

Why Do “Shadow Reporting?”

April 2007

During the last two years, the U.S. government has submitted reports to the United Nations on its compliance with two major human rights treaties, the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The State Department has indicated that a similar report will be filed under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in the late spring of 2007. The filing of all of these reports within a relatively short period of time has created an unusual opportunity to raise public awareness of U.S. human rights obligations and to build a constituency for holding the government accountable under these obligations.

Active and effective participation of domestic civil society groups in the treaty reporting process is essential to a full and accurate review of the U.S.’s human rights record. U.N. Committees overseeing the process rely on local non-governmental organizations (NGOs) to identify key concerns and ensure that abuses are fully exposed and addressed. At the same time, participation in the shadow reporting process educates U.S. activists about human rights standards and the U.N. system and offers them new strategies for winning policy and legal reforms. The process also forges relationships between domestic and international NGOs and U.N. human rights experts, which strengthens the human rights movement both at home and around the world.

What is shadow reporting?

When a country ratifies (formally accepts) a U.N. human rights treaty, it becomes obligated to submit regular, periodic reports on its compliance with the treaty’s obligations. These reports are submitted to the treaty monitoring body – or committee – that has been established for each treaty to monitor the compliance of state parties. The U.S. government has ratified three of the treaties: the International Covenant on Civil and Political Rights (or ICCPR) in 1992; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (or CAT) in 1994; and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) also in 1994. The U.S. is thus obligated to file periodic compliance reports with the Human Rights Committee under the ICCPR, the Committee Against Torture under the CAT, and the Committee on the Elimination of Racial Discrimination under the ICERD.

In U.N. terminology, a “shadow report” is information submitted by non-governmental organizations (NGOs) to the treaty monitoring bodies that addresses omissions, deficiencies, or inaccuracies in the official government reports. Such information is often vital to assisting U.N. experts in their assessment of a government’s compliance with international human rights treaties. In fact, the official U.N. guidelines for the reporting process anticipate the involvement and consultation of civil society groups during the drafting of the government’s report. However, the U.S. government generally has refrained from this type of consultation, which makes the shadow reporting process even more important.

Why U.S. groups should get involved

The current political context underscores the exceptionalist views of the U.S. government, which has recently rejected or even withdrawn from broadly accepted international legal obligations. This perspective is similarly demonstrated by the lack of government interest in consulting with NGOs, despite strong criticism and encouragement from several U.N. experts over the last year. In order to ensure that the U.S. government is held fully accountable under its international legal obligations, U.S. civil society groups need to participate in the treaty reporting process. The process enables activists to reject U.S. “exceptionalism,” to demand accountability, and to change the dynamics of advocacy around particular issues.

Advocates can use the treaty reporting process in several ways. Participating organizations produce reports that activists can use to call attention to specific human rights violations and make recommendations for policy reform. They can also use the response from the U.N. Committee to support their advocacy work. For example, in previous shadow reporting processes, activists used a Committee’s recommendation to end the practice of felon disfranchisement as part of their state campaigns demanding legislative reform. Hurricane Katrina survivors have used U.N. Committee recommendations to support their demands that the right of return be guaranteed for all displaced survivors. Advocates can also use the reporting process to raise attention to their issues, either from the media or from policy-makers.

U.S. NGOs can also use the treaty reporting process to change the debate on rights and race at home and to bring the U.S. into line with international standards and norms. The ICERD, in fact, goes much further in protecting human rights than U.S. constitutional or statutory law. For example, the ICERD recognizes that discrimination results not just from deliberate acts on the part of the government but also from actions and laws that have a different impact on different racial groups. The treaty requires that both types of discrimination be eliminated. The ICERD also demands that governments take action to eliminate racial discrimination in the enjoyment of the right to work, the right to housing, the right to medical care, and the right to education - all human rights that are not recognized under U.S. domestic law. Another significant difference between international and domestic law is in the ICERD mandate that governments should adopt affirmative action measures for people who have faced racial discrimination in the past in order to enable those individuals to achieve the full and equal enjoyment of their human rights.

How can organizations get involved?

The U.N. Committee has indicated that it will likely review the U.S. government report at a meeting in Geneva in August 2008. During that session, Committee Members will question U.S. government officials about their report and make recommendations for improving policies and programs to combat racism in the U.S. In order to provide the Committee with information and recommendations, many organizations have already started to form issue-based working groups under the coordination of the US Human Rights Network, which is supporting broad participation in the treaty reporting process. The Network will be disseminating information about the process and coordinating meetings and training opportunities around the country.

For more information on how to get involved, please visit the website for the US Human Rights Network (www.ushrnetwork.org) or send an email to info@ushrnetwork.org.