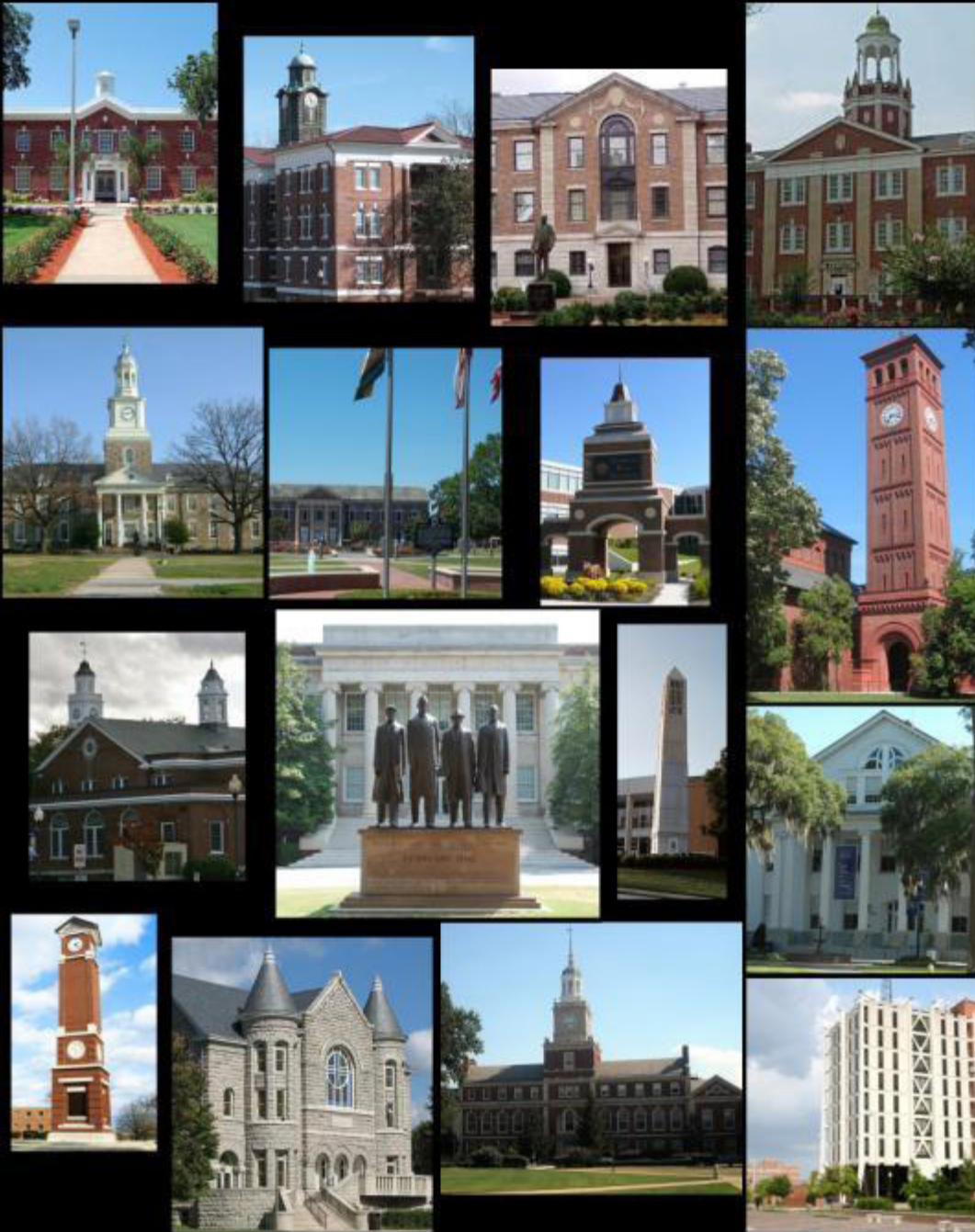


STATEMENT

To the U.S. State Department US-UPR Team
July 20, 2015



STATEMENT

**PROPOSED FOR CONSIDERATION
BY THE STATE DEPARTMENT U.S. UPR TEAM -
INTERAGENCY UPR WORKING GROUP
EDUCATION**

**JULY 20, 2015, 2:00 - 5:00 PM
U.S. DEPARTMENT OF STATE HEADQUARTERS
2201 C STREET, NW
WASHINGTON, D.C. 20520**



**An International NGO in Consultative Status with the United Nations
<http://www.ihraam.org>**

Abstract

The State Department US UPR Team has extended an invitation to IHRAAM, a UN/NGO in Consultative Status with ECOSOC, to attend civil society town hall and consultation meetings with members of an US Interagency Working Group. IHRAAM submitted an earlier Alternative Report (AR) to the UNHRC in response to the US UPR presented May, 2015. The meetings will focus on the recommendations received by the US during its Universal Periodic Review (UPR). This requested statement/topics areas report seeks to align recommendations formally received by the US from the UN Working Group on the US UPR with those put forward by the IHRAAM Alternative Report (AR), as well as provide a mechanism for ongoing review and consultation. Therefore, IHRAAM's culminating recommendation calls for the institutionalization of an "Office for HBCU Development & International Cooperation" tasked with addressing HBCU empowerment and sustainability.

Introduction:

1. The International Human Rights Association of American Minorities (IHRAAM), an UN/NGO in Consultative Status with ECOSOC, acknowledges, with gratitude, the invitation received from The State Department U.S. UPR Team on Monday June 22, 2015 per its participation in the civil society consultation and town hall meetings scheduled for 2:00-5:00 pm (EST) on Monday July 20, 2015. A required RSVP confirmation was forwarded via email (UPR2015@state.gov) on Wednesday June 24, 2015. IHRAAM indicated that the following individuals would be available for active participation in these proceedings: Dr. Farid I. Muhammad (Team Leader), Professor Emerita Vernellia H. Randall, and Dr. John K. Waddell.

Dr. Muhammad and Professor Randall reported their intention to attend in person, while Dr. Waddell (past president of four HBCUs and formerly a member of the White House Initiative) will be available by dial-in phone option.

2. In its capacity as an UN/NGO in Consultative Status with ECOSOC, IHRAAM formally submitted an Alternative Report (AR) to the United Nations Human Rights Council (UNHRC) on September 14, 2014 (copy attached) themed “International Law & Empowerment of Historically Black Colleges and Universities (HBCUs)”. The AR was cosponsored by other US and internationally based organizations that remain justifiably concerned by the ever increasing and systemic socio-economic marginalization of African Americans. The filing of this AR was done in anticipation of and in response to the United States-UPR hearing held at UNHRC Headquarters in Geneva, Switzerland May 11, 2015. Dr. Muhammad, Professor Randall and Dr. Edwina Harris Hamby –(VP for Development & Research, Fisk University, TN) presented at an IHRAAM-sponsored side-session on HBCUs and international law at the UN’s Palais des Nations on May 7th, were observers of the full US/UPR proceedings held there on May 11, 2015 and participated in post US/UPR discussions and cognate activities. A press release capturing these Geneva-based activities is attached. These experiences help inform and contextualize the recommendations/statements/proposed topics to be noted in this report.

3. In compliance with The State Department U.S. UPR Team’s additional request for an e-mail submission of written and advance statements/topic areas of concern, IHRAAM hereby respectfully submits this document for the US/UPR Team’s due consideration, in anticipation of the Interagency Working Group’s discussion scheduled for July 20, 2015.

Principles Underpinning IHRAAM Proposal to State Department US UPR Team:

5. IHRAAM fully affirms and recognizes the irrefutable rights and reciprocal duties/obligations of the United States of America as a sovereign and totally autonomous State, which honors its membership in the broader United Nations community. Respect for US sovereignty and full recognition of its laudable values of “indivisibility”, “freedom”, “equality” and social “justice” for all, remain sacrosanct standards and ideals held dear by all its citizens. Even when historical and current socio-economic indicators notably demonstrate the continued existence of gross/aggregate and systemic disparities as a function of its citizens’ ethnicity/race/social-class and gender, these inherent common social values and national aspirations still remain. However, as

with many other states, the United States' efforts to truly live up to its own declared ideals for social justice and equal opportunity for all, remain anemic and thwarted. An assessment of these historical and systemic issues, particularly as they impact HBCUs and cognate institutions of education serving predominantly US citizens of African Descent, are comprehensively addressed in IHRAAM's Alternative Report to the US-UPR, 2015.

6. IHRAAM also fully affirms and recognizes the irrefutable rights and reciprocal duties/obligations that all humankind and nations should ideally have toward each other. This common responsibility and fundamental moral imperative is socio-legally captured in the Charter of the United Nations (UN) and subsequent state-based and autonomous compliance with internationally recognized and independently ratified human rights covenants, cognate protocols, and customary practices established via international law. Each member state of the UN, therefore, should strive to promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which it is a party; and, thereby, effect implementation of such agreed upon policies. Therefore, it is respectfully recommended that within light of the above, the State Department U.S. UPR Team take full advantage of the opportunity afforded by the Civil Society Consultation and Town Hall Sessions being conducted July 20, 2015 -to establish ongoing modes of collaboration with such participating entities to further facilitate the required harmonization among local, state, national and international human rights regulations and practices. IHRAAM consultants, experts and affiliated HBCU experts stand ready to assist the U.S. Department of State in such endeavors, particularly as relates to the concerns of US national/ethnic minorities and/or people of African Descent.

7. It is well noted that the US is already a party to several international human rights instruments and declarations which have particular socio-legal relevance to national/ethnic minorities or people of African Descent. The US has also acceded to and recognized ancillary international human rights declarations and specialized reports resulting from duly authorized UN Working Groups and Special Rapporteurs. In short, the USA is a formal party to several significant internationally binding human rights treaties, while remaining a signatory to many others. The US Department of State has additionally acceded to allowing two major UN studies/reports to be conducted which assessed contemporary forms of racism/racial discrimination/intolerance and the plight of its citizens who are of African Descent. Among the most significant of these human rights instruments and UN reports, which are deemed to have consequential impact for national minorities or US citizens of African Descent, would be the following:

- a. Universal Declaration of Human Rights (1948)
- b. International Covenant on Civil and Political Rights (ICCPR ratified 1992)
- c. International Covenant on the Elimination of All Forms of Racism (CERD ratified 1994)
- d. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Adopted by General Assembly resolution 47/135 of 18 December 1992)
- e. UN Commission on Human Rights Report: Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance - pursuant to Resolution 1999/78 - Publication Date 10 February, 2000

- f. UN Report on the Working Group of Experts on People of African Descent: Visit to the United States of America (25 to 29 January, 2010) - UNHRC 50th Session, Agenda Item #9
- g. UN General Assembly Resolution 60/147: Basic Principles & Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (16 December, 2005)
- h. US Support (December, 2013) - UN General Assembly Resolution 68/237: Proclamation of the International Decade for People of African Descent (beginning 1 January, 2015)

8. The following five (5) Categories (or Clusters) of State-Based Recommendations to the US UPR 2015, are deemed to be consistent with and supportive of IHRAAM's proposal below: (From Part II: Conclusions and/or Recommendations, pgs 12-32, Item # 176 UNHRC Draft Report of US UPR 2015)

- a. Category I - US should **ratify** all international human rights instruments to which it is not a party (with particular emphasis given to ICESCR, CEDAW, CRC and CRPD) (sub-items #'s 176: recommendations 1-59 inclusive, and 70-72)
- b. Category II - US should establish a **national human rights institution** (HRI) (sub-items #'s 176: recommendations 75-90 inclusive)
- c. Category III - US should adopt and implement a plan of action consistent with **Durban Declaration and Program of Action** (sub-items #'s 176: recommendations 91-95 inclusive)
- d. Category IV - US should take further measures, **strengthen existing laws** and legislation to eliminate all forms of racism and discrimination; bring in line the definition of racial discrimination in federal and state legislation with provisions of ICERD; address root causes of recent racial incidents and expand capacity to reduce poverty in areas with sub/par services (sub-items #'s 176: recommendations 118-125, 135, 137, 147, 153, 155, 160 & 161)
- e. Category V - US should **promote the right to education** for vulnerable groups and provide equal access ; include the right to education in the Constitution; **guarantee the enjoyment of human rights of the minorities; consult with ethnic minorities, correct historical injustice and offer compensation** (sub-items #'s 176: recommendations 319-321, & 326)

9. As the IHRAAM AR states, Article 13:1 and 13:2:c of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and Article 5 (d)(v) of the Convention on the Elimination of All Forms of Racism (CERD) underscore the right of all to education. CERD Article 4.1 implicitly calls upon states to enact Special Measures (Affirmative Action) in order to address these violations and explicitly specifies that until such time as equal standing of racial/ethnic groups has been achieved, "such measures are not to be regarded as a form of reverse

discrimination”. Furthermore, the customary law of states and the general comment and writing of experts on Article 27 of the ICCPR all attest to the fact that the right to cultural identity requires special rights for its enforcement, rights for which the group concerned is to be the specific beneficiary, rights which are not temporary, but ongoing. The rights of such groups have been summarized as the “special right to institutions”, which enable these groups to have policy and rule-making powers to address their own unique needs for cultural protection and socio-economic development, with the latter seen as needed to ensure to former.

RECOMMENDATION:

10. While the IHRAAM AR provided a series of specific recommendations to address the situation of African American K-12 education and the crisis facing HBCUs, we propose here one primary recommendation which affords the possibility of further addressing each of the specific recommendations within its mandate. IHRAAM calls for the establishment of an **OFFICE OF HBCU DEVELOPMENT & INTERNATIONAL COOPERATION (OHBCUD)**

11. IHRAAM further strongly recommends that **The State Department US UPR Team recommend** to the Department of Education, and all cognate US government agencies, that they facilitate, endorse and recognize the creation of an **OFFICE OF HBCU DEVELOPMENT & INTERNATIONAL COOPERATION (OHBCUD) as a quasi-state agency within the Department of Education.**

12. The composition, mission and purpose of the OHBCUD would be as follows:

An independent body comprised of a representative (HBCU Administrators/Development Officers) from each HBCU, as well as from other stakeholders, such as Alumni Associations and recognized HBCU advocacy groups, which would hold an initial general consultation to elect its executive officers, establish its internal structure, and set up working groups on policy/ research, and rules of procedure, operation and related matters.

The OHBCUD would primarily focus on helping to collaboratively propose and develop policy initiatives to secure the ongoing academic, institutional and socio-economic stability and empowerment of HBCUs; as well as provide feedback and advice to appropriate US agency initiatives which might help to avoid the enactment of general policies which have disproportionately deleterious effects on African-Descent communities. The OHBCUD would establish varied modes of international cooperation to secure and maintain ongoing educational and socio-economic cooperation with comparable entities in countries throughout the worldwide African Diaspora.

To this end, this Body would work in full and ongoing cooperation with the Department of Education, the U.S. Department of State, and cognate U.S. Interagency groups to help ensure collaborative harmonization and compliance with all domestic and international laws and policies impacting the socio-educational development, well-being and human rights of principally U.S.

citizens of African Descent, and indirectly others throughout the African Diaspora.

13. The OHBCUD would further address, as it saw fit and inter alia, the specific recommendations of the IHRAAM AR, to wit:

RE Funding:

- Restore the Parents PLUS program lending criteria ;
- Legally entrench federal support to Historically Black Colleges and Universities (HBCUs) and index to cost of living ;
- Create a new fund which will at least match the dollars raised by minorities specifically giving to HBCUs ;
- Apply the current IRS tax structure that is applied to other nonprofit groups to HBCUs ;
- Restore/expand federal funding for No Child Left Behind, Pell Grants, Head Start, TRIO, Title III and cognate programs.

RE Institutional change:

- Create a new accreditation organization approved by the DOE, empowered to review accreditation denials of HBCUs and defer them pending further investigation into possible resolution;
- Support all White House Initiatives which are concerned with addressing the unique needs and institutional challenges of elementary, secondary and post-secondary schools that are dedicated to serving students who are predominantly African American ;

RE Judicial review

- Enforce existing state-based legal requirements for parity support to HBCUs/HWIs.

14. Supporting Considerations for the OHBCUD:

HBCUs are key to the socio-economic development of African American heartland communities, and to keeping these from sinking into barren wastelands of marginalized people. HBCUs represent an existing tool for enabling government to positively address the on-going and dangerous malaise in African American communities. Remarkably, this small group of colleges confers 40% of STEM and 60% of engineering degrees earned by African American students. They also educate half of the country's African American teachers and 40% of all African American health professionals. They are a major force in producing an African American professional sector.

a. The OHBCUD would serve as a governmental recognition and endorsement of HBCUs as an historic African American legacy entitlement and international minority right.

HBCUs represent the historic United States institutionalization of higher education for the African American people, upheld in 1896 (*Plessey v. Ferguson*) prior to the ending of the American apartheid policies related to education with *Brown vs. Board of Education* in 1954. Under this regimen, these founding peoples of the United States, those of European descent

and those of African descent, were regarded as “separate but equal” peoples. As a result of the federally recognized and supported Civil Rights movement in the 1960s, the systemic relation of the descendants of the formerly enslaved Africans—who, for example, became Gullah/Geechees, a new ethnicity endemic to North America, and from whom evolved an equally new ethnicity endemic to the United States, African Americans—was changed from “separate but equal” to the civil rights paradigm of “same rights for all”. While the USA did remove de jure segregation, it replaced it with equality before the law. It did not ask those whom they recognized as the African American people whether and on what terms they wished to be integrated into the United States. It did not provide them with the option of being integrated as a founding people of the United States with special right to institutions enabling their cultural and developmental protection, nor did it give provide them with constitutional-legal recognition, as is customary state practice. Both the federal government and the civil rights movement nonetheless continued to recognize HBCUs as a legitimate institutional entitlement that was overwhelmingly desired by and of value to the peoples of African Descent (Gullah/Geechees and African Americans). HBCUs play a key role in helping both to assess and to ameliorate the many conditions that currently plague the African American community.

b. *An OHBCUD would serve as a consultative body on HBCUs bearing exceptional legitimacy due its democratic process of empowerment.*

As advocated in the UN Declaration on the Rights of Minorities and in the HRC’s US UPR Recommendations above cited, the DoE and cognate government agencies might turn to the OHBCUD for consultation in relation to proposed policy changes which might positively or negatively impact HBCUs, thus preventing catastrophic changes such as the Parents Plus Loan program. It would also shed light on how existing policies might be improved or streamlined, to the advantage of all HBCUs.

c. *An OHBCUD would serve as a resource to increase individual HBCUs’ empowerment and sustainability, and thereby that of their communities, serving as a powerful symbol of government’s determination to stand by these communities.*

Due to its centralized capacity to concentrate, develop and share tools and programs for advancement with its represented institutions, the OHBCUD can operate and offer services on a level not presently achievable due to lack of funding and expertise at individual HBCUs.

d. *An OHBCUD would also thereby serve as a resource to aid economically marginalized and desperate heartland communities, serving as a powerful symbol of government’s determination to stand by these communities which have so suffered by government neglect.*

i. HBCUs have traditionally functioned as a resource for local community development, both in terms of expertise and as a channel for conveying assistance of various forms. The presence alone of HBCUs in African American heartland communities contributes to the sustainability of those communities via the attendant student populations that they attract and whose needs they service .

ii. A strong HBCU system has the capacity to help eliminate the school-to-prison pipeline that is destroying educational opportunities for African Americans. Conversely, the impact of an uninterrupted school-to-prison pipeline may be to inflict damage on the HBCU system by limiting the number of African Americans who can access higher education, and other socio-political venues typically accessible to most Americans.

e. *An OHBCUD would coordinate, expand and build upon already established international bridges of cooperation that exist among student exchange programs of member institutions and educational centers in countries throughout the African Diaspora.*

This function of the OHBCUD would be fully consistent with existing human rights instruments, “recommendations” posed by the HRC report relative to the US UPR for 2015, principles advocated in the UN Declaration on the Rights of Minorities; and the United States’ formal declaration of support (December, 2013) for UN Resolution 68/237, in “Proclamation of the International Decade for People of African Descent”, which began January 1, 2015.

In ways that are similar to the strategies noted in section “c” above, the OHBCUD would have the centralized capacity to concentrate, plan, coordinate, and share expertise/resources related to international student exchange programs that would otherwise not be available at individual HBCUs. Through such synchronized and thoughtfully integrated planning and cooperation, HBCUs would be better positioned to help identify and facilitate the training and overseas deployment of students within their varied undergraduate/graduate/ professional school exchange programs. The reciprocal coordination and arrangements would be also true for foreign students who are desirous of, and appropriately qualify for, study at HBCU host institutions. This would provide a highly cost-effective, efficient and effective means for such institutions, students and members of the African American community at large, to cooperate and address a wide array of socio-cultural and development issues that impact people of African Descent, both at home and abroad.

15. The parameters and nature for such ongoing and institutionalized collaboration related to the OHBCUD would be established by way of mutual consultation among the U.S. Departments of State and Education, and the IHRAAM “Core Planning Group” which proposes, during the course of the academic year 2015-2016, to set the foundation for the further articulation and development of this national body. Participants presently include but need not be limited to (alphabetical order):

1. Dr. Edwina Harris Hamby
Vice-President of Development & Sponsored Research, Fisk University, Nashville, TN
2. Dr. Charles W. Richardson, Jr
Dean, School of Business, Claflin University, Orangeburg, SC
3. Dr. Delores Bolden Stamps
Vice-President for Institutional Advancement, Tougaloo College, Tougaloo, MS.

4. Dr. John K. Waddell
Former President, 4 HBCUs; Hampton University, Hampton, VA
5. Attorney Stan E. Willis
National Conference of Black Lawyers, Chicago Chapter, Chicago, IL

Final Statement

We thank the members of The State Department US UPR Team for the invitation extended to members of civil society to attend the town hall meeting and consultation session scheduled for July 20, 2015. Consistent with US Ambassador David Sullivan's statement before the "Working Group on the Effective Implementation of the Durban Declaration and Program of Action" (April 7, 2014); it is fully agreed that there should be more effective and efficient implementation of current human rights instruments, such that the lives of people of African Descent can be more positively impacted. To this end, IHRAAM and members of the above described "Core Planning Group" for the proposed OHBCUD, respectfully submit this statement. We look forward to continued dialogue.

International Human Rights Association of American Minorities (IHRAAM)
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