

Organization for Defending Victims of Violence – Individual UPR Submission – United States of America – November 2010-04-04

The Organization for Defending Victims of Violence [ODVV] is a non-governmental, non-profit Organization based in Iran [Tehran] since 1988, in Special Consultative Status to the ECOSOC, active in different fields of human rights and humanitarian activities. The Organization is an associate NGO to the United Nations Department of Public Information [UNDPI], and cooperates, in a variety of issues with the local and international NGOs. During the last years, ODVV has actively participated in different HRC sessions and has delivered numerous oral and written submissions in council.

This report has been provided by ODVV according to sections C and D as stipulated in the General Guidelines for the Preparation of Information under the Universal Periodic Review.

C. Promotion and Protection of Human Rights on the Ground

Torture, Cruel, inhuman and other ill-treatment

1. ODVV is deeply concerned about numerous incidents of torture and other cruel behavior in the guise of War on Terror. As reiterated in the report of the committee against torture, notwithstanding the statement by the State party that “every act of torture within the meaning of the Convention is illegal under existing federal and/or state law”, the Committee reiterates the concern with regard to the absence of a federal crime of torture, consistent with article 1 of the Convention, given that sections 2340 and 2340 A of the United States Code limit federal criminal jurisdiction over acts of torture to extraterritorial cases. ODVV also regrets that, despite the occurrence of cases of extraterritorial torture of detainees, no prosecutions have been initiated under the extraterritorial criminal torture statute .

2. ODVV is also concerned by allegations that the US has established secret detention facilities, especially in Afghanistan (in Bagram air base & near Kabul) which are not accessible to the International Committee of the Red Cross. Detainees are allegedly deprived of fundamental legal safeguards, including an oversight mechanism in regard to their treatment and review procedures with respect to their detention. Unfortunately, the “no comment” policy of the US administration regarding the existence of such secret detentions has hindered any act to resolve this situation.

3. According to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions there is now no doubt that detainees at Guantanamo were subjected to torture and coercion; senior Government officials have publicly admitted as much and non-governmental

organizations and counsel for individual detainees have provided credible accounts of cruelty and mistreatment.

4. According to the first National Survey of Youth in Custody, released by the federal Bureau of Justice Statistics, 1 in 10 youth in state juvenile facilities and large non-state facilities reported sexual victimization by staff. In the very worst facilities, 20 to more than 30 percent of all youth reported abuse.

Discrimination on the basis of sex, race, religion and etc

1. The overlap between poverty and race in the United States creates structural problems that go far beyond patterns of income. Rather, it interacts with a number of mutually reinforcing factors, such as poor educational attainment, low-paying wages and inadequate housing, which create a vicious cycle of marginalization and exclusion of minorities. The overrepresentation of minorities in inferior schools, more vulnerable neighborhoods, the juvenile justice system and the criminal justice system are to a large extent linked to their overall socio-economic situation. At the same time, these trends also contribute to reinforce prejudices and stereotypes, such as an association of minorities to criminality or to poor educational performance.

2. ODVV is concerned of Instances of direct discrimination and concrete racial bias which still exist and are most pronounced with regards to law enforcement agencies. As it mentioned in 2009 Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Despite the clear illegality of racial profiling under the fourteenth amendment, recent evidence shows practices that still prevail in law enforcement, such the disparity in the rate of arrests of minority and white drivers stopped by the police. In the educational system, evidence also shows racial bias in the type of disciplinary action given to white or minority students. In the justice system, evidence of racial bias in conviction rates and length of sentences of both juvenile and criminal courts exist. ODVV is concerned of direct discrimination which is found in many studies that used paired testing techniques, particularly in the areas of housing and employment. While these cases do not directly involve discrimination by state agents, strong enforcement of human rights is required.

3. The U.S. minority groups face discriminations in education. According to a report issued by the U.S. Bureau of Census in 2009, 33 percent of the non-Hispanic white has college degrees, proportion of the black was only 20 percent and Hispanic was 13 percent.

4. ODVV has been informed that in United States ethnic hatred crimes are frequent. According to statistics released by the U.S. Federal Bureau of Investigation on November 23, 2009, a total of 7,783 hate crimes occurred in 2008 in the United States, 51.3 percent of which were originated by racial discrimination and 19.5 percent were for religious bias and 11.5 percent were for national origins. Among those hate crimes; more than 70 percent were against black people. In 2008, anti-black offenses accounted for 26 persons per 1,000 people, and anti-white crimes accounted for 18 persons per 1,000 people.

5. As indicated in the Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (April 2009), in 2005, African Americans comprised nearly 42 percent of the number of death row inmates but only around 12 percent of the general population. The key factor that shows evidence of racial bias in the death penalty, according to many organizations, is the race of the victim. Nationwide, even though the absolute number of murders of blacks and whites is similar, some 80 percent of people on death row have been convicted of crimes against white victims.

6. Women have difficulties in finding a job and suffer from low income and poor financial situations. According to statistics from the U.S. Equal Employment Opportunity Commission (EEOC), workplace discrimination charge filings with the federal agency nationwide rose to 95,402 during Fiscal Year 2008, a 15 percent increase from the previous fiscal year. Charge of workplace discrimination because of a job applicant's sex maintained a high proportion.

7. According to statistics released by the U.S. Census Bureau in September 2009, the median incomes of full-time female workers in 2008 were 35,745 U.S. dollars, 77 percent of those of corresponding men whose median earnings were 46,367 U.S. dollars, which is lower than the 78 percent in 2007. ODVV is especially concerned that these women in US have no legal guarantee of paid parental leave.

8. As confirmed by report of the special rapporteur on the human rights of migrants, throughout the history of the United States, many different kinds of non-citizens have been made subject to mandatory detention. People with lawful permanent resident status (or green card holders), including those who have lived lawfully in the United States for decades, are subject to deportation. So are other legal immigrants - refugees, students, business people, and those who have permission to remain because their country of nationality is in the midst of war or a humanitarian disaster. Undocumented non-citizens are also subject to mandatory detention and deportation regardless of whether they have committed a crime.

Right to life of Indigenous People

1. The United States perpetuates a constitutional and legal system that legitimizes discriminatory practices towards Indigenous Peoples by failing to protect their rights to property, religious freedom and practice, despoiling spiritually significant areas, denying Indigenous Peoples' control and management of resources and self-determination even on their own lands. ODVV is deeply concerned on situations that the federal government, acting through Congress and the executive, continues to take tribal lands and resources, in many cases without payment and without any legal remedy for the tribes.

Congress frequently deals with Indian property and Indian claims by enacting legislation that would be forbidden by the Constitution if it affected anyone else's property or claims. Because of the federal government's essentially limitless power and constant intrusion under the plenary power doctrine, Indian governments cannot function properly to govern their lands or to carry out much-needed economic development. Constantly under threat of termination or worse, this denial of simple justice has long served to deprive Indigenous

Nations of a fair opportunity to advance the interests of their communities. No others in the country are in such an untenable and insecure position. Disproportionately poor, unemployed, incarcerated, victimized by crime, by every measure, even in mortality Indigenous Peoples in the United States continue to rank at the bottom of every scale of economic and social well-being.

Right to Adequate Housing

1. In 2007, about 22 per cent of the 36.9 million rental households in the United States were spending more than half their income on rental costs. At the same time, about 8.8 million renter households with low incomes were spending more than half of their income for housing. The number of households facing serious affordability constraints increased by 33 per cent between 2000 and 2007, and the poorest and most vulnerable people face the heaviest burdens in terms of housing costs. Nearly two thirds of the low-income households that face severe housing-cost burdens have family members who are children, elderly, or persons with disabilities.¹³ About 12.7 million children – more than one in six – in the United States live in households spending more than half their incomes on housing.

2. ODVV has been informed that on October 2008, 12-state survey revealed that a growing number of families with children in US were becoming homeless. In the period from June 2007 to the same month in 2008 the number of requests for shelter doubled. In March 2009, it was reported that one in every nine U.S. mortgage-holders was behind on home loan payments or in some stage of foreclosure at the end of 2008, as mounting job losses exacerbated the housing crisis. More than 2.3 million homes were seized during 2008, an increase of 81% from 2007 and up 225% from 2006.

Right to Employment

1. Since December 2007, the estimated number of unemployed people has risen to 13.1 million – 5.6 million more than at the start of the recession. In this regard, ODVV concerns that minorities situation are worse and they have been disproportionately affected by declining employment prospects. As of March 2009, unemployment among blacks, Hispanic and white populations increased by 4.4%, 5.2% and 3.5%, respectively, reflecting longstanding trends in inequality, particularly in the areas of education, employment and access to justice. As of June 30, 2009 these increases were reflected in national unemployment rates that stood at 14.7%, 12.2% and 7.8%.

2. ODVV believes the unemployment crisis underscores the reality of a system that does not recognize or guarantee essential social or economic rights. Because access to education, food, healthcare and housing are generally a function of one's access to a job, being unemployed has tremendous repercussions on an individual or family's ability to access basic necessities. The U.S. has the second lowest unemployment benefits among OECD countries; almost two-thirds of these offer double or more unemployment benefits – plus social assistance – than does the U.S.

D. Recommendations for action by the state under review

1. The United States has an obligation under international law to provide detainees with fair trials that afford all essential judicial guarantees. ODVV believes that no state may derogate from this obligation, regardless of whether persons are to be tried for crimes allegedly committed during peace or armed conflict.
2. US should prepare any necessary grounds to limit and define exactly the legal term of "Torture" to prevent any current and future misuse of this inhuman act in its judicial system.
3. There is now no doubt that detainees at Guantanamo were subjected to torture and coercion; senior government officials have publicly admitted as much and non-governmental organizations and counsel for individual detainees have provided credible accounts of cruelty and mistreatment. ODVV recommends that US administrative formally accept its responsibility in this regard and after closing Guantanamo camps as soon as possible, tries to compensate the victims in an appropriate manner.
4. US administration should pay more attention on rising events of Islamophobia in this country and tries to increase the level of religious tolerance in its society.