

**Report to the
United Nations Human Rights Council
as Part of the Universal Periodic Review of the United States
Regarding**

**The On-Going Failure of the United States
to Make Known and Implement the
Ratified Human Rights Treaties
Via
An Effective, Unified Mechanism
Charged and Authorized at the Federal Level to Do So**

March 19, 2010

Submitted by

Maria Iñamagua Campaign for Justice

Summary: During the four years that are under review in the Universal Periodic Review, the United States has continued to default on the obligations it has undertaken to implement the human rights treaties it has ratified by propagating the purposes and principles of these treaties and to see that all levels of its government (federal, state, and local) understand their obligations under these ratified treaties and fulfill them.

I. Review of Federal Obligations to Make Known and Implement the Ratified Human Rights Treaties

A. Regarding the federal government's obligation to make the ratified human rights treaties known

Each of the Big Three ratified human rights treaties (the International Convention on the Elimination of All Forms of Racial Discrimination or ICERD, the Convention Against Torture or CAT, and the International Civil and Political Rights or ICCPR) contain language taking on the obligation to make the ratified human rights treaties known. For example, Part I, Section VII of the ICERD states:

States Parties undertake to adopt immediate and effective measures, . . . , with a view . . . to propagating the purposes and principles of . . . this Convention [on the Elimination of All Forms of Racial Discrimination].

B. Regarding the federal government's obligation to see to it that these various levels of government (federal, state, and local) having with responsibility to implement these treaties, understand their obligations and fulfill them

When, for example, the US Senate ratified the ICERD in 1994, it stated:

The Senate's advice and consent is subject to the following understanding, which shall apply to the obligations of the United States under this Convention:

That the United States understands that this Convention shall be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered therein, and otherwise by the state and local governments.

To the extent that state and local governments exercise jurisdiction over such matters, the Federal Government shall, as necessary, take appropriate measures to ensure the fulfillment of this Convention.¹

¹ Declaration of the United States Senate when it ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) October 21, 1994. See <http://www1.umn.edu/humanrts/usdocs/racialres.html>.

When it ratified the other two of the BIG THREE human rights treaties (the CAT and the ICCPR), the Senate used similar language, undertaking similar obligations.²

II. False Starts to Propagate and Implement the Ratified Human Rights Treaties at the Federal Level

In the course of our work in the **Maria Iñamagua Campaign for Justice** we came upon Executive Order 13107 (December 10, 1998) and our hearts leapt up. Finally, some leadership language from the top that not only acknowledged the existence of the ratified Human Rights Treaties but established a mechanism within the federal government, the **Human Rights Treaties Interagency Working Group**, charged with the task of incorporating the human rights commitments into daily government practice in federal agencies.

In its 2001 Final Comments, the CERD also took an interest in Executive Order 13107 and the **Human Rights Treaties Interagency Working Group** created under it. The CERD specifically asked the US to report on the powers of the **Human Rights Treaties Interagency Working Group** and the **impact** of its activities during the next review of US compliance with the ICERD.

Unfortunately, in its 2007 report to the CERD regarding compliance with the ICERD, although the State Department reported that the **Human Rights Treaties Interagency Working Group** “**continues to function**” it could provide no information about what the **Human Rights Treaties Interagency Working Group** did to raise the awareness of rights and obligations among federal officials and no information regarding its impact, i.e. achievements in raising that awareness. Instead, the State Department’s 2007 ICERD Report (Paragraph 352) listed a number of activities that are 1) not directed at raising federal officials’ awareness of Human Rights Treaty obligations of federal officials and 2) not within the mission of the Interagency Working Group created and charged by Executive Order 13107.

Far worse, however, the State Department’s report to the CERD was false: the **Human Rights Treaties Interagency Working Group** did not, in fact “continue to function” because on February 13, 2001, President Bush in his National Security Presidential Directive #1 issued (NSPD-1), had abolished the existing system of Interagency Working Groups (including the Interagency Working Group created by Executive Order 13017) and transferred the duties of the abolished **Human Rights Treaties Interagency Working Group** established in E.O. 13107 to the Policy Coordinating Committee on Democracy, Human Rights, and International Operations.

It does not appear that the Policy Coordinating Committee on Democracy, Human Rights, and International Operations, the body to which the duties of the abolished **Human Rights Treaties Interagency Working Group** were transferred by NSPD-1, has executed any of these duties. Attempts to secure any information from the Policy Coordinating Committee on Democracy, Human Rights, and International Operations regarding its status, responsibilities, composition, activities and achievements have been unsuccessful. See copies of two requests, attached.

III. Promising But Unfulfilled Beginning of Senate Oversight of Human Rights Treaty Implementation

On December 16, more than 15 years after the ratification of the ICERD, CAT, and ICCPR,

² Statement of the United States Senate when it ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 21 Oct 1994 and Statement of the United States Senate when it ratified the International Covenant on Civil and Political Rights (ICCPR) June 8, 1992.

2009, the Senate Judiciary Subcommittee on Human Rights and the Law held Congress's first-ever hearing regarding the implementation of the ratified human rights treaties. The hearing bore a very promising title: **The Law of the Land: U.S. Implementation of Human Rights Treaties**. On extremely short notice, 41 organizations filed testimonies before the hearing and 27 additional testimonies were filed as the record stayed for a week. The hearing was standing room only in the room. Both of these established a new record – the highest number of testimonies or attendees for any hearing of this Subcommittee. Among the multiple issues of non-compliance and non-implementation brought before the Committee was the fact that the **Human Rights Treaties Interagency Working Group** created by Executive Order 13107 in 1998 had been abolished in 2001 and that the Policy Coordinating Committee on Democracy, Human Rights, and International Operations appeared to be inactive on these duties.

Despite this bright, if tardy, beginning, there has been no known follow-up from the Senate Committee to the identified instances of non-compliance to promote actual implementation of the ratified human rights treaties. And, as indicated, the Policy Coordinating Committee on Democracy, Human Rights, and International Operations remains mute as to its status, responsibilities, composition, activities and achievements.

IV. Conclusion and Recommendations

Because an effective, unified effort at the federal level is critical to the US meeting its obligations under the ratified human rights treaties to make these treaties known and to implement them at all levels of government (federal, state, and local), we hope that the US State Department will take the opportunity presented by the UPR to submit a candid report regarding the status, responsibilities, composition, activities and achievements of the Policy Coordinating Committee on Democracy, Human Rights, and International Operations. Such a report would provide a basic starting point for creating a mechanism at the federal level capable of making substantial progress toward making the Senate hearing title meaningful: **The Law of the Land: U.S. Implementation of Human Rights Treaties**.

We note that the NSPD-1 that abolished the **Human Rights Treaties Interagency Working Group** and created the Policy Coordinating Committee on Democracy, Human Rights, and International Operations directs the chairperson and executive secretary of every Policy Coordinating Committee to routinely create several documents that would easily document any activity and achievements: e.g., the schedule of its meetings, agendas, record of action taken and tasks assigned. We request, therefore, that if the State Department does not provide these documents, that the UN Human Rights Council conducting this UPR request the State Department to do so or explain why they do not exist.

END

From: Peter Brown [mailto:peterb3121@hotmail.com]

Sent: Sunday, March 02, 2008 10:21 PM

To: michael_g_kozak@nsc.eop.gov; christopher_n_camponovo@nsc.eop.gov

Cc: Kovar, Jeffrey D (KovarJD@state.gov)

Subject: Work of the Policy Coordinating Committee (PCC) on Democracy, Human Rights, and

International Operations

Dear Mssrs. Kozak and Camponovo:

Re: Work of the Policy Coordinating Committee (PCC) on Democracy, Human Rights, and International Operations

Mr. Jeff Kovar very kindly identified you as the relevant contact persons regarding the work of the former Human Rights Treaties Interagency Work Group, (the work group established by Executive Order 13107) that was transferred to the Policy Coordinating Committee (PCC) on Democracy, Human Rights, and International Operations when the Human Rights Treaties Interagency Work Group was abolished by National Presidential Security Directive #1 (NPSD-1), February 13, 2001.

First, could you send a list of the members of the Human Rights Treaties Interagency Work Group before it was abolished by NPSD-1, as well as a list of the current members of the PCC on Democracy, Human Rights, and International Operations, or indicate where that information is currently available to the public online?

Second, we are very interested to learn how the work of the former Human Rights Treaties Interagency Work Group has been continued under the Policy Coordinating Committee (PCC) on Democracy, Human Rights, and International Operations and whether you believe the goals of the former Human Rights Treaties Interagency Work Group have been achieved by the PCC on Democracy, Human Rights, and International Operations in the intervening years.

Copies of items that NPSD-1 requires the chairperson and executive secretary of each PCC to create should suffice to fill in that picture: the schedule of meetings, agendas, record of action taken and tasks assigned. Please send copies of these items or indicate where they may be found online.

Related to that, could you please put me on the service list for the future activities of this PCC, such as meeting notices, agendas, meeting minutes, etc.

Third, if the mission or goal of the PCC on Democracy, Human Rights, and International Operations has been stated (e.g. charge to committee, mission statement, etc.) please send a copy or indicate where the public may find it online.

Fourth, if you are aware of any reports (either by the former Human Rights Treaties Interagency Work Group before it was abolished or by the PCC on Democracy, Human Rights, and International Operations) documenting that any of the goals of the former Human Rights Treaties Interagency Work Group have been achieved, please send copies of any such reports or indicate where the public may find them online.

From: **Peter Brown** (peterb3121@hotmail.com)

Sent: Mon 4/12/10 5:26 PM

To: michael_g_kozak@nsc.eop.gov; christopher_n_camponovo@nsc.eop.gov

Cc: kovarjd@state.gov

Mssrs. Kozak and Camponovo:

Re: Renewed Request for Information & Documentation re: Policy Coordinating Committee (PCC) on Democracy, Human Rights, and International Operations

In the context of the current Universal Periodic Review of US fulfillment of its obligations to implement its human rights treaty obligations, I am renewing the requests I sent you on March 3, 2008 (copy attached), with the additional request that you update the materials requested to the date of your response regarding the status, responsibilities, composition, activities and achievements of the Policy Coordinating Committee (PCC) for Democracy, Human Rights, and International Operations, the nominal successor to the Human Rights Treaties Interagency Working Group which was established December 10, 1998 in Executive Order 13107 (<http://www.fas.org/irp/offdocs/eo13107.htm>) and abolished by National Security Presidential Directive #1 issued February 13, 2001 (SD-1) which stated:

[quotation omitted for space considerations]

To date, you who have been identified as the relevant contact persons regarding the work of the Policy Coordinating Committee (PCC) on Democracy, Human Rights, and International Operations have not provided the information I have requested nor replied in any other way to my message, but I am hopeful that you will do so at this time.

As you know, coordinated and thorough implementation of the ratified human rights treaties at the federal level is a basic obligation that the US undertook when it ratified the International Convention for the Elimination of All Forms of Racial Discrimination (ICERD, the Convention Against Torture (CAT), and the International Covenant on Civil and Political Rights (ICCPR). To illustrate, in ratifying the ICERD, the US Senate stated:

[quotation omitted for space considerations; see Declaration of the United States Senate when it ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)— October 21, 1994 at <http://www1.umn.edu/humanrts/usdocs/racialres.html>.]

The Senate adopted similar understandings when it ratified the CAT and the ICCPR.

[text omitted for space considerations]

Therefore, I further request that you take the opportunity presented in the formal report that the US will be submitting this summer as part of the Universal Periodic Review to address in detail the status, responsibilities, composition and activities of the Policy Coordinating Committee (PCC) for Democracy, Human Rights, and International Operations and to document your discussion with the materials I am requesting here, updated of course to the date of the Report.

Thank you for your attention to this matter. I look forward to receipt of the materials re-requested herein and to your discussion of this subject in your UPR Report.