

March 7, 2011

Committee on the Elimination of Racial Discrimination
78th Session, 14th of February-11th of March, 2011
Geneva

Re: Thematic Discussion in the Context of the International Year for People of African Descent

Dear Members of the Committee on the Elimination of Racial Discrimination:

The undersigned groups represent major civil and human rights organizations in the United States dedicated to the eradication of racial discrimination against people of African descent and other racial and ethnic minorities. People of African descent in the United States continue to face intentional, structural, and *de facto* forms of discrimination which manifest in unequal access to quality education, housing, health services, employment, electoral disfranchisement and discrimination in the criminal justice system, among many other issues. In the context of the International Year for People of African Descent,¹ we write to discuss the status of U.S. implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

As discussed below, in the past few years, the Committee and other U.N. human rights experts have provided specific and detailed recommendations advising the United States government of the need to address ongoing issues of racial discrimination through domestic implementation of human rights obligations, especially ICERD. Unfortunately, the Obama administration has yet to take concrete measures to fully implement the ICERD and other related human rights obligations, notwithstanding the administration's welcomed policy of reengagement on international human rights.

Specifically, we would like to call the Committee's attention to the lack of any progress to develop a specific plan of action based upon the Concluding Observations and Recommendations of the Committee to the United States in March of 2008. We strongly believe that without a comprehensive national plan of action to implement ICERD, we fear that at the time of the next reporting deadline and constructive dialogue (currently scheduled for Spring 2012), the U.S. government will have little progress to show regarding domestic human rights implementation.

Among other things, the Committee recommended that the United States take the following actions:²

¹ UN Resolution A/RES/64/169.

² In January 2009, the United States responded to the Committee's recommendations contained in its Concluding Observations and submitted additional information to the Committee. On September 28, 2009

- 1) “...establish appropriate mechanisms to ensure a coordinated approach towards the implementation of the Convention at the federal, state and local levels,”³ and
- 2) “...take all necessary steps to guarantee the right of everyone to equal treatment before tribunals and all other organs administering justice, including further studies to determine the nature and scope of the problem, and the implementation of national strategies or plans of action aimed at the elimination of structural racial discrimination.”⁴

The Committee’s detailed recommendations were followed by additional documentation completed by United Nations independent experts as part of official fact finding missions to the United States in 2008 and 2010. In his 2009 report to the Human Rights Council (HRC), the U.N. Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance noted the ongoing challenges that exist in the United States. He recommended that the U.S “reassess existing legislation in view of two main guidelines: addressing the overlapping nature of poverty and race or ethnicity; and linking the fight against racism to the construction of a democratic, egalitarian and interactive multiculturalism, in order to strengthen inter-community relations.”⁵

Last year, the U.N. Working Group of Experts on People of African Descent noted in a report submitted to the HRC on their visit to the United States “the ongoing structural discrimination that cannot be effectively addressed with the existing legal mechanisms and legislation[.]” and added that “there is no specific anti-discrimination act that would serve to guide the drafting and implementation of relevant federal, state and local laws.”⁶

While this Administration has shown its support for federal civil rights legislation and administrative action and signaled its commitment to domestic human rights issues generally, as mentioned above, the United States has still not yet adopted a national plan of action for implementation of the 2008 ICERD Recommendations; nor has the United States developed the interagency task force that would enable the development and implementation of a plan of action throughout the Executive Branch and in coordination with state and local governments. This lack of progress is disappointing and calls for further action from the Committee.

the Committee sent a letter to the United States acknowledging receipt of additional information and offering to assist the United States in its efforts to ensure the effective implementation of the Convention

³ CERD/C/USA/CO/6, para. 13.

⁴ CERD/C/USA/CO/6, para. 20.

⁵ *Report of U.N. Special Rapporteur Doudou Diène*, Human Rights Council, 11th Sess., Agenda Item 9, at 27 ¶ 98, U.N. Doc. A/HRC/11/36/Add3 (2009), available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.36.Add.3.pdf>

⁶ *Report of U.N. Work Group of Experts on People of African Descent*, Human Rights Council, 15th Sess., Agenda Item 9, at 19 ¶ 81, U.N. Doc. A/HRC/15/18 (2010), available at <http://www2.ohchr.org/english/issues/racism/groups/african/docs/A-HRC-15-18.pdf>

We commend the Committee for its longstanding work and fight against racial discrimination worldwide and especially its commitment to the promotion and protection of the rights of people of African descent. Moreover, we hope that the thematic discussion will lead to greater commitment and action by all countries, including the U.S. government, to translate their commitment to end racial discrimination into concrete laws and policies through a national plan of action for ICERD implementation with full and meaningful consultation with civil society and affected communities and collaboration with local and state governments.

We welcome the opportunity to assist the Committee in encouraging the U.S. government to fully comply with its obligations under the ICERD and we thank the Committee for all of its consideration in regards to this matter.

Sincerely,

American Civil Liberties Union
Amnesty International USA
Asian American Justice Center
Center for Constitutional Rights
Columbia Law School Human Rights Institute
Human Rights at Home Campaign
Human Rights Watch
Lawyers' Committee for Civil Rights Under Law
Leadership Conference for Civil and Human Rights
National Coalition-Black Women's Roundtable
National Economic and Social Rights Initiative
National Law Center on Homelessness & Poverty
Poverty & Race Research Action Council
Rights Working Group
Urban Justice Center
U.S. Human Rights Network
World Organization for Human Rights USA