

Issue Brief

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United Nations Report on USA: Intrusive Monitoring and Investigations, and Pressure to Ratify Treaties, Fulfill Non-Treaty Obligations and Change Policies

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The United Nations' Office of the High Commissioner for Human Rights prepared a Report¹ (OHCHR Report) on the United States of America from UN sources. The compilation lists UN treaties the United States has ratified or signed, and statements and recommendations from treaty monitoring committees (including committees for treaties that the USA has not ratified) and other UN entity representatives. *The standards of judgment are not the U.S. Constitution, and federal and state laws, but United Nations' treaties and documents, and the viewpoints of treaty committee members and other UN representatives.*

Pressure to ratify UN treaties

One of the primary ways that the United Nations exerts inappropriate pressure upon the United States is criticism for not ratifying particular United Nations' treaties, protocols and international conventions. Some of that criticism comes from the actual treaty bodies that want to bring the United States under their oversight and control. Here are some examples.

In the first paragraph of the OHCHR Report, the UN Committee on the Rights of the Child (CRC Committee) – a treaty that the USA signed in 1995 but has never ratified – called upon the USA to ratify the Convention on the Rights of the Child (CRC)², plus the “Additional Protocols I and II to the Geneva Conventions of 12 August 1949.”³

Is that decision not within the sovereign authority of the United States of America, its government and people? Michael P. Farris, Esq., believes so, and therefore founded ParentalRights.Org (PRO) to protect

the inherent rights of parents, and stop U.S. ratification of the treaty. PRO explains that the CRC would attack “the very core of the child-parent relationship, removing parents from their central role in the growth and development of the child, and replacing them with the long arm of government supervision within the home.” The American historic presumption “in favor of *parents*” would be changed to favor the state, and would set “the stage for disruption of intact families.”⁴

The Committee Against Torture (CAT Committee), the treaty body for the Convention Against Torture to which the USA became a party in 1994, recommended the USA ratify “the Rome Statute of the International Criminal Court” (ICC) – also recommended by the CRC Committee.⁵ But ratifying the Rome Statute would put American airmen, serviceman, marines and sailors, as well as our government officials and citizens, at risk of being arrested – possibly on false charges – extradited to the Hague, held in prison, and prosecuted by the ICC.

John Bolton testified before Congress regarding the Rome Statute and global jurisdiction of the ICC: it is “unacceptable for the United States to be bound by a treaty that it is not a party to.”⁶ Author Tom Kilgannon, President of Freedom Alliance, addressed more specifically problems with the ICC: it “claims jurisdiction over all individuals” worldwide and does not provide vital legal “protections against unlawful searches and seizures”; claims jurisdiction “on the territory of any State Party” as well as “on the territory of any other” nation; cannot be reconciled “with the United States Constitution”; and “supplants the authority of the UN Security Council and the veto power held by the United States in that chamber.”⁷ Need we say more?

The Human Rights Committee (HR Committee), the committee monitoring compliance with the International Covenant on Civil and Political Rights (ICCPR) that the USA ratified in 1992, urged the USA to “withdraw its reservation on article 6, paragraph 5, which forbids imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed.”⁸ In our federal system, laws regarding the death penalty for persons of any age

are the jurisdiction of state governments. You might be interested to know that this same Committee has developed a most irrational redefinition of the “right to life.” Article 6, paragraph 1, states that “Every human being has the inherent right to life.” In 2005, in a decision regarding Peru where a hospital refused to perform an abortion to terminate the life of a possibly deformed child, the HR Committee rationalized Peru violated that mother’s “right to life” by allegedly putting her life at risk by not permitting her to terminate the life of her preborn child. The mother’s life was never in jeopardy. She bore that child who lived for four days, giving at least the opportunity for the mother to comfort, bond with, and grieve for her child.⁹

In addition, the “Special Rapporteur on the human rights of migrants recommended” the USA ratify “the International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families.”¹⁰ Also, “The Working Group of experts on people of African descent” (Working Group) wants the USA to ratify “ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation.”¹¹ So the Special Rapporteur and the Working Group think that the vast amount of efforts undertaken by our country to welcome and protect millions upon millions of immigrants, and to address and correct discriminatory laws and policies, are inadequate and can only be remedied by ratifying treaties?

Pressure to Change U.S. or State Laws & Ensure UN Compliance through FED

The Committee on the Elimination of Racial Discrimination (CERD Committee), enforces the Convention on the Elimination of Racial Discrimination which the USA ratified in 1994. The CERD Committee, with the CRC Committee

and the Working Group, urged the USA to establish a “national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights,” that would “ensure a coordinated approach towards implementation of the Convention(s) at the federal, state and local levels.”¹² In other words, they want Americans to federalize every human rights law, policy or issue. Doing so would radically change our system of government, and create a mechanism through which UN committees, entities and groups could influence and control our domestic policies in almost any area.

The CERD Committee further asked the USA to change “the definition of racial discrimination ... to ensure it is consistent with that of the Convention.”¹³ They offered no explanation of how our legal definition is problematic.

The CRC Committee exhorted the USA to “raise the minimum age for recruitment into the armed forces to 18 years,” criminalize “the recruitment and involvement of children in hostilities,” and establish “extraterritorial jurisdiction for these crimes.” The CRC Committee also asked the USA to “define and prohibit child prostitution both at federal and state levels.”¹⁴ They sure don’t know how hard our lawmakers and police forces have worked to establish and enforce laws against child prostitution, or the stringent requirements for entrance into our military. We don’t have child soldiers!

These UN committees and “Special Rapporteurs” (experts) gave many other instructions and recommendations – some apparently blind to national sovereignty, our federal system of government, our laws and policies, or security threats – including:

- Fulfill “international legal obligation to comply with decisions of the International Court of Justice”¹⁵;

- Review (eliminate) of death penalty, and racial disparities in its imposition¹⁶;
- “Eliminate police brutality”¹⁷;
- Change “immigration and asylum laws” to make consistent with “international standards”¹⁸;
- Eliminate “racial profiling of Arabs, Muslims and South Asians” from 25 countries as conducted through “the National Entry and Exit Registration System”¹⁹;
- Eliminate the “categorization of persons as ‘unlawful enemy combatants’”²⁰ (What do they propose we call them?);
- Prohibit torture in any form, including at military detention facilities, and “enact a federal crime of torture consistent with the Convention (Against Torture)”²¹;
- Close Guantanamo detention facility, and give detainees due process and judicial rights, including in detention facilities in Afghanistan and Iraq²²;
- Restrict “definitions of ‘international terrorism’, ‘domestic terrorism’ and ‘material support to terrorist organizations’ in a way” that conforms to Security Council definitions²³;
- Stop killing civilians in Afghanistan and Iraq²⁴ (Americans are grieved when innocent civilians are killed during military operations, unlike those whom they are fighting who intentionally target and murder civilians.);
- Decriminalize “homosexual relations between consenting adults,”²⁵ and prohibit violent crimes “against persons of minority sexual orientation” (Our laws against violent crimes apply to any person in any situation, but decriminalizing immoral acts undermines the rule of law and its moral foundations.);
- Ensure “equality of women before the law” and nondiscrimination in employment²⁶ (We have one of the best records in the world in these areas.); and
- Eliminate any remaining racial discrimination (addressed throughout Report).

UN Monitoring and Interventions Within USA

The United Nations has “Special Rapporteurs” and “working groups” who are supposedly experts

with global mandates for certain issues or problems. The following conducted 5-19 day investigative visits within the United States:

- “Special Rapporteur on the human rights of migrants (30 April–18 May 2007)” – from Mexico²⁷;
- “Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (16-25 May 2007)” – from Finland²⁸;
- “Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (19 May–6 June 2008)” – from Senegal²⁹;
- “Special Rapporteur on extrajudicial, summary or arbitrary executions (16-30 June 2008)” – from Australia³⁰;
- “Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (20 July–3 August 2009)” – from Libya, Colombia, Spain, Russia and Fiji³¹;
- “Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (22 October–8 November 2009)” – from Brazil³²; and
- “Working Group of experts on people of African descent (25-29 January 2010)” – from Bangladesh, Macedonia, Jamaica, Greece and Algeria.³³

In addition, the following were scheduled for 2010 after this UN report was published:

- “Working Group on Arbitrary Detention” – from Norway, Chile, Pakistan, Senegal and Ukraine³⁴; and
- “Special Rapporteur on the sale of children, child prostitution and child pornography” – from Morocco.³⁵

Further, the following visits were requested, but not agreed to yet by the USA, or were canceled:

- Five were to visit Guantanamo (cancelled):
 - Chairperson-Rapporteur of the Working Group on Arbitrary Detention – from Senegal³⁶;
 - Special Rapporteur on the independence of judges and lawyers – from Brazil³⁷;
 - Special Rapporteur on the question of torture –

- from Argentina³⁸;
- Special Rapporteur on freedom of religion or belief – from Germany³⁹; and
- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health – from India⁴⁰;
- “Independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation” – from Portugal.⁴¹ (request pending)
- “Special Rapporteur on violence against women, its causes and consequences” – from South Africa.⁴² (request pending)

Concluding Comments

Chapter I of the United Nations Charter, titled “Purposes and Principles,” Article 2, paragraph 7, declares:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state [nation] or shall require the Members to submit such matters to settlement under the present Charter.

The UN Charter itself, if properly upheld, would be no threat to our national sovereignty and federal system of government. Our history, federal and state constitutions, and even the UN Charter loudly proclaim that we should not be subjecting our nation to international treaty monitoring bodies, “special procedures,” international investigations and reviews, or criminal or quasi-judicial procedures conducted entirely by non-citizens of this great country.

The information in this Report poses some important questions for the people, and local, state and federal governments, of the United States of America:

1. Do we truly want so-called experts – even if

they are experts in the particular field and within their own country – from Algeria, Argentina, Australia, Bangladesh, Brazil (2), Chile, Colombia, Fiji, Finland, Germany, Greece, India, Jamaica, Libya, Macedonia, Mexico, Morocco, Pakistan, Portugal, Russia, Senegal (3), South Africa, Spain and Ukraine investigating our country and sitting in judgment over us in numerous areas of domestic law and policy?

2. Do we want to preserve our authority and capacity to determine our own domestic policies, both for our people and our freely elected governments? The 10th Amendment to the United States Constitution, the final of the original 10 Amendments, guarantees: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the

people.”

3. Will our local, city and county representatives, mayors, state legislators, governors, members of Congress, and presidents determine our laws and policies, or will foreigners do so?

4. Do we want to preserve our freedom and free forms of government, or will we yield to international pressure to place any or every area of domestic policy or foreign affairs for review by those who are not citizens or officials of this country?

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1. “Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to the Human Rights Council Resolution 5/1: United States of America,” 12 August 2010. UN doc: A/HRC/WG.6/9/USA/2.
 2. Ibid., par. 1.
 3. Ibid., par. 3. Of the 1977 Protocols to the Geneva Conventions, Protocol I pertains to international conflicts, and Protocol II to internal conflicts. Both contain provisions protecting children.
 4. “The UN Convention on the Rights of the Child,” www.parentalrights.org.
 5. Ibid., par. 4.
 6. As quoted in *Diplomatic Divorce*, by Thomas P. Kilgannon (Macon, GA: Stoud & Hall Pub.), pg. 25.
 7. Ibid., pp. 24-25.
 8. Op. cit., “Compilation,” par. 6.
 9. (The Peru Decision) International Covenant on Civil and Political Rights. Human Rights Committee. “Communication No. 1153/2003,” 22 November 2005 (adopted by HR Committee, 24 October 2005). UN doc: CCPR/C/85/D/1153/2003.
 10. Op. cit., “Compilation,” par. 2.
 11. Ibid., par. 1.
 12. Ibid., pars. 11-12.
 13. Ibid., par. 8.
 14. Ibid., pars. 9-10, 24.
 15. Ibid., par. 26.
 16. Ibid., pars. 19, 25-26.
 17. Ibid., par. 30.
 18. Ibid., pars. 65-68.

19. Ibid., pars. 22-23.
20. Ibid., par. 52.
21. Ibid., pars. 32-37, 48.
22. Ibid., pars. 45-52, 74.
23. Ibid., pars. 71-72.
24. Ibid., pars. 27-29.
25. Ibid., pars. 41, 76.
26. Ibid., par. 18.
27. Ibid., par. 16. Special Rapporteur since July 2005 is Mr. Jorge A. Bustamante from Mexico. For a list of the current Special Rapporteurs and Working Group Members, see “Thematic mandates” or “List of all special procedures mandate holders,” at: www2.ohchr.org/english/bodies/chr/special/index.htm.
28. Ibid., par. 16. Special Rapporteur since July 2005 is Mr. Martin Scheinin from Finland.
29. Ibid., par. 16. The Special Rapporteur during the USA visit would have been Mr. Doudou Diène from Senegal; since August 2008 Mr. Githu Muigai from Kenya has held the position.
30. Ibid., par. 16. The Special Rapporteur during the USA visit would have been Mr. Philip Alston from Australia; since August 2010 Mr. Christof Heyns from South Africa has held the position.
31. Ibid., par. 16. The five members of the Working Group are: Najat Al-Hajjaji from Libyan Arab Jamahiriya (since July 2005); Amada Benavides de Pérez from Colombia (since July 2005); Mr. José Luis Gomez del Prado from Spain (since October 2005); Mr. Alexander Nikitin from the Russian Federation (since July 2005); and Faiza Patel from Pakistan, who replaced Shaista Shameem from Fiji in August 2010.
32. Ibid., par. 16. Special Rapporteur since May 2008 is Raquel Rolnik from Brazil.
33. Ibid., par. 16. The five members of the Working Group are: Monorama Biswas from Bangladesh (since November 2008); Mirjana Najcevska from The former Yugoslav Republic of Macedonia (since November 2008); Verene Shepherd from Jamaica (since April 2010) – who replaced Mr. Ralston Milton Nettleford from Jamaica; Mr. Linos-Alexandros Sicilianos from Greece (since August 2009); and Maya Sahli from Algeria (since August 2008).
34. Ibid., par. 16. The five members of the Working Group are: Mr. Mads Andenas from Norway (since August 2009); Mr. Roberto Garretón from Chile (since May 2008); Shaheen Sardar Ali from Pakistan (since August 2008); Mr. Elhadji Malick Sow from Senegal (since May 2008); and Mr. Vladimir Tochilovsky from Ukraine (since May 2010).
35. Ibid., par. 16. Special Rapporteur since May 2008 is Najat Maalla M’jid from Morocco.
36. Ibid., par. 16. The current Chairman-Rapporteur is Mr. Elhadji Malick Sow from Senegal, who has been a member of this Working Group since May 2008.
37. Ibid., par. 16. Special Rapporteur since June 2009 is Gabriela Knaul from Brazil.
38. Ibid., par. 16. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment since November 2010 is Mr. Juan Ernesto Mendez from Argentina.
39. Ibid., par. 16. Special Rapporteur since August 2010 is Mr. Heiner Bielefeldt from Germany.
40. Ibid., par. 16, 47. Special Rapporteur since August 2008 is Mr. Anand Grover from India.
41. Ibid., par. 16. First and current Special Rapporteur since November 2008 is Catarina de Albuquerque from Portugal.
42. Ibid., par. 16. Special Rapporteur since August 2009 is Rashida Manjoo from South Africa.