UNA-USA ICERD Shadow Report

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For the US review in the International Convention on the Elimination of All Forms of Racial Discrimination
UNA-USA’s Submission to the UN Committee Reviewing the U.S. Periodic Report under the International Convention on the Elimination of All Forms of Racial Discrimination

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The United Nations Association of the USA (UNA-USA) is a grassroots movement of Americans independent from the U.S. government who support the vital work of the United Nations in U.S. communities, colleges, and Congress. For more than 75 years, UNA-USA, as a program of the UN Foundation, has engaged its national network of 20,000 members and 200 chapters in promoting strong U.S. leadership at the UN through advocacy campaigns, youth engagement, outreach programs, and public events.

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I. Introduction and Issue Summary

UNA-USA’s CERD Committee conducted a series of six one-hour long virtual and in-person civil society consultations with its members during its 2022 Leadership Summit and through its Human Rights and UNA Women affinity groups. These conversations covered issues of racial profiling, criminal justice and access to justice, speech/hate crimes, housing and homelessness, climate and indigenous issues, and health. The discussions were recorded and transcribed. Over 100 people were engaged throughout the process as representatives. There was also an asynchronous opportunity to engage in the reporting through an online form.

In this report, UNA-USA will highlight the issues discussed, present sample testimonials highlighting victims/survivors, link the previous relevant CERD/UN and Regional Human Rights Bodies’ recommendations that tackle these problems, draw the connection with the US government’s response, and present some recommended questions and recommendations.

II. Racial Profiling Issue:

CERD Article: Article 2 (1), related CERD articles: (a), (b), (c), and (d)

During the racial profiling consultations, the following issues were discussed by our members: police brutality, critical race theory, accountability, disciplinary actions in schools via security officers, restorative justice, stop and frisk, discrimination of religious apparel, overreliance on police and the CROWN Act.¹

In the United States, law enforcement's violation and practice of Racial Profiling continues to disproportionately impact the lives of African American, Asian, Latino, South Asian, Arab and Muslim communities. Specifically, in the United States, black and brown communities are disproportionately affected. Racial Profiling is the discriminatory practice by law enforcement agents by which they target a person for suspicion of a crime based on that individual race, ethnicity, nationality, or religion. Historically, in the United States, Racial Profiling has been evident for centuries through organized police forces with slave patrols in the South. Today, these tactics are more prevalent in the war on drugs and “driving while black.” Throughout our history law enforcement has implemented racially motivated practices and sentencing policies that directly result in disproportionate racial prison population to date. Specifically, one of these practices was introduced by the DEA called, “Operation Pipeline” where 27,000 police officers in 48 states were taught to make pretext stops in order to find drugs in vehicles. In a 1999 ACLU report, blacks constituted 13 percent of the country’s drug users, 37 percent of those arrested on
drug charges, 55 percent of those convicted and 74 percent of all drug offenders sentenced to prison.\textsuperscript{2} Racial Profiling is also an intersectional issue. Women, specifically women of color, face forms of discrimination. Conditions of this discrimination can occur during police investigations, a stop, and frisk search, gang databases, or using force against a person based on their characteristics as opposed to evidence of a person’s criminal behavior. Racial Profiling takes form in the criminalization of people of color which is a violation of one's human rights. Yet, people are continuously, racially, or ethnically profiled while they carry out daily functions in their lives.

The CERD Article obligations listed above hold value to the inalienable protections that people of color are deprived of when they are targeted by law enforcement agents who have taken an oath to protect and serve our communities. In the United States, we have witnessed far too many times the headline of an unarmed black person murdered at the hands of a police officer. In 2016, the United States Department of Justice found reasonable cause to believe that the Baltimore City Police Department (BPD) engaged in a pattern or practice of conduct that violates the First and Fourth Amendments of the Constitution as well as federal anti-discrimination laws. These practices involved the acts of making stops, searches, and arrests without required justification.\textsuperscript{3}

Racial Profiling has predominantly been experienced in low-income communities where black and brown communities are impacted by these unlawful practices. In our consultations our members shared their personal experiences regarding this issue. In the context of “driving while black”, one of our members shared the following:

“My brother [who is of African descent] lives in Korea as a West Point graduate. When he comes back to [his hometown of] Houston, he often gets stopped when he drives out of the subdivision. When he shows his ID as a colonel, the police start apologizing. He says he isn’t comfortable living in the US anymore, since the experience is so commonplace.”

A youth member also expressed their experience with racial profiling within the educational system:

“I’m from Boston, and I grew up in the local public school system. This is not just my personal experience, but the experience of basically every student I went to school. Racial profiling often occurs by student resource officers, security, or authority that’s not a student. In my high school, for example, there’s a policy where you must have your ID on but only the students of color are stopped. There was also discrimination regarding intersections of gender, shape, race, and weight in dress codes, and carrying non-water beverages. While girls of color were always stopped, white girls were never stopped or told to throw it away.”

Recommendations:

- Implement DEI training with consultants
- Implement non-discriminatory dress codes to accommodate racial/cultural or religious dress
- Decrease police presence in schools; increase mental health services for students
- Implement name-blind applications for jobs
III. Criminal Justice & Access to Justice Issue:

CERD article: Article 5 Section (a) The right to equal treatment before the tribunals and all other organs administering justice; (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.

During the Criminal Justice & Access to Justice consultations, the following issues were discussed by our members: political suppression (through mechanisms such as voting suppression, lack of political representation for people without documentation, surveillance, technology-fueled echo-chambers), disconnect between grant-making programs and Black, Indigenous, and people of color communities, historical threats of lynching, and the lack of diversity in positions of power.

Tens of millions of people in the United States encounter obstacles that involve the law. These encounters can result from unfair evictions, foreclosures, debt collections, job terminations, benefits denials of health care, gender-based violence, child abuse, and the list continues. The inequalities of access to justice are rooted in how the criminal justice system disproportionately impacts black and brown people. According to the National Center for Access to Justice, the U.S. has 5% of the world’s population but nearly 25% of its incarcerated population. From this statistic, we have witnessed that mass incarceration disproportionately impacts the poor and people of color.

One of the UNA-USA members expressed the impacts on limited access to justice during the pandemic:

“I’ve done some work on housing in NYC. We talk a lot about economic hardship. There was a pause on the eviction moratorium. We see a lot of landlords evicting people across the city and state. They are still trying to make it paycheck to paycheck. New York City has a “right to counsel” program, but the lawyers are completely overbooked. People are representing themselves in housing courts. The moratorium ended in January. People who can afford their lawyers tend to be white. Immigrants and people of color [often have to] represent themselves and lose those cases.”

In October of 2021, the U.S. Department of Justice re-established the Office for Access to Justice (ATJ) agency to address the access-to-justice crisis in the criminal and civil justice system. Access to Justice is the ability of any person, regardless of income, to use the legal system to advocate for themselves and their interests. It ensures that basic human needs are met, such as food, shelter, and clothing. However, there is still work to be done to ensure that these services are connected to the people who need them most.

The U.S. criminal justice system continues to disproportionately impact the lives of black and brown individuals. The following is one member’s experience that details the accounts of this for youth:

“I was a producer for a special television documentary entitled “Youth Culture of Violence.” This was done about 10 years ago. I went into a youth detention place in Philadelphia and interviewed young people in detention in jail. It was interesting because while I was at the entrance, they were bringing young people in. When white children were brought, the police
officers would say, “Have a seat over here. We'll call your parents.” However, when black children were brought in, they were immediately booked and put through the system. White children were allowed to wait for their parents to come. Upon arrival, most parents said, “We'll take him home and make sure he doesn't get in trouble anymore.” As I witnessed this discrepancy, I just thought, wow, that's revealing in terms of how our Black kids get into the system. And then once they're in the system, that's a whole long road that's very difficult to get out of because that track record stays with those young people.”

Recommendations:

- Increase the number of free public defenders, counselors, community affairs advocates for all major cities and regions
- Institute monitoring to ensure public defenders provide the best services to all people, void of personal biases, racism, profiling
- Implement DEI training for law enforcement and judicial professionals
- Designate more resources into the investigation of missing Black, Indigenous and people of color
- Increase monitoring/reporting of law enforcement and criminal justice institutions to ensure policies and procedures are void of discriminatory actions
- Re-evaluate the need for police, larger system of over securitization
- Recognize the International Decade for People of African Descent

IV. Speech/Hate Crimes Issue:

CERD article: Article 5 sections (vii) The right to freedom of thought, conscience, and religion; (viii) The right to freedom of opinion and expression; (ix) The right to freedom of peaceful assembly and association.

Some of the topics discussed in the Speech/Hate Crimes consultations included, but were not limited to, the following: Asian American and Pacific Islander (AAPI) hate crimes post-pandemic, the suppression of Black, Indigenous, and people of color protesters/activists/advocates, media polarization and intensification of speech, and the vandalization of property.

Under the First Amendment of the United States Constitution, people cannot be prosecuted simply for their beliefs. Yet, experts from a special U.S DOJ report, have estimated an average of 250,000 hate crimes that were committed each year between 2004 and 2015. At the federal level a hate crime is defined as a crime motivated by bias against race, color, religion, national origin, sexual orientation, gender identity, or disability. In 2020 the United States had witnessed its largest increase in numbers of anti-Asian and anti-Black hate crimes. The 2020 FBI hate crimes data collected reports from 15,138 law enforcement agencies who recorded 8,263 hate crimes which involved 11,129 offenses. The largest category of race-based hate crimes was 55%, which were race-related crimes motivated by an anti-Black bias. During the COVID-19 another disturbing trend was unveiled with the surge of anti-Asian hate crimes. In efforts to mediate these crimes, non-governmental organizations and community-based groups began tracking and collecting reports on these incidents. To combat these egregious acts in 2021 the Biden Harris Administration signed into law the COVID-19 Hates Crimes Act. In celebration of the one year anniversary of implementing this act, the lived experiences of some of our UNA-
UNA members highlight the direct impact of these harmful attacks on one’s identity.

One vivid impression that a UNA member shared mentioned the threats of lynching:

“As the pandemic was going on in the summer of 2020, in western Maryland, as we were driving by, we noticed that there was a puppet lynched on the tree, and it was on multiple news channels including in Atlanta. For years, nothing has been done. I got in touch with our local NCAA, but there was nothing we could do. If that was someone of color and there was something that graphic in their backyard, they would be charged or arrested. This person has had it at their house for decades, and they don’t face any repercussions. I don’t know the laws, but a lot of people can’t do anything about it.”

Questions:

- What was the impact of U.S. Senator Mazie Hirono’s COVID-19 Hate Crimes Act legislation? What actions has the U.S. Attorney General and the U.S. Department of Justice taken following the passing of the bill? How is the implementation being monitored?

Recommendations:

- Implement more stringent punishments for hate crimes
- Implement more stringent penalties and prosecution for hate speech
- Implement policies and penalties related to institutional/systemic racism
- Enforce the Emmett Till Anti-Lynching Act
- Increase reporting and monitoring of data, reports

V. Housing & Homelessness

Issue:

CERD Article: Article 5 Section D on other civil rights enumerates: (iii) The right to housing.

Housing insecurity is a crucial topic across the United States. There were many intersectional issues that were discussed relating to the housing & homelessness topic. Some of the topics discussed included, but were not limited to, redlining and other discriminatory housing codes. Many of the speakers mentioned the disadvantages of the housing process to disenfranchised groups. This includes immigrants, people without documentation, people without healthcare, people who do not speak English, people who face intimate partner violence, climate refugees or wildfire survivors, and first-generation students. Of course, this is not exhaustive nor mutually exclusive but acts as a starting point for our analysis.

The ACLU reports that “46% of homeless women reported that they had previously stayed in abusive relationships because they had nowhere to go.” Lack of housing long-term is incredibly detrimental to a survivor’s mental and physical health and can act as a barrier to confronting an abuser or leaving the setting of the abuse. This has direct implications on the health section of our report, highlighting the intersectional nature of the problem.

Another way that housing becomes a barrier is through the application process. People who do not speak English or speak it as their first language often face difficulties in navigating the complex process of purchasing or renting a home. This demographic often relies on others who are more familiar with English to assist them in the process, even when the relatives or assistants
are not educated on the housing process either. The gap in knowledge enables people in the process to take advantage of non-English speakers.

From this list alone, it is clear that there are ties between housing & homelessness and other CERD topics, particularly in relation to climate/environmental & indigenous issues. One UNA-USA member shared the following:

“In California, we have a lot of undocumented workers, farm work particularly, who are displaced by wildfire. And after the other homes are burned, they become unemployed, because of the lack of agricultural profit, I guess, like the farms being destroyed. Because they don’t have income, they then become homeless, they lose access to health care.”

This anecdote also illustrates one of the many complex ties between housing, health, and documentation.

Recommendations:

- Extension on COVID eviction moratorium
- Less requirements for documentation of housing
- Landlord policies for survivors of Intimate Partner Violence that extend the scale of protections listed in the Violence Against Women Act (VAWA)

VI. Climate/Environmental & Indigenous Issues:

CERD article: Article 5 Section (e)(iv) - The right to public health, medical care, social security, and social services.

Some of the issues discussed in the Climate/Environmental & Indigenous Issues consultation included: Historical injustices to indigenous peoples, police militarization against peaceful indigenous protests, access to local produce in food deserts, food security in a changing climate, land acknowledgement/reparations, indigenous stewardship, and the 30 by 30 conservation plan.

One of our UNA members noted the following:

“I believe we can really see an increased militarization of the police force when it deals with peaceful protest. And this happens all the time, such as Standing Rock, where Indigenous peoples have gathered, firmly committed to nonviolent civil resistance, but then are met with increased militarization and force and the horrible human rights violations that take place.”

Questions:

- As part of the Federal Indian Boarding School Initiative, the Assistant Secretary of Indian Affairs, Mr. Bryan Newland, conducted a report on missing, murdered indigenous children. How have the Assistant Secretary’s eight recommendations been implemented to date? Are resources allocated to effectively implement these recommendations?

Recommendations:
● Land acknowledgement/reparations
● Inclusion of representatives of Indigenous populations in local, state and national policy sessions and governing positions
● Implementation of Paris Agreement and COP26 goals, and aligning EPA policies
● Enforcement of EPA safety regulations
● Elimination of “sacrificial cities” due to corporate pollution and reparations to those affected
● Incentives for “green” construction
● Increase resources to students and schools in indigenous areas

VII. Health:

CERD article: Article 5 Section (e)(iv) - Economic, social, and cultural rights, in particular: (iv) the right to public health, medical care, social security, and social services.

During our virtual civil society consultations, participants offered experiences, observations, and recommendations on racial health disparities impacting Black, Indigenous, and People of Color (BIPOC) communities and its long term effects on their social determinants of health. Among the issues discussed were access to reproductive healthcare, disproportionate rates of diabetes among BIPOC communities, gender-based violence, high incidents of maternal mortality and food insecurity. In addition, implicit bias of first responders, physicians and other medical personnel, difficulty in navigating the Medicaid system and lack of access to mental health care, particularly for young people, LGBTQIA+ communities, and the rise in deaths by suicide were also discussed. The recent U.S. Supreme Court decision to overturn federal abortion protections was also of concern to participants.

Reproductive Health Care

“This country is set to ban abortion in 26 states with the reversal of Roe in many of those states, particularly the rural ones. A Planned Parenthood facility is the only doctor a woman is going to get to see there, but there just aren’t enough in the area. At the same time, the country has [baby] formulas shortages, tampon shortages, right in my county right now we’re having OBGYN shortages are flooding and [many more are] leaving the profession... This country is putting women's health at risk and does not care about it. And we know that black and Hispanic women are four times more likely to die in childbirth than white women.”

In its most recent court ruling in Dobbs v. Jackson Women’s Health Organization, the Supreme Court of the United States has overturned more than 50 years of federal protection to abortion rights and scaling up health disparities in reproductive care for people living at the intersection of race and gender. Immediately following the Supreme Court’s ruling in Dobbs, more than a dozen states in the nation instituted a complete ban on abortion through its trigger laws, and several states have instituted abortion restrictions, or previous bans that are pending due to legal action. As seen by the quote, Black, Indigenous and People of Color (BIPOC), many of whom are already living below the poverty line and without access to reproductive health care, the decision by the Supreme Court and states’ actions will result in dire consequences. Thus, access to safe abortion care is paramount for BIPOC people whose lived experiences are already compounded by racial discrimination in areas of economic insecurity, gender-based violence, food insecurity, housing insecurity, employment insecurity and other health disparities.
The Biden Harris Administration has responded to the overturning of Roe v. Wade with an Executive Order protecting access to reproductive healthcare services, including emergency medical care for pregnant individuals and those suffering pregnancy loss, access to medication abortion, and access to contraception. The Executive Order also mandates the establishment of an interagency Taskforce on Reproductive Health Care Access, and includes the U.S. Department of Health and Human Services, the White House Gender Policy Council, and the United States Attorney General.

Though President Biden’s executive order protecting access to reproductive healthcare services is a firm response to the actions of the Supreme Court, the most effective way to bring abortion rights and access to reproductive care back into the realm of the U.S. federal government is for the U.S. Congress to pass comprehensive legislation to formally codify the right to abortion, the rights to access to contraception and all other components of access to reproductive health care. In addition, any comprehensive federal legislation should also include the establishment of an interagency taskforce to address the health and economic disparities that affect BIPOC people in their access to reproductive health care.

Gender-Based Violence

“I’m looking at the intersectionality between racial discrimination and gender-based violence; we’ve seen that increasingly become exacerbated because of COVID-19. And because a lot of times women and girls are being put in unsafe situations as a result of the pandemic. And also looking at other factors here in the US police brutality and how that's exacerbated so many of these issues. That's really key.”

Gender-based violence is highly prevalent in the United States. According to the Centers for Disease Control and Prevention, 1 in 4 women, and 1 in 10 men experience violence at the hands of an intimate partner. In addition, more than 43 million women and 38 have experienced psychological aggression by an intimate partner.

However, people living within BIPOC communities experience gender-based violence at higher and alarming rates. For instance, 40% of black women in the U.S. have experienced violence by an intimate partner. Black women are also at a higher risk of being killed by a man, and 20% of black women are raped during their lifetime. Indigenous women are also enduring violence at highly concerning rates. More than 4 in 5 American Indian and Alaska Native women experience violence. One in two American Indian Women and Alaska Native women have experienced sexual violence and are murdered at ten times the national average on some Native American reservations. Though American Indian and Alaska Native people only make up about 2% of the U.S. population, and Black people make up about 14% of the U.S. population, women and girls from both demographics are overrepresented in the number of missing people nationwide.

Food Insecurity in the United States

“There's no doubt when there are high levels of debates of crises, conflict, and climate, that we really debate about the crises of hunger... And when we fail to reach those
positions about hungry people, they pay that high pay price, regardless of where the crisis is, or [what] the consequence is, because climate issues are real, and climate change affects food security, globally, regionally, and locally. It disrupts the availability, it is reducing access to food, and effective food quality. And depending on where you are, with increased temperatures are changes in the precipitation patterns. It changes how we're getting our food. And we really are on the brink of a full crisis. Personally, I believe, we have to do a better job at the peace table, making sure that we talk about the impacts of climate and how it will impact hunger.”

As the war in Ukraine continues to cause the rising price of food and fuel, and the world is still fighting the Covid 19 pandemic, more than 41 million Americans (adults and children) are struggling with food insecurity. Twenty percent of them are Black and Latino adults and children.

Several participants discussed their concerns about food insecurity among BIPOC communities, particularly at the onset and through the Covid 19 pandemic. One participant did share ways in which her community is working to address food insecurity: “We do have some good things going on. I know we have a number of community gardens, and the community gardens are picking their fruit trees and donating them to the food bank. And then the food bank supplies families that don't have food with food.”

Like health disparities in access to reproductive healthcare and gender-based violence, food insecurity among BIPOC communities in the United States remains prevalent as a result of systemic and institutionalized racism. The United States has been working with states to increase food stamp benefits to families in need. However, long term systemic changes need to occur to eliminate food insecurity in the United States.

Questions:

1. How will the United States respond to the health and economic impacts of the recent Supreme Court decision to overturn Roe v. Wade (remove federal protections to abortion access)?
2. Does the United States have a national plan to address the rising levels of gender-based violence among BIPOC communities?
3. Does this plan consider the ways institutionalized racism and discrimination contribution to current health disparities for BIPOC communities?
4. What is the United States’ national action plan to combat food insecurity among BIPOC communities now and post Covid 19? How is the United States responding to the rising cost of food worldwide?

Recommendations:

- Pass comprehensive legislation at the federal level to protect access to abortion, contraception, and all components of reproductive healthcare.
- Create a federal interagency taskforce to address gender-based violence among BIPOC
communities.
- Increase state and federal benefits to people living below poverty, people living with chronic illness and disabilities, and older Americans to mitigate food insecurity issues.
- Increase funding for Planned Parenthood.
- Mandate community stakeholder input in pollution placement.
- Decrease food deserts through the establishment of more nearby stores.

IX. Recommendations Summary

1. Establish a permanent interagency task force for implementation of UN recommendations
3. Incorporate Curriculum from Universal Declaration of Human Rights (in partnership with CTAUN)
4. Establish an Oversight Commission on the Elimination of Police Brutality
5. Conduct/Host a national follow up consultation prior to Eleanor Roosevelt’s birthday on October 11th with at least a two-week notification to civil society.

X. Conclusion

The findings reflected in this report indicate that although the issues of racism and inequalities have been hard fought over the existence of the nation, they still prevail in a multitude of areas. The UNA-USA has sourced people of all different backgrounds to share their experiences facing racism and what they believe can be done to fight it. UNA-USA hopes that these recommendations can be seriously considered during the review of the United States. We are grateful to all of those who courageously shared their experiences and were generous enough to share their time. We are also grateful to CERD for inviting civil society organizations to join the dialogue.

We would also like to thank UNA-USA leadership, for uplifting the voices of its members around the country as we reflect on the racial reckoning in our country. The organization’s dedication to diversity, equity, accessibility, and inclusion is reflected in all of its work. We would also like to thank leadership at the UN Foundation for their support and review of the document.
Endnotes

1. The Crown Act stands for “Creating a Respectful and Open World for Natural Hair,” is a law that prohibits race-based hair discrimination, which is the denial of employment and educational opportunities because of hair texture or protective hairstyles including braids, locs, twists or bantu knots.

2. Driving While Black: Racial Profiling On Our Nation’s Highways, Aclu

3. Justice Department Announces Findings of Investigation into Baltimore Police Department, US DOJ

4. We would like to recognize that “houselessness,” “unhoused,” or “people without housing” is also an appropriate term for the topic but chose to use homelessness to be consistent with CERD.

5. Redlining is a historical process of racial segregation within housing codes whereby minority-populated areas would receive lower credit ratings, thereby excluding them from access to financial instruments such as loans or insurance. While redlining is now illegal, the implications of the practice still manifest today in housing prices, tax rates, etc.


7. Also commonly known as domestic violence, but we prefer the term intimate partner violence.


12. Id.


15. Id.


17. Id.


19. Id.


24. Id.