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Securing U.S. Human Rights Accountability in the United States

Wednesday, January 26, 2011, 10:45am – 12:15 pm

Facilitator:

Regan Ralph, Executive Director, Fund for Global Human Rights



Panelists:

Julie Fernandes, Deputy Director, Civil Rights Division, U.S. Department of Justice

Margaret Huang, Executive Director, Rights Working Group

Eric Tars, Human Rights Program Director and Children and Youth Staff Attorney, National Law Center on Homelessness and Poverty



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What would accountability in the U.S. look like? What have activists in the U.S. learned from international counterparts? Minimal progress is made toward the advancement of human rights without some system of accountability, and it would be ideal to see such systems on local, regional and international levels. Mutual reinforcement of systems is necessary; the international system does a better job at monitoring when the same norms are enforced at the national level.

The U.S. has a disproportionate influence in conversations pertaining to international accountability mechanisms. Systems created by the United Nations will be stronger with U.S. support, and these international mechanisms provide U.S. activists both with the opportunity for use, as well as leverage to strengthen systems domestically.

Margaret Huang shared that the Rights Working Group formed after September 11, 2001 with a strong focus on national security and human rights.



The group is currently engaged in the “Human Rights at Home Campaign”, whose goals are:

- Structural changes within the U.S. government;
- Executive order for inter agency working group;
- Transformation for U.S. commission on civil rights to one with a human rights mandate
- A government work plan that spells out concrete steps to meet recommendations of past treaty body reviews;
- US fed government officials establish better ways to collaborate with local and state officials.

The group also discussed including a goal pertaining to human rights treaty ratification but felt that as a diverse campaign, it was better to focus on goals that weren’t specific to particular identities.

Eric Tars expressed that the U.S. involvement in the Universal Periodic Review (UPR) process reflects a tipping point.



The UPR was established by the Human Rights Council in response to critique regarding the lack of an universal human rights accountability mechanism. Countries' human rights records are reviewed every four years in light of the UDHR, any relevant treaties that government has signed, and any comments made by special rapporteurs.

The U.S. participated in the UPR for the first time in 2010 and performed twelve community consultations across the country to hear human rights concerns. This brought senior level government officials from various agencies into the conversation and increased their understanding of U.S. human rights obligations. Civil society has also been very active in the process, demonstrating to the U.S. government that a domestic human rights constituency exists.

Julie Fernandes emphasized the need for structural change within U.S. government agencies, as there are minimal formalized channels for collaboration between agencies pertaining to human rights accountability.



Margaret Huang echoed this by stating that structural change is not quick and that their campaign has had to struggle against existing inertia, knowing people in office has not proven sufficient.

Regan Ralph shared that one obstacle she often encountered is that many policymakers believe that there is no constituency for human rights in the U.S. **Julie Fernandes** agreed that it is still a struggle to make human rights issues matter, but it is better than it was five years ago. Part of this pertains to how the government is structured, as accountability is not built in. NGOs also often operate in silos. She encouraged civil rights and human rights advocates to come together and to see the Department of Justice as an advocacy target.

The value of the UPR process is that it seeks and reflects on input from advocates on the ground. How have advocates used this review of the U.S. to generate a sense of human rights accountability? What have been concrete outcomes?

Eric Tars shared that the UPR process resulted in 228 recommendations being made to the U.S. government, which included:

- Ratification of ICESCR;
- Creation of an independent national human rights institution in line with the Paris Principles;
- Abolishing the death penalty and juvenile youth without parole sentences;
- Closing Guantanamo and providing due process for all.

The UPR process also educated advocates across the U.S. in human rights standards and procedures, as well as educated the government officials engaged in the process. This has substantially changed the dialogue around human rights within U.S. and the current administration.

Question & Answer

Q: How has CERD addressed effects of national security policies on the AMENSA community in the U.S.?

A: The UPR process did focus on this, but this is one of the biggest challenges as most government agencies say that national security must be an exception. It raises the question of how you can counter terrorism while still protecting human rights. The next U.S. report on CERD is due December 2011 and will include information specific to the AMENSA population. The consultations conducted as part of the UPR process were intended to show the world how a UPR reporting process should be done. The report is more of a public relations piece and to set an example, the government is never going to be as self reflective in public as in private.

Q: What are key lessons in moving from competing voices to collaborative voices in shadow reporting?

A: The civil society UPR collaboration worked well because many of the groups had a history of coordination. They also recognized the need to prioritize the most pressing human rights issues because if they didn't, country delegates would choose their priorities and not choose the right ones.

Q: What role have funders played? What has been helpful? Are there gaps?

A: Structural change and establishing contacts within and between agencies is critical. This needs to happen while the government is in office to allow time for it to be adopted, not as the government is heading out the door. More of that type of advocacy at high levels would be helpful.

Margaret Huang concluded by highlighting several gaps:

- Building capacity on developing clear and strategic thinking on how to work with Congress on human rights. Most human rights advocates have experience working with international systems but not U.S.-based lobbying.
- Building a bigger constituency. Most groups do not focus on organizing beyond their current memberships/networks. There is a new committee on the “Human Rights at Home Campaign” focused on social mobilization.

Julie Fernandes added that a big gap is effective communication. Human rights is not a ‘new’ issue, it lay at the root of our civil rights struggle. The human rights movement needs an effective way of communicating that this is not imported from Europe, this is a ‘Ford’, this is an American struggle.

Eric Tars added that there is a need for long term commitment on behalf of funders for this work to continue. This work would proceed without funding, but it would be much more difficult. Funding needs to come from multiple sources.