

# US Human Rights Violations: Geneva Centre for Justice

Universal Periodic Review reveals longstanding unwillingness to fully commit to obligations of pertinent human rights treaties

By [Geneva International Centre for Justice](#)

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*On 11 May 2015, the United States of America participated in its second Universal Periodic Review (UPR). The Universal Periodic Review is meant to be a mechanism by which all UN Member States are periodically assessed on their human rights record. The process allows countries to present a report of their efforts to promote and improve human rights within their country. It also affords the Working Group of the UPR, comprised of member countries of the Human Rights Council, the opportunity to assess the human rights record, ask questions, and provide recommendations.*

## The United States of America Presentation

The United States Permanent Representative at the United Nations Office, Ambassador Keith Harper, began the session by introducing the American delegation. He pointed to the strong delegation of senior officials from eight federal agencies and one state government as a testament to the United States' commitment and respect for the UPR process. Mr. Harper explained that the United States is both proud of its human rights record and mindful of the challenges that remain.



The delegation highlighted the improvements that the country made since the last UPR with regards to Indigenous Peoples, violence against women, and LGBT peoples. They further pointed to ongoing efforts to tackle issues of discrimination and police brutality, spurred by the recent high profile policing killings of African-American youth. The highlighted improvements however stand in contrast with reports of torture, the continued use of the death penalty, and many more lacking areas which were brought forward during the review.

## Ratification of Outstanding Human Rights Treaties\*

The United States' continued lack of ratification for several key international human rights treaties drew criticism from many states. Most countries including Luxembourg, Lebanon, and Iran called for the ratification of key documents such as: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol to the Convention Against Torture (CAT).

Also mentioned by Egypt, India, and Togo was the International Covenant on Economic,

Social and Cultural Rights (ICESCR) which is still not ratified by the United States since it signed onto the treaty in 1977. The Indian delegation pointed out that the United States considers itself to be a global leader on human rights, but still does not have a guarantee for all the economic, social and cultural rights outlined in the ICESCR. To truly be a leader on human rights, India urged the U.S. to ratify the ICESCR.

While the United States delegation did not specifically discuss all the outstanding treaties, the delegation did discuss the process of ratification in the United States. Pointing out that the United States' constitution requires the nation's legislative bodies to sign onto ratification of the treaties, the delegation appeared to shift the responsibility for ensuring the United States' engagement with the outstanding treaties. Not mentioned is the lack of political willingness from administrations to push treaties such as the ICESCR which has not been ratified in the over 30 years since it was signed.

### **Women's Rights**

CEDAW especially was the subject of much discussion as Serbia and Denmark acknowledged that despite progress, women in the United States continue to face challenges with regard to wage levels and sexual assault within the military. Serbia specifically recommended that the U.S. ensure that its legislation guarantees equal pay for equal work. Denmark asked that efforts to prevent sexual assault in the military be doubled, and the channels to prosecute such perpetrators reformed.

Also a point of discussion for several states was the United States' ban on Official Development Assistance (ODA) funding for safe abortion programs in recipient countries. The Netherlands, Norway, United Kingdom, Belgium, and France all brought up this issue. Each country recommended that the United States remove the restriction, allowing safe abortions in cases of rape, incest or risk to the mother's health if the ODA recipient country legally allows abortions. As pointed out, removing the ban is an important issue of women's rights and equality, affording women in the developing world with a right enjoyed by women in many American states.

The American delegation acknowledged the challenges faced by women in the United States, but reassured the concerned states that tackling woman's issues remains a priority for the United States and the Obama administration. The delegation pointed to upcoming legislation supported by the Obama administration aimed at reducing the wage gap between men and women, as well as between men and Latina/Black women.

Despite their assurances, it is important to question the strength of United States' commitments if not bound by international obligations. As Luxembourg mentioned in its recommendations, the United States signed onto the CEDAW in 1980. The length of time elapsed without ratification brings into question the genuine willingness of the United States to commit itself to all the obligations outlined in the treaty. While the country may enact national legislation to tackle issues such as the wage gap, not ratifying the CEDAW means it is likely that the United States will continue to fall short of the human rights standards set out the treaty.

### **Creating a National Human Rights Institution**

In accordance with the Paris Principles, the United States is expected to establish a National Human Rights Institution (NHRI). This institution which is to be responsible for the national

coordination of human rights issues and values is considered a key element in furthering the protection and promotion of human rights at the national level.

The United States remains without a NHRI or a plan to create one. This drew questions from several countries with many recommending that the United States work on creating an independent National Human Rights Institution in accordance with the Paris Principles.

The American delegation discussed the lack of a NHRI, but failed to acknowledge this as a weakness within their country's human rights system. Instead, the delegation discussed the various local, state and other complementary mechanisms which work together to implement international human rights obligations.

The delegation mentioned that it continues to strengthen these mechanisms to ensure a high level of impact. However, as pointed out by Nepal, the United States should be working on strengthening the already existing institutions as well as establishing the NHRI. Existing institutions need not be eliminated to create a National Human Rights Institution. Instead, the NHRI would allow cohesion across all of the United States. Unfortunately, creating such an institution did not seem to be a priority for the American delegation at this UPR.

### **Minority Rights and Continued Discrimination**

Recent high profile cases of police killings of African-American youth brought forward renewed concern over the state of minority relations and discrimination in the United States. This was evident by the number of states who recommended that the United States take steps to combat discrimination, intolerance and police brutality towards minority groups. Kazakhstan, Lebanon, Malaysia, Namibia, China, the Republic of Korea, Cuba, Senegal, Singapore, South Africa, Turkey, Brazil, Azerbaijan, Algeria, Angola, Chile, Croatia, Iran and Morocco all asked the United States to increase its effort to tackle racial discrimination. Namibia, South Africa and Chile went further to recommend that the U.S. implement a National Action Plan against Racial Discrimination, as called for in the Durban Declaration and Plan of Action.

Montenegro and Rwanda recommended programs to improve police-community relations as a way to tackle police brutality against vulnerable groups. Other states including: Namibia, Pakistan, Serbia, and Egypt called for investigations into the root causes of police brutality and discrimination as well as ways to rectify them. There were also recommendations from Bangladesh, Cuba and Argentina that perpetrators of police brutality be punished.



While police brutality towards African-Americans certainly dominated discussions of discrimination, other minority rights who are vulnerable were brought forward by Malaysia, Nicaragua, Angola, Egypt and Pakistan. Nicaragua's recommendation came with regard to migrant and undocumented people. Malaysia, Egypt and Pakistan specifically brought forward issues of Islamophobia and religious intolerance towards Muslims. They recommended a revision of laws pertaining to minority rights with the purpose of amending them to provide protection. It should also be noted that Egypt also recommended that the United States stop practices that target Muslim people at airports.

The American delegation pointed to its ongoing work to tackle discrimination as evidence of continued progress. The delegation stated that in the last 6 years, the Department of Justice

brought criminal charges against more than 400 law enforcement officers. They also mentioned that the department has an updated policy on profiling for all police departments which prevents enforcement officers from using factors such as race, gender, colour, etc. to inform decisions when dealing with communities. With regard to discrimination against Muslims, Sikhs and South Asian people, the delegation pointed to the newly expanded capacity of the Department of Justice to prosecute hate crimes.

The efforts described by the delegation to tackle police brutality and discrimination against minority groups represent a step in the right direction. However, they do not go far enough. It is difficult to ignore the alarming new cases of police brutality against African-Americans that continue to gain news coverage, despite the proclaimed efforts. As well, it must be asked whether or not the expanded ability of the Department of Justice to prosecute hate crimes go far enough. As it stands, information was not provided on what the rate of conviction is for perpetrators of hate crimes.

### **Torture, Guantanamo Bay and the International Criminal Court**

In light of the December 2014 release of the declassified records of the Senate Select Committee on Intelligence, several countries addressed the use of torture by the United States. These nine countries include: Venezuela, China, Pakistan, Costa Rica, Cuba, the Democratic People's Republic of Korea, Denmark, Germany, and Iran; they called on the United States to end the use of torture.



The American delegation spoke out against the use of torture in all cases and situations during its report presentation. The delegation acknowledged that the declassified records show that the United States crossed the line with the post 9/11 use of torture on detainees, but assured the UPR Working Group that steps have been taken to ensure that such interrogation techniques are never used again. Despite this assurance, nine countries still recommended that the United States stop the use of torture in all jurisdictions. In line with this, Libya, Malaysia, Pakistan, Russia, Spain, and the U.K recommended the closing of Guantanamo Bay, a facility that is notoriously known to be the site of torture against detainees.

Pakistan, China, Cuba, and Venezuela called for the prosecution of CIA officials responsible for torture. Iran and Switzerland recommended that an independent investigation be conducted into allegations of torture at Guantanamo and other U.S. detention facilities worldwide. Other countries, such as the Republic of Korea and Germany, asked the United States to grant access to the UN Special Rapporteur on Torture. Germany specifically recommended that the Special Rapporteur be granted unrestricted access to Guantanamo Bay to conduct unmonitored interviews with detainees. Such access would allow the clarification and unbiased documentation of allegations of torture and other inhumane interrogation techniques.

The U.S delegation maintained that torture is absolutely prohibited in all cases under U.S domestic law and international law and that the harsh interrogation techniques detailed in the declassified documents are a thing of the past. With regard to Guantanamo Bay, the delegation stated that those who remain at the facility are there lawfully under U.S. and international law. The delegation did confirm the United States' willingness to begin facilitating the visit of the Special Rapporteur on Torture to various detention facilities.

Whether or not the full access recommended by Germany will be granted remains to be seen.



Recommendations for the prosecution of CIA officials responsible for torture were not discussed by the American delegation. Furthermore, calls from 12 countries (Latvia, New Zealand, Slovenia, Timor-Leste, Trinidad and Tobago, Austria, Venezuela, Chad, Cyprus, France, Ghana, and Guatemala), for the United States to ratify the Rome Statute of the International Criminal Court (ICC) will not be carried out. The American delegation acknowledged the United States is not currently considering becoming a party to the Rome Statute, but will continue to engage with state parties to the Rome Statute and the ICC. In combating terrorism, they reaffirmed the United States' continued commitment to remain in alignment with its international obligations.

If the United States remains unbound by the Rome Statute of the ICC, the international community must ask exactly how there will be an assurance that the U.S. abides by international human rights standards. As the U.S. has no plans to become a party to the Rome Statute, American perpetrators of torture and other acts remain outside the jurisdiction of the ICC. It is unlikely that federal prosecution against CIA officials responsible for torture will ever be carried out as per the recommendation of Pakistan, China, Cuba and Venezuela. Without jurisdiction, the ICC cannot prosecute either.

### **Steps Forward**

While the United States claims its human rights record is commendable, we must expect more from a nation that prides itself on being a global leader. There were 348 recommendations in total given during this UPR and under typical procedure the accepted recommendations are announced by the country during the UPR session. The United States however has said that it will take until September to respond and decide which recommendations it will accept and implement and which ones it rejects. Once again, we must call into question the United States' stated commitment to actual implementation of recommendations if there is already to be such a delay with regard to acceptance. For reference, during the last UPR in 2010, the United States received 228 recommendations and accepted 174 of them of which a large number was accepted only in part. The other 54 recommendations were rejected. Of the 174 accepted recommendations however, only about 31 had been implemented (in part or fully) as shown by an NGO Midterm Implementation Assessment in 2013. Going forward, it will be seen how many of the recommendations given in this UPR cycle will be implemented by the United States, though the delegation says it will consider and review implementation for all recommendations.

The greatest cause for concern continues to be the ongoing lack of willingness to ratify certain human rights treaties such as the CEDAW, CRC, CRPD and the Rome Statute. Even if recommendations are put in place on an individual basis, without ratifying key instruments, no guarantee exists for all the obligations outlined in these documents. This situation, most explicitly seen in the discussion on prosecution of perpetrators of torture, places the United States outside the power of international organizations such as the ICC. This poses an ongoing threat to human rights within the United States of America and its territories.

*GICJ would like to call on the international community to closely follow the implementation of the recommendations proposed at this Universal Periodic Review. In particular, steps*

*must be taken to ensure that the United States: ratifies its outstanding human rights treaties, tackles women's rights issues, establishes a National Human Rights Institution in accordance with Paris Principles, takes practical steps to eliminate racial discrimination and bolster minority rights, and end the use of the death penalty at the federal and state level.*

*GICJ supports increased pressure on the United States to: allow the UN Special Rapporteur on Torture full access to its detention facilities, prosecute perpetrators of torture, close Guantanamo Bay and other similar detention facilities, and sign the Rome Statute of the International Criminal Court.*

*The international community must not forget the violations of international law and disregard for human rights which occurred as a result of the U.S.-led invasion and subsequent occupation of Iraq in 2003.*



*The United States must be held accountable for its key role. The people of Iraq are entitled to satisfaction in the form of an official apology from all states that participated in the so-called "coalition of the willing". Compensation should include: rebuilding the Iraqi infrastructure, government institutions, schools and private property that were bombed or damaged during war and under occupation, an environmental clean-up, undertaken and financed by the coalition of the willing, that is responsible for the use of depleted uranium and other toxic agents that are susceptible to the worrying increase of cancer and birth defects. It is time for accountability and justice!*

*\* Note: Of the 9 existing human rights treaties (not including the optional protocols and the Rome Statute), the United States- which is a member of the UN Human Rights Council- has not ratified 6 of these treaties nor the Rome Statute of the ICC.*

*These treaties are:*

- The International Covenant on Economic, Social and Cultural Rights (ICESCR) which has 164 ratification
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which has 189 ratifications
- The Convention on the Rights of the Child (CRC) which has 195 ratifications
- The Convention on the Rights of Persons with Disabilities (CRPD) which has 154 ratifications
- The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families which has, so far, 47 ratifications
- The International Convention for the Protection of All Persons from Enforced Disappearance which has 46 ratifications
- The Rome Statute of the ICC which has 123 ratifications

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