



Center for Economic and Social Rights (CESR) individual submission to the Office of the High Commissioner for Human Rights on the occasion of the ninth session of the Universal Periodic Review December 2010

United States of America

A selective submission on compliance with economic, social and cultural rights obligations

I. Introduction

1. The Center for Economic and Social Rights (an ECOSOC accredited nongovernmental organization) hereby contributes this individual submission to the Office of the High Commissioner for Human Rights on the occasion of the Universal Periodic Review of the United States' fulfillment of its human rights obligations.

2. This submission focuses in particular on United States' compliance with its obligations in relation to the fulfillment and progressive realization of economic, social and cultural rights (ESCR). **The United States has signed but not yet ratified, the most important international treaties that protect economic and social rights, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women. In signing these treaties, the United States has already indicated an intention to be bound by their provisions in the future, and not to violate their objectives and purpose.** It has also ratified the International Convention on the Elimination of All Forms of Racial Discrimination and is therefore obligated to ensure equal treatment of racial and ethnic minorities with regard to social and economic rights. The United States' prominent role in the original drafting process of the Universal Declaration on Human Rights (UDHR) has also demonstrated its historical commitment to economic and social rights, which are included on an equal footing with civil and political rights in the declaration.

3. This submission presents and analyzes key data relating to the enjoyment of the rights to health, education, work and housing, as well as selected indicators that reflect the policy efforts of the state. The analysis highlights key areas of apparent failures by the United States to comply with the principles of progressive realization according to maximum available resources, prioritization of minimum core obligations and the duty of non-discrimination.

4. This submission provides a summary of CESR's Factsheet No. 11 on the United States, which draws together the most accurate and up-to-date data available from both national statistical sources and international organizations, particularly the World Bank and the Organization for Economic Cooperation and Development (OECD). International comparisons (ie. comparisons of the record and results of the United States compared with

other countries) are used where appropriate as they provide a useful benchmark of what has been achieved in other countries with similar levels of resources.

II. Key concerns regarding economic and social rights

i) Poor human rights achievements despite wealth of available resources

5. Despite being the world's wealthiest economy, social and economic indicators in the US are consistently lower than those of other high-income countries of the OECD. The US ranks lowest of 24 OECD countries in the Index of Economic and Social Rights Fulfilment, a composite index which combines a number of human development indicators relating to the right to health, education, food and decent work and compares a state's performance against the best outcome achieved internationally at the same level of resources, measured by GDP per capita (Randolph et al. forthcoming).

6. The United States is the world's wealthiest economy, yet one in five children live in poverty. The rate of child poverty (percentage of children living in poverty) is far higher in the United States than in other OECD countries with comparable income levels. According to OECD data from 2009(b), 20.6% of children live in poverty in the US, compared to 10.1% in the UK and only 2.7% in Denmark. This suggests a failure to guarantee the right of all children to an adequate standard of living, necessary for the child's physical, mental and social development.

7. More infants die before reaching age one in the United States than in any other comparable country. The number of infants who die in the United States during their first year is the highest level among OECD countries. Of great concern is the fact that more than twice as many African American infants die compared to white infants (CDC 2008) raising serious questions about the effectiveness of public policies to guarantee the right to health for all without discrimination on the basis of race or income.

8. Pregnancy rates among U.S. teenagers are far higher than in comparable countries. The adolescent fertility rate is 35.9 (births per 1,000 women ages 15-19), more than 10 points higher than the following country, the United Kingdom (24.1). This raises a concern that teens may lack access to adequate and appropriate reproductive health services and information, including contraception (Center for Reproductive Rights 2009).

9. Fifteen percent of the population had no health insurance coverage in 2007. Out of all OECD countries, only Mexico and Turkey have a larger proportion of people without health insurance. This number has risen in the current economic recession, as many people have lost job-based health care coverage when made redundant. A recent study shows that lack of health insurance coverage is associated with an estimated extra 45,000 deaths each year (Wilper et al. 2009), suggesting that the United States is failing to meet the core human rights obligation to ensure that healthcare and services are economically accessible to all without discrimination. , In addition, over half of poorer Americans go without healthcare due to costs. Around 52% of Americans with below-average income have to forego necessary medical care, miss medical tests, treatment, follow up or medicine doses because they cannot afford it. Even among Americans with above-average income, one-quarter report going without care due to high costs, including those who have health insurance. These rates are the highest among all OECD countries and are at least three times higher than in the UK.

ii) Striking inequalities in the realization of economic and social rights

10. Disparities in educational achievements between ethnic groups persist. There are wide gaps in educational achievement - while average reading scores of black and Hispanic/Latino students have slowly, though inconsistently, improved since 1975, wide gaps between these children and white children still remain. The gap in reading scores between white and non-white students was wider in 2008 than in 1988, suggesting that measures to accelerate the achievement of equality in education are urgently needed. Of serious concern is the fact that over 20 percent of Hispanic students drop out of high school, compared to only five percent of white students. Hispanic boys drop out of school at very high rate (24.7) compared to 8.8% of black boys and 6.0% of white boys. Such extreme disparities in high school completion rates, combined with the disproportionately high rate of expulsion, suspension, and exclusion of minority students from schools, points to a failure to make education accessible for minority students and appropriate to their needs (NESRI 2007).

11. The United States has one of the highest rates of maternal mortality among OECD countries with huge ethnic disparities. In 2006, 569 women died in pregnancy or childbirth, an average rate of 13.3 deaths per 100,000 live births. However, disaggregated data show that black women have a much higher risk of maternal death than white or Hispanic women (the maternal mortality rate for black women is 34.8 per 100,000 live births, compared to 9.1 among white women).

12. There exist big disparities in wage levels among ethnic groups and between men and women. Educated women earn on average one-third less than men, according to data from the US Department of Labor (2009a) on median weekly earnings of full time wage and salary workers with a BA or higher education. Even when hours, occupation, parenthood, and other pay-associated factors are excluded, women still earn less than men (AAUW 2007). Racial and ethnic minorities also suffer most from minimum-wage and overtime pay violations (Bernhardt et al. 2009). Very low wages mean that 10% of Hispanic/ Latino and black people live in poverty even when working, compared with about five percent and four percent of white and Asian workers, respectively (U.S. Department of Labor 2009b). The situation is worst for black working women, more than 11 percent of whom live below the poverty line (income less than \$21,756 for a family of four in 2009). This suggests that wages are too low to ensure an adequate standard of living.

13. Predatory lending practices threaten right to housing of minority communities. The mortgage crisis has had a disproportionate impact on black and Latino communities. Research indicates that predatory and unsustainable “subprime” mortgage loans were often targeted primarily at African-American, minority and elderly homeowners, irrespective of their credit scores. Around 50 percent of African-American and Latino borrowers received such loans compared to just one in six whites. The collapse of these loans triggered the global economic crisis and has left thousands of minority families and individuals in the United States facing foreclosure and loss of their homes (NCFHEO 2008).

iii) Insufficient efforts to reduce inequality and realize rights with the available resources

14. Extreme income inequalities are at the root of poor human rights achievements. The United States has the widest income disparities of any comparable OECD country. The richest 10 percent of the population earns 16 times more than the poorest 10 percent. The

income gap is almost four times wider than that of the second wealthiest economy, Japan. Research shows that there is a strong correlation between income inequality and poor economic and social rights outcomes in developed countries. The greater the level of income inequality, the worse countries tend to perform in terms of health, education and other social indicators. The United States' comparatively poor human rights outcomes, despite high average income levels, can be attributed in part to its extreme income disparities. The same pattern has been observed among U.S. states (Wilkinson and Pickett, 2009).

15. U.S. social programs are relatively ineffective at reducing inequality. According to the OECD, social programmes in the United States have a much smaller impact on reducing inequality, than the more redistributive social programmes in other developed countries such as Sweden (see data in the factsheet). The United States has the second-lowest rate among OECD countries of redistributive programmes, such as cash transfers can reduce poverty, break the inter-generational transmission of poverty, and ensure all members of the population can realize their economic and social rights.

16. Low public expenditure on health limits the realization of the right to health. The United States places a much greater reliance on the private sector and on individuals to fulfil the right to health than other comparable countries (Balakrishnan et al. 2008). Although total health expenditure is high in the United States (as a proportion of GDP), a high proportion of this health expenditure comes from private sources. The United States and Mexico are the only OECD countries where public expenditure accounts for less than half of total spending, compared to around 80 percent in the UK and Japan. Unlike most rich OECD countries, the U.S. health system does not have a universal public health insurance program. This can become even more problematic when even those covered by health insurance do not necessarily get the care they need as private health insurance companies reject a large proportion of insurance claims.

17. The United States spends far more than other OECD countries on defense, and less on social programs. While the U.S. government spends the most among OECD countries on defense as a percentage of GDP, it spends among the least on the social sector. U.S. government social spending (15.9%) is below the average for OECD countries of 20 percent of GDP. Yet the United States also spends more than double (6.3) the OECD average (3.0) on defense spending. The gap in spending priorities has grown over time. Defense spending doubled between 2001 and 2009, from \$306 billion to \$656 billion. Spending on Social Security (public pensions), meanwhile, rose by just 50 percent in the same period, from \$429 billion to \$678 billion (Baker 2010). Such contrasts in spending priorities suggest that the U.S. government is not devoting the maximum of available resources to the realization of the economic and social rights of all members of the population.

III. Recommendations

18. CESR urges the members of the Human Rights Council participating in this Review session to raise the above concerns in their interactive dialogue with representatives of the government of the United States and to call on the government, in particular, to:

- Ratify the International Covenant on Economic, Social and Cultural Rights, as well as sign and ratify the newly adopted Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, allowing individual complaints of alleged

violations of these rights to be presented before the Committee on Economic, Social and Cultural Rights.

- Addressed the above concerns and give urgent priority to ensuring that the maximum available resources are devoted to realizing progressively the basic economic and social rights of the whole population, without discrimination, by bringing budgetary, fiscal and social policies and priorities into line with key international human rights principles.
- Establish an effective and inclusive process to follow up on the recommendations emerging from the universal periodic review.

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