



## Frequently Asked Questions

### Convention on the Elimination of All Forms of Racial Discrimination

#### **What is CERD?**

The Convention on the Elimination of All Forms of Racial Discrimination (CERD) is the principal international treaty for the elimination of racism, racial discrimination, and other forms of intolerance. CERD defines discrimination as “any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” CERD requires countries to review governmental, national, and local policies, and to amend or repeal laws and regulations that have the effect of creating or perpetuating racial discrimination, including those that affect indigenous people, women and non-citizens. CERD also allows for, and in some cases obliges, positive measures such as affirmative action in order to redress historic and contemporary forms of racial inequalities. CERD was adopted by the United Nations in 1965 and went into force in 1969. As of July 2007, 173 countries had agreed to be bound by the terms of CERD. The full text may be accessed at <http://www.ohchr.org/english/law/cerd.htm>.

#### **What makes CERD important?**

By signing and ratifying CERD in 1994, the U.S. has legally agreed to be bound by its requirements and is obligated to protect and promote equality and non-discrimination in the enjoyment of human rights, including in the areas of education, housing, criminal justice, health, voting, labor, access to justice, and more. This is important because CERD requires that countries eliminate both intentional discrimination and discrimination in effect. While the U.S. Constitution and domestic laws have mechanisms in place to reduce the frequency of racial discrimination, both forms of discrimination are still pervasive in the United States.

#### **Why does the U.S. have to comply with CERD?**

Because the U.S. ratified CERD in 1994, it is obligated to comply with and implement the provisions of CERD just as it would any other domestic law or international treaty, subject to U.S. reservations entered when it ratified CERD. The U.S. Constitution itself makes clear that treaties are “the law of the land.”

#### **Does the CERD apply only to the federal government and its officials?**

No. CERD applies to all government entities and agents, including all federal, state, city, and county and all other forms of local government entities, as well as to private contractors who carry out government functions.

### **What is the Committee on the Elimination of Racial Discrimination?**

The Committee on the Elimination of Racial Discrimination was established to monitor the implementation of CERD. It is composed of 18 independent experts with recognized competence in the field of human rights generally, and competence in the field of human rights and racial discrimination specifically. Committee members are elected for a term of four years and must be from countries that have ratified the Convention. The current members of the Committee come from: Algeria; Argentina; Brazil; Burkina Faso; Denmark; Ecuador; Egypt; Greece; China; Guatemala; India; Pakistan; Russian Federation; South Africa; Togo; France; United Kingdom; and the United States of America.

### **What does the Committee on the Elimination of Racial Discrimination do?**

The Committee on the Elimination of Racial Discrimination (Committee) normally meets twice a year for three weeks at the United Nations headquarters in Geneva, Switzerland. These sessions usually take place in February and August. Countries which have ratified CERD are obliged to report to the Committee every four years regarding the progress made to implement and enforce the CERD provisions. The Committee reviews these country reports and invites representatives from countries whose reports are being considered to respond to questions from the Committee. The Committee then addresses its concerns and recommendations to that country in the form of "Concluding Observations."

### **Has the United States submitted reports about its compliance with the CERD?**

Yes. The U.S. submitted its most recent report in April 2007. The report combined two overdue reports covering 2000 – 2006. Since its ratification of CERD in 1994, the U.S. has submitted only one other report on its compliance with CERD, and that was in 2000. The Committee's "Concluding Observations" concerning the 2000 U.S. report are available at <http://www1.umn.edu/humanrts/country/usa2001.html>. The U.S. Department of State, currently headed by Secretary of State Condoleezza Rice, is responsible for drafting the reports and assembling the U.S. government delegation that attends the Committee's review session in Geneva.

### **What will happen at the Committee on the Elimination of Racial Discrimination's next session in Geneva?**

On February 21 and 22, 2008, the Committee will review the U.S.' report in two public meetings which will be held at the United Nations headquarters in Geneva. Representatives from the U.S. Department of State, U.S. Department of Justice, and from other relevant federal agencies, will address the Committee and answer questions posed by Committee members.

### **What will happen after the Committee on the Elimination of Racial Discrimination reviews the U.S. report?**

At the end of the session, the Committee will issue "Concluding Observations" regarding U.S. compliance with CERD. Among its recommendations, the Committee may identify certain areas of concern and may ask the U.S. to provide additional information on measures taken to address these concerns within one year. While the CERD Committee's recommendations are not legally binding, they place an important moral obligation on the U.S. government, as the U.S. has committed to complying with the terms of the treaty, and has encouraged other nations to comply with international human rights laws and obligations.

### **What is the role of human rights and civil liberties organizations in the treaty compliance process?**

Domestic human rights organizations, or non-governmental organizations (NGOs), are encouraged to participate whenever the Committee considers a country's compliance with the treaty. Many groups

submit information in the form of “shadow reports,” and provide Committee members with a list of suggested questions and areas of concern regarding the country report. To balance information provided by the countries in their treaty compliance-related reports, the Committee relies in part on factual information provided by NGOs in their shadow reports.

**Why is the ACLU involved in the CERD review process? Isn't the ACLU a domestic civil liberties organization?**

The ACLU is the nation's largest civil liberties organization, and is committed to defending and preserving the individual rights and liberties guaranteed by the Constitution, laws, and treaties of the United States. It is important for the ACLU and other domestic human rights and civil liberties groups to participate in the treaty compliance process and provide critical information regarding racial and ethnic discrimination in the U.S. By doing so, we also educate the American public and the world about U.S. violations of human rights and its failure to protect people under its control and jurisdiction from racial and ethnic discrimination.

**How has the ACLU been involved in the current CERD review process?**

The ACLU has been involved in the process since the U.S. submitted its report in April 2007. Together with other human rights and social justice organizations, the ACLU provided the Committee with a list of issues and questions to which the U.S. should be required to respond. The ACLU will also send to Geneva a delegation of national staff along with a number of representatives from its state affiliates and clients to present the ACLU report and to testify and observe the proceedings at the February session in Geneva. The ACLU and other US-based human rights NGOs will hold briefings with members of the Committee where they highlight U.S. failure to comply with the CERD and recommend measures that the U.S. must take to comply with its treaty obligations.

In December 2007, the ACLU submitted a comprehensive shadow report that documents the U.S. government's failure to comply with CERD. The report focuses on numerous substantive areas affecting racial and ethnic minorities, including non-citizens, in the United States: equal treatment by courts, law enforcement, prison authorities; right of the criminally accused to counsel; racial and ethnic profiling; minority over-representation in the criminal justice system; discrimination in the right to security against public and private violence; and discrimination in the application of political rights and discrimination in the provision of economic, social and cultural rights. Although CERD covers a broad spectrum of civil, political, economic, social, and cultural rights, the ACLU's shadow report does not address all of them; in addition, the report does not cover all of the work of the ACLU, which may be seen from our homepage, [www.aclu.org](http://www.aclu.org). The report is available online at <http://www.aclu.org/intlhumanrights/gen/32941pub20071210.html>.

Finally, in its work related to this report, the ACLU has and will continue to coordinate efforts with the wide coalition of U.S. social justice and human rights organizations led by the U.S. Human Rights Network (USHRN). This coalition is submitting its own shadow reports to the Committee on the Elimination of Racial Discrimination. For further information concerning the coalition's shadow reports, please visit the USHRN website at <http://www.ushrnetwork.org/>.

**How can I learn more?**

For additional information about the ACLU Human Rights Program please visit <http://www.aclu.org/intlhumanrights/index.html>.

For additional information about CERD please visit [www.aclu.org/cerd](http://www.aclu.org/cerd).