

Summary of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

ARTICLE 1

Defines **racial discrimination** as any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin, which has the **purpose or effect** of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

ARTICLE 2

Commits State Parties to use all appropriate measures including legislation to eliminate racial discrimination and ensure that all public actors conform with this obligation. The article also calls for the review and amendment of all domestic policies that have the effect of creating or perpetuating racial discrimination, and to take affirmative measures to protect against racial discrimination.

ARTICLE 3

Directs State Parties to condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

ARTICLE 4

Requires State Parties to condemn and penalize all dissemination of propaganda, and organizations, which are based on ideas of superiority of one race or ethnic origin, or which incite racial hatred and violence in any form, and to undertake to immediately enact and ensure enforcement of positive legislation designed to eradicate all such acts with due regard to the rights set forth in article 5 of this Convention.

ARTICLE 5

Mandates States Parties to prohibit and eliminate racial discrimination in the enjoyment of the following rights and other rights embodied in international covenants of human rights: **political and civil rights** including the rights to equal treatment before the tribunals, to security of person and protection by the State against violence or bodily harm, to participate in elections-to vote, to stand for election, to take part in the Govern-

ment, to have equal access to public service, to freedom of movement and residence within the border of the State, to leave any country, including one's own, and to return to one's country, to nationality, to marriage and choice of spouse, to own property alone as well as in association with others, to inherit, to freedom of thought, conscience and religion, to freedom of opinion and expression, to freedom of peaceful assembly and association; and **economic, social and cultural rights** including the rights to work, to free choice of employment, to just and favorable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favorable remuneration, to form and join trade unions, to housing, public health, medical care, social security and social services, to education and training, to equal participation in cultural activities, of access to any place or service intended for use by the general public.

ARTICLE 6

Mandates States Parties to provide effective institutional protections and remedies against any acts of racial discrimination and to seek just and adequate reparation including financial compensation for any damage suffered as a result of such discrimination.

ARTICLE 7

Requires States Parties to adopt measures that combat prejudices that lead to racial discrimination; promote racial understanding and tolerance; and teach the principles embodied in the Universal Declaration of Human Rights, and other human rights conventions.

ARTICLE 8-16

Calls for the establishment of a Committee on the Elimination of Racial Discrimination and sets forth a mechanism for implementation of CERD including the submission of periodic reports documenting compliance with the provisions of the Convention by all State Parties.

ARTICLE 17-25

Specifies elements of the operation of the treaty.

The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

BACKGROUND INFORMATION ON CERD

- CERD was adopted by the United Nations in 1965.
- It was signed and ratified by the United States in 1994.
- The State Department submitted its first report documenting U.S. compliance with CERD in September 2000. The next official U.S. report is due in November 2003.
- The U.S. report was reviewed by the Committee on the Elimination of All Forms of Racial Discrimination (the Committee) in August 2001.
- The Committee is made up of 18 experts who are responsible for monitoring compliance of State Parties with CERD.
- To supplement government reports, non-governmental organizations (NGOs) are allowed to submit separate shadow reports to the Committee. The Human Rights Project, in partnership with other local groups, submitted a shadow report in 2001 and 2007.

HOW COULD CERD HELP NEW YORKERS?

- Has a broader definition of discrimination than is provided by current New York City human rights law to include policies that are discriminatory in “purpose and effect.”
- Protects against racial discrimination in education, access to public and private health care, social security, and other social services in addition to employment, housing, and public accommodations as provided by New York City’s human rights law.
- Calls for the collection of data disaggregated by gender and race.
- Endorses the adoption of special measures to ensure the equal enjoyment of rights and freedoms by all racial and ethnic groups.

OBLIGATIONS UNDER CERD

When the U.S. ratified CERD, the State Department agreed to the following duties:

1. To publicize the text in federal, state, and local governments;
2. To submit periodic reports to the Committee as required in the treaty;
3. To participate in dialogue with the Committee as scheduled; and
4. To monitor enforcement of the treaty provisions.

RESERVATIONS

Upon signature and ratification of CERD, the United States submitted a few reservations. Notably, it asserted the primacy of the United States Constitution and recognized that nothing in the Convention would require or authorize legislation by the United States incompatible with the provisions of the Constitution in particular with respect to government interference in private conduct. The United States also submitted that the provisions of the Convention are not self-executing meaning that they are not legally binding.

Internet Resources

Convention—http://www.unhchr.ch/html/menu3/b/d_icerd.htm. Committee—<http://www.unhchr.ch/html/menu2/6/cerd.htm>
The US State Report—http://www.state.gov/www/global/human_rights/cerd_report/cerd_index.html