



LIST OF ISSUES SUBMISSIONS
COMPILED BY THE US HUMAN RIGHTS NETWORK
(ON BEHALF OF MEMBER AND PARTNER ORGANIZATIONS)

TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

DECEMBER 27, 2012

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About this Submission

Since the release of the United States Fourth Periodic Report Concerning the International Covenant on Civil and Political Rights (ICCPR), social justice and human rights groups in the United States have been keen to provide feedback to the United Nations Human Rights Committee.

In its report, the U.S. Government has sought to highlight achievements made in advancing civil and political rights by outlining new laws and policies enacted under the Obama Administration, and providing an update on increased enforcement of existing laws. While we have witnessed a notable break from the practices of the previous administration, there is very little substantive improvement in the status of civil and political rights to date.

As such, the US Human Rights Network (USHRN) has been working with its members and partners since January 2012 to bring attention to the Fourth Periodic Report, and to coordinate a response by domestic human rights groups to the report. In early 2012, USHRN formed an ICCPR Taskforce, which brings together a wide range of grassroots activists, legal advocates, and human rights scholars, to coordinate outreach and civil society participation in the review of the U.S. Government by the Human Rights Committee. Members of the ICCPR Taskforce are listed at the end of this section.

The ICCPR Taskforce is pleased to present feedback from 47 organizations, all of which are listed in this submission. Other partners have and will be submitting separate reports that complement this submission. The ICCPR Taskforce views this submission as the initial phase of what we hope will be a collaborative and ongoing process of civil society participation in the review of the U.S. Government by the Committee.

This submission is divided into three main parts. The first part contains this introduction and a list of the participating organizations in alphabetical order. The second part contains annotated summaries of issues presented in each submission, the names of the reporting organizations, and recommended questions for the Committee's convenience and ease of reference. The third part contains the 29 actual submissions presented by the organizations. Please note that each submission is presented in the order in which they appear in the annotated summaries, and is named for their primary reporting organization.

Some submissions are presented unilaterally, while others are submitted collectively. Some organizations have also opted to make more than one submission for separate issues, which might fall under the same right or a different group of rights. It is important to note that while the submissions contained herein are bundled together, the views and opinions expressed are not necessarily widely agreed upon or acknowledged by all the groups. The submitting organizations remain the sole parties responsible for the content of their submission.

If the Committee has any questions or recommendations for future submissions, we will be delighted to receive them directly at the US Human Rights Network. Please do not hesitate to contact our Executive Director, Ejim Dike, at edike@ushrnetwork.org or 404.588.9761.

Members of the USHRN ICCPR Taskforce

Jamil Dakwar/American Civil Liberties Union (ACLU) (co-chair);
Sarah Paoletti/University of Pennsylvania Law School (co-chair);
Aadika Singh/Rights Working Group;
Efia Nwangaza/Malcolm X Center for Self-Determination;
Chief Gary Harrison/Chickaloon Village;

Jennifer Prestholdt/Advocates for Human Rights;
Katrina Anderson/Center for Reproductive Rights;
Kimi Lee/Excluded Workers Congress;
Latrina Kelly-James/Junta for Progressive Action;
Lauren E. Bartlett/Center for Human Rights and Humanitarian Law, American University Washington
College of Law;
Mary Gerisch/Vermont Workers Center;
Nasrina Bargzie/Asian Law Caucus; and
Tina Minkowitz/Center for the Human Rights of Users and Survivors of Psychiatry

List of Participating Organizations (47)

The Advocates for Human Rights
American Muslims for Palestine
Asian Law Caucus
Avon Global Center for Women and Justice at Cornell Law School
Biernberg Pierce and Partners
Border Movement for Human Rights
Border Network for Human Rights
Breakthrough
The Center for Constitutional Rights
The Chicago Alliance Against Racist and Political Repression
Chicago Anti-Eviction Campaign
Chicago Independent Human Rights Council
Columbia Law School Human Rights Institute
The Consumer Travel Alliance
Cornell International Human Rights Clinic
Council on American Islamic Relations
Fight for Driver's License Campaign
The Identity Project
Indian Law Resource Center
The International Association of Official Human Rights Agencies
Jericho Movement for Amnesty & Freedom of All U.S. Political Prisoners
Junta for Progressive Action
Loyola University New Orleans College of Law
Malcolm X Center for Self-Determination
Maryland Legal Aid Bureau
Media Mobilizing Project
Midwest Coalition for Human Rights
Migrant Justice
National Center for Access to Justice
National Coalition for a Civil Right to Counsel
National Employment Law Project
National Law Center on Homelessness and Poverty
National Lawyers Guild, International Committee
New Orleans Worker Center for Racial Justice
Northeastern School of Law Program on Human Rights and the Global Economy
The Poverty & Race Research Action Council
Rights Working Group
Southern Poverty Law Center's Immigrant Justice Project
Stuart H. Smith Law Clinic and Center for Social Justice
Students Uniting Nations for Human Rights
Suffolk University Law School, Indian Law and Indigenous Peoples Clinic
UC Irvine School of Law International Human Rights Clinic
United Workers Congress
University of Chicago Law School International Human Rights Clinic
Vermont Worker Center
Worldrights
Yale Law Allard K. Lowenstein International Human Rights Law Clinic

Annotated Summaries of Submissions by Issue Area

A. Self-Determination

1. List of Issues Regarding Compliance by the United States Government with the International Covenant on Civil and Political Rights

Reporting Organization(s):

Indian Law Resource Center

Issue Summary:

Report addresses violations of Indigenous peoples' rights to self-determination and self-government and their right to equal protection of the law. It details several violations, including violence against Native women, denial of equal protection by federal courts, the legal status of treaties between Indian nations and the U.S. Government, and the right to travel, among other issues.

Recommended Questions:

- (1) Why does the United States continue to restrict tribal governments from governing their own lands, specifically in securing public safety and freedom from violence for indigenous women?
- (2) How does the United States ensure consistency between its laws and policies and present international human rights law, including but not limited to the UN Declaration on the Rights of Indigenous Peoples?
- (3) How are the United States' restrictions on travel by Indigenous peoples within their own homelands consistent with Article 12 of the Covenant?

2. The Rights of Indigenous Peoples in the United States of America: Duty to Consult and the Right of Self-Determination

Reporting Organization(s):

Suffolk University Law School, Indian Law and Indigenous Peoples Clinic

Issue Summary:

Report addresses problems relating to the recognition and respect of Native lands and natural resources. It details specific cases involving extractive industries that have ravished natural resources and sacred sites, as well as other harmful impact. It also gives an account of the impact of these violations in specific regions of the U.S.

Recommended Questions:

- (1) How is the United States ensuring that each level of government, including federal, state, local and municipal, is meeting their legal obligations to consult with indigenous peoples on

- matters that may affect them, including obtaining their consent with regards to activities that would have a significant impact on indigenous peoples lands and natural resources?
- (2) What measures is the United States using to establish a greater awareness and respect for indigenous cultures and customs, in particular religious beliefs and ceremonies, so as to combat the destruction of sacred sites?
 - (3) Provide information on how Indian tribes, especially those located in New England, are treated under federal and state laws setting their land claims especially with regards to their ability to exercise their self-determination and self-governance.

B. Counter-Terrorism Measures and Respect of Covenant Guarantees

3. The United States of America's Compliance with the International Covenant on Civil and Political Rights (ICCPR) with Respect to the Continued Detention of Prisoners Cleared for Release at Guantanamo

Reporting Organization(s):

Biernberg Pierce and Partners

Issue Summary:

Report focuses on the continued unlawful detention and treatment of individuals at Guantanamo Bay who have been "cleared for release" and face no legal proceedings. It details the new and continuing violations faced by these individuals and their families, including cruel, inhuman and degrading treatment or punishment, withholding of legal processes and access to lawyers, and unlawful separation from family, among others.

Recommended Questions:

- (1) On what basis is the detention of the 55 detainees at Guantanamo "cleared for release" maintained?
- (2) Does the U.S. accept that the detention of these men (many for more than 10 years), alongside the fact that they have been cleared for release, amounts to torture, contrary to Article 7 of the ICCPR?
- (3) Does the US accept that the continued detention of these 55 men cleared for release is in contravention to ICCPR Article 9 (right to liberty), Article 10 (right to humane treatment), Article 14 (right to fair trial), and Article 26 (equality before the law)?
- (4) Does the US accept that the continued detention of these men renders effectively meaningless any review of their detention pursuant to Executive Order 13567, and is further in express contravention of the Order's requirement that the review process be implemented "consistent with applicable law"?

C. Equal Protection of Rights in the Covenant

4. U.S. Policies and Discriminatory Practices in Public Servicing that Violates the Human Rights of African Americans and Minorities Utilizing Public Housing, Healthcare, and Education Systems.

Reporting Organization(s):

Chicago Independent Human Rights Council
Students Uniting Nations for Human Rights
Chicago Anti-Eviction Campaign

Issue Summary:

Report outlines the ways in which federal and state policies work to unfairly target African American and other minority groups, leading to devastating consequences in their ability to benefit from needed public services such as housing, healthcare, and education. It looks specifically at how local law enforcement practices use non-criminal offences, such as drug possession, to carry over into other areas such as access to public housing. It also points to the ways in which these practices have rippling effects for the individual, family, and community.

Recommended Questions:

- (1) What does the U.S. plan to do to rectify this gross contradiction of U.S. federal policies and practices of de facto demolition, displacement and divestment of public services (public housing, public education, public health) amidst a national social and economic crisis?
- (2) Please advise the Human Rights Committee as to the steps, including economic and legislative, being taken by the U.S. Government to respect, protect and fulfill its obligations to ICCPR.
- (3) What is the United States Government doing to ensure that government have in place housing, healthcare, and welfare programs in the event of another economic crisis?

5. The Federal Role in Respecting and Ensuring Covenant Rights at the State and Local Level

Reporting Organization(s):

Columbia Law School's Human Rights Institute
The International Association of Official Human Rights Agencies

Issue Summary:

Report addresses the lack of coordination among federal, state, and local governments needed to respect, protect, and implement international human rights standards. It points to the lack of a human rights infrastructure, funding, and monitoring resources needed for agencies and officials to fulfill their potential as partners in human rights implementation.

Recommended Questions:

- (1) Please describe the educative, legislative, policy and other measures taken by the United States to ensure that state and local agencies and officials have the capacity to respect and ensure the provisions of the ICCPR and the Concluding Observations and specifically describe how the federal government effectively incorporates these standards into communication with state and local agencies and officials to foster greater awareness of and compliance with human rights standards.
- (2) What measures has the United States taken to create institutionalized and transparent mechanisms to monitor and implement human rights at federal level, state and local levels in order to ensure a coordinated approach to raising awareness of treaty provisions; to disseminate information on implementation; and to provide financial resources and support to foster human rights compliance?

6. Federal Anti-Immigration Policy and its Correlation to Racial Profiling within Law Enforcement

Reporting Organization(s):

Junta for Progressive Action

Issue Summary:

Report focuses on federal anti-immigration policy, specifically the Secure Communities program, and its correlation to racial profiling of Latino communities by state and local law enforcement. Despite widespread opposition to the program and clear evidence that it contributes to unjust racial profiling and detaining by law enforcement, the U.S. still continues to escalate the program.

Recommended Questions:

- (1) With the plethora of information and data that supports Secure Communities as a mechanism for racial profiling, when will the U.S. Government abandon the policy and reexamine its detention and deportation methods?
- (2) How does the U.S. government justify continuing and expanding the 287g program after its own Department of Justice provided evidence of its failure to fulfill its goals, and its prevalence to racial profiling?
- (3) What is the status of the End Racial Profiling Act (ERPA)? How has the U.S. government promoted its passage?

7. Denial of Driver's Licenses to Undocumented Immigrants as a Barrier to Human Rights in the United States

Reporting Organization(s):

Media Mobilizing Project, Fight for Driver's License Campaign (PA)
Advocates for Human Rights (MN)
Border Network for Human Rights (NM, TX)
Breakthrough (NY)
Center for Constitutional Rights (NY)

Junta for Progressive Action (CT)

Migrant Justice (VT)

Southern Poverty Law Center's Immigrant Justice Project, Dan Werner, Deputy Legal Director (AL, AR, GA, KY, LA, MS, NC, SC, TN)

Issue Summary:

Report focuses on the denial of driver's licenses to persons of undocumented status as a new tool of policing immigrant communities. It details how implementation of these laws at the federal and state levels contribute to violating the rights to freedom of movement, to privacy, and to family unity, and how it further endangers individual's lives.

Recommended Questions:

- (1) What steps is the U.S. Government taking to ensure that laws denying driver's licenses are not being used in a manner that discriminates against immigrant communities?
- (2) What steps is the U.S. Government taking to ensure protection of the right to privacy when members of immigrant communities encounter law enforcement officers during traffic stops?
- (3) What steps is the U.S. Government taking to protect family unity and the right to family life—including, but not limited to parental participation in education, extracurricular activities, securing medical care, and religious life—in its implementation of immigration policies and practices?
- (4) What positive measures is the U.S. Government taking to secure the right to life for all people within U.S. territories in context of the barriers to accessing necessary medical care created by laws denying driver's licenses?

8. Human Rights Violations Against Immigrant Worker Civil, Labor, and Human Rights Defenders

Reporting Organization(s):

New Orleans Workers' Center for Racial Justice

United Workers Congress

Stuart H. Smith Law Clinic and Center for Social Justice, Loyola University New Orleans College of Law

Issue Summary:

Report focuses on the rapid expansion of federal immigration enforcement efforts, which has resulted in the unnecessary detention, incarceration, and deportation of record numbers of immigrants. It is especially concerned with the ways in which increased collaboration between federal immigration officials and state and local law enforcement has further marginalized immigrant communities and threatened individuals' safety.

Recommended Questions:

- (1) In June 2011, director of Immigration and Custom Enforcement (ICE), John Morton issued two memoranda to ICE personnel on the use of discretion in immigration enforcement (the "Morton memoranda"). They direct ICE attorneys and employees to refrain from pursuing individuals with strong ties to the United States, and those "involved in non-frivolous efforts related to the protection of their civil rights and liberties." Instead ICE officials are to focus

- their efforts on persons who pose a serious threat to national security and public safety, and individuals with an “egregious record of immigration violations.”
- a. Please provide an update on the effect of these memoranda on U.S. immigration enforcement policy. How does the United States ensure uniform compliance with these directives by personnel in ICE’s regional and local offices?
 - b. What kinds of training and oversight mechanisms are in place to ensure that ICE personnel properly exercise discretion under the Morton memoranda? What channels of redress are available when they do not?
- (2) The United States has created an Office of Civil Rights and Civil Liberties in the Department of Homeland Security, which is tasked with addressing complaints involving abuses of civil rights, civil liberties, and discrimination on the basis of race, ethnicity, and national origin, by employees or officials of the Department of Homeland Security, which includes the Bureau of Immigration and Customs Enforcement.
- a. What role does DHS Office for Civil Rights and Civil Liberties play in enforcement of the protections for victims of civil rights and labor violations?
 - b. Please update the Committee as to the kind of complaints most commonly received by the CRCL and their resolution. What enforcement mechanisms does the CRCL have to end ongoing violations?
 - c. How does the United States ensure that documented and undocumented immigrants can report civil, constitutional, and human rights violations, particularly against government officials, without experiencing retaliation? How does the United States ensure that immigrants receive due process of law on claims of civil, constitutional and human rights violations made to DHS-CRCL without fear of deportation? What redress is available for persons who experience retaliatory action by DHS or its sub-agencies as a result of reporting a rights violation? What steps does DHS take to ensure they are not detained and/or deported while their claims are being investigated?
 - d. How is information gathered through investigations shared within DHS and its sub-agencies? What protections exist to ensure confidentiality for participants in the process?
- (3) The 287(g) Program authorizes local law enforcement to perform certain immigration functions traditionally done by the federal government. The Program also has been the source of numerous reported civil, constitutional, and human rights violations. The United States reports that it is engaged in a number of training efforts to ensure that this program operates in a way that is consistent with constitutional and human rights standards. Please update the Committee as to the impact of these training programs on the incidence of civil and human rights violations affecting immigrant communities.
- (4) During the Universal Periodic Review of 2010, the United States addressed continuing concerns over its migrant detention practices. In its report for the Fourth Periodic Review, the United States reports the creation of the Office of Detention Oversight, which is charged with independently verifying the inspection of detention facilities, according to national detention standards.
- a. Please update the Committee as to the success of these oversight mechanisms in improving detention conditions, particularly in private facilities. Do these Offices also play a role in redressing individual reports of problematic detention conditions? How does the United States ensure that migrants in detention can receive individual redress for civil and human rights violations, beyond merely filing complaints with oversight entities? How does the United States ensure protections from retaliation for detainees who file complaints while in custody?
 - b. Civil society groups continue to report detention conditions that are dangerous to the health and safety of detainees; over-reliance on detention of individuals including women, children, and asylum seekers; and punitive actions against detainees including the use of solitary

- confinement. How is the United States responding to these continuing concerns from civil society?
- (5) DHS and the Department of Labor have a Memorandum of Understanding designed to ensure that immigration and labor rights enforcement activities do not conflict. Pursuant to this Memorandum, ICE agreed to refrain from engaging in civil worksite enforcement activities at a worksite that is under DOL investigation, and further committed to evaluating requests from employers to ensure that they are not “motivated by an improper desire to manipulate a pending labor dispute, retaliate against employees for exercising labor rights, or otherwise frustrate the enforcement of labor laws.”
 - (6) Please update the Committee as to the progress in implementing the protections in this Memorandum. Specifically, please explain what training is in place at the national, regional, and local level to ensure that ICE employees and officials are aware of their obligations under the Memorandum and describe the standards by which DHS evaluates employer requests under the Memorandum. Please provide documentation as to the number of times DOL has asked for protections for workers and DHS’s response.

D. Equal Protection of Men and Women

9. Suggested List of Issues Relating to Violence Against Women, Submitted by The Advocates for Human Rights, a non-governmental organization in special consultative status

Reporting Organization(s):

The Advocates for Human Rights

Issue Summary:

Report addresses the fact that in the face of clear and irrefutable evidence of the existence of and increase in acts of intimate partner violence against women, there is little action to reauthorize the federal Violence Against Women Act (VAWA). It points to the need for such reauthorization and additional measures in light of how particular groups of women and children are disproportionately impacted by domestic violence.

Recommended Questions:

- (1) In the United States Fourth Periodic Report to the Human Rights Committee, the federal government maintains that the implementation of VAWA “continues to be an important federal priority.” However, it has been over 200 days since Congress has taken any action on the reauthorization of VAWA. What measures has the federal government taken towards reauthorizing VAWA? What measures have been taken to assure that the bill that Congress passes covers vulnerable groups such as Native American women, undocumented immigrants and members of the LGBT community? What measures have been taken to assure that the bill that Congress passes provides for holding perpetrators of violence accountable for their conduct?
- (2) VAWA as originally passed attempted to provide victims of gender violence with a federal remedy against perpetrators of violence. According to the United States government, “VAWA was designed to improve criminal justice responses to domestic violence, dating

violence, sexual assault, and stalking and to increase the availability of services for victims of these crimes.” However, VAWA does not provide a federal civil cause of action for victims of domestic violence. What steps has the United States taken to provide for a federal civil cause of action under VAWA?

- (3) As discussed above, it is widely acknowledged that children are detrimentally affected by domestic violence. In its Fourth Periodic Report, the United States government discussed the “community effort to help” children exposed to domestic violence in Title IX of VAWA 2005. However, VAWA has not been reauthorized, nor is this protection sufficient to address the most pressing problems experienced by children. What measures has the United States taken to address deficiencies in court processes in child custody cases involving domestic violence? In particular, has the government considered encouraging state courts to consider a history of domestic violence in custody hearings?

10. Suggested List of Issues to Country Report Task Force on the United States for the 107th Session of the Human Rights Committee

Reporting Organization(s):

The Center for Reproductive Rights

Issue Summary:

Report addresses four issues related to women’s healthcare and reproductive rights, including (1) State practice of using restraints on pregnant women in detention; (2) the impact of religious refusal laws on women’s reproductive healthcare; (3) discrimination against immigrant women in accessing affordable healthcare; and (4) restrictive abortion laws that violate the freedom of expression of both patients and their physicians. It makes the case that, individually and collectively, these laws, policies, and practices work to deny women their rights to life, non-discrimination, equality between men and women, freedom from torture or cruel, inhuman, and degrading treatment, and freedom of thought, conscience, religion and belief, among others.

Recommended Questions:

On Shackling Pregnant Incarcerated Women

- (1) Human rights treaty bodies and independent experts have condemned the practice of shackling pregnant women in detention as a form of cruel, inhuman and degrading treatment. When will the U.S. government act to condemn this practice as a violation of ICCPR Article 7?
- (2) What plans does the U.S. have to enact a legislative prohibition on the practice of shackling that includes enforcement mechanisms and remedies for women whose rights are violated?
- (3) What efforts is the U.S. making to address the over-incarceration of women of color, which makes this population particularly vulnerable to human rights abuses?
Regarding

On Religious Refusal Laws:

- (4) Please explain how the federal and state laws allowing individual healthcare providers and healthcare institutions to refuse to provide reproductive healthcare on the basis of religious or moral views impact women’s reproductive rights protected by ICCPR Articles 2, 3, 6, and 26?

- (5) What steps is the U.S. government taking to ensure that religious refusal laws are not hindering access to reproductive healthcare services women are legally entitled to receive?
- (6) What efforts is the U.S. government making to protect the conscience rights of healthcare professionals whose conscience compels them to provide reproductive healthcare?

On Healthcare for Immigrant Women:

- (7) What is the rationale for the proposed rule (77 Fed. Reg. 52614) to exclude those eligible for deportation relief under the Deferred Action for Childhood Arrivals program from the Affordable Care Act? How will the proposed rule affect immigrant women's reproductive rights under Articles 2, 3 and 6?
- (8) What measures are state and federal governments taking to ensure all immigrant women have access to reproductive healthcare in the United States?
- (9) What is the federal government doing to eliminate persistent reproductive health disparities among immigrant women and women belonging to racial and ethnic minorities?

On Abortion Restrictions:

- (10) What role does the federal government play in ensuring that women have meaningful access to their constitutional right to abortion, as enumerated by *Roe v. Wade*, 410 U.S. 113 (1973)?
- (11) In the view of the U.S. government, what impact do state laws compelling doctors to perform and women to receive ultrasounds prior to abortion have on the freedom to seek, receive and impart information and ideas as protected by ICCPR Article 19?

E. Discrimination and Racial Profiling

11. Violations of Human Rights Obligations Under the International Covenant on Civil and Political Rights through the New York Police Department's Stop and Frisk Practices

Reporting Organization(s):

The Center for Constitutional Rights

Issue Summary:

Report focuses on the issue of racial discrimination by the New York state Police Department, specifically its Stop and Frisk policy, which unfairly targets Black and Latino individuals. It notes that based on the Center's own research with affected individuals, this policy violates a host of Covenant-protected freedoms and rights, including freedoms of movement, from discrimination, from cruel, inhuman, and degrading treatment or punishment, and the rights to privacy and freedom of expression, among others.

Recommended Questions:

- (1) What specific efforts have been made to review, modify or end practices and policies that perpetuate discrimination and other rights violations by local law enforcement agencies, including the NYPD, through practices such as stop and frisk?

12. Education Rights in America and the ICCPR

Reporting Organization(s):

The Poverty & Race Research Action Council

Issue Summary:

While acknowledging that education is not an expressly enumerated right in the Covenant, this report makes the case for the right to an education as necessary for the full exercise of the rights to self-determination and to political participation. It itemizes a number of education laws, policies, and practices, such as inequality in educational opportunities, racial and economic segregation in public schools, arresting students in schools for non-criminal behavior, lack of adequate funding, among a host of other policies and practices that lead to violations of Covenant-covered rights. It also notes the disparate impact of these policies on students of color, students with disabilities, children of undocumented workers, and English language learners.

Recommended Questions:

- (1) How will the US uphold its obligation to provide all students an equal education and combat growing segregation in public schools where the segregation is increasingly between rather than within school districts?
- (2) Can an amended ESEA be enacted which encourages and effectively supports the inter-district transfer of students from failing school districts to successful school districts?
- (3) How is the US planning to address the double segregation, by race and socioeconomic status, of students living in inner cities?
- (4) How does the US plan to address the English Language Learner achievement gap, and what can national education policy do to encourage a more effective education for this group?
- (5) How will the US address what is now known as the “school-to-prison pipeline” and its disproportionate impact on students of color?

13. The Persistence, in the United States, of Discriminatory Profiling Based on Race, Ethnicity, Religion, and National Origin

Reporting Organization(s):

Rights Working Group

Issue Summary:

Report focuses on the implementation and expansion of policies and programs that allow for or incentivizes racial profiling, and their disparate impact on African-American, Latino, Muslim, Native/Indigenous, and immigrant communities. It looks specifically at how recent devolution of federal authority to state and local law enforcement, discriminatory domestic intelligence, and increased militarization at the U.S. border, among other practices have contributed to more pernicious and violent rights violations against these communities.

Recommended Questions:

- (1) Department of Justice & Department of Homeland Security Accountability: We understand that the Department of Homeland Security (DHS) has limited the Secure Communities Program in some jurisdictions found by the Department of Justice (DOJ) to have engaged in a pattern or practice of discriminatory profiling or those where the DOJ has challenged anti-immigrant state laws. We also understand that the program in these jurisdictions limits only the information shared with the state/local law enforcement agencies but doesn't address the issue that the simple presence of an immigration enforcement program in a problematic jurisdiction creates an additional incentive to racially profile—because local law enforcement is aware that immigration status checks will be conducted and possible immigration actions taken. Why doesn't DHS fully terminate the Secure Communities Program in these jurisdictions? Given the ample documentation of human rights violations and the widespread criticism from both government and civil society sources, why haven't DHS 287(g) agreements been eliminated completely? How will DHS track potential violations related to racial profiling considering the failure of the recent statistical monitoring project? How is the Department of Justice investigating the Federal Bureau of Investigation's racial mapping initiatives and those undertaken by state and local law enforcement agencies?
- (2) Federal Legislation and Guidance: Why is the current administration not taking affirmative steps to end racial profiling such as by supporting congressional efforts to pass the End Racial Profiling Act? What is the status of the 2003 Department of Justice Guidance on the Use of Race by Federal Law Enforcement Agencies? Why is the process stalled and will the review result in guidance that is enforceable, applies to state and local law enforcement agencies and closes existing loopholes—such as including religion and national origin as protected classes and prohibiting racial profiling in all contexts, including national security, border security and surveillance activities?
- (3) Deaths at the Northern and Southern Borders: What is the status of Department of Justice and Department of Homeland Security investigations into deaths at the northern and southern border at the hands of border patrol agents? What is being done to ensure accountability and remedies for the families of victims? What are the Departments of Justice and Homeland Security doing to address concerns related to violations of due process rights in the course of rushed Operation Streamline prosecutions?

F. Freedom From Torture or Cruel, Inhuman or Degrading Treatment or Punishment

14. Violations Of Human Rights Obligations Under the International Covenant on Civil and Political Rights Through the Use of Prolonged Solitary Confinement in United States Prisons, Jails, and Detention Centers

Reporting Organization(s):

The Center for Constitutional Rights (CCR)

Issue Summary:

Report addresses the traumatizing and inhuman effects of solitary confinement on prisoners, and challenges its legality. It details the psychological and physical results on imprisoned persons, including despair, heightened states of anxiety, and paranoia, among other violence. It also points to the disproportionate use of this tactic and other harsh measures against imprisoned Latinos, African Americans, Muslims, persons with disability, and others.

Recommended Questions:

- (1) In light of the well-documented harms of solitary confinement, what measures are being taken to eliminate (or severely limit) the use of prolonged solitary confinement in U.S. jails, prisons, and detention facilities?
- (2) What steps are required by federal, state, and local authorities to monitor and ultimately eliminate the imposition of solitary confinement on particularly vulnerable detainees such as children, non-citizens, persons with mental disabilities, and LGBTI people?
- (3) Please provide data regarding all individuals in the United States who are held in solitary confinement in jails, prisons, and other detention facilities, along with data about the duration of their confinement in these conditions. Please include data on the use of solitary confinement in pre-trial detention, and the use of SAMs.

15. Raising the Issue of Continued Discrimination Via Police Misconduct And Extra-judicial/Summary Executions Committed With Impunity On American Born People of Afrikan Descent

Reporting Organization(s):

The Chicago Alliance Against Racist and Political Repression

Issue Summary:

Report addresses the disproportionate cases of police misconduct, abuse, and extra-judicial killings in the city of Chicago, Illinois, as they relate to African Americans. [Note the difference in spelling of African here and Afrikan in the actual report.] It makes the case that in light of a lack of any accountability mechanism and appropriate judicial responses, these cases amount to acts of torture or cruel, inhuman and degrading treatment, among other violations.

Recommended Questions:

- (1) In view of its statement that it does not permit torture either within or outside of U.S. territory, takes vigilant action to prevent torture and holds any perpetrators accountable (Para 177), how can it be explained why the U.S. Department of Justice and the U.S. attorney for the Northern District of Illinois have decided not to bring perjury and obstruction of justice charges against former Chicago Police Sgt. John Byrne, who loyally served as convicted Chicago Police Cmdr. Jon Burge's self-admitted "right-hand man," and his trusted associate, detective Peter Dignan? What does the U.S. intend to do to rectify this gross contradiction?(Case)
- (2) What 'practical' solutions are going to be applied, by the U.S. government, to bring an end to the discriminatory incidences of police brutality and excessive force that often result in deaths that seem to disproportionately affect American born People of Afrikan descent?

16. List of Issues Submitted by Malcolm X Center for Self-Determination and National Jericho Movement for Amnesty and Freedom of All (U.S) Political Prisoners

Reporting Organization(s):

Malcolm X Center for Self Determination
Jericho Movement for Amnesty & Freedom of All (U.S.) Political Prisoners

Issue Summary:

The report addresses the application of ICCPR rights to political prisoners and prisoners of war. It condemns practices such as prolonged solitary confinement, inmate segregation, and classification of prisoners according to perceived level of threat. It tackles the issue of accountability for such procedures, and questions the legality of the newly enacted 2012 National Defense Authorization Act, which further authorizes such practices.

Recommended Questions:

- (1) What measures have been taken to comprehensively and effectively investigate and prosecute the torture and cruel, inhuman or degrading treatment of imprisoned COINTELPRO/Civil Rights Era political activists in U.S. custody?
- (2) Despite well-documented and credible evidence of the deliberate and widespread use of torture and other illegal abuses by federal and state law enforcement agencies during the COINTELPRO/Civil Rights Era, 1956 to 1971, the U.S. has failed to criminally prosecute any senior government official responsible for the creation and implementation of COINTELPRO, its attendant and continued torture and solitary confinement programs and regimes.
- (3) How does the persistent failure to ensure accountability for torture and other abuses reconcile with the U.S.' obligations under ratified treaties and other international law to investigate and prosecute civilian and military leaders who ordered and approved the use of torture under COINTELPRO and current conditions of incarceration?
- (4) Given U.S. government officials' practice of securing the dismissal of civil suits brought by torture victims by asserting the state secrets privilege and claiming effective immunity from suit, what actions are the State Party taking to ensure that torture victims are ensured effective remedy and justice?
- (5) What measures have been taken by each branch of the U.S. government—the executive branch, Congress, and the federal courts—to ensure full transparency regarding the use of torture and solitary confinement now and during the United States' COINTELPRO/Civil Rights Era ?

17. Torture and Cruelty by US Officials

Reporting Organization(s):

Midwest Coalition for Human Rights

Issue Summary:

The report begins by addressing the crucial issue of lack of accountability and appropriate punishment for perpetrators of torture in the U.S. It details methods of torture by law enforcement, including prolonged

solitary confinements, routine sexual abuse of prisoners, denial of adequate medical care to inmates, torturing confessions out of innocent suspects, and the use of electroshock devices on citizens regardless of age or gender.

Recommended Questions:

- (1) Please explain what efforts are underway to enact legislation or regulation at the federal level prohibiting torture. Please provide the text, if any, of proposed legislation or regulations.
- (2) Please describe measures being taken to ensure that solitary confinement is used only in very exceptional circumstances, for as short a time as possible.
- (3) Please describe how the U.S. will provide care for victims of solitary confinement who suffer from ongoing psychosis or depression.
- (4) Please provide the Committee with a detailed plan for the closure of the Tamms Correctional Center, in Tamms, Illinois.
- (5) Please provide a detailed account of plans to extend to immigration detainees the basic protections of the law, including the Prison Rape Elimination Act.
- (6) Please explain the measures in place to guarantee to immigration detainees an independent and impartial investigation of claims that their rights have been violated.
- (7) Please explain why the U.S. has not enacted the Detainee Basic Medical Care Act that ensures adequate medical care is provided to detainees to prevent death and unnecessary suffering—as with Francisco Castaneda and others.
- (8) Please provide the Committee with a detailed plan for the closure of the Tri-County Detention Center in Ullin, Illinois.
- (9) When will any remaining, innocent and still-incarcerated victims convicted using tortured confessions extracted by the Chicago Police Department be released?
- (10) Please describe restitution, if any, that will be provided to the remaining torture victims of the Chicago Police Department.
- (11) Please describe the Justice Departments current procedure on responding to current or future allegations of police torture and how that procedure will ensure that systematic police torture and associated cover-ups will not occur again.
- (12) Please describe the U.S. Government’s position on the recent class action suit by torture victims of the Chicago Police Department.
- (13) Please describe measures to implement a federal law limiting the use of electroshock devices by law enforcement to substitution for lethal weapons..
- (14) Please describe measures to implement a federal law allowing greater access by electroshock victims to claim a remedy for excessive force.

18. Criminalization of Homelessness in the United States of America

Reporting Organization(s):

National Law Center on Homelessness and Poverty
Yale Law Allard K. Lowenstein International Human Rights Law Clinic
UC Irvine School of Law International Human Rights Clinic

Issue Summary:

Report focuses on the continued criminalization of the homeless, despite recognition at federal and international levels that such treatment of homeless persons is in violation of the U.S. Constitution and the

ICCPR. It further makes the case of the importance to advocates for the Committee to recognize such violations as torture or cruel, inhuman, and degrading treatment or punishment.

Recommended Questions:

- (1) While commending the State Party for recognizing the criminalization of homelessness as a violation of the ICCPR, please explain what concrete steps the United States government is taking to decrease the criminalization of homelessness, including providing incentives for decriminalization and constructive alternative approaches, and discontinuing its own funding of local law enforcement practices that criminalize homelessness.

G. Treatment of Persons Deprived of Their Liberty

19. Gender-based Violence and Discrimination in the Treatment of Persons Deprived of Liberty

Reporting Organization(s):

Avon Global Center for Women and Justice at Cornell Law School
Cornell International Human Rights Clinic
University of Chicago Law School International Human Rights Clinic

Issue Summary:

Report focuses on issues of sexual violence against female and LGBTQI persons deprived of their liberty. It also addresses the issues of lack of adequate and humane health services to meet gender-specific needs, the shackling of pregnant women, and the splitting of the family unit, which are due, in part, to an over-incarceration of women and poorly constructed and ineffectively implemented laws and policies.

Recommended Questions:

- (1) What measures is the United States taking to ensure that its new Prison Rape Elimination Act regulations are effectively implemented in federal and state correctional facilities and what progress is being made to promulgate regulations that would extend similar protections to immigrant detainees?
- (2) Please provide information about what the United States is doing, particularly at the state level, to address the non-enforcement of current laws and policies banning or restricting the shackling of pregnant women prisoners and to ensure that shackling is prohibited in all jurisdictions?
- (3) Please provide information about what the United States is doing to ensure that individuals deprived of liberty have the ability to maintain regular contact with their family, especially their minor children and that their detention does not easily result in the loss of parental rights.

20. United States Compliance with the International Covenant on Civil and Political Rights Suggested List of Issues Relating to Refugees, Asylum Seekers and Other Non-Citizens

Reporting Organization(s):

The Advocates for Human Rights

Issue Summary:

Report addresses the failure of the US immigration system to adhere to international human rights standards for asylum seekers, refugees, and other non-citizens, particularly because of its streamlined, non-individualized process. It argues that the practice of mandatory detention in combination with utilizing privately-run facilities leads to a host of violations for detainees, including impeding the ability of *bona fide* asylum seekers to mount a case and further compromises the already-fragile psychological state of traumatized aliens.

Recommended Questions:

- (1) What measures has the United States taken to address the drastic growth in the number of non-citizens in the federal prison system who have been convicted of criminal charges for immigration offenses? Has the government taken steps to halt or modify Operation Streamline, which significantly contributes to the problem?
- (2) How does the United States justify the use of privately owned prison facilities exclusively for non-citizen offenders? Why are the medical, rehabilitation, and education services provided in prisons holding non-citizens significantly inferior to the services in facilities holding United States citizens?
- (3) What measures has the United States taken to ensure that asylum seekers detained pursuant to the Expedited Removal process have the opportunity to pursue their claims of asylum and other forms of relief?

H. Freedom of Movement

21. Detention, Interrogation, and Search of Travelers

Reporting Organization(s):

The Identity Project
The Consumer Travel Alliance

Issue Summary:

Report addresses violations of the rights to travel, assembly, and association through travelers' screening procedures at US airport checkpoints and along roadways. It argues that security measures conducted by authorities are enforced without the appropriate legal or judicial oversight; they are secretive and not governed by publically known regulations. Moreover, warrantless searches have caused severe psychological anguish for travelers, especially victims of previous abuse.

Recommended Questions:

- (1) Does the U.S. believe that travel by common carrier or along a public right-of-way is a sufficient basis for detention, interrogation, or search? Does the U.S. believe that travel is inherently suspicious or indicative of unlawful intentions?
- (2) Other than by being arrested, and challenging the legality of their arrest, how can travelers determine what they are required or forbidden to do, or to submit to, at airport, TSA, or other government checkpoints?
- (3) Do the provisions of 49 USC § 40101 and 40103 recognizing the "public right of transit through the navigable airspace", and requiring agencies to consider this right in rulemaking, effectuate Article 12 of the ICCPR? Would failure to consider this right in rulemaking provide a basis for judicial review by a U.S. court of a rule alleged to infringe rights guaranteed by Article 12 of the ICCPR?

22. Permission-Based Government Controls on Air and Surface Travel

Reporting Organization(s):

The Identity Project

Issue Summary:

Report addresses violations relating to government control over each passenger's travel over US air space. It details two main problems: namely the legality of this process since the department concerned does not have legal or judicial backing to conduct such controls; and the lack of substantive or procedural standards to govern this process. It mentions cases of US citizens being prevented from travel and visitors being stuck in the US unable to return home, resulting in clear violation of persons' right to freedom of movement under the ICCPR.

Recommended Questions:

- (1) Does the U.S. believe that, consistent with the ICCPR, travel by common carrier can be conditioned on prior affirmative government permission?
- (2) Do Secretary Chertoff's statements that the U.S. will never allow judicial review of no-fly orders continue to reflect the position of the U.S. government?
- (3) In light of the policy of the U.S. government neither to confirm nor deny the existence of a no-fly order, and the orders to airlines not to disclose these orders, how would an individual who is the subject of a no-fly order establish standing to obtain judicial review of the order? How would such an individual obtain sufficient information about the basis for the order to permit a meaningful opportunity for factual and legal challenge and review of the basis for the order?
- (4) Do the provisions of 49 USC § 40101 and 40103 recognizing the "public right of transit through the navigable airspace", and requiring agencies to consider this right in rulemaking, effectuate Article 12 of the ICCPR? Would failure to consider this right in rulemaking provide a basis for judicial review by a U.S. court of a rule alleged to infringe rights guaranteed by Article 12 of the ICCPR?

23. Requirements for Government-Issued Travel Documents

Reporting Organization(s):

The Identity Project

Issue Summary:

Report argues that the legal and regulatory restrictions placed on the issuance of identity documents have restricted U.S. citizens from traveling within the U.S., from leaving the U.S., and/or from returning to the U.S. The report cites complaints and cases of violations of the rights to freedom of movement and association. It also addresses the wider question of protecting national security at the expense of individual rights.

Recommended Questions:

- (1) Does the U.S. recognize a right to leave the U.S.? To travel within the U.S.? A right of U.S. citizens to return to the U.S.? How are those rights embodied in U.S. law, and what ID or other conditions can be placed on them by U.S. law?
- (2) Are U.S. citizens entitled as a matter of right to any government-issued ID?
- (3) What, if any, means are available to a U.S. citizen, resident, or lawful visitor to obtain judicial review of denial or delay in issuance of government-issued ID, or of prohibitions or restrictions on travel without ID?
- (4) What, if any, means are available for judicial review of whether U.S. federal, state, or local requirements for government-issued ID as prerequisite for travel are "necessary" for any of the purposes specified in Article 12 of the ICCPR?
- (5) What, if any, means are available for an asylum seeker fleeing persecution in another country to travel to the U.S. without government-issued ID?

24. Surveillance and Monitoring of Travelers

Reporting Organization(s):

The Identity Project

The Consumer Travel Alliance

Issue Summary:

Report holds that the misuse of personal information laws in the US allows airlines and carriers to share information, which is used for criminal purposes and violates travelers' rights. It mentions specific steps in the process and how they violate passengers' right to privacy and to freedom of movement, namely through illegal and unjustified travel restrictions.

Recommended Questions:

- (6) Does the U.S. believe that travel is, in itself, sufficient basis to require disclosure of personal information (either directly or through common carriers), or to authorize government access to, and retention of, commercial travel records?
- (7) Does the U.S. believe that the right to privacy is limited to U.S. persons?

I. Access to Justice

25. Access to Justice, Including Meaningful Legal Representation in Civil Cases

Reporting Organization(s):

National Coalition for a Civil Right to Counsel
Maryland Legal Aid Bureau
Columbia Law School Human Rights Institute
Northeastern School of Law Program on Human Rights and the Global Economy
National Center for Access to Justice

Issue Summary:

Report addresses the lack of federal protection in civil proceedings when basic human needs are in jeopardy, which leads to a gap in justice for racial minorities, the economically unprivileged, and women and children. It also points to a similar justice gap for migrant agricultural workers, who are not allowed access to legal advocates and other service providers in their labor camp homes, which results in their vulnerability to systemic exploitation.

Recommended Questions:

- (1) Please provide information on the legislative, policy, and other measures being taken to address the deficiencies in current federal initiatives related to access to justice and to meaningfully expand access to the civil justice system, including the provision of civil legal services in cases where human needs are at stake.
- (2) Please provide information on what measures the United States is taking to ensure the protection and enforcement of the rights of migrant farm workers to receive visitors in their homes, including educational, religious, health and legal service providers.

J. Freedom of Expression

26. The Misuse of United States Law to Silence Pro-Palestinian Students' Speech

Reporting Organization(s):

Asian Law Caucus
American Muslims for Palestine
Council on American Islamic Relations-San Francisco Bay Area
Center for Constitutional Rights
National Lawyers Guild International Committee

Issue Summary:

Report addresses the misuse and unfair application of an education-related non-discrimination law in the US to protect pro-Israeli students while discriminating against pro-Palestinian students, which violates their right to free speech. The report specifies cases of government surveillance of students, criminal prosecution of peaceful protestors, and university stigmatization of Palestinian human rights activism. It reports suffering by pro-Palestinian students as a result of stigmatization and harassment, among other abuses.

Recommended Questions:

- (1) How will you ensure that federal agencies, such as the U.S. Department of Education, do not use Title VI to conduct investigations that are based on the false premise that political speech critical of Israeli policies is racist speech, or prolong investigations unnecessarily?
- (2) What steps will you take to ensure that the pending Department of Education complaints that threaten student speech rights are expeditiously resolved?
- (3) How will you mitigate the harm already done, and the harm currently being done, to students across the country, whose speech rights continue to be chilled or otherwise adversely impacted by the DOE's investigations?
- (4) More broadly, how will you ensure that Title VI and other federal laws are not misused in a manner that runs afoul of Article 19's freedom of opinion and freedom of expression provisions?

K. Freedom of Association

27. Freedom of Association and Right to Equality and Non-Discrimination in Work

Reporting Organization(s):

United Workers Congress
Border Movement for Human Rights
Migrant Justice
National Employment Law Project
New Orleans Worker Center for Racial Justice
Vermont Worker Center

Issue Summary:

Report addresses serious violations of rights for several categories of workers, through exclusions and discriminatory application of the law. The report begins with violations of the right to assemble, which is a fundamental right crucial to the enjoyment of other labor rights. It also specifies cases of workers denied fundamental workplace protections and equal rights under the law. As a result, millions of workers are suffering due to lack of compensation and exclusion from employment, among other adversities.

Recommended Questions:

- (1) Please comment on the impact labor and employment laws in the United States have on immigrant and minority workers, and provide socio-economic data (including data

disaggregated by gender and national or ethnic origin) on the following: de jure exclusions existing labor and employment laws for agricultural and domestic workers; de facto exclusion from protections under the Hoffman Plastic Compounds, Inc. v. NLRB U.S. Supreme Court decision, and ensuing state court decisions denying compensatory remedies to non-citizens in labor, anti-discrimination and workers compensation and personal injury cases; exclusion from protection under Agricultural Worker Protection Act for temporary workers under the H-2A program; and denial of representation by legal services programs funded by the Legal Services Corporation for temporary workers under the H-2B program, as well as all unauthorized workers.

- (2) What measures has the United States taken to ensure the meaningful right to freedom of association, including the right to an individualized remedy to workers in an irregular status?
- (3) What measures has the United States taken to ensure the right to freedom of association and collective bargaining is available to agricultural workers, domestic workers, and other categories of workers statutorily excluded from protection?
- (4) What measures has the United States taken to ensure equal access to the courts for all workers, including those without regular immigration status and those here as temporary guest workers under the H-2B program, in light of federal restrictions prohibiting civil legal aid organizations receiving federal funding from providing them with representation?

L. Political Participation

28. Continuing Violations of Equal Political Participation for the Residents of the District of Columbia

Reporting Organization(s):

Worldrights

Issue Summary:

Report examines the violation of Washington, D.C. residents' right to equal political participation in the US Congress. By prohibiting residents from voting and electing representatives to the Senate and House of Representatives, DC residents are disenfranchised from political life and cannot partake in important decision-making on crucial issues in their country.

Recommended Questions:

- (1) How is the government's position on the curtailment of the right to genuine voting representation for District of Columbia residents in the U.S. Congress NOT inconsistent with Article 25 of the ICCPR?
- (2) Why has the U.S. government failed to enact such legislation as may be necessary to remedy the human rights violations regarding the right to vote in Congress for the residents of the District of Columbia as recommended by the UN Human Rights Committee, the OAS and the OSCE?

M. Complaints Under First Optional Protocol

29. Complaints of Violations of U.S. Obligations Pursuant to the ICCPR

Reporting Organization(s):

The Identity Project

Issue Summary:

Report focuses on the poorly established ICCPR complaints mechanism in the US due to the government's non-accession to the First Optional Protocol. It addresses the implications of reporting to the UNHRC especially the inability to submit individual complaints, which makes it difficult to hold the government accountable for ICCPR violations. It focuses particularly on the institutional shortfalls, including the lack of departmental focal points for receipt of complaints, and other deficiencies.

Recommended Questions:

- (1) What, if any, means are available to an individual or organization to obtain judicial review of a law, regulation, policy, or practice alleged to violate U.S. obligations pursuant to the ICCPR, but not otherwise alleged to violate U.S. law?
- (2) What, if any, records are kept of complaints of violations of the ICCPR by the U.S. or by state or local governments? To whom, if anyone, are these complaints required to be reported? What, if any, policies or procedures have been adopted for recording, reporting, investigating, or responding to such complaints?
- (3) Please clarify whether the U.S. believes that a State party may enact national legislation which derogates from its obligations pursuant to the ICCPR.
- (4) Please clarify whether the U.S. has implemented Executive Order 13107, which was mentioned in Paragraphs 452-453 of the Second and Third Periodic Reports to the UNHRC but which is not mentioned in the Fourth Periodic Report. Does the failure to carry out an Executive Order of the President indicate a lack of ability or lack of good-faith commitment by the U.S. to implement the ICCPR?