

## Agenda

### Civil Society Consultation for the U.S. Universal Periodic Review: Washington, DC

February 19, 2010

#### **Opening Remarks from Hosts**

*Wade Henderson, The Leadership Conference on Civil and Human Rights; Laura Murphy, American Civil Liberties Union*

#### **Panel I: Structural Inequality**

*Philip Tegeler, Poverty and Race Research Action Council; Eric Tars, National Law Center on Homelessness and Poverty; Kimberly Freeman Brown, American Rights at Work*

#### **Panel II: Criminal Justice**

*Jeffrey D. Robinson, NAACP Legal Defense Fund; Margaret Huang, Rights Working Group; Michael Lieberman, Anti-Defamation League*

#### **Panel III: Voting Rights**

*Marcia Johnson-Blanco, Lawyers Committee for Civil Rights Under the Law; Ilir Zherka, DC Vote*

#### **Panel IV: Indigenous Issues**

*Jacqueline Johnson Pata, National Congress of American Indians*

#### **Panel V: Asylum, Detention, Torture**

*Annie Sovcik, Human Rights First; Jamil Dakwar, American Civil Liberties Union*

#### **Panel VI: Migrants**

*Brittney Nystrom, National Immigration Forum; Sarah Paoletti, U.S. Human Rights Network and University of Pennsylvania School of Law*

#### **Panel VII: Emerging Issues of Concern to U.S. NGOs**

*June Zeitlin, Leadership Conference on Civil and Human Rights; Andrew J. Imparato, American Association of Persons with Disabilities*

#### **Closing Remarks**

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**Four federal agencies participated in this UPR Session:** the Department of State, the Department of Justice, the Department of Labor and the Department of Education were represented.

- **Panel I: Structural Inequality**

During this discussion session, a panelist stated that rights regarding education and housing are protected under the International Convention on the Elimination of all Forms of Racial Discrimination (CERD). The speaker mentioned that during the 2008 CERD Review, the UN Committee heard from U.S. NGOs, and there was a focus on the government's obligation to stop private discrimination, as well as discussion of racial discrimination in school discipline and the persistence of an achievement gap.

When discussing housing segregation, participants asserted that many programs within the Department of Housing and Urban Development continue to promote racial and ethnic segregation, including the Low Income Housing Tax Credit program, the nation's largest program that subsidizes the development of low and moderate income housing. Participants asserted that the recommendations from the 2008 report of the National Commission on Fair Housing should be considered a blueprint for implementing the CERD recommendations. Other housing issues that were discussed included homelessness, affordability of housing, housing problems after Hurricane Katrina, and the recently released report from the UN 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.

Regarding labor, a panelist raised union and worker rights that are protected under the International Covenant on Civil and Political Rights (ICCPR). She cited the challenges faced by workers who inquire about unions and stated that labor laws in the United States are often not enforced.

- **Panel II: Criminal Justice**

Concerns were raised regarding the new Transportation Security Administration directive following the failed December 25th terrorist attack and whether this policy targets Muslims. Participants also voiced concern regarding state and local law enforcement of immigration laws, the lack of internal checks on immigration programs for racial profiling, and the use of race or religion by the Federal Bureau of Investigation to start investigations without other evidence.

When discussing hate crimes in the U.S., consultation participants drew attention to the fact that five states lack relevant laws. The newly enacted Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was praised, but interlocutors emphasized that it took too long to

enact and that more should be done on prevention. Participants also stated that the number of crimes against Hispanics increased from 2003 to 2007, and there was an increase in hate crimes against Muslim Americans after September 11, 2001. Underreporting or not reporting hate crime statistics was described as a major problem, and participants called for increased attention to this matter by relevant government agencies.

- **Panel III: Voting Rights**

One panelist stated that ICCPR Recommendation 35 and CERD Recommendation 27 state that felon disenfranchisement falls heavily on minorities. While acknowledging that states are responsible for implementing voting laws, she suggested that the federal government become more active in ensuring the laws are effectively enforced.

- **Panel IV: Indigenous Issues**

Participants brought up the issue of violence against women as an area of concern within Native American tribes and communities. Other areas of concern included limits on authority over non-indigenous persons, limits on fines and penalties in the tribal justice system, prisoner policies, training for prosecutors, and jurisdictional barriers. An additional area of concern was subsistence and economic viability.

- **Panel V: Asylum, Detention, Torture**

During this discussion, there was significant focus on the detention of arriving asylum seekers. Panelists stated that asylum seekers are subject to mandatory detention and are sometimes paroled, and that Customs and Border Protection makes this decision, and there is little review of their custody status. Participants noted that this is inconsistent with Article 9 of the ICCPR and Article 31 of the Convention Relating to the Status of Refugees. Other participants recommended that the Department of Homeland Security and the Department of Justice change regulations and policies related to a detainee's ability to be seen by an Immigration Judge.

Regarding terrorism detention issues, a participant stated that it would be unfortunate to continue supporting indefinite detention legislation. He also raised Common Article 3 of the Geneva Conventions and the trial of Omar Khadr. He emphasized the need for accountability in this area.

- **Panel VI: Migrants**

Detention, deportation, and deaths on the southwest border were discussed by the panelists. One interlocutor discussed expedited removal, recommending judicial review for all those facing deportation in order to account for special circumstances. Participants also raised the lack of legal representation for migrants as a significant concern. Recommendations to the U.S. Government included requiring warrants before the Immigrations and Customs

Enforcement agents can enter homes and ending automatic criminal charges for border violations.

Another participant noted that the U.S. Supreme Court's decision in *Hoffman Plastic Compounds, Inc. v. NLRB*, that undocumented workers are not entitled to back pay as a remedy for violation of the National Labor Relations Act, had a substantial negative effect in other areas such as workers' compensation and workplace abuse. She stated the need for legislative fixes, such as the reinvigoration of the firewall that the Department of Labor and Department of Homeland Security had established between labor enforcement and immigration enforcement.

- **Panel VII: Emerging Issues of Concern to U.S. NGOs**

The consultation concluded with a discussion of challenges facing individuals with disabilities. A panelist expressed excitement that the UN is a platform for disabilities issues, within the development of the Disabilities Convention. He noted that every topic discussed during the day had a disabilities component. He called for better defined standards for classroom integration.