

## The International Convention on the Elimination of All Forms of Racial Discrimination – 2007

by Philip Tegeler

This spring, the State Department is in the process of preparing its long-overdue report to the U.N. on the United States' compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). This occasion presents a unique opportunity for domestic civil rights and anti-poverty groups to question the federal government's commitment to civil rights on an international stage.

Originally approved by the U.N. in 1965 as an international response to South African Apartheid, CERD has now been ratified by 173 countries. It was ratified by the U.S. Senate in 1994, and it is one of only three international human rights treaties the U.S. has ratified (the other two are the Convention Against Torture and the International Covenant on Civil and Political Rights). The CERD treaty is remarkable in its scope—it addresses not just “intentional” discrimination (an increasingly dubious concept) but also policies and practices that have the effect of discriminating against or segregating racial and ethnic minorities. CERD requires state parties to examine and reform their own policies that create racial disparities and segregation—and it also requires states to monitor and take affirmative steps to address general societal discrimination and segregation, including the continuing legacy of historical discrimination.

The CERD compliance review comes at an awkward time for the U.S. government: The treaty essentially re-

quires race-conscious remedies (or “affirmative action”) in order to respond to societal discrimination and segregation, but the Administration is simultaneously arguing in the U.S. Supreme Court (in the Louisville and Seattle school cases) that race-conscious remedies are barred by the U.S. Constitution (see Nov./Dec. *Poverty & Race* for an extended discussion). The treaty also bars government policies that have the effect of discriminating—but a few years after the U.S. ratified CERD, the U.S. Supreme Court ruled that this domestic law obligation, under Title VI of the Civil Rights Act of 1964, was no longer enforceable in court. Also unclear is the role of state and local governments in the CERD reporting process—and although the treaty makes clear, and the U.S. has accepted, that CERD applies to all levels of local, state and federal government, the U.S. report is unlikely to include more than a handful of states. (See accompanying article by Ann Fagan Ginger.)

A great many domestic advocacy organizations (known as non-governmental organizations or “NGOs” in international human rights parlance) are expected to participate in the upcoming CERD process by reviewing and responding to the upcoming U.S. report in so-called “shadow reports” to be submitted to the U.N.'s Committee on the Elimination of Racial Discrimination. After receiving the U.S. report and receiving shadow reports from U.S. NGOs, the U.N. Commit-

tee will be able to question the U.S. on the record, and can make concluding observations that, while not directly enforceable, are expected to have significant impact on U.S. policy.

The U.S. Human Rights Network (USHRN), a relatively new national coalition of organizations that supports the use of international human rights law in domestic advocacy, will be playing a coordinating role in the CERD process, to try to consolidate the submissions of domestic NGOs so that the U.N. Committee receives a coherent set of recommendations and analysis from the progressive movement.

At present, the following working groups are in formation, and more may follow. Each of these groups will include multiple organizations, and in some cases will also include academic researchers who have published in the field: Criminal justice system issues; Educational disparities and segregation; Housing segregation and discrimination; Homelessness, displacement and poverty; Health disparities; Environmental justice; Voting rights; Employment and jobs policy; Immigration; The impacts of Hurricane Katrina

Grassroots organizers, policy advocates and impact litigators all have different roles they can play in this process. Many resources are available through the USHRN, and several trainings will be held during the coming year for those who wish to get involved. A planning and coordination session is planned for April 4 in Washington, DC (contact Margaret Huang at [Global Rights](mailto:mhuang@globalrights.org) for more information: [mhuang@globalrights.org](mailto:mhuang@globalrights.org)).

The U.S. report is expected to be filed later this spring. It is expected that the U.N. will review the report at its regular March 2008 session.

*Philip Tegeler* ([ptegeler@prrac.org](mailto:ptegeler@prrac.org)) is PRRAC's Executive Director. □

For more information, or contact information on specific working groups, contact the U.S. Human Rights Network ([www.ushrnetwork.org](http://www.ushrnetwork.org)) or see the helpful links below:

CERD Shadow Reporting Website, with more information and guides:  
<http://www.ushrnetwork.org/page227.cfm>

CERD – Official UN website:  
<http://www.ohchr.org/english/bodies/cerd/index.htm>