority, while simultaneously burnishing its image as the world’s most advanced democracy. The moments when the legitimacy of the racial status quo has been most seriously threatened, during the anti-slavery and civil rights movements, for example, have been those moments when the contradictory character of these two dynamics—maintaining white privilege and appearing democratic—has been most successfully revealed.

Linda Burnham (2000)

Limited domestic remedies |

Activists and progressive lawyers alike often find themselves up against the confines of the law. While the struggle for justice in the United States has produced some of the finest and strongest civil rights

protections around, we still face rampant discrimination across the board. The reasons for the legacy and persistence of discrimination in this country are numerous. In some cases the protections are not strong enough or do not encompass the myriad ways in which contemporary discrimination functions. In other instances, enforcement and implementation is weak. The reasons abound but the facts remain that discrimination in all sectors of society remains a barrier to a just democracy.

The challenge of having limited legal remedies is that many times human rights violations go unresolved or partially resolved. Compounding the problem is the constant attempt to rollback the civil rights protections particularly within the political climate post 9-11. For example, in 2001, the Supreme Court ruled that individuals could not bring private lawsuits based on evidence of disparate impact because they are presumed to be unintentional discrimination. Human rights law offers stronger protections considering evidence of disparate impact on an equal level as intentional discrimination.

Focusing on change that is based on human rights standards allows us to establish a floor from which to build. International human rights law set minimum standards for people and countries that are often a higher level of protection than we have domestically, particularly in relation to fighting for racial and economic justice.

Higher standards |

Many in the United States do not realize that health, housing, food, work, and an adequate standard of living are all rights protected by human rights law. International human rights provide a more comprehensive set of rights than is found in domestic law, particularly when it comes to these rights generally classified as economic human rights. At the end of the Second World War, the United Nations was established and the global community came together to develop the modern day articulation of human rights law. The first document created was the Universal Declaration of Human Rights (UDHR), followed by two main treaties—the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Due to political disagreements over economic rights and the influence of the cold war, the United States decided not to ratify the ICESCR, which recognizes a range of economic, social and cultural rights not protected under the United States Constitution. Despite the United States failure to ratify ICESCR, domestic advocates can still demand and advance these rights within the domestic context.

In addition to economic, social and cultural rights, human rights law also has higher standards in the political and civil realms. For example, the Convention on the Rights of the Child (CRC) prohibits application of the death penalty or life without parole to juveniles. In fact, the CRC was used to influence the Supreme Court's 2005 decision to deem unconstitutional the imposition of capital punishment for crimes committed by juveniles. The racial justice movement in the United States including leaders like Marcus Garvey, Malcolm X and Martin Luther King Jr., have all appealed to human rights and international principles of dignity to support domestic struggles against apartheid and racial injustice. The renewed interest in human rights is a testament to the power of this message and its practical impact to galvanize communities.

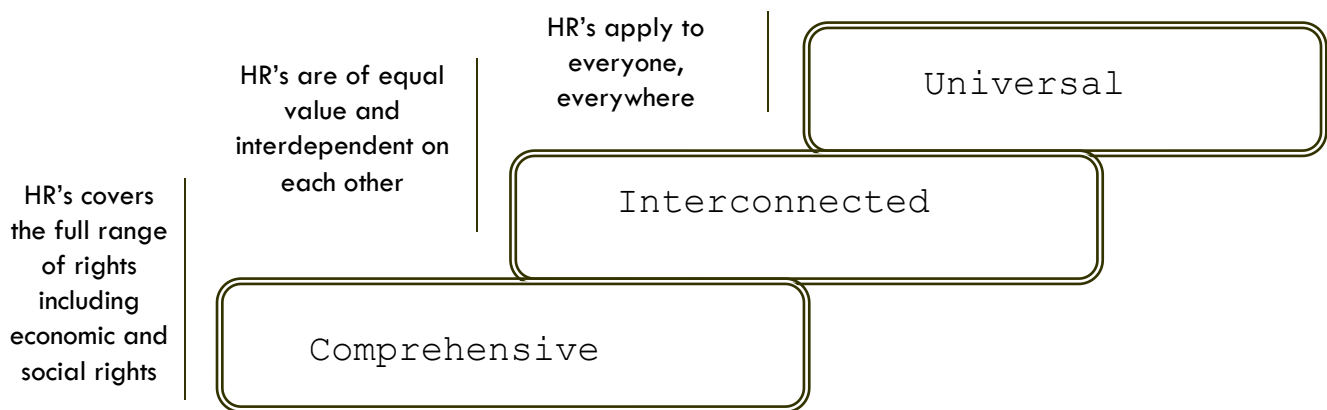
We have come to a clear realization of the fact that true individual freedom cannot exist without economic security and independence. "Necessitous men are not free men."

Franklin D. Roosevelt
(State of the Union 1944)

HUMAN RIGHTS TREATIES |

The United States has failed to ratify a number of important treaties, including the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) claiming that there are adequate domestic protections for these groups. This stance has contributed to the propaganda that there are no human rights violations within the United States. The idea that human rights are for people in other countries and not for Americans, and that the United States does not have to abide by international laws protecting human rights is called **U.S. Exceptionalism**.

The human rights framework not only articulates a universal set of rights but also establishes bodies to provide oversight on implementation, and guidance on the interpretation of rights. The body of laws and documents referred to as international human rights is made up of a comprehensive set of treaties or conventions that interlink and overlap to provide the broad set of protections for the world's most vulnerable populations. While there are numerous treaties that have been established as the foundation, human rights are dynamic and encourage the adoption of additional treaties and interpretations of rights to meet new realities. Through struggle, organizing, and advocating for their needs, marginalized communities have demanded recognition of their rights through the human rights system.



The essence of human rights is that all human beings are entitled to live in dignity, and all human rights laws have been created to support this central notion. The value of international norms and standards is simple: it offers a global consensus on the basic conditions one needs to live in dignity, whether domestic law guarantees them or not. It also holds government accountable for respecting, protecting and fulfilling human rights.

KEY HUMAN RIGHTS TREATIES

RATIFICATION STATUS

II Universal Declaration of Human Rights (UDHR)	
II International Covenant on Civil and Political Rights (ICCPR)	Ratified in 1992
II International Covenant on Economic Social and Cultural Rights (CESCR)	
II International Convention on the Elimination of all forms of Racial Discrimination (CERD)	Ratified in 1994
II Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)	
II International Convention on the Rights of the Child (CRC)	
II Convention Against Torture and other cruel, Inhuman or degrading treatment or punishment (CAT)	Ratified in 1994
II International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families	
II Convention on the Rights of Persons with Disabilities	
II Declaration on the Rights of Indigenous Peoples	

The United States has ratified very few human rights treaties. Ratification requires a formal act of Congress with two-thirds of Senators voting in favor of the treaty. Treaties articulate specific human rights, which are legally binding once the treaty is ratified. Each treaty establishes a committee of independent experts to monitor its implementation. When a country ratifies a treaty, it is required to submit periodic reports on its compliance to the treaty committee. Furthermore, advocates can claim the rights protected in the ratified treaties in United States courts.

USING CERD TO FIGHT FOR RACIAL JUSTICE

The United States and CERD

The United States ratified the International Convention on the Elimination of all forms of Racial Discrimination (CERD) in October of 1994 under President Clinton. As a state party to CERD, the United States is required to file a "state report" to the CERD Committee every two years. This report is supposed to identify domestic laws and other measures that the United States has adopted to give "effect" to the provisions of the Convention.

The CERD Committee is made up of 18 independent experts, elected by countries that have ratified the Convention. The Committee meets every March and August in Geneva to review "state reports" and address any outstanding questions on the report. Countries under review send a delegation to the meetings to answer any questions and provide clarification on their state reports. Country delegations are supposed to include representatives with expertise in the matters covered in the submitted report. The Committee then issues a set of concluding observations or recommendations that identify concerns and provide suggestions for state implementation of the treaty. The concluding observations/recommendations are sent to the country concerned as well as other interested parties.

In September 2000, the United States filed its first report (a combination of the initial, second, and third periodic reports) to the CERD Committee.

In August 2001, the United States appeared before the CERD Committee in Geneva for consideration of its first report.

Following the August 2001 review, the CERD Committee issued its concluding observations on the United States' first report.

In April 2007, the United States filed its second report (a combination of the fourth, fifth and sixth periodic reports) to the CERD Committee.

The United States is scheduled to appear before the CERD Committee in Geneva for review of its second report in February 2008.

Members of the CERD Committee

1. Mr. Mahmoud Aboul-Nasr, Egypt
2. Mr. Nouredine Amir, Algeria
3. Mr. Alexei S. Avtonomov, Russian Federation
4. Mr. José Francisco Cali Tzay, Guatemala
5. Ms. Fatima-Binta Victoria Dah, Burkina Faso
6. Mr. Kokou Mawuena Ika Kana Ewomsan, Togo
7. Mr. Régis de Gouttes (Chairperson), France
8. Ms. Patricia Nozipho January-Bardill, South Africa
9. Mr. Anwar Kemal, Pakistan
10. Mr. Morten Kjaerum, Denmark
11. Mr. José Augusto Lindgren Alves, Brazil
12. Mr. Raghavan Vasudevan Pillai, India
13. Mr. Pierre-Richard Prosper, USA
14. Mr. Linos-Alexander Sicilianos, Greece
15. Mr. Chengyuan Tang, China
16. Mr. Patrick Thornberry, UK
17. Mr. Luis Valencia Rodriguez, Ecuador
18. Mr. Mario Jorge Yutzis, Argentina

The CERD Committee also accepts reports from activists to supplement the information in the official state report. The reports submitted by activists are called **shadow reports**. Shadow reports are extremely important in providing the Committee members with on-the-ground information regarding the actual status of racial justice in the United States. CERD Committee members depend on the information in shadow reports to guide their questioning of the United States delegation during the official review of the state report in Geneva.

Opportunities Using CERD

Racial inequality has persisted despite monumental changes in the United States legal system and social environment. The Civil Rights movement forced the system change needed to create a more just and human society, but despite decades of reform, social and economic inequalities persist along race lines. The racial wealth divide as well as indicators on health, education, employment, incarceration, and more reveal that great barriers to racial equality still exist. CERD gives us an opportunity to put racial justice on the national agenda

CERD is not self-enforcing. It will take creative vision on the part of activists to claim the rights articulated in CERD, or any other treaty, for the good of the people. The obligation of civil society is to figure out how best to monitor and implement CERD considering that the general public and even government officials are unaware of the government’s obligations to human rights. At its base, CERD offers language, obligations and processes that are key to achieving racial justice. Key to implementation is the fact that the United States has ratified CERD, which means the government has an obligation to implement CERD—as every other treaty it has ratified—in all its territories, including states and municipalities.

The Problem

The Opportunity

II Many forms of contemporary inequality are the result of “unintentional consequences” of “neutral policies”

CERD defines “racial discrimination” to include facially neutral policies and practices that have an unintended negative effect on groups based on race.

II Civil rights law provides few remedies to effectively address disparate impact, in particular in the realm of “neutral” public policies

CERD can be used as a basis for mandating the government and its agencies to collect data and seek out discrimination caused by facially neutral policies in all of its territories.

II In the past few years, there has been a backlash against affirmative action programs

CERD provides the global authority to support the use of affirmative measures in policies and practices until a racial inequality is remedied.

II Limited language and framework to talk about racial justice and inequalities

CERD encompasses the complexities of racial discrimination and supports efforts to secure economic and social rights, including the right to work, the right to an adequate education, and the right to an adequate standard of living in advancing racial justice.

The struggle for civil rights in the United States has historically used the framework of racial justice to dismantle discrimination and inequality. Human rights law and principles not only support a racial justice framework but also expand it by demanding rights that are not recognized under domestic law such as an adequate standard of living and health.

“Racial Justice is the proactive reinforcement of policies, practices, attitudes and actions that produce equitable power, access, opportunities, treatment, impacts and outcomes for all.”

Structural Racism and Community Building, the Aspen Institute Roundtable on Community Change

Components of CERD

- ☑ Requires member states to condemn legislation that is discriminatory in purpose or intent
- ☑ CERD creates affirmative obligations requiring governments to pro-actively identify and remedy racial discrimination in its laws and policies
- ☑ Recognizes the necessity of affirmative measures in order to remedy racial inequality
- ☑ Requires data collection and evaluation by race to measure discriminatory impact
- ☑ Requires countries to report to the CERD Committee on their progress
- ☑ Guarantees equality in the enjoyment of all human rights including economic, social and cultural rights

Core Articles of CERD

There are seven main substantive articles in CERD. These are the articles that governments generally respond to in their periodic reports.

Article 1	Racial Discrimination shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
Article 2	Government Obligation to Eliminate Discrimination including requirement to review and amend/eliminate discriminatory policies, and to implement affirmative measures to ensure adequate development and protection in economic, social and cultural fields
Article 3	Racial Segregation/Apartheid Condemned
Article 4	Hate Propaganda Prohibited
Article 5	All Rights Guaranteed without Discrimination including equal enjoyment of political, civil, economic, social and cultural rights
Article 6	Effective Legal Protection and Remedies
Article 7	Obligation to Combat Prejudice and Promote Human Rights Education including on Treaties

General Comments

Much like courts, the CERD Committee publishes its interpretation of the different articles in CERD. These interpretations are published in the form of general comments (also called "general recommendations"). Some of the more frequently used general comments include:

- General Comment 19 on **racial segregation and apartheid**
- General Comment 20 on **non-discriminatory implementation of rights and freedoms**
- General Comment 23 on **rights of indigenous people**
- General Comment 25 on **gender related dimensions of racial discrimination**
- General Comment 30 on **discrimination against non-citizens**

Reservation, Understandings and Declarations (RUDs)

When countries ratify a treaty, they are also allowed to submit "reservations, understandings and declarations" often called "RUDs." RUDs are often used by countries to exempt themselves from treaty provisions that they do not like, or to explain how they believe specific treaty language should be interpreted. Countries submit RUDs at the point of ratification and cannot add more RUDs after ratification. However, countries can retract RUDs at any point and activists can play a pivotal role in pushing countries to retract RUDs.

The United States submitted a number of RUDs upon ratification of CERD. Some of the **reservations** submitted by the United States include:

- II First, that it does not accept any obligations under articles 4 and 7 of CERD that restrict rights to individual freedom of speech, expression and association as protected by the U.S. Constitution.
- II Second, that it does not accept any obligation under articles 2(1)c, 2(1)d, 3 and 5 of CERD to enact legislation or take other measures that might interfere with the right to individual privacy and freedom from governmental interference in private conduct except as mandated by the Constitution and laws of the United States

The United States also submitted an **understanding** that CERD would be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered by the Convention and otherwise by the state and local governments. To the extent that there is state and local government jurisdiction, the Federal Government shall take appropriate measures to ensure the fulfillment of CERD.

The United States submitted a **declaration** that the provisions of CERD are not self-executing meaning that the Convention's provisions do not have legal status, so individuals do not have a cause of action (cannot sue) under domestic law.

See Templates and Worksheets at end of document for:

- CERD Quick Reference
- General Recommendation XXV

Early Warning Measures and Urgent Action Procedures

Early warning measures can be used by non-governmental groups (NGOs), communities, and activists to help prevent existing problems from escalating into conflicts particularly if a conflict has previously occurred. Early warning measures are particularly helpful if:

- II There are inadequate domestic remedies for addressing discrimination
- II There is a significant pattern of racial discrimination evidenced in social and economic indicators
- II There are significant flows of refugees or displaced persons resulting from a pattern of racial discrimination or encroachment on the lands of minority communities.

Urgent Action Procedures can be used to respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of CERD. Criteria for initiating an urgent procedure could include:

- II The presence of a serious, massive or persistent pattern of racial discrimination
- II The presence of a situation that is serious where there is a risk of further racial discrimination

The CERD Committee includes early warning measures and urgent action procedures as part of its regular agenda. Early warning measures and urgent action procedures are often considered at the beginning of the CERD Committee's semi-annual sessions. After a request for action is submitted, the CERD Committee generally makes a decision, usually in a small working committee, on whether to take up the request or not. The CERD Committee then adopts decisions, statements or resolutions under these procedures. There is limited information on the process for submitting requests for consideration under these procedures. For more information on these procedures, please refer to the Office of the High Commissioner for Human Rights' website: www.ohchr.org/english/bodies/cerd/docs/A_48_18_Annex_III_English.pdf.

Advocates can begin strategically identifying concrete issues that might fall under these procedures especially when there is no available domestic response. While the process of filing an early warning measure or urgent action procedure might seem complicated, there are organizations willing to help in this process. Additionally, human rights law school clinics will often work with organizations to file these kinds of documents with CERD and other international mechanisms.

American Indian individuals and governments have been using these procedures to call attention to continued injustice they experience from the United States government. The recent decision by the CERD Committee regarding the Western Shoshone situation was done under the early warning measures and urgent action procedures.

The Western Shoshone Peoples of the Western Shoshone Nation were successful in getting a "historic and strongly worded" decision by the CERD Committee under the early warning measures and urgent action procedures: <http://www.indianlaw.org/pdf/ppa/ws/WS%20CERD%20Decision%202006-03.pdf>

SHADOW REPORTING |

Shadow reporting is a parallel process to the government review in which civil society produces and submits an alternative report(s) to the treaty body. Shadow reports are often submitted after a government files its official periodic report. Shadow reports often provide a "real-life" assessment of what is happening regarding the implementation and enforcement of the ratified treaty in question. Shadow reports can be submitted by any organization but carry more weight if submitted in coalition with several organizations.

CERD Shadow Reporting |

United States activists are relatively new to the CERD shadow reporting process. However, there has been a tremendous growth in interest from community based organizations between the first and second state reports filed by the United States government under CERD.

Shadow reports are used by the CERD Committee in guiding its review of the United States government report, and are also influential in the drafting of the concluding observations that the CERD Committee drafts after it has reviewed a country report.

- II In September 2000, the United States filed its first report (a combination of the initial, second, and third periodic reports) to the CERD Committee through the State Department, and in August 2001, it appeared before the CERD Committee in Geneva for consideration of its first report.
- II Following the August 2001 review, the CERD Committee issued its concluding observations on the United States' first report.
- II In April 2007, the United States filed its second report (a combination of the fourth, fifth and sixth periodic reports) to the CERD Committee. For overview of the report, please see http://hrpujc.org/documents/OverviewofUSReporttoCERD_001.pdf.
- II The United States second report responds to articles 2-7 of CERD, as well as to the concluding observations made by the CERD Committee in response to the Government's 2001 report.
- II The Report also has three attachments including: Annex I provides examples of State civil rights programs; Annex II provides the Government's take on the Western Shoshone case; and Annex III provides information on various domestic laws available to implement CERD thus its assertion that there is no need to enact any new legislation implementing CERD.

When a country submits a "state report" to the CERD committee it is common practice that Non Governmental Organizations (NGO's) from that country also submit reports called "Shadow Reports."

The shadow reporting process provides an important opportunity for the community activists to expose the state of racial discrimination in the United States. It is time to participate by collecting testimonies documenting discrimination and highlighting our concerns through shadow reporting

- II The United States is scheduled to appear before the CERD Committee in Geneva for review of its second report in February 2008.

It is no secret that the United States still has a long way to go on the elimination of racial discrimination and the challenge for civil society is to prove that, despite several legal protections afforded by domestic law, many people of color continue to face discrimination, particularly as it relates to poverty, education, employment, police brutality, etc. Unfortunately, the April 2007 report submitted by the United States failed to address several of the pressing race problems of the day most notably the response after Hurricane Katrina and police brutality. See <http://www.hrpujc.org/documents/USReporttoCERD.pdf> for a full version of the April 2007 United States report to the CERD Committee, and for a brief overview of the report, http://hrpujc.org/documents/OverviewofUSReporttoCERD_001.pdf.

CERD Committee Concluding Observations to United States

After the review of a state report, the CERD Committee issues a set of concluding observations or recommendations that identify concerns and provide suggestions for state implementation of the treaty. The concluding observations/recommendations are sent to the country concerned as well as other interested parties. Following the August 2001 review, the CERD Committee issued its concluding observations on the United States' first report. The Concluding Observations included:



Committee Concerns *(please note that this is not an exhaustive list of the concluding comments)*

- II The Committee noted the persistence of the discriminatory effects of the legacy of slavery, segregation, and destructive policies with regard to Native Americans.
- II The Committee noted concern by the absence of specific legislation implementing the provisions of CERD and recommended that the United States undertake the necessary measures to ensure the consistent application of CERD at all levels of government.
- II The Committee emphasized its concern about the United State's far-reaching reservations, understandings and declarations entered at the time of ratification of the Convention.
- II The Committee recommended that the Unites States take all appropriate measures to review existing legislation and federal, State and local policies to ensure effective protection against any form of racial discrimination and any unjustifiably disparate impact.
- II The Committee noted concern and recommended action over the incidents of police violence and brutality, including cases of deaths as a result of excessive use of force by law enforcement officials, which particularly affect minority groups and foreigners.
- II The Committee noted concern and recommended action regarding the fact that the majority of prison and jail inmates in the United States are members of ethnic or national minorities, and that the incarceration rate is particularly high with regard to African-Americans and Hispanics.
- II The Committee noted concern and recommended a moratorium on the death penalty regarding the disturbing correlation between race, both of the victim and the defendant, and the imposition of the death penalty, particularly in Alabama, Florida, Georgia, Louisiana, Mississippi and Texas.

- II The Committee noted concern about the political disenfranchisement of a large segment of the ethnic minority population who are denied the right to vote by disenfranchising laws and practices based on commission of criminal offences.
- II The Committee noted concern about persistent disparities in the enjoyment of, in particular, the right to adequate housing, equal opportunities for education and employment, and access to public and private health care, and recommended special measures to remedy.
- II The Committee emphasized that the adoption of special measures (affirmative action) when the circumstances so warrant, such as in the case of persistent disparities, is an obligation under CERD.
- II The Committee noted concern that treaties signed by the United States and Indian tribes, described as "domestic dependent nations" under national law, can be abrogated unilaterally by Congress and possessed or used without compensation. It further expressed concern with regard to information on plans for expanding mining and nuclear waste storage on Western Shoshone ancestral land.
- II The Committee further recommended that the next United States report contain socio-economic data, disaggregated by race, ethnic origin and gender, on, in particular: (a) the indigenous and Arab-American population; and (b) the populations of the States of Alaska and Hawaii.

2007-2008 CERD Shadow Reporting: Tentative Timeline |

October 2006	II Ralph F. Boyd Jr. resigns from CERD committee and replaced by Pierre-Richard Prosper, the former United States Ambassador-at-Large for War Crimes and previous US Attorney.
April 2007	II US State Department releases second periodic compliance report to CERD Committee
June-Dec 2007	II National CERD trainings around the United States*
Aug-Oct 2007	II Submission of information to National CERD Shadow Report Working Groups**
Dec 2007	II Submission of shadow reports to CERD Committee. Lobbying of CERD Committee members and organizing for Geneva
Feb-March 2008	II United States Review before the CERD Committee in Geneva
Spring 2008	II Community Report Back on US Review by CERD Committee
Summer/Fall 2008	II CERD Committee releases Concluding Comments
Fall 2008	II Follow-up meetings on Concluding Comments
2008-Next Report	THE MAIN WORK BEGINS HERE WITH IMPLEMENTATION!!!

*For more information on trainings and the shadow reporting process, please visit www.hrpjic.org or www.ushrnetwork.org. **Please note that cities can also submit separate reports.

Shadow Reports and Community Organizing

- ➔ Understand the treaty and identify which particular articles or issue areas or region that you or your organization intends to focus on
- ➔ Review the last U.S. report to the committee to see where there are gaps in their data
- ➔ Gather past concluding comments from the committee to learn what the committee will follow up on and read the summary record of the last review
- ➔ Conduct research on committee members & the process for review
- ➔ Decide to establish or join a coalition based on region or issue area or submit your own organizational shadow report
- ➔ Gather information through interviews, meetings, surveys, reports, etc. You can also use multi-media-videos, CD-Rom, to gather testimonies
- ➔ Use planning and strategy meetings to work across issues and find common ground not only for the report but for a local advocacy plan
- ➔ Talk to the media, let them know what you are up to, frame your issue in human rights language
- ➔ Make your report easy to read by having a summary, being clear about questions you want the committee to ask, and keeping it BRIEF yet thorough with concise references and statistics.
- ➔ Remember the local implementation is the most important aspect of the process. Develop a local plan for implementation and use the moment as pressure point to change local public policy and advance your local racial justice advocacy

See Templates and Worksheets at end of document for:

- Shadow Reporting Template
- Sample Press Release
- Sample Outreach Letter
- Tips on Lobbying Members

Local Strategies for CERD Shadow Reporting

The shadow reporting process is most useful if integrated into your organization's set of strategic activities. When utilized effectively shadow reporting can be a way to educate the community about human rights, identify priority areas, collect primary data, and create long-standing coalitions.

Because the opportunity to submit a shadow report comes every couple of years, depending on the administration, the process should be seen as deepening your ongoing work and not just an add-on activity. When used in appropriate ways, shadow reporting can be a foundation for long-term campaigns policy advocacy.

Human rights analyses do not set priorities, they must be used along side informed local political context.

Ali Miller

A Methodological Framework for Applying a HR approach to Advocacy on Women's Issues

1

Using Shadow Reporting as an Organizing Strategy

- × Initiate a shadow reporting working group at least a year before the United States testifies before the Committee. Collecting information, writing, and collaboration take time; do not try to rush the process
- × Invite local organizations, activists, politicians, policy makers, etc. to an initial meeting where you provide basic human rights education and introduce the CERD shadow reporting process
- × Identify as a group what area/s you want to focus on (civil rights, economic rights, a particular policy area) then what region/s you want to focus on (city, state, national)
- × City and State reports are a great way to create a document that has a dual purpose: to submit to the Committee and to use as a “platform” document for racial justice campaigns in your locality
- × Determine your political or policy agenda—what do you want to see changed in your country, state, city? Are there particular laws, practices, policies you would like to see repealed or do you want more accountability, or both?
- × Set up meetings with local legislators to inform them about your process and to give them an opportunity to participate. Invite them to be a part of your delegation if you are going to Geneva

2

Using Shadow Reporting to elevate your issue

- × Often issues can become “old news” even when they are important and deserve attention. Sometimes people feel like they have heard all that there is to hear and there is no new angle. Sometimes domestic law is limited and there is not much else you can do. This is where the shadow reporting process can be useful in globally shaming the government into action. Acts that might be legal under domestic law, are sometimes considered a human rights violation under one of the main treaties. CERD for example covers disparate impact in a broader way than domestic law and addresses the

racial aspects of economic rights. Submitting evidence of a human rights violation under CERD can create a “public record” of the violation, and this can draw media attention. If the Committee decides to include your issue in the concluding comments, then there is even further evidence that your issue is important and that the government has a responsibility to take action.

- × If your organization plans for this process and budgets for it, you can send a delegation to Geneva during the review process. While a timely and expensive trip, it can be useful if your issue is likely to be taken up by the Committee. While in Geneva, you can further advocate for the Committee to pay attention to your issue and hold side events and press conferences that often received international coverage. If you do go to Geneva, remember to hold a press conference before you go and after to let your local media know what you are doing.

3

Using Shadow Reporting to implement CERD

- × Your coalition should have a full agenda to pursue at the city and state level based on the Committee’s Concluding Comments and your local shadow report.
- × Hold a town hall meeting to let people know what happened in Geneva and what the Committee said about CERD implementation and racial discrimination in the United States. (*remember the United States government is not going to report back to the public; that is our job*)
- × Find some common agenda items to pursue utilizing the existing coalition that was established for the shadow report. Keep the pressure on the government to be accountable for the recommendations put out by the committee.
- × Continue using local government and its agencies to implement aspects of CERD or the Committee’s recommendations.
- × Set up meetings with local Human Rights Commissions to let them know that they have a role to play in enforcement and education.
- × Commence a Human Rights Documentation project based on issued or questions raised by the committee
- × Maintain contact with CERD Committee members to build relationships for the future, especially if they were interested in your issue.

LEARNING BY EXAMPLE CERD SHADOW REPORTING 2001

In the summer of 2001, as racial justice advocates prepared for the World Conference Against Racism in Durbin, South Africa, human rights advocates in the U.S. were gearing up for the first review of the United States by the CERD committee. There was general excitement about the global discussion of racism and xenophobia and crimes against humanity and the U.S. was at the center of many of those discussions so there was a real opportunity to introduce people to the human rights framework and CERD. The Human Rights Project took advantage of this historic moment to form a human rights working group that integrated the CERD review and preparation of Durbin. HRP set up working groups based on Article 5 of CERD to draft a NYC Shadow report. Article 5 was chosen as the focus based on the makeup of the group and the concentration of human rights violations based on rights articulated in Article 5. The monthly meetings of working groups allowed people to actively participate in human rights and not just read about them, they were mapping, debating, collecting, and writing about violations in their communities and connecting with each other across issue silos. Activists, organizers, and lawyers were working side by side in a collective process that did not elevate one skill over the other. The report was then submitted to the Committee and a delegation was sent to Geneva for the U.S. review. This was a great opportunity for the HRP, a small local project at the time, to branch out and get a feel at lobbying at the United Nations. While in Geneva we participated in press conferences, lobbied committee members, and made long-lasting connections to other NGOs. Out of this experience we were able to build our expertise in this area, understand the challenges, and contextualize its benefits. Upon returning from both Durbin and Geneva we set out to act upon our experience by attempting to integrate CERD principles into local law through the New York City Human Rights Initiative. (www.nychri.org)

IMPLEMENTATION STRATEGIES |


Planting the seeds of change |

Building and strengthening a human rights movement in the United States is not merely about recognizing treaties or enforcing international law. While the legal dimensions are intriguing and powerful, the community organizing—the galvanizing of a rights based movement and a fundamental paradigm shift—is what makes human rights worth pursuing. In 2002, when the New York City Human Rights Initiative began drafting a piece of human rights legislation for New York City, the conversations weaved between the imaginable and the practical in the current political context. Both lawyers and activists alike came together to rethink public participation and proactive strategies for fighting discrimination and planting the seeds for real change, including the possibility of securing economic and social rights. In a post 9/11 world in New York City, few politicians were interested in securing rights and non-discrimination, the country was interested in security by all means necessary, despite increased ethnic targeting and blatant discrimination. The United States has been changed by the events of 9/11 and it will be a continual struggle to balance anti-discrimination measures and human rights with security.

Process Principles

The process of implementing human rights standards is just as important as formulating human rights policies and practices. The way in which your human rights work is framed, conducted, and sustained must attempt to integrate the full range of human rights principles. Working in coalitions and building consensus is a rigorous process but defining your core principles is a key aspect. The following are a few to keep in mind:

- ☑ Ensure the development of community leaders who represent those directly affected by violations;
- ☑ Incorporate a participatory approach to organizing, ensuring that the communities most affected identify organizing priorities;
- ☑ Build the capacity of community leaders in using a human rights approach, through trainings and dialogues on strategy and direction;
- ☑ Facilitate dialogue across organizing communities and issues using the power of human rights to bring together diverse constituencies;
- ☑ Develop multi-faceted campaigns that include strategies for education, media, litigation, and direct action
- ☑ Increase the visibility of human rights organizers by facilitating access to media, technology, and national and international fora where key human rights issues are being debated and decided.



COMPREHENSIVE, COMMUNITY
PROBLEM SOLVING IS
NECESSARY TO TACKLE
CONTEMPORARY FORMS OF
RACIAL DISCRIMINATION

The New York City Human Rights Initiative (NYCHRI) was formed in mid-2002 after the Human Rights Project's (HRP) participation in the first U.S. CERD review and the World Conference Against Racism. Upon returning to New York City, HRP decided to explore implementing CERD locally. It started by conducting a needs assessment and making the relevant contacts. In the process, HRP identified other organizations interested in using human rights mechanisms to implement the Convention on the Elimination of Discrimination Against Women (CEDAW) and decided to join forces to establish the NYCHRI. The NYCHRI now has over 100 coalition members, and continues to grow. The Urban Justice Center's Human Rights Project is the lead coordinating organization of the NYCHRI

The NYCHRI has proposed ground-breaking legislation that draws from broad human rights principles of non-discrimination, participation, accountability and transparency, as well as from the two key international treaties addressing gender and race discrimination -- CEDAW (the Convention on the Elimination of All Forms of Discrimination against Women) and CERD (the Convention on the Elimination of All Forms of Racial Discrimination), respectively. Together, these principles and treaties provide a foundation for ensuring comprehensive protection against, and pro-active measures to prevent, all forms of unlawful discrimination including discrimination against groups protected by New York City's Human Rights Law.

Entitled the Human Rights in Government Operations Audit Law or Human Rights GOAL, the NYCHRI's proposed legislation expands on the current NYC law, and emphasizes the centrality of good governance to ensuring human rights for all New Yorkers. Human Rights GOAL will equip NYC government with the practical tools it needs to accurately assess its policies' impacts upon different populations of New Yorkers; promote equality by enabling the City to stop discrimination before it happens; and give residents a greater say in solving the problems facing their communities. When we put universal human rights standards to work to address the problems facing the most vulnerable members of our local communities, we help to build a human rights culture from which we all ultimately benefit.

“[Human Rights GOAL] asks that every City department conduct an assessment of its mission with an eye to preventing discrimination and promoting equality.”
*David Dinkins
Former NYC Mayor and Civil Rights
Leader*

Despite political opposition and intense collaboration, the NYCHRI held a successful City Council hearing and gained wide support for the bill. Faced with real political challenges such as term-limits and election politics, the bill is awaiting re-introduction in fall of 2007. (www.nychri.org)

Examples of Local Implementation

- × Pennsylvania has passed two resolutions authorizing state representatives to hold a series of public hearings investigating human rights abuses in Pennsylvania and to create a commission to investigate ways to integrate human rights standards of CERD into state laws and policies.
- × The Massachusetts Human Rights Bill (House Bill 706) is currently under consideration by the Massachusetts legislature. If passed, it would implement principles of CERD, CEDAW, and CRC into state law and authorize state legislatures to investigate human rights abuses in Massachusetts through a series of public hearings.
- × In Los Angeles, a local coalition for the right to housing has successfully campaigned to include the human right to housing as one of seven guiding principles of Los Angeles' 10-year plan to end homelessness. The coalition is also drafting local human rights legislation based on CERD.
- × In Cook County, IL (Chicago), articulating principles from CERD and CESC, the county passed a resolution recognizing the right to housing, which led to increased funding for affordable housing from the state.
- × In Chicago, the first law suit in the city's history to cite international legal standards was brought by the Chicago Coalition to Protect Public Housing and Cabrini Green residents against the Chicago Housing Authorities, which closed half of the public housing developments in Cabrini Green in six months without offering replacement housing. CHA continues to ignore the federal ruling that residents could stay until adequate replacement housing was built.
- × California has adopted CERD's definition of racial discrimination into state statutory law in order to resist attacks on affirmative action.
- × In Berkeley, California a local ordinance mandates the city to report on implementation progress to the state department.

Global Examples

Ireland may not be known for its problems with racial discrimination but nonetheless, it is taking proactive steps to address racial discrimination as it relates to immigration. The National Action Plan is one example that can come out of a coordinated shadow reporting process. By bringing together civil society and government agencies, Ireland has laid out some basic principles and goals for eradicating racial discrimination.



“Racism has no place in the Ireland of today. We must actively welcome and manage our continuing development as a multi-cultural society. That is why combating racism and creating a more inclusive society are key priorities for this Government. The extent and pace of change in Ireland is clearly demonstrated by our transformation from a country of emigration to one of net inward migration. The emerging diversity of Irish society has the capacity to enrich all our communities and to make Ireland an example of best practice in promoting inclusion. It also presents us with challenges and issues that we must deal with in a mature and sensible fashion. As well as the imperatives for social and economic progress, it is clearly important for Ireland’s well-being and international reputation that we adapt our thinking, policies and laws to this changing situation. Clear strategies and structures must be put in place to allow this to happen. The publication of the National Action Plan against Racism in this context is most timely and represents the fulfillment of a commitment given by the Government at the UN World Conference Against Racism in Durban 2001. This commitment was further affirmed in Sustaining Progress, the Social Partnership Agreement 2003 -2005, under which the Plan is a key element of the Special Initiative on Migration and Interculturalism. I wish to thank all those organizations: Government, Social Partners and NGOs who contributed to the development of this Plan in the course of the wide-ranging Diverse Voices consultation process. Government is committed to working together to realize the Plan’s objectives.”

Government Official of Ireland

From: www.diversityireland.ie/Publications/Publications/NPAR.html

GLOSSERY OF HUMAN RIGHTS TERMS |

Non Governmental Organization (NGO)	Organizations formed by people outside of government. NGOs monitor the proceedings of human rights bodies, such as the United Nations, and are the "watchdogs" of the human rights that fall within their mandate. Some are large and international (e.g., the Red Cross, Amnesty International, and the Girl Scouts), while others may be small and local (e.g., an organization to advocate for people with disabilities in a particular city; a coalition to promote women's rights in one refugee camp). Many NGOs have official consultative status with the UN Economic and Social Council.
Civil Society	Civil society is composed of voluntary civic and social organizations and institutions that form the basis of a functioning society as opposed to the militarily force-backed structures of a state (regardless of that state's political system) and commercial institutions.
Convention	A legally binding agreement between nations designed to protect human rights (used interchangeably with treaty and covenant). Conventions are considered to have more legal force than declarations because governments are legally bound to enforce the agreements that they have ratified. When the UN General Assembly adopts a convention, it creates international standards for action and behavior. Once a convention is adopted by the UN General Assembly, Member States can then ratify it, thereby promising to uphold it.
Self-Determination	Political independence on the part of a group without control by people outside of that area, in particular this term is often used in reference to struggles for Indigenous peoples.
Reservations, Understandings, and Declarations (RUDs)	Reservations, understandings, and declarations or RUDs, are exceptions to the treaty that any government adopts treaties and does not want to be held to those particular provisions.
Civil and Political Rights	The rights to liberty and equality. Such rights include freedom to worship, to express oneself, to vote, to take part in political life, and to have access to information.
Customary International Law	Law that becomes binding on nations through general acceptance as a matter of legal obligation. When enough states have begun to behave as though some principle is law, it becomes law "by use"; this is one of the main sources of international law.
Economic, Social, and Cultural Rights	Rights that concern the production, development, and management of material for the necessities of life. These rights also include the right to preserve and develop one's cultural identity, as well as rights that give people social and economic security, sometimes referred to as security-oriented rights. Examples of such rights include the rights to adequate education, food, shelter, and health care.
Non-binding	A document that carries no formal legal obligations, but which may still carry moral obligations.
States Party(ies)	Those countries that have RATIFIED a COVENANT or a CONVENTION and are thereby bound to conform to its provisions.

SOURCES: 1) [HTTP://WWW.HRUSA.ORG/THISISMYHOME/PROJECT/GLOSSARY.SHTML](http://www.hrusa.org/thisismyhome/project/glossary.shtml) 2) [HTTP://ACADEMIC3.AMERICAN.EDU/~MERTUS/HR%20GLOSSARY.HTM](http://academic3.american.edu/~mertus/hr%20glossary.htm) 3) WIKIPEDIA.COM

HUMAN RIGHTS RESOURCES |

Human Rights Resources

The Core International Human Rights Instruments and Their Monitoring Bodies, from:
<http://www.ohchr.org/english/law/index.htm>

Human Rights Treaties That the U.S. Has Ratified, adopted from:
<http://www.ohchr.org/english/law/index.htm>

Universal Human Rights Instruments
<http://www.ohchr.org/english/law/>

Summaries of Human Rights Instruments
<http://www.hrpujc.org/tools.html>

CERD Resources

The Committee on the Elimination of Racial Discrimination
<http://www.ohchr.org/english/bodies/cerd/index.htm>

Periodic Report of the United States of America to CERD Committee 2007
<http://www.hrpujc.org/documents/USReporttoCERD.pdf>

Brief Overview of 2007 United States Report to CERD Committee
http://hrpujc.org/documents/OverviewofUSReporttoCERD_001.pdf

Concluding observations of the Committee on the Elimination of Racial Discrimination: United States of America. 14/08/2001.
[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.56.18,paras.380-407.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.56.18,paras.380-407.En?Opendocument)

Brief and Initial Analysis of the United States Report to the Committee on the Elimination of Racial Discrimination from the ACLU
http://www.aclu.org/pdfs/humanrights/cerd_analysis.pdf

Concluding Observations of the Human Rights Committee on U.S. Compliance with the International Covenant on Civil and Political Rights (2006)
<http://www.ushrnetwork.org/page257.cfm>

Shadow Reporting Resources

Organizers Tool-Kit for CERD
<http://www.hrpujc.org/documents/CERDTK.pdf>

Katrina Shadow Report for ICCPR
<http://www.ushrnetwork.org>

WILD for human rights 2001 Shadow Report on Women of Color
www.wildforhumanrights.org/pdfs/treatmentwomen.pdf

Applied Research Center Shadow Report 2001
<http://www.arc.org/pdf/303pdf.pdf>

TEMPLATES AND WORKSHEETS |

1. CERD Quick Reference
2. General Recommendation XXV
3. Shadow Reporting Template
4. Sample Press Release
5. Sample Outreach Letter
6. Tips on Lobbying Members
7. Testimonial Sheet
8. Draft Action Plan
9. Universal Declaration of Human Rights (UDHR)

CERD Quick Reference

- Art. 1
 - (1) Definition
 - (2) Citizen-non-citizen distinction allowed
 - (3) Naturalization provisions allowed
 - (4) Affirmative action allowed
- Art. 2
 - (1) Discrimination condemned
 - (a) State obligation not to engage in discrimination
 - (b) No state sponsorship of discrimination by others
 - (c) Review & eliminate discriminatory laws
 - (d) Pass laws to stop discrimination by individuals
 - (e) Encourage multicultural organizations
 - (2) Affirmative action required to ensure development
- Art. 3 Segregation/apartheid condemned, obligation to eliminate
- Art. 4 Hate propaganda condemned
 - (a) Hate speech illegal
 - (b) Hate organizations illegal
 - (c) No state sponsorship of hate
- Art. 5 Rights protected
 - (a) equal treatment before law
 - (b) security of person
 - (c) Political rights including voting
 - (d) Other civil rights
 - (i) freedom of movement and residence
 - (ii) leave and to return to one's country;
 - (iii) nationality;
 - (iv) marriage and choice of spouse;
 - (v) own property
 - (vi) inherit;
 - (vii) freedom of thought, conscience and religion;
 - (viii) opinion and expression;
 - (ix) peaceful assembly and association;
 - (e) Economic, social and cultural rights, in particular:
 - (i) rights to work, good work conditions, unemployment, equal pay
 - (ii) form and join trade unions;
 - (iii) housing;
 - (iv) public health, medical care, social security and social services;
 - (v) education and training;
 - (vi) equal participation in cultural activities;
 - (f) Public accommodations
- Art. 6 Effective protection and remedies through law
- Art. 7 Obligation to teach anti-prejudice and non-discrimination

General Recommendation XXV

Gender Related Dimensions of Racial Discrimination

1. The Committee notes that racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life.

2. Certain forms of racial discrimination may be directed towards women specifically because of their gender, such as sexual violence committed against women members of particular racial or ethnic groups in detention or during armed conflict; the coerced sterilization of indigenous women; abuse of women workers in the informal sector or domestic workers employed abroad by their employers. Racial discrimination may have consequences that affect primarily or only women, such as pregnancy resulting from racial bias-motivated rape; in some societies women victims of such rape may also be ostracized. Women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life.

3. Recognizing that some forms of racial discrimination have a unique and specific impact on women, the Committee will endeavor in its work to take into account gender factors or issues which may be interlinked with racial discrimination. The Committee believes that its practices in this regard would benefit from developing, in conjunction with the States parties, a more systematic and consistent approach to evaluating and monitoring racial discrimination against women, as well as the disadvantages, obstacles and difficulties women face in the full exercise and enjoyment of their civil, political, economic, social and cultural rights on grounds of race, color, descent, or national or ethnic origin.

4. Accordingly, the Committee, when examining forms of racial discrimination, intends to enhance its efforts to integrate gender perspectives, incorporate gender analysis, and encourage the use of gender-inclusive language in its sessional working methods, including its review of

reports submitted by States parties, concluding observations, early warning mechanisms and urgent action procedures, and general recommendations.

5. As part of the methodology for fully taking into account the gender-related dimensions of racial discrimination, the Committee will include in its sessional working methods an analysis of the relationship between gender and racial discrimination, by giving particular consideration to:

- (a) The form and manifestation of racial discrimination;
- (b) The circumstances in which racial discrimination occurs;
- (c) The consequences of racial discrimination; and
- (d) The availability and accessibility of remedies and complaint mechanisms for racial discrimination.

6. Noting that reports submitted by States parties often do not contain specific or sufficient information on the implementation of the Convention with respect to women, States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention. Data which have been categorized by race or ethnic origin, and which are then disaggregated by gender within those racial or ethnic groups, will allow the States parties and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

Shadow Reporting Template for CERD

I

. GENERAL

- A. Background
- B. Land and People
- C. General Political Structure
- D. General Legal Framework
- E. Information and Publicity
- F. Factors Affecting Implementation

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

- A. Information on the legislative, judicial, administrative or other measures that give effect to the provisions of article 2, paragraph 1
- B. Information on the special and concrete measures taken in the social economic, cultural and other fields, in accordance with Article 2, paragraph 2 Article 3 48 Article 4 49
- C. Information on the legislative, judicial, administrative or other measures that give effect to the provisions of article 4
- D. Information on appropriate measures taken to give effect to General Recommendations I of 1972, VII of 1985, and XV of 1993
- E. Information in response to Decision 3 (VII) adopted by the Committee on 4 May 1973

Article 5

Information on the legislative, judicial administrative or other measures that give effect to article 5, taking into consideration General Recommendations XX and XXII

- A. The right to equal treatment before the tribunals and all other organs administering justice
- B. The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by an individual group or institution
- C. Political rights – Information on the means for guaranteeing these rights, and on their enjoyment in practice
- D. Other civil rights
- E. Economic, social, and cultural rights

Article 6

- A. Information on the legislative, judicial, administrative or other measures that give effect to the provisions of article 6, in particular measures taken to assure effective protection and remedies through competent national tribunals and other State institutions
- B. Measures taken to assure everyone the right to seek from such tribunals just and adequate reparation or satisfaction for any damage
- C. Information on the practice and decisions of courts and other judicial and administrative organs
- D. Information in connection with General Recommendation XXVI

Article 7

Conclusion

Committee Comments and Recommendations

ANNEX I – Examples of State Civil Rights Programs

ANNEX II – Background on Matter Raised by Certain Western Shoshone Descendants

ANNEX III – Domestic Law



Use the outline above to begin drafting your shadow report

- The committee will look for reports that address one of these core treaty articles**
- Develop expertise in monitoring or documenting violations of one of these articles.**
Do not feel compelled to provide information on each article.
- Using this form will help to focus your shadow report**



Sample Press Release

For Immediate Release

Contact

August 1, 2001

U.S. Reviewed by United Nations for Racial Discrimination, Racial Justice Groups Trek to Geneva to Ensure the Real Story of Racism is Heard

Seven years after the ratification of the United Nations International Convention on the Elimination of All Forms of Racial Discrimination (CERD), an international treaty addressing racial discrimination, the United States government will undergo its first review before the UN. From August 3-6 the U.S. will stand before the Committee on the Elimination of All Forms of Racial Discrimination who will examine U.S. compliance with the treaty.

The New York City based Human Rights Project (HRP) of the Urban Justice Center will be submitting a "shadow report" to the Committee highlighting economic human rights violation experienced by people of color. HRP and other non-governmental organizations (NGO) from around the country will be in Geneva for this historic event and will be charging the US with violating the human rights of people of color living in the U.S. These violations range from racial discrimination related to welfare reform, police profiling, data collection and the criminal justice system.

This years review by the committee, made up of 18 independent international experts, comes three years late as the U.S. failed to turn in its obligatory reports in 95, 97, and 99. Advocates say the government has a lot of explaining to do. Human Rights Project staff Ramona Ortega, "Right after Congress ratified the Convention, it began passing legislation that is in direct violation of the treaty. We are particularly outraged by the human rights violations resulting from the racialized impact of welfare reform."

In their official report, the U.S. spoke of the many civil rights cases as proof they are in compliance with CERD. However, this cadre of racial justice activists will provide much data and testimonies to the Committee to prove just the opposite; that many U.S. policies regarding crime, education, welfare and employment are discriminatory in nature and have a disproportionate impact on people of color in the U.S.

"Clearly, with the roll backs in civil rights legislation and the persistent increase of economic, social and political stratification between people of color and whites, we need to pressure the US on all levels. This treaty gives us a higher standard to work with and whether the U.S. likes it or not, they are accountable to it," argued Julie Carlson, also with the Human Rights Project.

The 103 page report, written under the Clinton administration by the State Department is heavy with description of civil rights legislation and accompanying lawsuits but light on statistics that reflect the blight realities of minorities in the U.S., particularly concerning overrepresentation in the criminal justice system, low levels of education and enrollment in higher education, and higher than average poverty rates, especially for children. Alternative reports submitted to the committee by NGOs highlight these issues in detail as they relate to welfare reform, zero-tolerance education policies, and racial gaps in unemployment and wage earnings.

The two-day review will consist of Committee members probing the U.S. about the official report and will conclude with Special Rapporteur Yuri Rechetov of Russia writing a set of official recommendations for the U.S. concerning their compliance with CERD. Although the U.S. is likely to discount the recommendations, U.S. advocates will be calling for close monitoring back home and pushing for stronger government accountability to obligations under CERD.

####

Sample Outreach Letter

Dear Councilmember:

I am writing to request a hearing of the civil rights/human rights committee on (your city) obligations under the Convention on the Elimination of Racial Discrimination (CERD). I understand that it is within the jurisdiction of the civil rights committee to dedicate oversight meetings to issues of importance regarding civil and human rights. In 1994, the US ratified CERD and in doing so it promised to implement the convention in accordance to US law and to report on its compliance. In addition to reporting, the convention lays out a number of obligations, including that of implementing CERD in all of its territories. As a matter of content, this treaty is undeniably one of the most important in securing and protecting the human rights of all individuals. In particular the US has an obligation to correct the legacy of discrimination that persists in this country and to ensure that racial discrimination does not persist in our government policies and practices. It is the responsibility of local government, non-governmental organizations, and the community at large to hold the US accountable to the obligations set out in CERD. The (your city) Council's Civil Rights Committee has an important role in this process as the oversight committee for the Human Rights Commission and other governmental bodies that deal with discrimination.

This particular request comes to you as the federal government prepares its second compliance report for the UN CERD committee and as we begin to prepare our own alternative report on the state of racial discrimination. The CERD reporting process is a matter of local and national importance and civil rights groups and legal advocacy organizations across the nation will be mobilizing for the upcoming hearings in Geneva set for 2008.

We look forward to meeting with the civil right committee to discuss the obligations set forth in CERD and how we can take steps to further realize implementation of this important treaty. As a global city in an increasingly globalized world, I hope that we can set an example of compliance with human rights obligations and show (your city) leadership in eradicating racial discrimination.





Tips on Lobbying Members

Beyond submitting a shadow report, many NGOs lobby CERD Committee members for two things 1) to get the Committee to address their particular issue in the list of questions asked during the session and 2) to make sure their issue is addressed in the concluding comments. Lobbying Committee members is similar to lobbying your local representatives at home. You want to relay why your issue is worth pressing and give compelling evidence why this is an issue they must address.

- II Membership is voluntary, so committee members look to NGO's for credible information. Credibility comes in many forms but it helps if you are part of a large coalition, use government data, and write concisely about your issue.
- II Members normally have other jobs as academics, scholars, etc. so it is wise to know their area of expertise or interest. Summary records of the Committee meetings are on-line and can give insight into member interests and views.
- II Member bios are posted on the OHCHR website and normally one can find their contact information via their home institution.
- II Lobbying can be done before the session and during the session. NGOs can host side-events and lunch sessions or receptions for committee members by working with the Secretariat. These events can be used to get your issue heard and a chance for your organization to brief the committee members as well.
- II Pierre-Richard Prosper is the newest member of the CERD committee from the United States. He was previously an Ambassador-at-large for war crimes issues and Los Angeles District Attorney. He is currently an attorney for the firm of Arent Fox. Mr. Prosper is a native of Denver Colorado and son of Haitian parents. Mr. Prosper takes over the seat of Mr. Ralph Boyd.

Testimonial: Documenting Injustice

WHO IS LIVING IN POVERTY?

WHO IS COVERED BY HEALTH INSURANCE?

WHO LIVES WHERE AND WHY?

ARE ELECTED OFFICIALS REFLECTIVE OF
YOUR POPULATION?

IN WHAT NEIGHBORHOODS ARE TOXIC
WASTE DUMPS LOCATED?

RECOMMENDATIONS TO THE STATE
GOVERNOR/CITY COUNCIL

DRAFTING AN ACTION PLAN

ISSUE:

RIGHTS:

TREATY:

OUTCOME:

POLITICAL LANDSCAPE:

COALITION PARTNERS:

STRATEGY:

NEXT STEPS:

TIMELINE:

Universal Declaration of Human Rights (UDHR)

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one

that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from nonpolitical crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein