



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Concluding observations on the fifth periodic report of the United States of America\*

1. The Committee considered the fifth periodic report of the United States of America<sup>1</sup> at its 4050th and 4051st meetings,<sup>2</sup> held on 17 and 18 October 2023. At its 4067th meeting, held on 30 October 2023, it adopted the present concluding observations.

#### A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its fifth periodic report in response to the list of issues prior to reporting prepared under that procedure.<sup>3</sup> It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

#### B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative and policy measures:

(a) The Respect for Marriage Act, on 13 December 2022; Executive Order 14075, "Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals", of 15 June 2022; and Executive Order 13988, "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation", of 20 January 2021;

(b) Executive Order 14101, "Strengthening Access to Affordable, High-Quality Contraception and Family Planning Services", of 23 June 2023; Executive Order 14079, "Securing Access to Reproductive and Other Healthcare Services", of 3 August 2022; Executive Order 14076, "Protecting Access to Reproductive Healthcare Services", of 8 July 2022; and the Presidential Memorandum entitled "Protecting Women's Health at Home and Abroad", of 28 January 2021;

(c) Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government", of 20 January 2021; and Executive Order 14091, "Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government", of 16 February 2023;

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\* Adopted by the Committee at its 139th session (9 October–3 November 2023).

<sup>1</sup> [CCPR/C/USA/5](#).

<sup>2</sup> See [CCPR/C/SR.4050](#) and [CCPR/C/SR.4051](#).

<sup>3</sup> [CCPR/C/USA/QPR/5](#).



(d) Executive Order 14074, “Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety”, of 25 May 2022;

(e) Executive Order 14031, “Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders”, of 28 May 2021;

(f) Executive Order 14021, “Guaranteeing an Educational Environment Free from Discrimination on the Basis of Sex, including Sexual Orientation or Gender Identity”, of 8 March 2021.

## C. Principal matters of concern and recommendations

### Domestic implementation of the Covenant

4. The Committee remains concerned at the lack of measures to effectively incorporate the Covenant into the domestic legal order. It regrets the insufficient information provided on the implementation of the provisions of the Covenant at the territorial level in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the United States Virgin Islands. It also regrets that the State party maintains the position that the Covenant does not apply with respect to individuals who are under its jurisdiction but outside its territory, despite the divergent interpretation of article 2 (1) of the Covenant that may be found in the Committee’s established jurisprudence, the jurisprudence of the International Court of Justice and State practice (art. 2).

5. **The State party should take all measures necessary to ensure that all rights protected under the Covenant are incorporated into and given full effect in its domestic legal order at the federal, state, local and territorial levels. The Committee reiterates its previous recommendation<sup>4</sup> that the State party should interpret and apply the Covenant in good faith, in accordance with the ordinary meaning to be given to its terms in their context, including subsequent practice, and in the light of the object and purpose of the Covenant, and should review its legal position so as to acknowledge the extraterritorial application of the Covenant under certain circumstances, as outlined, inter alia, in the Committee’s general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant. In this respect, the Committee recalls and underscores that the Covenant applies with regard to all conduct by the State party’s authorities or agents that adversely affects the enjoyment of the rights enshrined in the Covenant by persons under its jurisdiction, regardless of the location. The State party should reconsider its position regarding the reservations, declarations and understandings that it lodged at the time of ratification of the Covenant with a view to withdrawing them. It should raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are invoked before the domestic courts and taken into account in their decisions. It should consider acceding to the Optional Protocols to the Covenant.**

### National human rights institution

6. While acknowledging the information provided by the State party regarding the continued discussions on the establishment of an independent national human rights institution, the Committee regrets the general nature of the information provided and the lack of progress towards establishing such an institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (art. 2).

7. **In line with the Committee’s previous recommendations,<sup>5</sup> the State party should establish an independent national human rights institution in accordance with the Paris Principles as a matter of priority, with a mandate to ensure implementation of the Covenant and monitor compliance with its provisions at the federal, state, local and territorial levels.**

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<sup>4</sup> CCPR/C/USA/CO/4, para. 4.

<sup>5</sup> Ibid., para. 4 (d).

### Accountability for past human rights violations

8. The Committee is deeply concerned at the limited number of prosecutions and convictions of members of the armed forces and other agents of the State party for human rights violations, including the use of torture or other cruel, inhuman or degrading treatment or punishment against detainees in its custody, as part of its “enhanced interrogation techniques” and in the context of the secret rendition, interrogation and detention programmes of the Central Intelligence Agency. It continues to note with concern that many details of the Agency’s programmes remain secret, creating obstacles to accountability and redress for victims and their families (arts. 2, 6, 7, 9, 10 and 14).

9. **The Committee reiterates its previous recommendations<sup>6</sup> that the State party adopt concrete measures to ensure that all cases of unlawful killing, torture or other ill-treatment, unlawful detention or enforced disappearance are effectively, independently and impartially investigated; that perpetrators, including persons in positions of command, are prosecuted and, if convicted, sanctioned; that the responsibility of those who provided legal pretexts for manifestly illegal behaviour is established; and that victims and their families are provided with effective remedies. It also reiterates that the State party should declassify and release the report of the Senate Select Committee on Intelligence on the secret detention programme of the Central Intelligence Agency and consider the full incorporation of the doctrine of command responsibility into its criminal law.**

### Hate crimes and hate speech

10. While noting the measures taken by the State party to combat hate crimes, including the COVID-19 Hate Crimes Act of 2021 and the Emmett Till Antilynching Act of 2022, the Committee is concerned about the persistence of hate crimes, including mass shootings, and hate speech against people of African descent, members of Indigenous Peoples, persons of Hispanic/Latino origin, persons of Asian descent, members of Muslim and Jewish communities, migrants and asylum-seekers and against persons based on their real or perceived sexual orientation or gender identity, including by politicians and high-level officials, as well as in the media and on social media platforms. It is also concerned at the underreporting of hate crimes by law enforcement agencies to the Federal Bureau of Investigation due to the voluntary nature of such reporting, which has led to a lack of statistical data on hate speech (arts. 2, 6, 20 and 26).

11. **The State party should consider withdrawing or narrowing its reservation to article 20 of the Covenant, strengthen its efforts to combat hate crimes and hate speech and, in particular:**

- (a) **Take effective measures to prevent and publicly condemn hate speech, in particular hate speech by politicians and high-level officials;**
- (b) **Intensify action to tackle the prevalence of online hate speech, in close cooperation with Internet service providers, social networking platforms and the groups most affected by hate speech;**
- (c) **Reinforce awareness-raising campaigns for public officials and the general public aimed at promoting respect for human rights and diversity;**
- (d) **Effectively implement and enforce existing legal and policy frameworks on combating hate crimes and provide effective training to law enforcement officials, judges and prosecutors on investigating hate crimes;**
- (e) **Improve the collection of data on hate crimes, including by making the reporting of hate crimes to the Federal Bureau of Investigation mandatory for all law enforcement agencies;**

<sup>6</sup> Ibid., para. 5.

(f) **Investigate hate crimes thoroughly, ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and provide victims and their families with access to full reparations.**

### **Racial profiling**

12. The Committee welcomes the adoption of the Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, Gender Identity, and Disability in May 2023. However, it remains concerned about the persistence of the practice of racial profiling by law enforcement officials, including by officials of Customs and Border Protection and Immigration and Customs Enforcement, targeting certain ethnic and racial minorities, in particular people of African descent, members of Indigenous Peoples, persons of Hispanic/Latino origin and Muslims. It is concerned about the lack of legislation explicitly prohibiting that practice (arts. 2, 9, 12, 17 and 26).

13. **Recalling its previous recommendations,<sup>7</sup> and in line with the recommendations made by the Committee on the Elimination of Racial Discrimination,<sup>8</sup> the Committee calls upon the State party:**

(a) **To prohibit racial profiling in federal, state and local legislation, taking into account initiatives such as the End Racial and Religious Profiling Act and the George Floyd Justice in Policing Act;**

(b) **To investigate and prosecute all allegations of racial profiling and provide effective remedies to the victims;**

(c) **To collect disaggregated data on all incidents, complaints and investigations of racial profiling by law enforcement agencies, including Customs and Border Protection and Immigration and Customs Enforcement;**

(d) **To train federal, state, local and territorial law enforcement officials on ethnic and cultural awareness and the unacceptability of racial profiling.**

### **Racial disparities in the criminal justice system**

14. While noting the impact of the First Step Act in reducing the federal prison population, the Committee continues to be concerned that persons belonging to racial and ethnic minorities, in particular people of African descent, members of Indigenous Peoples and persons of Hispanic/Latino origin, are overrepresented in the criminal justice system, are disproportionately placed and held in pretrial detention and affected by parole and probation sentences and are more often subjected to prison labour and harsher sentences (arts. 2, 9, 14 and 26).

15. **In line with the Committee's previous recommendations,<sup>9</sup> the State party should take additional measures to effectively eliminate racial disparities at all stages of the criminal justice process, including by reducing unnecessary criminal justice interventions; increasing the use of alternatives to incarceration; ensuring that bail requirements are reasonable and supporting alternative systems of pretrial release that do not rely on cash bail; amending regulations and policies that lead to racially disparate impacts at the federal, state, local and territorial levels, such as mandatory minimum sentencing policies, including for drug offences; and ensuring that parole and probation sentences are applied only when necessary and are proportionate to the offence.**

### **Discrimination on the basis of nationality**

16. The Committee welcomes Presidential Proclamation 10141, "Ending Discriminatory Bans on Entry to the United States", of 20 January 2021, which revoked Presidential

<sup>7</sup> Ibid., para. 7.

<sup>8</sup> CERD/C/USA/CO/10-12, para. 19.

<sup>9</sup> CCPR/C/USA/CO/4, para. 6.

Proclamation 9645, “Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats”, of 24 September 2017, commonly known as the “Muslim ban”, and the efforts made to mitigate the impact of Presidential Proclamation 9645. However, it is concerned that the impacts of Presidential Proclamation 9645 are still ongoing, including through prolonged delays to family reunification caused by the ban, procedural hurdles and a considerable backlog of visa applications, particularly affecting those whose applications were rejected during the ban, and about the lack of effective measures to prevent future discriminatory bans (arts. 2, 17, 23, 24 and 26).

**17. The State party should intensify its efforts to rectify the impact of Presidential Proclamation 9645 and ensure an accessible, fair and effective reconsideration process for all visa applicants who continue to be affected by the ban, in particular those who applied for family reunification. It should adopt additional measures to prevent future discriminatory bans, including legislative measures such as the National Origin-Based Antidiscrimination for Nonimmigrants Act initiative.**

#### **Gender equality**

18. While welcoming the various measures taken by the State party to advance gender equality, including the establishment of the White House Gender Policy Council in 2021, the Committee regrets the lack of an explicit guarantee in the Constitution against sex- and gender-based discrimination (arts. 2 and 3).

**19. The State party should redouble its efforts to guarantee protection against sex- and gender-based discrimination in its Constitution, including through initiatives such as the Equal Rights Amendment. The State party should consider ratifying the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto.**

#### **Violence against women**

20. The Committee recognizes the efforts made by the State party to prevent and combat violence against women and girls, including the adoption of the first National Plan to End Gender-Based Violence, released on 25 May 2023, and the most recent reauthorization of the Violence Against Women Act, in 2022. Nonetheless, it is concerned at the persistence of violence against women, including domestic and sexual violence, and the fact that low-income women, women of African descent, Indigenous women, women of Hispanic/Latino origin, immigrant women, women in detention and women with disabilities are among the main victims of such violence. It is also concerned at reports of the prevalence of sexual violence against women and girls in schools and institutions of higher learning and in the State party’s armed forces. While acknowledging the adoption of the Strengthening the Opposition to Female Genital Mutilation Act in 2020, the Committee is further concerned at reports indicating that implementation of the law has been slow and that not all states have specific laws against female genital mutilation (arts. 3, 6, 7, 14, 17, 24 and 26).

**21. The State party should intensify its efforts to prevent, combat and eradicate all forms of violence against women and girls, including domestic violence and sexual violence, paying special attention to women from minority and marginalized groups, in particular by:**

(a) **Encouraging and facilitating the reporting of cases of violence against women and girls, ensuring the safety of women and girls who come forward and protecting them from retaliation, including in the military and in educational settings;**

(b) **Ensuring that cases of violence against women and girls are thoroughly and effectively investigated and that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions;**

(c) **Providing victims with access to effective remedies, including access to civil remedies for military service members, and means of protection and legal, medical, financial and psychological assistance, notably access to accommodation, including shelters, and other support services;**

(d) **Strengthening its efforts to provide law enforcement officials, prosecutors, judges and lawyers with appropriate training to effectively deal with cases of violence against women and girls, including training on combating gender stereotypes and judicial bias against women;**

(e) **Effectively implementing laws, policies and programmes at all levels, including the Violence Against Women Act, Executive Order 14021, the Campus Sexual Violence Elimination Act and the recent legislation that establishes the Offices of Special Trial Counsel within the State party's armed forces;**

(f) **Encouraging states to pass legislation that prohibits and criminalizes all forms of female genital mutilation and to effectively implement the Strengthening the Opposition to Female Genital Mutilation Act.**

#### **Missing and murdered Indigenous women and girls**

22. The Committee welcomes the issuance of Executive Order 14053, "Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People", of 15 November 2021. However, it is concerned that Indigenous women and girls are disproportionately affected by life-threatening forms of violence, homicides and disappearances. It is also concerned at the absence of comprehensive data on murdered and missing Indigenous women and at the lack of adequate resources for the effective and culturally appropriate investigation and processing of cases (arts. 3, 6, 7, 14, 17, 24 and 26).

23. **The State party should intensify its efforts at the federal, state, local, tribal and territorial levels with a view to preventing the occurrence of murders and disappearances of Indigenous women and girls, in consultation with Indigenous women's and girls' organizations and the families of the victims. It should improve data collection and analysis to better understand the extent and causes of the crisis of missing and murdered Indigenous women and girls. In addition, it should ensure that cases of missing and murdered Indigenous women and girls are effectively and thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and that victims and their families are provided with adequate remedies and effective access to legal, medical, financial and psychological assistance.**

#### **Discrimination based on sexual orientation and gender identity**

24. While noting the various legislative and policy initiatives adopted at the federal level, the Committee is concerned at the increase in the number of state laws that severely restrict the rights of persons on the basis of their sexual orientation or gender identity, such as laws that ban and, in some instances, criminalize gender-affirming health care for transgender persons; forbid transgender individuals from using restrooms or from participating in school sports consistent with their gender identity; and limit discussions of sexual orientation and gender identity issues in schools. It is also concerned at reports of the discriminatory treatment that persons continue to face on the basis of their sexual orientation or gender identity, in particular with regard to access to housing, employment and treatment in correctional facilities, as well as reports of social stigmatization, harassment and violence (arts. 2, 3, 6, 7, 17, 23 and 26).

25. **The State party should adopt all measures necessary to ensure that state laws that discriminate against persons on the basis of their sexual orientation and gender identity are repealed and that comprehensive legislative initiatives prohibiting discrimination on those grounds, such as the Equality Act, are adopted at the federal, state, local and territorial levels. It should intensify its efforts to combat violence and discrimination against persons based on their sexual orientation and gender identity, including with regard to access to housing, health and employment and in correctional facilities. It should ensure that all acts of discrimination, harassment and violence are investigated, that perpetrators are brought to justice and that victims are provided with effective remedies and redress.**

### **Maternal mortality, voluntary termination of pregnancy and sexual and reproductive rights**

26. While welcoming the adoption of the White House Blueprint for Addressing the Maternal Health Crisis on 24 June 2022, the Committee is deeply concerned at the increase in maternal mortality and morbidity in the State party, which has the highest rate of maternal mortality among developed countries, with women from vulnerable and minority groups particularly affected. It is also deeply concerned that women belonging to racial and ethnic minorities, in particular women of African descent, Indigenous women and, notably, Native Hawaiian and other Pacific Islander women, have the highest rates of maternal mortality in the country. It is concerned that, in various states, midwifery is severely restricted, banned or even criminalized, limiting the availability of culturally sensitive and respectful maternal health care for those with low incomes, those living in rural areas, people of African descent and members of Indigenous communities (arts. 2, 3, 6, 7, 17 and 26).

**27. In line with the recommendations made by the Committee on the Elimination of Racial Discrimination,<sup>10</sup> the State party should redouble its efforts to prevent and combat maternal mortality and morbidity and to eliminate discrimination and disparities in the field of sexual and reproductive health and rights, in particular racial and ethnic disparities, and integrate an intersectional and culturally respectful approach into policies and programmes aimed at improving women's access to comprehensive sexual and reproductive health services and at reducing the high rates of maternal mortality and morbidity. It should take steps to remove restrictive and discriminatory legal and practical barriers to midwifery care, including those affecting midwives in communities of people of African descent and Indigenous Peoples.**

28. The Committee welcomes the information provided by the State party's delegation on the various measures adopted at the federal level to address the immediate and devastating impact on women's health and rights of the decision of the Supreme Court of 24 June 2022 in *Dobbs v. Jackson Women's Health Organization*. However, it is alarmed at the increase in legislation, barriers and practices at the state level that impede women's access to safe and legal abortion, such as the criminalization of various actors in connection with their role in providing or seeking abortion care, including health-care providers, persons who assist women to procure an abortion, notably family members, and pregnant women seeking an abortion. It is deeply concerned at restrictions on inter-state travel, bans on medication abortion and the surveillance of women seeking abortion care through the use of their digital data for prosecution purposes. Furthermore, the Committee is deeply concerned at the profound impact of those measures on the rights of women and girls seeking an abortion, including the rights to life, to privacy and not to be subjected to cruel and degrading treatment, and in particular at the disproportionate impact on women and girls with low incomes and from vulnerable groups, those living in rural areas and those belonging to racial and ethnic minorities (arts. 2, 3, 6, 7, 17 and 26).

**29. In the light of the Committee's general comment No. 36 (2018) on the right to life, and in line with the recommendations made by the Committee on the Elimination of Racial Discrimination,<sup>11</sup> the State party should take all measures necessary at the federal, state, local and territorial levels to ensure that women and girls do not have to resort to unsafe abortions that may endanger their lives and health. The State party should, in particular:**

(a) **Provide legal, effective, safe and confidential access to abortion for women and girls throughout its territory, without discrimination and free from violence and coercion, including through the adoption of legislative initiatives such as the Women's Health Protection Act;**

(b) **Put an end to the criminalization of abortion by repealing laws that criminalize abortion, including laws under which criminal sanctions may be imposed on women and girls who undergo abortion, health service providers who assist women and girls to undergo abortion and persons who assist women and girls to procure an**

<sup>10</sup> CERD/C/USA/CO/10-12, para. 36.

<sup>11</sup> Ibid.

**abortion, and consider harmonizing its legal and policy framework with the abortion care guideline of the World Health Organization (2022);**

**(c) Ensure that the professional secrecy of medical staff and patient confidentiality are observed, including by strengthening privacy protections under the Health Insurance Portability and Accountability Act, and protect women seeking abortion care from surveillance of their personal digital data for prosecution purposes;**

**(d) Remove barriers currently impeding access to abortion care, including inter-state travel restrictions, and refrain from introducing new barriers;**

**(e) Continue its efforts to guarantee and expand access to medication abortion.**

#### **Death penalty**

30. While welcoming the reinstatement of a temporary moratorium on federal executions and the increased number of states that have abolished the death penalty, the Committee remains gravely concerned at the continued use of the death penalty and at racial disparities in the imposition of death sentences, with a disproportionate impact on people of African descent. It is concerned at reports of a high number of persons wrongly sentenced to death and at the lack of compensation, or the inadequate compensation, provided to persons who are wrongfully convicted in retentionist states. It regrets the lack of information on allegations of the use of untested lethal drugs to execute prisoners and on reported cases of excruciating pain caused by the use of those drugs and botched executions (arts. 2, 6, 7, 9, 14 and 26).

**31. In the light of the Committee's general comment No. 36 (2018) on the right to life and its previous recommendations,<sup>12</sup> the State party should:**

**(a) Establish a de jure moratorium on the use of the death penalty at the federal level, engage with retentionist states to achieve a nationwide moratorium and take concrete steps towards the abolition of the death penalty;**

**(b) Adopt further measures to effectively ensure that death sentences are not imposed as a result of racial bias;**

**(c) Strengthen safeguards against the wrongful imposition of death sentences and subsequent wrongful executions, guarantee effective legal representation for defendants in death penalty cases, including at the post-conviction stage, and ensure adequate compensation for persons wrongfully convicted and appropriate support services, for example legal, medical, psychological and rehabilitation services;**

**(d) Guarantee that all methods of execution fully comply with article 7 of the Covenant.**

#### **Killings using armed drones**

32. The Committee remains seriously concerned at the State party's ongoing practice of using armed drones for killings in extraterritorial counter-terrorism operations, the lack of full and continuous transparency regarding the legal and policy criteria for drone strikes, the alleged possibility that those criteria can be changed in accordance with classified plans and the lack of accountability for the loss of life and other serious harm caused, in particular to civilians. The Committee notes that the State party maintains its position that extraterritorial counter-terrorism operations, including drone strikes, are conducted in the course of its armed conflict with Al-Qaida and associated forces in accordance with its inherent right of national self-defence and that they are governed by international humanitarian law and by the presidential policy memorandum that establishes the current standards and procedures that govern the use of lethal force outside areas of active hostilities. However, it reiterates its concern about the State party's broad approach to the definition of "armed conflict", including an overly broad geographical and temporal scope.<sup>13</sup> While noting the adoption of the Civilian Harm Mitigation and Response Action Plan, the Committee is seriously

<sup>12</sup> CCPR/C/USA/CO/4, para. 8.

<sup>13</sup> Ibid., para. 9.



concerned that it applies only to lethal strikes carried out by the Department of Defense and not to those carried out by other entities, such as the Central Intelligence Agency. It is concerned at the very limited use of ex gratia payments to affected civilians and their families in recent years (arts. 2, 6 and 14).

33. **In the light of its general comment No. 36 (2018) on the right to life, the Committee reiterates its previous recommendation<sup>14</sup> that the State party should revisit its position regarding legal justifications for the use of deadly force through drone attacks. In addition, and in line with the Committee's previous recommendations, the State party should:**

(a) **Ensure that any use of armed drones complies fully with its obligations under article 6 of the Covenant, in particular with respect to the principles of precaution, distinction and proportionality in the context of an armed conflict, as well as with its international human rights and international humanitarian law obligations;**

(b) **Disclose the criteria for drone strikes, subject to operational security requirements, including the legal basis for specific attacks, the process of target identification and the circumstances in which drones are used;**

(c) **Provide for independent supervision and oversight of the implementation of regulations governing the use of drone strikes in specific cases;**

(d) **In armed conflict situations, take all feasible measures to ensure the protection of civilians in specific drone attacks and to track and assess any civilian casualties and all precautionary measures necessary to avoid such casualties;**

(e) **Conduct independent, impartial, prompt and effective investigations of allegations of violations of the right to life and ensure that those responsible are prosecuted and, if convicted, punished with appropriate sanctions;**

(f) **Strengthen, improve and expand the Civilian Harm Mitigation and Response Action Plan such that it covers all lethal strikes carried out by the State party, including those carried out by the Central Intelligence Agency; ensure that victims and their families are provided with an accessible and effective remedy in the event of a violation, including adequate compensation; and establish accessible accountability mechanisms for victims of allegedly unlawful drone attacks who are not compensated by their home Governments.**

#### **Gun violence**

34. While welcoming the adoption of the Bipartisan Safer Communities Act in 2022 and the establishment of a federal office for gun violence prevention in September 2023, the Committee is gravely concerned at the increase in gun-related deaths and injuries, which disproportionately affect members of racial and ethnic minorities, women and children (arts. 2, 6 and 26).

35. **In line with the Committee's previous recommendations,<sup>15</sup> the State party should take all measures necessary to abide by its obligation to effectively protect the right to life and prevent and reduce gun violence by, inter alia, strengthening its legislative and policy measures requiring background checks for all private acquisitions and transfers of firearms and ammunition; banning assault weapons and high-capacity magazines; restricting access to firearms by those most at risk of abusing them, including persons under domestic violence restraining orders, and ensuring the right to effective remedies, including by repealing immunities for any entity operating in the firearms industry.**

#### **Excessive use of force by law enforcement officials**

36. The Committee remains deeply concerned at police brutality and the excessive and deadly use of force by law enforcement officials, including Customs and Border Protection officers, which has a disparate impact on people of African descent, members of Indigenous

<sup>14</sup> Ibid.

<sup>15</sup> Ibid., para. 10.

Peoples, persons of Hispanic/Latino origin, migrants and asylum-seekers. It is concerned at reports of a lack of accountability in the majority of cases of excessive or deadly use of force by law enforcement officials (arts. 2, 6, 7 and 26).

37. **In line with the Committee’s previous recommendations,<sup>16</sup> the State party should:**

(a) **Review the federal and state regulations, standards and operational procedures governing the use of force by law enforcement officials and bring them into conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement;**

(b) **Ensure that all allegations of the excessive use of force are investigated promptly, thoroughly and impartially, that those responsible are prosecuted and, if found guilty, punished and that the victims or their families obtain redress;**

(c) **Make the collection of data on and the reporting of cases of excessive or deadly use of force mandatory for law enforcement agencies at all levels so that such cases can be recorded in the database of the Federal Bureau of Investigation and ensure that the data are publicly available.**

#### **Climate change and the right to life**

38. While noting the adoption of Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad”, of 27 January 2021, the Committee regrets the lack of specific information about measures taken to adopt a precautionary approach in order to protect persons, including those who are most vulnerable, from the negative impacts of climate change and natural disasters, such as the heavy floods, wildfires and extreme heat that the State party has experienced in recent years. The Committee notes the State party’s efforts to ensure access to clean, safe and affordable water for its population but is concerned about the various water crises that have occurred in the State party, such as the leaking of high levels of lead into water systems and outbreaks of Legionnaires’ disease in Flint, Michigan, which have a disproportionate impact on people of African descent and members of Indigenous Peoples (art. 6).

39. **In the light of the Committee’s general comment No. 36 (2018) on the right to life, the State party should intensify efforts to prevent and mitigate the effects of climate change and environmental degradation, including by strengthening its legal framework, and take adequate steps to adopt a precautionary approach to protecting persons, in particular the most vulnerable, from the negative impacts of climate change and natural disasters. It should reinforce existing measures to prevent life-threatening water crises, including toxic contamination of water systems, and ensure access to safe and clean water for its population.**

#### **Criminalization of homelessness**

40. The Committee is concerned about reports of an increase in the number of state and local laws criminalizing homelessness and in the prevalence of violence against persons experiencing homelessness and about the higher risk of premature death that they experience due to homelessness. It is also concerned about the disproportionate impact of homelessness on persons who are marginalized because of their real or perceived sexual orientation or gender identity, persons with disabilities and members of racial and ethnic minorities, in particular people of African descent, members of Indigenous Peoples and persons of Hispanic/Latino origin (arts. 2, 6, 7, 9, 17 and 26).

41. **In line with the Committee’s previous recommendations,<sup>17</sup> the State party should:**

(a) **Abolish laws and policies criminalizing homelessness at all levels and adopt legislative and other measures that protect the human rights of persons experiencing homelessness;**

<sup>16</sup> Ibid., para. 11.

<sup>17</sup> Ibid., para. 19.

(b) **Offer financial and legal incentives to decriminalize homelessness, including by conditioning or withdrawing funding from state and local authorities that criminalize homelessness;**

(c) **Intensify efforts to find solutions for persons experiencing homelessness, in accordance with human rights standards, including by redirecting funding from criminal justice responses towards adequate housing and shelter programmes;**

(d) **Review criminal records policies and practices that can lead to homelessness.**

#### **Prohibition of torture**

42. While noting that, according to the information provided by the State party, a range of federal and state laws prohibit conduct constituting torture or cruel, inhuman or degrading treatment or punishment, the Committee is seriously concerned that a specific offence of torture has yet to be introduced at the federal level (art. 7).

43. **In line with the Committee's previous recommendations,<sup>18</sup> the State party should review its position regarding the establishment of a specific offence of torture, enact legislation prohibiting torture as a distinct offence that is fully compliant with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 7 of the Covenant, in order to enhance torture prevention, and ensure that evidence and confessions obtained through torture are inadmissible in legal proceedings, without exception. In addition, it should:**

(a) **Conduct thorough, independent and impartial investigations into all allegations of torture and ill-treatment perpetrated by law enforcement officials and prison officials, including against individuals in facilities under its jurisdiction but outside its territory, in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ensuring that the perpetrators are prosecuted and, if convicted, punished in accordance with human rights standards and that the victims receive reparations;**

(b) **Strengthen the training on human rights provided to judges, prosecutors and law enforcement officials, including on the Principles on Effective Interviewing for Investigations and Information-Gathering;**

(c) **Ensure that all persons deprived of their liberty have access to an independent and effective complaints mechanism for the investigation of allegations of torture and ill-treatment.**

#### **Solitary confinement**

44. While taking note that Executive Order 14074 states that "restrictive housing" in federal detention facilities is to be used rarely, applied fairly and subject to reasonable constraints, the Committee is concerned at reports of the extensive use of solitary confinement in the State party, including prolonged and even indefinite solitary confinement, and of its use with respect to juveniles and persons with intellectual or psychosocial disabilities or health needs (arts. 7, 9 and 10).

45. **In line with the Committee's previous recommendations,<sup>19</sup> the State party should bring all legislation and practice relating to solitary confinement, at the federal, state, local and territorial levels, into line with the Covenant and international standards as reflected in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). It should prohibit the use of solitary confinement for juveniles and persons with intellectual or psychosocial disabilities in prison.**

<sup>18</sup> Ibid., para. 12.

<sup>19</sup> Ibid., para. 20.

**Life imprisonment without parole**

46. The Committee regrets the lack of sufficient information provided on the measures adopted by the State party to make parole available and more accessible to all prisoners, including those sentenced to life imprisonment. It is concerned at reports indicating that persons of African descent are disproportionately sentenced to life imprisonment without parole (arts. 2, 7, 10 and 26).

47. **In line with the Committee's previous recommendations,<sup>20</sup> the State party should prohibit and abolish sentences of life imprisonment without parole for juveniles, irrespective of the crime committed, as well as mandatory and non-homicide-related sentences of life imprisonment without parole. It should make parole available and more accessible to all prisoners, including those sentenced to life imprisonment. It should consider establishing a moratorium on the imposition of sentences of life imprisonment without parole.**

**Detainees at Guantanamo Bay**

48. The Committee welcomes the fact that the State party facilitated the technical visit by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to the United States and the Guantanamo Bay detention facility, which was carried out at the beginning of 2023. The Committee notes the President's efforts to reduce the detainee population at the facility and his ultimate aim of closing the facility. However, the Committee remains deeply concerned that no timeline for closure of the facility has been provided and that some of the detainees have been held at the facility without charge or trial for more than 20 years. While noting the State party's assertion that it is committed to ensuring the safe, humane and legal care of detainees, including appropriate medical care, it is concerned at reports of a lack of specialist care and facilities to address the complex health issues of detainees (arts. 7, 9, 10 and 14).

49. **In line with the Committee's previous recommendations,<sup>21</sup> the State party should expedite the transfer of detainees designated for transfer from the Guantanamo Bay facility and the closure of the facility. It should put an end to the system of administrative detention without charge or trial and ensure that detainees are afforded the fair trial guarantees enshrined in article 14 of the Covenant. It should adopt measures to provide specialized health care to detainees.**

**Elimination of slavery, trafficking in persons and forced labour**

50. While noting the updated National Action Plan to Combat Human Trafficking of 2021 and the National Strategy to Combat Human Trafficking of 2022, the Committee remains concerned about the persistence of practices of trafficking in persons, including those involving children, the criminalization of victims of trafficking in persons through the filing of prostitution-related charges, the insufficient efforts made to identify victims of trafficking in persons and limited access to effective protection, in particular for non-citizen victims. It is concerned that workers entering the State party under the H-2A and H-2B work visa programmes, in particular temporary agricultural workers, are at high risk of becoming victims of trafficking in persons and/or forced labour; that many employers force agricultural workers to pay for housing, food, medical care or safety equipment, despite the legal requirement that employers should bear those costs; and that there is a lack of effective inspections by the competent authorities (arts. 2, 8, 9, 14 and 26).

51. **The State party should redouble its efforts to combat trafficking in persons by, inter alia, improving victim identification; strengthening its preventive measures; prosecuting and punishing those responsible; and providing effective remedies, including protection, rehabilitation and compensation, to all victims without discrimination. It should take measures to prevent the criminalization of victims of sex trafficking, including child victims and non-nationals. In addition, it should increase its**

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<sup>20</sup> Ibid., para. 23.

<sup>21</sup> Ibid., para. 21.

**efforts to ensure full protection against forced labour for all categories of workers, in particular in the agricultural sector, including by increasing on-site inspections.**

#### **Children in migration**

52. The Committee profoundly regrets that, as a consequence of the State party's "zero-tolerance policy", more than 5,000 children were forcibly separated from their parents at its southern border. While welcoming the rescission of the policy on 27 January 2021 and the establishment of the Interagency Task Force on the Reunification of Families in February 2021, the Committee is concerned at reports that hundreds of children remain separated from their families (arts. 2, 6, 7, 9, 12, 24 and 26).

**53. The State party should redouble its efforts to ensure the reunification of all separated children with their families, guarantee that such family separations are prohibited and that they do not occur and ensure that victims have access to effective remedies and receive full reparation, including adequate compensation and appropriate support services.**

#### **Treatment of aliens, including refugees and asylum-seekers**

54. While acknowledging the challenges associated with the increasing number of migrants arriving in the territory of the State party and noting the actions taken by the State party to address those challenges, the Committee is gravely concerned that recent measures adopted by the State party, in particular the administrative rule entitled "Circumvention of Lawful Pathways", the "CBP One" mobile application launched by Customs and Border Protection and the "enhanced expedited removal" procedure, excessively restrict effective protection of the right to seek and enjoy asylum, as they compromise the quality of the assessment of individual protection needs and increase the risk of breaches of the principle of non-refoulement. The Committee is concerned at reports of the continued detention of migrants as a mandatory measure and for prolonged periods; the lack of adequate access to legal counsel; poor conditions of detention, including overcrowding and inadequate access to food, water and medical care, leading to numerous deaths, including of children; and instances of violence, ill-treatment and abuse, including sexual violence, in public and private migrant detention facilities and the use of prolonged solitary confinement (arts. 2, 6, 7, 9, 10, 12–14, 24 and 26).

**55. The State party should take all measures necessary to enhance the protection of migrants, refugees and asylum-seekers, without discrimination, and in particular should:**

(a) **Review its overall immigration policy and legislation with a view to bringing them into line with international human rights and humanitarian standards, withdraw measures that do not allow for an adequate assessment of individual protection needs and that increase the risk of refoulement, and ensure effective access to fair and efficient asylum procedures that provide adequate protection against refoulement;**

(b) **Ensure that migrants and asylum-seekers, including individuals in detention, have access to legal aid services and language interpretation;**

(c) **Ensure that immigration detention is used only as a measure of last resort and for the shortest possible period of time, and increase the use of alternatives to detention that are respectful of human rights, including the right to privacy, instead of surveillance-based technological alternatives;**

(d) **Improve the living conditions and treatment of persons in public and private migrant detention facilities and ensure that they are in conformity with international standards;**

(e) **Adopt additional measures to prevent deaths of individuals in migrant detention facilities and ensure that those cases and all instances of violence, ill-treatment and abuse are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are provided with full reparation and appropriate protection and assistance.**

**Right to privacy**

56. The Committee remains concerned at the overly broad scope of section 702 of the Foreign Intelligence Surveillance Act, which allows for the surveillance of a wide range of electronic communications of foreign nationals outside the United States, who are not protected against unreasonable searches under the Fourth Amendment to the State party's Constitution. In addition, it is concerned at reports that loopholes in the Act may allow law enforcement officials to obtain access to a broad range of incidentally captured communications of nationals of the State party, without a warrant ("backdoor searching"), and at the lack of clear and transparent oversight mechanisms. The Committee is also concerned at reports that government agencies, such as Immigration and Customs Enforcement, have used databases of personal information systematically collected by private entities without the consent of the individuals concerned, in particular for surveillance purposes, without proper mechanisms for protecting the right to privacy (art. 2, 17 and 26).

**57. In line with the Committee's previous recommendations,<sup>22</sup> the State party should ensure that its surveillance activities, both within and outside its territory, conform to its obligations under the Covenant, including article 17, and that any interference with the right to privacy complies with the principles of legality, proportionality and necessity, regardless of the nationality or location of the individuals whose communications are under surveillance. It should adopt and effectively enforce, at all levels, through independent, impartial and well-resourced authorities, data privacy legislation for the public and private sectors that complies with international human rights law and includes safeguards, oversight and remedies to effectively protect the right to privacy. It should ensure that those responsible are brought to justice and, if found guilty, punished with appropriate sanctions, and that victims of human rights violations and abuses linked to the use of surveillance systems have access to effective remedies.**

**Freedom of expression**

58. The Committee notes with concern reports of the harassment and intimidation of journalists and media outlets by some government authorities and political figures and instances of threats and attacks against journalists and media workers by law enforcement officials and private individuals. It is concerned at the passing by some states of anti-boycotting laws aimed at sanctioning individuals and enterprises who attempt to boycott foreign countries and corporations for their alleged involvement in human rights violations. It is also concerned about the increase in the number of laws and regulations at the state level that ban educational materials and books dealing with certain topics, such as sexual orientation and gender identity, race and the history of slavery (arts. 2, 19, 24 and 26).

**59. In the light of the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, the State party should:**

(a) **Redouble its efforts to ensure that officials refrain from any attacks against or harassment and intimidation of journalists and media outlets and ensure that all illegal acts against journalists are promptly, thoroughly, independently and impartially investigated and that those responsible are brought to justice and, if found guilty, punished with appropriate sanctions;**

(b) **Adopt federal measures to protect journalists against improper intrusion in their work through investigations and surveillance by federal agencies;**

(c) **Adopt measures to review anti-boycotting laws that may restrict the exercise of freedom of expression with a view to bringing them into line with article 19 of the Covenant;**

(d) **Increase its efforts to ensure that state laws and school district regulations on educational materials and books fully comply with article 19 of the Covenant.**

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<sup>22</sup> Ibid., para. 22.

### Freedom of assembly

60. The Committee is concerned at the increased adoption of legislative and other measures at the state level that severely restrict the right to peaceful assembly. It is also concerned about the use of counter-terrorism laws to prosecute peaceful protesters, including anti-racism demonstrators, environmental activists and Indigenous protesters. It is further concerned at reports of the excessive use of force by law enforcement officers and private security companies during peaceful protests and of surveillance, arbitrary arrests and mass detentions of peaceful demonstrators (arts. 2, 6, 7, 9, 21 and 26).

**61. In the light of the Committee's general comment No. 37 (2020) on the right of peaceful assembly, the State party should:**

(a) **Effectively guarantee and protect the right of peaceful assembly and ensure that any restrictions, including administrative and criminal sanctions against individuals exercising that right, comply with the strict requirements of article 21 of the Covenant;**

(b) **Ensure that all allegations of excessive use of force or arbitrary arrest or detention in the context of peaceful assemblies are investigated promptly, thoroughly and impartially, that those responsible are brought to justice and, if found guilty, punished with appropriate sanctions and that victims obtain full reparation;**

(c) **Provide appropriate training to law enforcement officials on the right of peaceful assembly, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.**

### Rights of the child

62. The Committee is concerned at reports of the high number of children who are separated from their families and placed in child welfare facilities in the State party. It is also concerned at the overrepresentation of children belonging to racial and ethnic minorities, in particular children of African descent and Indigenous children, in the child welfare system. The Committee is further concerned at reports of high levels of police presence in schools and of harsh disciplinary practices in the school system, including school-related arrests, suspensions and referrals to law enforcement, which result in children's early entry to the criminal justice system (the "school-to-prison pipeline"), with children with disabilities and children from racial and ethnic minorities disproportionately affected. It is concerned about the fact that marriage under the age of 18 is legally permitted in 41 states of the State party (arts. 2, 23, 24 and 26).

**63. In line with the recommendations made by the Committee on the Elimination of Racial Discrimination,<sup>23</sup> the State party should adopt measures to reduce the harmful impact of child welfare interventions, increase due process protections for parents and review the factors that can trigger child welfare interventions, in particular poverty-related circumstances and lack of financial resources, including by amending or repealing the Child Abuse Prevention and Treatment Act, the Adoption and Safe Families Act and the Adoption Assistance and Child Welfare Act. It should take active steps with a view to ending the permanent placement of police officers in schools and law enforcement involvement in student discipline and to preventing and eliminating discriminatory bias in the administration of student discipline. It should adopt measures at all levels in order to prohibit marriage under the age of 18.**

### Voting rights

64. While noting the actions taken by the State party to guarantee equal access to voting, including Executive Order 14019, "Promoting Access to Voting", of 7 March 2021, the Committee is concerned at the increase in the number of legislative initiatives and practices at the state level that limit the exercise of the right to vote, including partisan gerrymandering, restrictions on voting by mail and on ballot collection and burdensome voter identification

<sup>23</sup> CERD/C/USA/CO/10-12, para. 44.

requirements. It is also concerned about the disproportionate impact of those measures on low-income voters, persons with disabilities and members of racial and ethnic minorities and about reports of the increasing frequency of harassment and attacks against election officials. The Committee remains concerned at the persistence of state-level felon disenfranchisement laws and at the lengthy and cumbersome voting restoration procedures. In addition, it is concerned at massive and disproportionate campaign expenditure on election-related advertisements and other communications (“outside spending”), which is managed separately from candidates’ campaigns and does not require disclosure of its sources, reportedly giving excessive influence over elections to anonymous groups and individuals (arts. 2, 25 and 26).

65. **In line with the Committee’s previous recommendations,<sup>24</sup> the State party should:**

(a) **Take all measures necessary to ensure that all persons entitled to vote are able to exercise that right, including by eliminating excessive burdens on voters that could result in de facto disenfranchisement and ensuring that polling stations are accessible, in particular in states with weak election infrastructure and for persons with restricted accessibility;**

(b) **Fully restore the Voting Rights Act, increase funding and other resources for the enforcement by federal agencies of federal voting rights legislation and enact additional legislation to reinforce the voting rights of its population, such as the pending John R. Lewis Voting Rights Advancement Act and Freedom to Vote Act;**

(c) **Ensure that electoral district lines are drawn by non-partisan commissions that are subject to checks and balances and that they do not have the purpose or the effect of denying or abridging the right to vote on the basis of racially discriminatory grounds;**

(d) **Conduct thorough and effective investigations of cases of harassment and attacks against election officials and ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions;**

(e) **Redouble its efforts to ensure that all states reinstate voting rights to felons who have served their sentences in full or have been released on parole; provide inmates with information about their voting restoration options; remove lengthy and cumbersome voting restoration procedures; and review the automatic denial of the right of imprisoned felons to vote;**

(f) **Ensure that rules governing campaign funding guarantee an equal right to take part in the conduct of public affairs and ensure the free choice of voters, including by enacting additional legislation on campaign expenditure, such as the Democracy is Strengthened by Casting Light on Spending in Elections (DISCLOSE) Act.**

#### **Rights of Indigenous Peoples**

66. While noting the measures adopted by the State party with regard to the rights of Indigenous Peoples, such as the Presidential Memorandum entitled “Tribal Consultation and Strengthening Nation-to-Nation Relationships”, of 26 January 2021, the Committee is concerned at the obstacles to the recognition of Indigenous Peoples, which prevent non-federally recognized communities from enjoying the same rights in relation to policies and activities that affect them. It remains concerned at the lack of protection of Indigenous lands and sacred sites from the impact of extractive industries, military infrastructure and toxic and nuclear waste. It is concerned at reports of the lack of timely and meaningful consultation with Indigenous Peoples and the State party’s restrictive interpretation of the principle of free, prior and informed consent (arts. 1, 2, 26 and 27).

67. **In line with the Committee’s previous recommendations,<sup>25</sup> the State party should redouble its efforts to ensure the promotion and protection, both in law and in practice,**

<sup>24</sup> CCPR/C/USA/CO/4, para. 24.

<sup>25</sup> Ibid., para. 25.



of the rights of Indigenous Peoples, in particular with respect to land, territory and natural resources. In addition, it should:

(a) Eliminate undue obstacles and facilitate the recognition of Indigenous Peoples;

(b) Adopt measures to guarantee the access of Indigenous Peoples to their lands and sacred sites and to effectively protect their lands and sites from the adverse impact of extractive industries, military infrastructure and toxic and nuclear waste;

(c) Ensure meaningful and good faith consultations with Indigenous Peoples, ensuring their active and effective participation, in order to obtain their free, prior and informed consent before adopting and implementing any measures that may substantially affect their rights, way of life and culture, including in relation to infrastructure or development projects;

(d) Take additional measures to honour the treaties that it has entered into with Indigenous Peoples and strengthen mechanisms for consultation with Indigenous Peoples on their implementation.

#### **D. Dissemination and follow-up**

68. The State party should widely disseminate the Covenant, its fifth periodic report and the present concluding observations, with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country and the general public.

69. In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 3 November 2026, information on the implementation of the recommendations made by the Committee in paragraphs 29 (maternal mortality, voluntary termination of pregnancy and sexual and reproductive rights), 61 (freedom of assembly) and 65 (voting rights) above.

70. In line with the Committee's predictable review cycle, the State party will receive in 2029 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies, which will constitute its sixth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2031.