

United States of America

Submission to the United Nations
Universal Periodic Review (UPR)

Ninth Session of the Working Group on the UPR
Human Rights Council
22 November – 3 December 2010

POLICIES OF STRUCTURAL RACISM AND THE PUBLIC SECTOR
State of Georgia – U.S. South

Submitted by the
Atlanta Public Sector Alliance (APSA)

1. The United States signed the United Nations Declaration of Human Rights, adopted by the U.N. on December 10, 1948. Everyone’s right to “equal access to public services” is expressed in Article 21. In addition, rights to freedom of movement (Article 13), health (Article 25), education (Article 26), and free participation in the cultural life of the community (Article 27) are specifically recognized.
2. The U.S. ratified the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) on October 21, 1994. Under CERD, Article 2, “Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.” Article 2 also states, “Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.”
3. In addition, Article 5 says the U.S. is obligated to “undertake to...eliminate racial discrimination in all its forms and to guarantee the right of everyone to equality before the law...[including] the right to public health, medical care, social security and social services” and “the right to education and training.”
4. The U.S. South has a long history of structural racism dating back to slavery and continuing forward with generations of apartheid segregation. As a result of the African-American freedom struggle of the 1960s, there has been an ascendance of African-Americans to positions of political leadership at the local level. Even so, governing powers at the state level still continue to carry out policies that maintain a system of structural racism. These policies violate both human rights and CERD principles. This report will focus on present day examples of non-compliance by the state government of Georgia. In particular, this report will examine the state’s unequal relationship to public institutions that represent the needs and interests of a majority African-American, Latino immigrant, and refugee population. Far-reaching structural reforms will be required to eliminate the racial disparities that currently exist.

Historic Underfunding of Metro Atlanta's Mass Transit Systems

5. Generations of structural racism are responsible for the historic under-funding of metro Atlanta's public institutions. A 2009 Georgia State University study found that the 10 metro counties contribute 51% of the state of Georgia's tax revenues but only get 37% of the state's spending in return.¹
6. According to research done by MARTA (Metropolitan Atlanta Rapid Transit Authority), 76% of the 500,000 daily transit riders are African American, 54% of whom are going to work. The average MARTA rider has an income of between \$25,000 and \$35,000 per year and is a working class, African American woman. Of twenty-eight major U.S. metropolitan areas studied, Atlanta had the second highest combined percentage of income on housing and transportation. 61% of working families' income is spent on housing and transportation in Atlanta. The average annual transportation cost for households with income between \$20,000 and \$50,000 in the Atlanta Metropolitan Statistical Area is \$10,890.
7. MARTA is the ninth largest transit system in the country and is the largest system in the U.S. that receives no operating help from the state.² While refusing to support the system, the state of Georgia exerts its control through a MARTA oversight committee and has four representatives on the Authority board.³ In addition, a state law unique to Georgia is currently in place that stipulates how the MARTA board spends its money with a restriction of 50 percent for capital expenses and 50 percent for operating expenses.
8. The under-funding of MARTA has led to a disparity in transit workers salaries compared to the national industry average. The majority of the members of the Amalgamated Transit Union Local 732 that represents MARTA workers are African-American. Despite being the ninth largest transit system, MARTA ranks 134th out of all transit systems in wages.
8. Lack of state support for transit has also contributed to the elimination of Atlanta suburban service in Clayton County on March 31, 2010. CTRAN provided 2.1 million trips a year to riders who were majority people of color. 60 percent of riders had a total household income of \$25,000 a year or less and 65 percent said they had no access to a car.⁴

1 "Georgia Often Sneers as Atlanta Struggles," Atlanta Journal-Constitution, October 19, 2009 <http://www.ajc.com/news/atlanta/georgia-often-sneers-as-165972.html>

2 Robert D. Bullard, "Highway Robbery" (2004), South End Press

3 "About MARTA – Board of Directors" <http://www.itsmarta.com/board-of-directors.aspx>

4 "Another Private Van Service Gets OK to Operate in Clayton," Atlanta Journal-Constitution, April 7, 2010 <http://www.ajc.com/news/clayton/another-private-van-service-442509.html>

9. However, the state of Georgia is paying \$28 million toward a \$121-million expansion of the Xpress bus system for more affluent white suburban commuters. 49 percent of Xpress bus riders reported a household income of \$75,000 or more, according to ridership surveys. The state is also subsidizing \$478,000 toward operating funds for Xpress, a figure expected to rise to \$1.6 million next year, according to the state government entity, the Georgia Regional Transportation Authority (GRTA), which runs the system.⁵
10. In November 2008, a committee of the Atlanta Public Sector Alliance, the Atlanta Transit Riders Union, filed a complaint with the Federal Transit Agency claiming that the metropolitan planning organization (Atlanta Regional Commission) and GRTA, are violating Title VI of the Civil Rights Act and the Presidential Order on Environmental Justice by using 70% congestion weighting in the transportation project selection process. This emphasis on congestion relief explicitly prioritizes the transportation needs of peak-hour, high volume corridor drivers, who tend to originate in higher income block groups, over the transportation needs of the transit dependent, low-income, people of color, elderly, disabled, and youth populations. It will have a disproportionate effect on minority and low-income populations.

Underfunding and discriminatory practices at Atlanta's public hospital

11. Atlanta's Grady Memorial Hospital is the largest public hospital in the Southeast U.S. It treats almost 1 million outpatients each year. The hospital serves a majority working class and poor African-American, immigrant and refugee population. The hospital had been governed by a public authority since 1941 which was responsible for the health system's operations. Greatly due to the historic lack of state support, the hospital has been in financial crisis in recent years. The Atlanta Chamber of Commerce led the taskforce that called for privatization of the hospital and a transfer of power to a non-profit board occurred in 2008.
12. The new hospital administration made a decision to close its dialysis clinic and on September 16, 2009 thirty-one undocumented immigrant dialysis patients filed a lawsuit to restrain the hospital from terminating their life sustaining dialysis care. The suit was dismissed.
13. On January 29, 2010, the Inter-American Commission on Human Rights requested that the U.S. government take action to ensure that all thirty-one have access to the care they need. Specifically, the Commission requested that the U.S. Government "instruct the competent authorities to take the urgent measures necessary to ensure that the [patients] have access to the medical treatment that may be required for their condition." The Commission further requests that the U.S. Government "adopt these measures in consultation with the patients."
14. With an assurance from Grady that they can receive services through August 2010, the patients are currently being served by a private sector corporation. This case has led to a broader discussion on racial disparities in health care reform with respect to undocumented immigrants and the obligation of the state of Georgia to respect, protect, and fulfill the human rights of all of Grady's patients.

⁵ "CTRAN Reaches End of the Line," Atlanta Journal-Constitution, March 29, 2010 <http://www.ajc.com/news/clayton/c-tran-reaches-end-416424.html>

16. In March 2010, the state government announced that it would cut 10 percent Medicaid provider reimbursements. This could lead to drastic consequences, including the closure of Grady Memorial Hospital. The historic lack of state support for a hospital that services predominately poor and working class people of color will continue to intensify with the current economic crisis in the U.S. and the Southern region, in particular.

Second Class Status of Historically Black Colleges and Universities (HBCUs)

16. On April 1, 2010, the Georgia chapter of the National Association for the Advancement of Colored People (NAACP) sued the state of Georgia. The Georgia NAACP has sued the state, claiming it has systematically underfunded its three public black colleges and threatened their survival as a result. The Legal Defense Coalition for the Preservation of Public Historically Black Colleges and Universities (HBCU), which is also supporting the lawsuit, published a 2008 report claiming the state violated the Civil Rights Act of 1964 and the 14th Amendment in its treatment of the three colleges.

17. According to the report, a lack of state funding has for decades hobbled the institutions and kept them from establishing professional programs on par with their mainstream counterparts in Georgia. As a result of systematic discrimination by the Board of Regents, the state's public black colleges have had second-class status and operated under de facto segregation. The coalition report also said none of Georgia's state black colleges are classified as research universities or offer professional degree programs and there is a disparity in funding for capital improvement projects at these colleges. 6

Recommendations: Providing Effective Education and Compliance Methods

18. The federal government of the U.S. must increase its enforcement efforts to identify and penalize violations of laws that prohibit discrimination on the basis of race and ethnicity, such as Title VI of the Civil Rights Act. The federal government must increase the capacity of federal agencies such as the Federal Transit Administration (FTA), provide it with the necessary staff and resources, and encourage it to correct disparities in the quality of transit access in metro Atlanta and other metropolitan areas.

19. Where they currently don't exist, the federal government should mandate the creation of human rights and civil rights commissions at the state and local level. These commissions would be empowered to initiate investigations, file complaints, and conduct studies to prevent and eliminate discrimination.

20. In terms of the current economic crisis, all levels of government should follow human rights guidelines and principles. There should be no disparity in the allocation of resources, especially when the state of Georgia's policy decisions disproportionately affect the transit

6 "NAACP Claims State HBCUs Have 2nd Class Status," WSB News, April 3, 2010
<http://wsbradio.com/localnews/2010/04/naacp-claim-state-hbcus-have-2.html>

dependent, low-income, people of color, elderly, disabled, and youth populations. The criterion of Maximum Available Resources means that governments cannot shrug off human rights obligations on the grounds of lack of resources. The ability of the government to raise revenues through an equitable system of taxation is essential for it to carry out its responsibilities with regard to social and economic rights.

21. An intensive program of human rights education should be developed and carried out at the state and local level so that all directly affected constituencies, in particular, will be able to learn and participate in the human rights process. This should include education about human rights principles, covenants, and the mechanisms to affect policy change.