



Peace & Justice Commission

CONSENT CALENDAR
September 29, 2009

To: Honorable Mayor and Members of the City Council
 From: Peace & Justice Commission
 Submitted by: Eric Brenman, Secretary, Peace & Justice Commission
 Subject: United Nations Treaty Reports

RECOMMENDATION

The Peace & Justice Commission adopted the following recommendation:

- 1) That the Berkeley City Council affirm the value of localities complying with relevant UN Treaty recommendations;
- 2) That the Council direct the City Manager to direct City Departments to provide data on City of Berkeley compliance with standards set forth in these treaties to UN Reports Subcommittee members;
- 3) That the Council direct the City Clerk to send a letter to Secretary of State Hillary Clinton with copies to President Barack Obama and UN Ambassador Susan Rice urging compliance with the reporting recommendations of the three UN Treaties for reports from the local level;
- 4) That the Council direct the City Clerk to send the City of Berkeley reports, when completed, with a cover letter to the following: Alameda County Board of Supervisors, the State of California Attorney General, the US State Department, The League of California Cities; the National League of Cities, the California Association of Counties, The Association of State Attorneys General.

The UN Human Rights Committee (ICCPR) (the U.S. report is due August 8, 2010), UN Committee on the Elimination of Racial Discrimination (CERD) (the U.S. report is due November 20, 2011), UN Committee Against Torture (CAT) (the U.S. report is due November 19, 2011).

M/S/C: (Bohn/Cohen)

Ayes: Diana Bohn, Elliot Cohen, Wendy Kenin, George Lippman, Jane Litman, Jon Marley, Bob Meola, Mary Nicely, Michael Sherman, Phoebe Anne Sorgen, Megan Winkelman

Noes: Jonathan Wornick

Abstain: None.

Absent: Donald Brody (excused), Rita Mara

FISCAL IMPACTS OF RECOMMENDATION

None. The requested data is available from existing Department reports. Compilation of data will be compiled by interns, not by staff. We believe that the fiscal impact would be insignificant because data that is already available to the public would be compiled and reports would be made by interns in collaboration with the UN Treaty Reports Subcommittee of the Peace and Justice Commission.

CURRENT SITUATION AND ITS EFFECTS

The Peace and Justice Commission calls the attention of the City Council and residents of the City of Berkeley to the responsibility of all nations and all local communities to abide by three United Nations human rights treaties, including regular reporting. All of the below-referenced treaties have been ratified by the United States.

The Treaties are:

- International Covenant on Civil and Political Rights (ICCPR);
- International Convention on Elimination of all forms of Racial Discrimination (CERD);
and
- International Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

With the new national Administration, we have the opportunity of a generation to fulfill the United States' stated commitment to the rule of human rights through law. It is important that the United States, which was a participant in the drafting of the Universal Declaration of Human Rights, file these reports that include information at the local level.(see Background for documentation of recommendations/requirements for reporting on local level.)

BACKGROUND

City Reports requested under 3 Treaties and documentation of local reporting recommendations:

Cities are REQUESTED to make periodic reports under three treaties ratified by the U.S. in 1992 and 1994: International Covenant on Civil and Political Rights, International Convention on Elimination of all forms of Racial Discrimination, and International Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to be submitted to the U.N. Human Rights Committee, the U.N. Committee on Elimination of Racial Discrimination, and the U.N. Committee Against Torture (see Attachment for detailed background documentation).

CITY MANAGER

The City Manager takes no position on the substance of the UN Treaties referenced in the report. Staff notes that this Commission recommendation includes reporting on two more UN treaties (International Covenant on Civil and Political Rights; International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), in addition to the single UN treaty that was reported on in 2007 (International Convention on Elimination of All Forms of Racial Discrimination). This additional reporting may involve significantly more staff time to research and respond. However, if the existing reports listed in the attachment to the Commission's report under "Available Reports" are the sum total of what is needed; those reports will be provided to the Commission and volunteers who will do the compilation. If those reports are not sufficient, the City Manager may need to reconsider allocating resources to this project.

CONTACT PERSON

Robert Meola, Chairperson, Peace and Justice Commission, (510) 644-1102

Diana Bohn, Commissioner, Peace and Justice Commission, (510) 525-5497

Eric Brenman, Secretary, Peace and Justice Commission, (510) 981-5114

Attachment:

1. Background information and documentation relating to local reporting for UN Treaties.

Attachment

ICCPR:

"<http://www2.ohchr.org/English/law/ccpr.htm>" Senate advice and consent: 140 Cong Rec. 57634 (June 24, 1994) General Assembly resolution 39/46 of 10 December 1984

"http://www.unhchr.ch/html/menu3/b/h_cat39.htm" Senate advice and consent: 136 Cong Rec. S17491-2 (October 2, 1990)

Consideration of Reports Submitted By States Parties under Article 40 of The Covenant. Concluding observations of the Human Rights Committee, USA. (July 28, 1996) "<http://www.unhchr.ch/tbs/doc.nsf/>"

¶23: ... It also notes with concern the State party's position that federal government authorities cannot take legal action if there is no indication of discriminatory intent by state or local authorities. (Articles 2 and 26)

¶39: (...)The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole, as well as about the practical implementation of the Covenant, the difficulties encountered in this regard, and the implementation of the Covenant at state level. The State party is also encouraged to provide more detailed information on the adoption of effective mechanisms to ensure that new and existing legislation, at federal and at state level, is in compliance with the Covenant, and about mechanisms adopted to ensure proper follow-up of the Committee's concluding observations.

CERD:

Concluding Observations and recommendations of the Committee on the Elimination of Racial Discrimination, USA, (CERD)U.N. FDoc. A56/18.380-407 (dated 8/01): Article 402 "...In this context the Committee also notes that the next periodic report contain comprehensive information on its implementation of the State and local levels..." General Assembly resolution 2106 (XX) of 21 December 1965

"<http://www2.ohchr.org/english/law/cerd.htm>"Senate advice and consent:

138 Cong Rec. S4783 (April 2, 1992) 58 Fed, Reg, 45934-45942, No. 167, Aug. 31. 1993. General Assembly resolution 2200A (XXI) of 16 December 1966

Concluding observations of the Committee on the Elimination of Racial Discrimination: United States of America. (August 14, 2001) "<http://www.unhchr.ch/tbs/doc.nsf/>"

¶383: In view of the dialogue held, the Committee wishes to emphasize that irrespective of the relationship between the federal authorities, on the one hand, and the States, which have extensive jurisdiction and legislative powers, on the other, with regard to its obligation under the Convention, the Federal Government has the responsibility to ensure its implementation on its entire territory.

¶390: The Committee, concerned by the absence of specific legislation implementing the provisions of the Convention in domestic laws, recommends that the State party undertake the necessary measures to ensure the consistent application of the provisions of the Convention at all levels of government.

¶393: ... The Committee recommends that the State party take all appropriate measures to review existing legislation and federal, State and local policies to ensure effective protection against any form of racial discrimination and any unjustifiably disparate impact.

CAT:

Guidelines on The Form and Content of Initial Reports under Article 19 to Be Submitted By States Parties To The Convention Against Torture (July 18, 2005)

["http://www.unhchr.ch/tbs/doc.nsf/"](http://www.unhchr.ch/tbs/doc.nsf/)

¶5: ... Judicial, administrative or other competent authorities with jurisdiction/a mandate covering matters dealt with in the Convention, such as the Constitutional Court, the Supreme Court, the ordinary and military courts, the public prosecutors, disciplinary bodies, administrative authorities in charge of police and prison administration, national institutions for the promotion and protection of human rights, etc. Provide an overview of the practical implementation of the Convention at the federal, central, regional and local levels of the State, and indicate any factors and difficulties that may affect the fulfillment of the obligations of the reporting State under the Convention. The report should include specific information related to the implementation of the Convention in such circumstances. Relevant documentation collected by the authorities or other private or public institutions is welcome.

(#3:) Letter to Dept of State:

Dear Secretary Clinton: The City of Berkeley encourages the U.S. Department of State to request local reporting on implementation of the Three UN Treaties, and encourages the Department of State to provide comprehensive information on its implementation of the State and local levels in your next periodic report.

Sincerely,

City Council of Berkeley, CA

(#4:) UN Reports go to with cover letters as specified below:

- a. President of the Alameda County Board Of Supervisors,
- b. The CA. State Attorney General,
- c. US Department of State

Letters:

To the Pres., Alameda County Board of Supervisors,

This report is being made as recommended by the following three UN Treaties the US ratified in 1992 and 1994:

1. The International Covenant on Civil & Political Rights, which is administered by the UN Human Rights Committee, which will consider the next US report on August 10, 2010;
2. The International Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, which is administered by Committee Against Torture, which will discuss the US report on November 19, 2011;
3. The International Convention on the Elimination of all forms of Racial Discrimination, which is administered by the UN Committee on the Elimination of Racial Discrimination, which will consider the next US report on November 20, 2011.

These Treaties and Committees request reports at the national, state, and local levels. We encourage you to seek reports from every other City in the County and to submit the resulting County report to the State Atty. Gen. for submission by him to the US Dept of State for inclusion in the US report, and directly to the UN Committees. Please acknowledge receipt of this report.

b. Letter to CA Atty. General:

Enclosed please find the report of the City of Berkeley requested by the three UN Treaties the US ratified in 1992 and 1994: to be submitted to the Department of State for inclusion in the US report to the three Committees:

1. The International Covenant on Civil & Political Rights, which is administered by the UN Human Rights Committee, which will consider the next US report on August 10, 2010;
2. The International Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, which is administered by Committee Against Torture, which will discuss the US report on November 19, 2011;
3. The International Convention on the Elimination of all forms of Racial Discrimination, which is administered by the UN Committee on the Elimination of Racial Discrimination, which will consider the next US report on November 20, 2011.

These Treaties and Committees request reports at the national, state, and local levels. We encourage you to obtain reports from all Counties in California (including their reports from cities), and from all State Agencies. Please acknowledge receipt of this report.

c. Letter to US Dept. of State

Enclosed please find the report of the City of Berkeley, one of the local reports requested under the three UN.Treaties that the US has ratified:

1. The International Covenant on Civil & Political Rights (ratified by U.S in 1992), which is administered by the UN Human Rights Committee which will consider the next US report on August 10, 2010;
2. The Committee Against Torture (ratified by U.S. in 1990), which administers the International Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, which will consider the US report on November 19, 2011;
3. The UN Committee on the Elimination of Racial Discrimination (ratified by U.S. in 1994), which will consider the next US report on International Convention on the Elimination of all forms of Racial Discrimination on November 20, 2011.

These Treaties and Committees request reports at the national, state, and local levels. Please acknowledge receipt of this report.

Send Cover letter to each of the UN Committees:

Enclosed please find the local report of the City of Berkeley of the County of Alameda, of the State of California, to be included in the US Report. If possible, please acknowledge receipt of this report.

We will endeavor to have a person who is knowledgeable about the City of Berkeley reports attend the Committee meeting in Geneva or NY when the US report is discussed. This person may be a representative of a non-governmental organization.

ADDRESSES FOR THOSE TO WHOM REPORTS SHOULD BE SENT WILL BE PROVIDED IN REPORT TO COUNCIL:

Alameda County Supervisor Keith Carson

1221 Oak Street, Suite 536

Oakland, CA 94612

Attorney General Jerry Brown

Attorney General's Office

California Department of Justice

Attn: Public Inquiry Unit

P.O. Box 944255

Sacramento, CA 94244-2550

Secretary of State Hillary Clinton

U.S. Department of State
2201 C Street NW
Washington, DC 20520

Navanethem Pillay
Office of the United Nations High Commissioner for Human Rights
UNOG-OHCHR
1211 Geneva 10, Switzerland

U.S. Representative Barbara Lee
Oakland District Office:
1301 Clay Street Suite 1000-N
Oakland, CA 94612

Washington, D.C. Office:
2444 Rayburn HOB
Washington, D.C. 20515

U.S. Representative John Conyers
2426 Rayburn Building
Washington, DC 20515

U.S. Representative Nancy Pelosi
450 Golden Gate Ave. – 14th Floor
San Francisco, CA 94102

Washington, DC Office
235 Cannon HOB

Washington, DC 20515

Louise Arbour

Office of the United Nations High Commissioner for Human Rights

UNOG-OHCHR

1211 Geneva 10, Switzerland

UN Ambassador Susan Rice

United States Mission to the United Nations

140 East 45th Street

New York, N.Y. 10017

League of California Cities

1400 K Street, Suite 400

Sacramento, CA 95814

National League of Cities

1301 Pennsylvania Avenue NW Suite 550 -

Washington, DC 20004

California State Association of Counties

1100 K Street, Ste. 101

Sacramento, CA 95814

The Association of State Attorneys General

NAAG

2030 M Street NW, 8th Floor,

Washington, DC 20036

ADDITIONAL BACKGROUND

The International Convention on the Elimination of Racial Discrimination, (ICERD) commits all ratifying nations to forbid discrimination on basis of race, color, sex, language, national origin, religion, gender; and involves a commitment to work for a society in which there is no such discrimination.

Text of the ICERD can be found at:

<http://www2.ohchr.org/english/law/cerd.htm>

Concluding observations can be found at:

(2001) <http://www1.umn.edu/humanrts/country/usa2001.html>

(2008) <http://www1.umn.edu/humanrts/country/country.html>

City of Berkeley report on the ICERD prepared in June 2007 can be found at:

The ICAT commits all signatory nations to forbid torture and degrading treatment in all of its agencies including the military, police, and any detention facilities & prisons; and that all human beings including prisoners be treated with human dignity.

Concluding Observations can be found at:

<http://www1.umn.edu/humanrts/cat/observations/usa2000.html>

and

<http://www1.umn.edu/humanrts/cat/observations/usa2006.html>

ICCPR commits signatory nations to enforce civil and political rights for all residents without regard to national origin, and to treat equally and with dignity, all residents, to protect the rights of labor unions and children and families, and to publicize the text of the treaty.

Complete text of ICCPR Treaty can be found at:

http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

Concluding Observations for the United States can be found at:

<http://www1.umn.edu/humanrts/hrcommittee/USA2006.html>

<http://www.omct.org/index.php?id=&lang=eng&articleSet=Press&articleId=6189>

Each Treaty asks for periodic reports and for each reporting body (country) to then carry out the recommendations made in the UN Committee's concluding observations, which are made after going over the country report, which includes information at the local level.

The reports should be brief and should contain statistics.

The ICCPR describes in detail rights protected in general in the Bill of Rights of the US Constitution.

The ICERD spells out in detail rights guaranteed in the US Reconstruction Amendments # 13,14,15, (women's rights:24).

All three Treaties spell out the rights and duties guaranteed in general in the Bill of Rights of the US Constitution 9th & 20 amendments US Constitution, and all three treaties.

Complete text of ICCPR Treaty can be found at:

http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

Concluding Observations for the United States can be found at:

<http://www1.umn.edu/humanrts/hrcommittee/USA2006.html>

<http://www.omct.org/index.php?id=&lang=eng&articleSet=Press&articleId=6189>

Available Reports include:

Health and Human Services Dept. has data from its contract agencies - "Client Characteristics"

The Housing Dept. has a data base for its periodic reports to HUD

Health Department compiles a report on Health Disparities

The Human Resources Department prepares an annual EEO Report

Police Department has 16 data bases

Contact the CJSC's Special Requests Unit to obtain copies of CJSC publications and to inquire about customized statistical reports and statistical information on California's criminal justice system. This is a service the CJSC provides to legislative and judicial bodies, government, colleges, other researchers, and the public.

The Fire Department - % of ambulance calls for indigent people

HWCAC - "Action Plan Report" CSBG demographic report is available in PDF format

Rent Board collects data on fair housing that is available to the public

