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Furthering the U.N.'s Leftist Agenda: The U.N. CERD Committee Report

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In 1994, the U.S. Senate ratified the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).¹ As a party to the CERD, the United States commits to prohibit racial discrimination in all its forms and is required to submit reports periodically to the CERD Committee outlining its compliance with the treaty.

In February 2008, the CERD Committee released its “concluding observations” related to the most recent U.S. report.² The report identified a series of “concerns” and made several “recommendations” to the United States that had little to do with U.S. compliance with its treaty obligations and everything to do with the advancement of an agenda that is, at best, only tangentially related to race and racial discrimination.³

The U.S. Record on Racial Discrimination. The United States has struggled with issues of race from the time of its founding over 200 years ago, and the nation continues to struggle to address its legacy of slavery and racial segregation. While the current status of race relations in the United States is far from perfect and much work remains to be done, it is incorrect to say that the government and the American people have not acted in good faith to close the gaps that exist between Americans of different races and ethnicities.

All three branches of the U.S. government have helped to protect the rights of racial minorities in America. Congress passed landmark legislation such as the Civil Rights Act of 1964, the Voting Rights Act of 1965, and many other laws to provide redress to racial minorities that were subjected to

discrimination in public accommodation, education, employment, and elections, and the executive branch devotes substantial resources to the enforcement of those laws. The Civil Rights Division of the Department of Justice, the U.S. Equal Employment Opportunity Commission, and the U.S. Commission on Civil Rights form the core of a federal network of agencies and commissions dedicated to achieving racial equality in America. Over the years, the Supreme Court has issued many major decisions expanding the protections afforded to minorities under the Constitution.

The supposed purpose of the CERD and the CERD Committee is to review the efforts of the U.S. government and report on the U.S. record on improving race relations and addressing racial disparities and discrimination. Unfortunately, however, the CERD Committee does very little of that, instead using its resources and reports to deliver a demonstrably leftist attack on U.S. policy on social issues, immigration, the detention facility at Guantanamo Bay, abortion, the death penalty, and various other matters high on the liberal agenda.

Advancing the Leftist Agenda. Very little of the CERD Committee’s report actually addresses issues and allegations regarding race in the United

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States.⁴ Instead, the largest portion of the committee's concerns and recommendations constitutes a laundry list of positions taken by liberal academics, international human rights non-governmental organizations (NGOs), the United Nations, and other members of the "international community" on various causes completely unrelated to racial discrimination.

Specifically, the CERD Committee's report calls upon the United States government—ostensibly for the purpose of combating racial discrimination—to take the following actions:

- Place a moratorium on the imposition of the death penalty;⁵
- Restore voting rights to felons;⁶
- Ensure that enemy combatants held in Guantanamo Bay, Cuba, have the right to judicial review to challenge the lawfulness and conditions of their detention;⁷
- Prevent U.S. corporations from negatively affecting the rights of indigenous people living outside of the United States;⁸
- Address the disparities that exist in "sexual and reproductive health" and facilitate access to "adequate contraceptive and family planning methods" (widely known euphemisms for providing abortion services);⁹
- Protect "undocumented migrant workers" from discrimination in the workplace;¹⁰
- Provide counsel to indigent minorities not only in criminal cases, but in civil legal proceedings as well;¹¹
- Provide information on the extent to which grade school and high school textbooks and curricula "reflect the multi-ethnic nature" of the United States and whether they "provide sufficient information on the history and culture of the different racial, ethnic, and national groups";¹²
- Ban all forms of "hate speech" regardless of whether such a ban would run counter to the First Amendment's protection against abridgements of the freedom of speech;¹³
- Prohibit the practice of sentencing criminal defendants under the age of 18 to life without the possibility of parole;¹⁴
- Participate in the preparatory process for the Durban Review Conference and attend the conference itself;¹⁵ and
- Increase its efforts to combat violence against women.¹⁶

1. International Convention on the Elimination of All Forms of Racial Discrimination, at www2.ohchr.org/english/law/cerd.htm (CERD Convention).
2. *Sixth Periodic Report of the United States of America to the U.N. Committee on the Elimination of Racial Discrimination Concerning the International Convention on the Elimination of All Forms of Racial Discrimination*, U.N. Doc. CERD/C/USA/6, May 1, 2007, at www2.ohchr.org/english/bodies/cerd/docs/AdvanceVersion/cerd_c_usa6.doc.
3. *Concluding Observations of the Committee on the Elimination of Racial Discrimination*, U.N. Doc. CERD/C/USA/CO/6, February 2008, at www2.ohchr.org/english/bodies/cerd/docs/co/CERD-C-USA-CO-6.pdf (CERD Report).
4. For example, the CERD Committee is critical of the Department of Homeland Security's National Security Entry/Exit Registration System (NSEERS), which committee members consider a form of racial profiling. CERD Report, ¶ 14.
5. CERD Report, ¶ 23, pp. 6–7.
6. CERD Report, ¶ 27, p. 9.
7. CERD Report, ¶ 24, p. 7.
8. CERD Report, ¶ 30, p. 10.
9. CERD Report, ¶ 33, p. 11.
10. CERD Report, ¶ 28, p. 9.
11. CERD Report, ¶ 22, p. 6.
12. CERD Report, ¶ 38, pp. 12–13.
13. CERD Report, ¶ 18, p. 5.
14. CERD Report, ¶ 21, p. 6.
15. CERD Report, ¶ 39, p. 13.

In short, it is clear that the CERD Committee has in large part ignored the stated aim of the convention and has instead transformed the treaty reporting process into a vehicle for advocating leftist positions on causes and issues other than race and racial discrimination. While many of the problems identified by the CERD Committee deserve attention, it is doubtful that there exists any significant relationship between those problems and any U.S. policy relating to race or racial discrimination.

While the CERD Committee makes an attempt to link each of its agenda items to a supposed racial disparity, the links are at best tenuous. For example, the committee notes that racial and ethnic minorities constitute a disproportionate share of incarcerated felons and death-row inmates in the United States.¹⁷ In the eyes of the committee, both the disenfranchisement of felons and the imposition of the death penalty have a “disproportionate impact” on minorities, and such practices must cease. The committee naturally assumes that minority felons and death row inmates were convicted of crimes by American judges and juries because of their race and ethnicity, not because of substantial evidence of their guilt. By that logic, the committee would apparently be in favor of the death penalty and felon disenfranchisement as long as the prison population and death row were racially representative. The logical gymnastics used by the committee to reach its findings are extraordinary.

Moreover, the CERD report represents an attempt by the committee and its allies in the NGO community to achieve through the treaty process what they have not achieved and cannot achieve through the democratic process. Much of what the committee recommends runs counter to what American citizens, through their elected representatives at the local and national levels, would consent to under any circumstances. It is unlikely that the American

people would agree to an unconstitutional ban on a certain category of speech only because they disagree with its content. Also, since 63 percent of Americans believe in the use of the death penalty, it is unlikely that they would agree to abolish it.¹⁸

Most important, most, if not all, of the issues enumerated by the CERD Committee are the subject of fierce and ongoing debates within the United States. Neither the United Nations nor the CERD Committee has any jurisdiction or meaningful role to play in those debates. Those matters constitute legal, social, and cultural components of American life and must be left to the American people to consider and decide.

A Sign of Things to Come? The United States has only itself to blame for the fact that an unaccountable and undemocratic international committee—one-third of whose members are known human rights abusers¹⁹—is in a position to pass judgment on the status of U.S. race relations. No one forced President Lyndon B. Johnson to sign the CERD Convention in 1966, and no one forced the U.S. Senate to ratify it in 1994.

By agreeing to be bound to the convention, the United States promised to “prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.”²⁰ A broader commitment by the U.S. government to end racial bias in the public, private, governmental, and corporate spheres could not have been made. The resulting intrusion by the “international community” and its CERD Committee proxy into U.S. internal affairs is the unwelcome yet predictable consequence of what was a worthy commitment by the government to achieving racial equality in America.

It remains to be seen whether the United States has learned its lesson from its experience with the

16. CERD Report, ¶ 26, p. 8–9.

17. CERD Report, ¶ 27, p. 9.

18. “Over Three in Five Americans Believe in Death Penalty,” *The Harris Poll*, March 18, 2008, at www.harrisinteractive.com/harris_poll/index.asp?PID=882.

19. Algeria, China, Egypt, Pakistan, Russia, and Togo are current members of the CERD Committee. “Committee on the Elimination of Racial Discrimination—Members,” at www2.ohchr.org/english/bodies/cerd/members.htm.

20. CERD Convention, Art. 2., 1(d).

CERD Committee and other U.N. human rights bodies. Certain members of the U.S. Senate would have the United States make similarly overbroad commitments vis-à-vis other treaties to which the United States is not yet a party, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the U.N. Convention on the Rights of the Child (CRC), and other treaties that would allow international scrutiny of U.S. social policy.

CEDAW, which was signed by President Jimmy Carter in 1980 but has never been ratified by the U.S. Senate, requires its signatories to take “all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”²¹ The CEDAW Committee has exercised its broad jurisdiction to recommend that its signatories abolish Mother’s Day (Belarus), decriminalize prostitution (China), and require doctors to perform abortions regardless of their personal objection to the procedure (Croatia and Italy).

If the President makes the mistake of signing and the Senate makes the mistake of ratifying conventions such as CEDAW, the United States may expect more of the same from the U.N. committees that administer those treaties.

Conclusion. In a nation where racial minorities have succeeded at the highest levels of society—as Cabinet officials, business executives, professional athletes, Members of Congress, and a presidential candidate, to name but a few examples—it is difficult to countenance advice and recommendations from a committee whose members include representatives from Algeria, China, Egypt, Pakistan, Russia, and Togo (chair of the committee). When

that report mirrors in almost all respects a liberal international agenda that has little support within the United States, it becomes even more difficult to consider seriously the “concerns and recommendations” made therein. Therefore:

The next Administration and the U.S. Senate should learn a lesson from the behavior of the CERD Committee when they consider either signing or ratifying similarly well-intentioned treaties in years to come.

The next Administration and the U.S. Senate should closely scrutinize and be wary of the following treaties (that have not been signed and/or ratified) and their respective monitoring bodies: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention on the Rights of the Child, (CRC); the U.N. Convention on the Law of the Sea (LOST); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the International Covenant on Economic, Social and Cultural Rights.

The United States government and the American people should continue their collective efforts to address issues relating to race relations, women’s and children’s rights, the death penalty, immigration, multiculturalism, migrant workers, hate speech, and many other matters facing our society. While these issues are not unique to the United States, it is up to the American people and their government to determine the best course of action to address them based on America’s unique history and traditions. Agreeing to additional U.N. conventions will bring America no closer to resolving these matters.

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21. Convention on the Elimination of All Forms of Discrimination Against Women, U.N. Doc. A/34/46 (1979).