

Issue Brief

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United States Submits First Report for Global Review of Human Rights Record

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In August 2010, the Administration of President Barack Obama submitted the first National Report on the human rights record of the United States of America¹ to the United Nations' Human Rights Council (HRC), for its first Universal Periodic Review (UPR).² On 5 November 2010, a 35-member U.S. delegation was in Geneva for the actual 3-hour review before the 47-Member HRC (and as many of the other 192 UN Member Nations as wanted to be present).³ Then on 9 November 2010, the HRC took 30 minutes to review and adopt the report on the USA, and give the USA an opportunity to initially respond to an incomprehensible volume of recommendations for improvement – including from Cuba, Iran, Libya, North Korea, Sudan, Venezuela and 48 other nations.⁴ Finally, this month, the HRC will again allocate one hour for a final review of its report on the USA, and to receive the USA's formal response to the 228 recommendations. (A subsequent brief will address the foreign recommendations.)

The White House and many federal departments and agencies assisted in preparing the National Report, including the Departments of State, Agriculture, Defense, Education, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, and Treasury, and the Environmental Protection Agency and Equal Employment Opportunity Commission.⁵

Shortly after the Administration released the National Report, UN experts Brett Schaefer and Steven Groves of The Heritage Foundation brought clarity to the implications of U.S. membership (gained seat in 2009) on the HRC, and submission to the UPR process:

*By legitimizing the HRC through U.S. membership, the Obama Administration will give credibility to a farcical UPR process that has become little more than a 'mutual praise society' for repressive regimes and created the opportunity for human rights abusers to take unjustified shots at America's human rights record."*⁶

Displacement of True Foundations for Unalienable Rights and USA

The 2010 United States' National Report begins by declaring that our nation was founded on the "universal values shared the world over—that all are created equal and endowed with inalienable rights." (The world would be a much better place if inalienable rights were indeed universally respected.) Near the end, the Administration clarified its view: "The fundamental truth which grounds the principles of government enshrined in our Constitution—that each person is created with equal value from which flows inalienable rights—is not an exclusively American truth; it is a universal one."⁷ This is close to the truth, but don't miss what is deliberately missing: the Source and vital meaning of the original words, and the moral basis for claiming any rights as inalienable.

The Founding Fathers actually said in The Declaration of Independence (par. 2): "We hold these Truths (not "values") to be self-evident, that all Men (a term that from creation has meant mankind, male and female) are created equal, that they are endowed by their Creator with certain unalienable rights." They boldly recognized the true Source of inalienable rights. In the first paragraph of the Declaration, before asserting the pre-existence of unalienable rights, they cited the moral foundation for those rights: "the Laws of Nature and of Nature's God." If the Creator and the Laws of Nature's God are disregarded as the source by which "unalienable rights" are endowed and defined, then governments and the international community can decide to include any type of behavior or activity, right or wrong, moral or immoral, within their scope of "universal values" or "human rights," even attempting to redefine "inalienable rights."

Why the Obama Administration submitted the USA to the UPR process

The Report harkens back to "Our Founders, who proclaimed their ambition 'to form a more perfect Union,'" and oddly views USA submission to the UPR process as a means to "usher us toward a more perfect world." The hope of the Obama Administration is

that "this UPR process will help us to strengthen our own system of human rights protections and encourage others to strengthen their commitments to human rights."⁸ They further said,

(T)he ultimate objective of the UPR process, and of the UN Human Rights Council, is to enhance the protections for and enjoyment of human rights. Our participation signifies our commitment to that end, and we hope to contribute to it by sharing how we have made and will continue to make progress toward it. Some may say that by participating we acknowledge commonality with states that systematically abuse human rights. We do not.⁹

So subjecting our human rights record to China, Cuba, Libya, Russia, Saudi Arabia and other HRC member nations with abysmal human rights records is not "commonality with" such nations, and they are going to help us "strengthen our own system of human rights protections"?

John Bolton was the U.S. Ambassador to the United Nations when the General Assembly approved the creation of the HRC and UPR process. After release of the Report, he said on Fox News that the UPR process was one of the reasons the U.S. decided not to support the HRC.¹⁰

Positive Elements of the Report

- Affirmation that securing freedom "under a government that would respect and protect human rights was the fundamental motivation of our country's Founders" (but here did not mention religious freedom as the primary motivator, as evident in founding documents of the States and the First Amendment to the U.S. Constitution).¹¹
- Reasonably accurate description of our U.S. Constitution, Bill of Rights, and the 13th-15th Amendments as foundational in protecting human

rights.¹²

- The successful efforts to end slavery and discrimination against African Americans, and ensure to them the right to vote.¹³
- Description of current efforts to combat human trafficking and help victims.¹⁴

Ignorant or Socialistic Elements of the Report

- The introductory paragraphs to Section III, “A commitment to freedom, equality, and dignity,” start by quoting the Universal Declaration of Human Rights, and end with our Constitution, as if the UDHR (1948) preceded, rather than followed the U.S. Constitution (1788) by 160 years.¹⁵
- The authors gave very little attention to “Freedom of thought, conscience, and religion,” and don’t appear to know the history of our nation during the seventeenth and eighteenth centuries, when immigration to this country to secure these rights was paramount.¹⁶
- Considerable focus given to education, health and housing programs (needs, not rights).¹⁷

Obama Administration Plans to Seek Ratification of UN Treaties

The Obama Administration is working toward the USA signing or ratifying the following United Nations treaties, which would further subject our domestic policies to UN treaty bodies:

1. Convention on the Rights of Persons with Disabilities¹⁸ [signed 2009¹⁹];
2. Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)²⁰ [signed 1980²¹];
3. International Labor Organization (ILO) Convention No. 111 “to combat discrimination at work.”²²

These are the only three mentioned in the report, but the Senate Foreign Relations Committee has received a list of about 30 international treaties the Obama Administration wants ratified.²³

Regarding CEDAW, Women for Faith and Family, said that CEDAW would mandate “sweeping social changes which embody the narrow ideological opinions and social analysis of militant feminism ... CEDAW is fundamentally flawed ... and totalitarian in its methods.”²⁴

National Security Efforts, Detainees, and Guantánamo Bay

The first specific area addressed under “Values and National Security” is “Detention and treatment of detainees.” The Administration proclaimed that on “his first full day in office, President Obama ... (issued) three Executive Orders relating to U.S. detention, interrogation, and transfer policies and the Guantánamo Bay detention facility.”²⁴

The first Executive Order (13491), *Ensuring Lawful Interrogations*, mandates approved, humane interrogation techniques, and a thorough review of U.S. policies related to transferring detainees or prisoners. The Administration did defend our nation’s policies, saying,

*The United States prohibits torture and cruel, inhuman, or degrading treatment or punishment of persons in the custody or control of the U.S. Government, regardless of their nationality or physical location. It takes vigilant action to prevent such conduct and to hold those who commit acts of official cruelty accountable for their wrongful acts.*²⁵

In the second Executive Order (13492), *Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities*, President Obama announced “the Administration’s intention to close the Guantánamo Bay detention facilities,” and in this Report said, “The Administration remains committed to closure.” To determine “the ap-

appropriate disposition of all detainees,” he created a Task Force. The results: “Since January 2009, 38 detainees have resettled successfully in third countries, an additional 26 detainees have been repatriated, and one has been transferred to the United States for prosecution.”²⁶

The third Executive Order (13493), *Review of Detention Policy Options*, created a “Special Task Force on Detention Policy” that “has reviewed available options for the apprehension, detention, trial, transfer, release, or other disposition of individuals captured or apprehended in connection with armed conflicts and counterterrorism operations.” Thankfully the President affirmed that “we have a national security interest in prosecuting terrorists, either before Article III courts or military commissions,” but then “expressly acknowledged that international law informs the scope of our detention authority.”²⁷

Obama Administration Inappropriately Opposes Arizona Immigration Law

President Obama revealed a gross disregard for the sovereignty of each state by raising the issue of Arizona Law S.B. 1070, and saying the federal government has taken “court action” against Arizona, arguing that it “has the authority to set and enforce immigration law.”²⁸ When Arizona Governor Jan Brewer was alerted, she wrote to Secretary of State Clinton, saying,

*The idea of our own American government submitting the duly enacted laws of a state of the United States to ‘review’ by the United Nations is internationalism run amok and unconstitutional.*²⁹

Promotion of Lesbian, Gay, Bisexual and Transgender (LGBT) Behaviors

Under the “Fairness and equality” portion that covers about 30 percent of the report, the Obama Administration focused on nine discrimination areas in the following order: persons with disabilities; LGBT; Muslim, Arab-American and South Asian Americans; women; Native Americans; and areas of work, housing, education, and law enforcement. LGBT is listed as the second top priority area of discrimination. The Administration bragged about appointing “several

LGBT individuals to senior positions in the Executive Branch”³⁰; and then said,

In each era of our history there tends to be a group whose experience of discrimination illustrates the continuing debate among citizens about how we can build a more fair society. In this era, one such group is LGBT Americans.

They went on to favorably cite: the decriminalization of sodomy; “hate crimes” laws; prohibition of “discrimination based on sexual orientation ... in federal employment”; the extension of “benefits to the same-sex partners of federal employees”; support for “the pending Domestic Partnership Benefits and Obligations Act”; commitment to “repeal of the ‘Don’t Ask, Don’t Tell’ statute”; support for “passage of the Employment Non-Discrimination Act, which would prohibit discrimination in employment based on sexual orientation or gender identity”; “equal rights to marriage for LGBT Americans at the federal and state levels”; and support for “repeal of the Defense of Marriage Act.”³¹

The Obama Administration views discrimination against those who choose to practice LGBT behaviors the same as discrimination against African Americans. It is not! The color of our skin is innate, determined by the Creator, and thus a rightful basis for non-discrimination. But immoral behaviors are a choice, and thousands of men and women who formerly struggled with same-sex attractions are now free and healed from those desires.³²

It is deeply troubling that our president and his Administration are directly putting true inalienable rights, particularly freedoms of religion, speech and press, as well as the very institutions of marriage and family, in jeopardy by proclaiming LGBT rights as “human rights” and encouraging the rest of the world to do so.

Additional Topics Covered in Report

There were other topics covered in the Report, including:

- Protection of privacy vs. intelligence collection and the Patriot Act³³;
- Immigration challenges³⁴;
- Protecting human dignity in law enforcement, criminal justice, incarceration and juveniles³⁵;
- Promoting American “values” in international relations (though for the Obama Administration, using what they call “smart power” in foreign relations now includes pressuring nations to adopt pro-LGBT policies and legalize or increase access to abortion as a “reproductive right”, which becomes coercive when tied to granting of foreign aide).³⁶

It is a sad day in the history of the United States that our president and federal government feel compelled to submit our country to a quasi-judicial review of our history and human rights record in order to please other nations to whom we should not be accountable, and especially to be subjected to criticism by governments who egregiously violate the dignity, humanity and inalienable rights of their own citizens. The national sovereignty of our nation and the inalienable rights of Americans are at risk.

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Concluding Comments

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4. Ibid.
5. Introduction to “Universal Periodic Review of the United States of America: National Report Submitted to the Office of the UN High Commissioner for Human Rights, August 2010.” The booklet is available on web site of the Permanent Mission of the United States in Geneva: “Universal Periodic Review of the United States in Booklet Format.” <http://geneva.usmission.gov/category/human-rights/upr-of-the-united-states/>
6. “The U.S. Universal Periodic Review: Flawed from the Start,” by Brett D. Schaefer and Steven Groves, The Heritage Foundation, No. 2994, August 26, 2010. <http://report.heritage.org/wm2994>
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13. Ibid., pars. 9-10, 24-26, 29-30.

14. Ibid., pars. 97-99.
15. Ibid., pars. 12-16.
16. Ibid., pars. 19-21.
17. Ibid., pars. 45-49, 68-76.
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19. "Convention and Optional Protocol Signatures and Ratifications," United Nations Enable. <http://www.un.org/disabilities/countries.asp?id=166>
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24. Op.cit., "National report," par. 83.
25. Ibid., pars. 84-86.
26. Ibid., par. 87.
27. Ibid., par. 88.
28. Ibid., par. 92.
29. Op.cit., "Obama Administration Submits Arizona Immigration Law to U.N. Review."
30. Op.cit., "National report," par. 29.
31. Ibid., par. 34.
32. Visit the website of Exodus International: www.exodusinternational.org.
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34. Ibid., pars. 92-96.
35. Ibid., pars. 55-66.
36. Ibid., pars. 77-81. See: "US Secretary of State Hillary Clinton Equates Maternal Health with Abortion," *Parliamentary Network E-News*, Volume 4, No. 3, March 2010. "US Administration Launches All-Out International Homosexual 'Rights' Offensive," by Terrence McKeegan, J.D., *Friday Fax*, Volume 13, Number 28, June 24, 2010.