



Bringing human rights home

January 31th, 2007

Dear Ms. West,

Please accept the following preliminary recommendations and concerns for the upcoming periodic report to the Committee on the Elimination of Racial Discrimination (ICERD). The Human Rights Project of the Urban Justice Center, an ECOSOC accredited non-governmental organization, submitted a shadow report in 2001 detailing violations under article 5 of ICERD and we continue to work on the local implementation of ICERD in New York City. We are looking forward to the forthcoming report of the US and hope that it will address progress made on the recommendations set forth in the concluding observations of the committee.

In our 2001 shadow report we focused particularly on education, poverty, health disparities, and the disparate racial impact of public policies in these areas. We also brought to the attention of the committee the issue of implementation and the lack thereof at the municipal and state level. Our forthcoming shadow report will focus on persistent poverty and education among racial minorities and women and we encourage the US to address these issues in their report. Below please find a list of preliminary concerns and recommendations that we would like to see addressed in the draft report. We have also included a description of our own project work on ICERD implementation as a case study to be examined in the report. We look forward to working with you and your team to prepare for the ICERD review to make this process transparent and productive.

Sincerely,

Ramona Ortega
Director
Human Rights Project

Persistent poverty among racial minorities

- ◆ Non-discrimination is a fundamental human right embedded in all international human rights law and discourse. Discrimination is a non-negotiable in human rights and must be at the center of all human rights policies and practices. The definition of discrimination found in ICERD states:

“racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, 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.”

- ◆ The definition found in ICERD is critical in understanding how persistent poverty for racial minorities is a violation of human rights. Those persons living in extreme poverty in the US are those that have historically suffered discrimination on the grounds of race. Persistent poverty has continued to aggravate racial and social discrimination for this population. Indicators of social mobility such as higher education, employment, and low rates of imprisonment show how racial minorities continue to suffer the impact of racial discrimination. Under ICERD, government officials including state and local municipalities have the obligation to redress racial disparities through special measures when they exist. Racial discrimination continues to exist in the US despite widespread anti-discrimination legislation and programs. One of the most egregious examples of systemic racial discrimination exists in the distribution of wealth and the persistence of poverty amongst racial minorities in the US. Under ICERD and other human rights norms, the alleviation of extreme poverty is a human rights mandate. Data on the persistence of poverty can be found in records of the US census department. Both

“It is in circumstances of crisis and extreme deprivation that human rights assume their greatest importance”

Foreword-Human Rights and Poverty Reduction
2004

individual rates of poverty by racial group and regional representations of poverty show clear and glaring violations of ICERD.¹

Extreme Poverty

- ◆ Of the total US population, 5.4% live in “severe poverty,” defined as below 50% of the poverty line.² Of those living in severe poverty, almost all of them are non-white.
- ◆ Of the Black population, 11.5 % live in severe poverty, that number rises to 15.7% for those age 5 to 17 years old. The rate among Hispanics is 8.6% and 10.6% for the same age group. The same figures for White’s are 3.5% and 3.7% respectively.
- ◆ The national poverty rate, those living at 100% of the poverty line, is approximately 12.6% but the breakdown by race shows that the aggregate number alone does not show the true picture.
- ◆ The poverty rate for Whites-alone³ is 8.3%, compared with 24.9% of Blacks and 21.8% of Hispanics (any race).
- ◆ Considering the intersection of race and gender, we note that poverty rates for Black and Hispanic women with children are higher than average and require special attention.

¹ 2005 Poverty Tables: These data come from the CPS 2006 Annual Social and Economic Supplement, formerly called the March Supplement.

² Poverty levels vary according to family size and income.

³ White-alone, not Hispanic

Poverty by region

- ◆ A study by the census bureau looked at poverty by region, or tracts, and assigned categories of poverty, of which category VI is the most severe. Category IV is defined as a region where more than 40% of the population lives in poverty.
- ◆ Less than 1% of the white-alone population lives in category IV poverty tracts compared with 9.2% of Blacks, 9.7% American Indians and 6.5% of Hispanics.⁴
- ◆ 18.4 % Americans live in poverty areas, defined as areas with a poverty rate of 20% or higher. That number is more than double in regions with high minority populations. In our own capital of Washington D.C., 41.9% percent live in poverty areas. In Louisiana and Mississippi, the region of the Katrina disaster, the rate is 41.7%. In New Mexico and Texas home to large populations of Hispanics and immigrants, the rate is 37.1% and 28.2% respectively.
- ◆ There is a general willingness in the US to acknowledge that poverty and race are connected but there continues to be legislative and judicial resistance to affirmative action programs and policies, in particular quotas. While small percentage gains have been made to close the racial divide there still exists indisputable persistent and growing economic inequality between whites and racial minorities.
- ◆ We applaud the census bureau for its continued research in this area and urge for the streamlined collection of data disaggregated by race and gender in more areas of government including education and criminal justice. It is imperative that the public and advocates have access to data that looks beyond national averages to identify the most vulnerable subgroups.

⁴ Areas with Concentrated Poverty: 1999. CENSR-16. Issued July 2005. U.S. Census Bureau. pg. 1-6.

- ◆ The US must be reminded of its obligations under ICERD for redressing persistent discrimination and poverty. International law and human rights norms offer a normative framework for addressing these issues and we urge the US take urgent action on this matter.

ICERD National Implementation

- ◆ We continue to be concerned with the failure of the federal Government to ensure ICERD implementation in it's entire territory and propose that appropriate state departments work with states' human rights commission's and human rights organizations to realize this obligation. ICERD General Recommendation 17 recommends that State parties establish national commissions or other appropriate bodies to promote respect for the enjoyment of rights set out in Article 5. It is our recommendation that the US federal government create such a body expressly for this purpose. This institution would have in its name reference to the International Convention on the Elimination of All Forms of Racial Discrimination as a means to educate the public on its existence and clearly mark its purpose. This body would be comprised of both Office of Civil Rights staff and racial justice advocates. Establishment of such an institution or task force would fulfill obligations under ICERD Article 2(1)(c).
- ◆ In an effort to make states aware of their obligations under International Convention on the Elimination of Racial Discrimination we recommend that the office of the President issue an executive order clarifying states' obligations under ICERD and urge them to review their policies and practices for racial discrimination and impact.

Case Study: New York City Human Rights Initiative

The New York City Human Rights Initiative (NYCHRI) is a citywide coalition of community-based organizations, service providers, advocacy groups, policymakers, labor unions and human rights activists and educators working to strengthen human rights standards in the United States, particularly in New York City. We are part of a growing national movement seeking to advance awareness of, and respect for, human rights in all aspects of civil, political, economic, social and cultural life.

The NYCHRI was formed in mid-2002 after a number of local organizations working for social justice came together, embracing the vision and utilizing the tools of the human rights system, to tackle systemic problems of inequality in New York City. The NYCHRI now has over [90 coalition members](#), and continues to grow. The coordinating organizations of the NYCHRI include the [Women of Color Policy Network](#), [the Urban Justice Center's Human Rights Project](#), [the New York Civil Liberties Union](#), [Legal Momentum](#) (formerly NOW Legal Defense and Education Fund), [Amnesty International USA](#) and [the American Civil Liberties Union](#). 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](#). New York City's Human Rights Law prohibits discrimination in employment, housing, and public accommodations because of actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, whether children are, may be or would be residing with a person or conviction or arrest record.

Entitled the **Human Rights in Government Operations Audit Law** or **Human Rights GOAL**, the NYCHRI's proposed legislation expands on the current law, and emphasizes the centrality of good governance to ensuring human rights for all New Yorkers. Human Rights GOAL will equip our City 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.