

**UNITED STATES COMPLIANCE WITH THE
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

**MEIKLEJOHN CIVIL LIBERTIES INSTITUTE
SUGGESTED LIST OF ISSUES TO COUNTRY REPORT TASK FORCE ON THE UNITED STATES**

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Meiklejohn Civil Liberties Institute (MCLI) is a national inter-racial non-governmental organization of activists, academics, and lawyers working since 1965, using its booklets and display poster in its human rights and peace law training sessions, publishing “Human Rights Organizations & Periodicals Directory” biennially, and listening to people’s problems, filing complaints, and making reports based on the U.S. Constitution, Bill of Rights, and the ICCPR and other treaties ratified and signed by the U.S.

ISSUES SUMMARY:

A. ISSUES WITH U.S. REPORT ⁱ

I. Constitutional and legal framework

2. The U.S. Report does not indicate how many members of the U.S. House of Representatives and U.S. Senate have been invited to sessions where they can learn about the text of the ICCPR, ICERD and ICAT, the duties the U.S. has under the treaties, and the periodic reporting requirements.

3. The U.S. Report does not indicate how many members of the 50 state legislatures and staff members of the 50 state governors have been invited to sessions where they can learn about the text of the ICCPR, ICERD and ICAT, the duties the U.S. has under the treaties, and the periodic reporting requirements.

4. The failure of the Report to include passage of ACR 129 by the state of California asking the state attorney general to publicize the text of ICCPR, ICERD and ICAT, and to prepare templates to be used by government bodies to make the reports required, although this had been reported to the U.S. by MCLI, and NGO in California.

B. ISSUES WITH U.S. ENFORCEMENT OF ICCPR

5. Failure of U.S. to check whether each state and territory conducted training sessions for their government employees on their duties and the peoples’ rights in ICCPR, ICAT and ICERD.

6. Failure of U.S. to adequately publicize the text and to conduct training sessions in the Southern states that were slave states until they lost the Civil War in the 1860s.

C. ISSUES WITH ENFORCING ICCPR re VOTING RIGHTS ⁱⁱ

7. Failure to the U.S. to enforce voting rights under the U.S. Constitution 14th Amendment and ICCPR Art. 2 and 25.

ⁱ8. Failure to the U.S. to prevent election officials from using Voter Identification (ID) requirements, limiting pre-election day voting, prohibiting voter registration on Sundays, issuing flyers in Spanish with the wrong date of the elections, and conducting voter purges that limit the number of African American and Latino voters.

TEXT

A. ISSUES WITH U.S. REPORTING PROCESS

A. Constitutional and legal framework

9. Failure of U.S. to publicize text at state, county and city levels

Although the U.S. report includes many references in Annex A of the U.S. Common Core Document ¶4-58 to work being done in some states and cities concerning human rights issues, the Report does not indicate how many of these government actions mentioned U.S. ratification of ICCPR and ICERD and ICAT and the duties of government bodies to publicize the text of these treaties, to protect rights and perform duties in the treaties that are not spelled out in U.S. Constitution or U.S. statutes, and to make periodic reports about enforcement of the rights in the treaties to the U.S. government to include in its country reports to the UN Human Rights Committee.

10. The word “county” is never used in the U.S. report although every state not only has city governments but also has county governments. The sheriffs’ offices at the county level clearly need to publicize the text of the treaties to everyone working in the sheriffs’ office.

11. The U.S. report indicates that the U.S. has conducted training sessions in some states in ¶112 but does not give statistical information on how many training sessions were held in each of the 50 states and territories and on tribal lands. There is no indication that training sessions have been held in 13 of the states and their counties and cities that were slave states or that fought in the Civil War of the 1860s and have traditionally denied human rights on the basis of race and color and national origin.

12. The U.S. Report does not indicate how many members of the U.S. House of Representatives and U.S. Senate have been invited to sessions where they can learn about the text of the ICCPR, ICERD and ICAT, the duties the U.S. has under the treaties, and the periodic reporting requirements.

13. The U.S. Report does not indicate how many members of the 50 state legislatures and staff members of the 50 state governors have been invited to sessions where they can learn about the text of the ICCPR, ICERD and ICAT, the duties the U.S. has under the treaties, and the periodic reporting requirements.

14. The U.S. Report does not indicate that the U.S. has prepared templates that can be used by federal, state, county and city government bodies in order to provide the information needed for a comprehensive report by the U.S. to the Human Rights Committee. The present budgets of states, counties and cities do not include funding for staff members to prepare the necessary templates on which to make the required reports.

15. The U.S. did not include in its report information it had received from an NGO, Meiklejohn Civil Liberties Institute of Berkeley, California, concerning passage by the California State Legislature of Assembly Concurrent Resolution ACR 129, which is the first state legislative action requesting the state attorney general to publicize the text of the ratified treaties and to prepare templates to be used by states.

D. PROBLEMS WITH U.S. ENFORCEMENT OF VOTING RIGHTS UNDER U.S. CONSTITUTION AND ICCPR

Introduction

16. In 2012, nearly 219 million people are registered to vote in the United States. Of that, approximately 126 million participated in the most recent election, equating to a 58% turnout. 93 million people chose not to show up at the polls.ⁱⁱⁱ In an attempt to protect the electorate from voter fraud, 17 states have passed photo identification requirements to vote, another 19 have passed non-photo ID requirements, and a few states have conducted controversial purges of their voting rolls.^{iv}

Relevant Articles Articles 2 & 25

17. By ratifying the ICCPR treaty, the U.S. has vowed to respect and ensure the rights recognized within said treaty without any distinctions based on race, color, political opinion or any other status. Every person in the US has the right to take part in public affairs, directly or through freely chosen representatives. This right is to be guaranteed without unreasonable restrictions. Equal, universal suffrage should be extended to every citizen.

18. The constitutionality of voting laws has come into question numerous times throughout the years, mainly over the question of whether their implementation constitutes a poll tax. *Harper v. Virginia Board of Elections (1996)*^v is the landmark Supreme Court case that defines a poll tax, of any sort, as an illegal act. The Fourteenth Amendment to the Constitution provides equal protection to all citizens, necessarily barring any state from making a tax required to vote since federal law trumps state law whenever they overlap.

19. *NAACP v WALKER*^{vi} lists many examples of citizens in the minority faced with unwelcome obstacles - while becoming eligible to vote. In Wisconsin, far too often people are denied the IDs, a requirement to vote, because of a lack of funds, social security. Even though states like Missouri and Wisconsin offer free IDs, the real cost of attaining them are not free. An individual may have to pay \$15 dollars for the state's certified birth certificate, or between \$5 and \$30 if born out of state. This is in addition to wait times of 6 to 8 weeks. To obtain a passport, another accepted form of identification to vote, someone may need to pay between \$97 and \$236.^{vii} Burdened by such unnecessary demand, many voters become disillusioned with the whole process and choose not to participate in the fundamental right they possess.

20. A recent survey suggests as many as 21 million voting age individuals do not possess government issued photo identification; citizens in the minority are less likely to have government-issued photo identification. African Americans, for example, have 25% of their voting age population without them (significant). Those with an income of \$35,000 or less are twice as likely to lack government issued ID as those who earn more; 15% of the voting age population makes less than \$35,000.^{viii}

21. "Individuals voting multiple times; voting as someone else, or voting despite knowing that they are ineligible...it happens approximately 0.0009% of the time."^{ix} "There is a bipartisan consensus that voting by mail, whatever its impact, is more easily abused than other forms...On the most basic level, absentee voting replaces the oversight that exists at polling places with something akin to an honor system." A prime concern with absentee voting is the coercion prevalent in nursing homes; there are documented cases of intimidation. For various reasons, absentee ballots have a failure rate of nearly 20 percent.^x One may surmise absentee voting deserves overhaul instead of in-person voting if just the facts are taken into account. There seems to be ulterior motives behind the recent rash of voter-id laws.

22. After exploring this issue, a New York Times journalist concluded politicians are very much aware of voting fraud statistics. A political scientist, "posited a reason that Republican officials in particular have pushed to expand absentee voting. 'The conventional wisdom is that Republicans use absentee ballots and Democrats vote early.'"^{xi}

Voter Purge

23. Purge lists have been a hotly contested issue for decades. In the main, contention has arisen due to the potential suppression voter purges represent. Federal law requires registered voter list be kept accurate and updated;^{xii} the point of contention lies in the execution of this mandate. Florida played a major role in the Bush v. Gore presidential race of 2000; the race which determined the election was won by little more than a thousand votes.^{xiii} A list which comprised of 173,000 names to be removed from voter rolls was found to be highly inaccurate; approximately 15% of the names didn't belong on the list. Republican ties to the private firm, Choice Point, which handled verifying registered voter lists are very strong.^{xiv}

24. Only a few months before 2012 election, Florida officials began a voter purge which targeted 180,000 citizens as potentially ineligible or non-citizens.^{xv} After public outcry and litigation over list's inaccuracy it was amended to include only 198 voters whose citizenship was in question, but this list has proved to be inaccurate as well.^{xvi} Black and Latino citizens are overwhelmingly affected by legislation that targets non-existent problems.

Voter Registration

25. Many states have enacted laws restricting voter registration drives, one of the main ways minority voters are registered. By threatening jail time and steep fines for people who either do not submit registration forms within 48 hours or fail to pre-register with the state before signing up their peers, many states have seriously hampered community efforts to register citizens.^{xvii} These restrictive laws are passed, predominantly, by states with Republican dominated legislatures. The Census of 2010 shows 37% and 48% of eligible Black and Latino voters, respectively, are not registered to vote; these are the voters most likely to register through private drives. In addition, "Studies show that voters are more likely to cast a ballot if they have registered through community-based efforts." Citizens have fought the laws on registration drives since their inception. In Florida, a district judge condemned the laws. Laws governing community registration efforts either regulate official volunteer systems, training programs, registration and reporting, or return deadlines and penalties.^{xviii}

Early Voting

26. Voting prior to election-day was implemented, primarily, as a precaution against disenfranchisement. The introduction of early in-person voting has been increasingly utilized by the US citizens. In Ohio, for example, a peak of nearly 30% of the total amount of votes cast was submitted early. "Early voters were 'more likely than election-day voters to be women, older, and of lower income and education attainment' ... early voters were disproportionately African-American..." The Ohio's legislature's attempt to cut early voting by 3 days was denied by a Federal court due to its discriminatory nature.^{xix} A GOP consultant has publicly stated that long lines and voter ID laws "help our side".^{xx} "Lengthy waits to vote were reported in Florida, Virginia, and Ohio, all key swing states." Waiting in line up to 7 hours to vote was sure to discourage some voters from participating in the presidential elections.^{xxi}

Wrong Date on Official Spanish Forms

27. Officials in Maricopa County of Arizona have been accused of suppressing the vote of Latino voters by giving the wrong election day on flyers in Spanish. Voting information passed around the Phoenix area had the correct date of the general election in English, but a date two days afterward written in Spanish. In a county with a reputation for poor race relations, many have questioned intent behind the mistake.^{xxii} Having made the same mistake twice in as many weeks, questions of intended suppression seem warranted.^{xxiii}

QUESTIONS THE COMMITTEE MAY WANT TO ASK THE U.S.

28. The Committee may want to question the U.S. government on a number of issues raised in paragraphs A9-A15:

29. The extent to which the U.S. government has publicized the text of the ICCPR, ICAT and ICEDRD in every state and territory and what it has done to cause each state and territory to publicize the text of the treaties and the reporting requirements to the city, county and state offices in its area.

30. Whether it plans to prepare large posters containing the main provisions in the ICCP, ICAT and ICERD for posting in all government offices, police departments, district attorneys' offices, schools, libraries, prisons, and other government facilities, similar to the large posters setting forth basic labor laws now required to be posted in every business in California and other states.

31. The number of training sessions it has held in cities, counties and states with a history of discrimination on the basis of race and national origin in view of the fact that the U.S. report only lists human rights work in 4 of the 13 Southern states that fought in the Civil War of the 1860s. The Committee may also want to suggest that the U.S. DOS and DOJ seek additional funding from Congress and the President to conduct a large number of training sessions on the ICCPR, ICERD and ICAT throughout the U.S. and its territories and on tribal lands.

32. How many members of the U.S. House of Representatives and U.S. Senate Have been invited to sessions where they can learn about the text of the ICCPR, ICERD and ICAT, the duties the U.S. has under the treaties, and the periodic reporting requirements.

33. How many members of the 50 state legislatures, and staff members of the 50 state governors have been invited to sessions where they can learn about the text of the ICCPR, ICERD and ICAT, the duties the U.S. has under the treaties, including publicizing the text, and the periodic reporting requirements?

34. Whether U.S. Government officials are planning to seek funding from Congress in order to prepare templates that can be used by federal, state, county and city government officials to make the required reports to the UN Human Rights Committee and the Committees that administer ICERD and ICAT.

35. Why did the U.S. Government not include in its report California ACR 129 and suggest that the U.S. notify all state governmental bodies about ACR 129 for their possible use in their states.

36. The Committee may want to ask the U.S. whether it is considering establishing an independent election commission. As of now, there is too much incentive for political parties to write laws and change policies that have no other purpose but furthering the position of said party. Without an independent body presiding over elections of all sorts, there remains an insufficient amount of accountability.

END NOTES:

ⁱ Issues A and B in this Report were prepared by Attorney (ret.) Ann Fagan Ginger, who founded Meiklejohn Civil Liberties Institute in 1965 to work on issues of human rights and peace law while editing books for California Continuing Education of the Bar.

ⁱⁱ This issue was prepared by Gregory A. Jackson, who received a baccalaureate degree from San Diego State University and served as an Intern at Meiklejohn Civil Liberties Institute in the winter of 2012.

ⁱⁱⁱ The Bipartisan Policy Center, 2012 Election Turnout Dips Below 2008 and 2004 Levels: Number of Eligible Voters Increases by Eight Million, Five Million Fewer Votes Cast (November 2012). Available at: <http://bipartisanpolicy.org/sites/default/files/2012%20Voter%20Turnout%20Full%20Report.pdf>

^{iv} Thirty six (36) of the fifty (50) states in the US require some form of identification for in person voting. In states where photo identification is required, provisional ballots are given when the ID cannot be supplied. The voter must then show up within a short period of time with acceptable identification or their vote is not counted. See “Voter Identification Requirements” October 24, 2012, <http://www.ncsl.org/legislatures-elections/elections/voter-id.aspx>

^v Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966)

^{vi} Milwaukee Branch of NAACP v. Walker, 11 CV 5492, (Dane County 2012)

^{vii} Weinschenk v. State, 203 S.W.3d 201 (Missouri, 2006)

^{viii} See “Citizens Without Proof: A Survey of American’s Possession of Documentary Proof of Citizenship and Photo Identification”. Brennan Center for Justice at NYU School of Law. Available at:

http://www.brennancenter.org/page/-/d/download_file_39242.pdf

^{ix} “Policy Brief on the Truth About ‘Voter Fraud’”. Brennan Center for Justice at NYU Law School.

Available at:

http://www.brennancenter.org/content/resource/policy_brief_on_the_truth_about_voter_fraud/

^x See “The Truth About ‘Voter Fraud’”. Brennan Center for Justice at NYU Law School. Available at:

http://www.brennancenter.org/page/-/d/download_file_38347.pdf

^{xi} Supra x

^{xii} Van Hollen v. Government Accountability Board. 2008CV004085 (Dane County 2008)

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- ^{xiii} Bush v. Gore 531 U.S. 98 (2000)
- ^{xiv} Palast, G. (2000, December 04). *Florida's flawed "voter cleansing" program*. Retrieved from http://www.salon.com/2000/12/04/voter_file/
- ^{xv} See "Florida to Release Controversial Voter Purge List". Available at : <http://miami.cbslocal.com/2012/07/10/florida-to-release-controversial-voter-purge-list/>
- ^{xvi} Bousquet, S. (2012, September 28). New noncitizen voter purge has its own problems, county officials say. *Tampa Bay Times*. Retrieved from <http://www.tampabay.com/news/politics/national/new-noncitizen-voter-purge-has-its-own-problems-county-elections-officials/1253711>
- ^{xvii} Brennan Center for Justice at NYU School of Law. "Policy Brief on Restrictions on Voter Registration Drives". (2006). Available at: http://www.brennancenter.org/content/resource/policy_brief_on_restrictions_on_voter_registration_drives/
- ^{xviii} Supra xvii
- ^{xix} Obama for America v Husted. 12-cv-0036 (Columbus 2012) Available at: <http://www.ca6.uscourts.gov/opinions.pdf/12a0356p-06.pdf>
- ^{xx} See "Voting Wait Lines and the 2012 Election". C-SPAN. Available at: <http://www.c-spanvideo.org/program/Enth>
- ^{xxi} Cornwell, S. (2012, November 06). Complaints about voter ids, ballots, long lines in election. *Reuters*. Retrieved from <http://www.reuters.com/article/2012/11/06/us-usa-campaign-irregularities-idUSBRE8A51E720121106>
- ^{xxii} Gye, H. (2012, October 24). Officials accused of suppressing Hispanic vote after being caught giving out wrong date for election twice in two weeks. *Daily Mail*. Retrieved from <http://www.dailymail.co.uk/news/article-2222641/Maricopa-County-officials-tell-Spanish-speakers-wrong-date-election-second-time.html>
- ^{xxiii} Le, V. (2012, October 23). Retrieved from <http://americasvoiceonline.org/blog/maricopa-county-sends-out-voter-registration-forms-with-wrong-election-date-in-spanish/>