



February 25, 2009

Mr. Arne Duncan
Secretary
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

RE: Using ARRA Funds to Meet Human Rights Obligations in Education

Dear Mr. Secretary,

We write to congratulate you on your appointment as President Obama's Secretary of Education, and to express our sincere hope that you will use the unprecedented opportunity presented by the American Recovery and Reinvestment Act (ARRA) to further the realization of human rights norms in the U.S. In particular, we urge you to use the education funds in ARRA to close the achievement gaps in the education system and to improve the quality of education of poor and minority communities across the country, a campaign promise made by the President. Such a commitment will have the effect of helping the U.S. to meet its international obligations under the Convention on the Elimination of All Forms of Racial Discrimination (CERD).

Achieving quality education for every child in America is a crucial human rights goal that is consistent with President Obama's stated positions. As President Obama said in his Howard University Convocation speech in September 2007: "It will take a movement to finish what began in Topeka, Kansas and Little Rock, Arkansas. It will take a movement of Americans from every city and town, of every race and background to stand up and say that no matter what you look like or where you come from, every child in America should have the opportunity to receive the best education this country has to offer. Every child."¹

With the passage of ARRA, your department has the opportunity not only to make the distribution of educational funds more equitable, but to fulfill fundamental U.S. human rights treaty obligations. Under CERD, a fundamental international human rights treaty to which the U.S. is party, federal agencies must review their policies and amend or repeal regulations that have the effect of creating or perpetuating racial discrimination, including those that affect racial and ethnic minorities, indigenous people, women, and immigrant non-citizens. Every four years, the CERD treaty's monitoring committee (CERD Committee) reviews the U.S. government's

¹ http://www.barackobama.com/2007/09/28/remarks_of_senator_barack_obam_26.php

AMERICAN CIVIL
LIBERTIES UNION
WASHINGTON
LEGISLATIVE OFFICE
915 15th STREET, NW, 6TH FL
WASHINGTON, DC 20005
T/202.544.1681
F/202.546.0738
WWW.ACLU.ORG

Caroline Fredrickson
DIRECTOR

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500

OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

RICHARD ZACKS
TREASURER

compliance. In February 2008, the U.S. appeared before the CERD Committee and reported on its record under CERD and on March 7, 2008, the CERD Committee issued its findings, or Concluding Observations, on the U.S.' compliance with the treaty obligations.² The Committee pressed the U.S. to improve in several areas, including its inadequate implementation and provision of education at the federal, state, and local levels - one of five matters on which our government was to report within one year. In particular, the Committee focused on the adoption and strengthening the use of affirmative action programs to eliminate discrimination and allowing school districts to voluntarily promote school integration. The U.S. is to submit its next periodic report and detail progress made on all other issues in 2011.

ARRA offers an unprecedented opportunity to take the obligations of CERD and the recommendations of the CERD Committee into account with regard to the distribution of these educational funds. In your confirmation testimony before the Senate Committee on Health, Education, Labor, and Pensions, you correctly called education the "civil rights issue of our generation – the only sure path out of poverty and the only way to achieve a more equal and just society." To promote this enlightened view of education and to achieve conformance with basic human rights standards, the U.S. government should create a more equitable distribution of funds and target them in such a way as to address the compelling concerns cited in the Concluding Observations.

Beyond these fundamental and obligatory goals, using the discrete funding set aside for teacher quality enhancement and incentive and innovation grants, the Department could also create visionary and innovative special human rights education programs that could help teachers incorporate universal human rights values into their curriculum materials. Values such as the right to dignity and the right to equality, neglected by the previous administration, would not only meet this universal standard, but also mirror the best of American traditions.

Several human rights organizations, such as Amnesty International USA and the U.S. Human Rights Network, have created successful human rights education and training models in schools, universities, and other educational settings. Yet the responsibility for developing human rights educational programs should not fall exclusively to NGOs. Official governmental embrace of fundamental international human rights such as the right to be free from racial discrimination sends a very different message than the mere creation, sponsorship, or promotion of these programs by non-governmental entities. Many NGOs stand ready to work closely with the government in

² See <http://www1.umn.edu/humanrts/country/usa2008.pdf>. In its report, the CERD Committee expressed concern about disparities for minorities and English language learners in our schools and recommended that the U.S. adopt measures "to reduce the persistent "achievement gap" between students belonging to racial, ethnic or national minorities and white students in the field of education, *inter alia* by improving the quality of education provided to these students." *Id.* at para. 34.

developing such educational programs and ensuring their effective implementation.³

This is a historic opportunity to break with the failed policies of the Bush administration and provide necessary resources aimed at providing equal opportunity for all in a safe, integrated, and equitable educational system. We welcome the opportunity to discuss with you and with officials in your department the ways in which human rights can strengthen the work of your department and advance your work in educating the nation's children.

We would be pleased to meet with you and your staff to offer suggestions for addressing compliance with CERD educational recommendations through the use of ARRA funds. Please contact Michael Macleod-Ball at 202-675-2309 if you should have questions or comments or if you wish to advance the discussion on these issues.

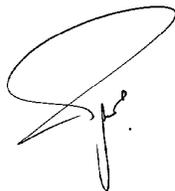
Respectfully,



Caroline Frederickson
Director, Washington Legislative Office



Michael W. Macleod-Ball
Chief Legislative and Policy Counsel



Jamil Dakwar
Director, Human Rights Program

cc: Melody Barnes, Domestic Policy Advisor

³<http://www.ushrnetwork.org/files/ushrn/images/linkfiles/CERD/4%20Domestic%20Implications%20Article%202.pdf>