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**Advance unedited version**Distr.: General  
3 November 2023

Original: English

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**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 4050<sup>th</sup> and 4051<sup>st</sup> meetings,<sup>2</sup> held on 17 and 18 October 2023. At its 4067<sup>th</sup> 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, and Executive Orders 14075 "Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals", of 15 June 2022, and 13988 "Preventing and combating discrimination on the basis of gender identity or sexual orientation", of 20 January 2021;

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

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

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

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\* Adopted by the Committee at its 139<sup>th</sup> 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](#).

(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 in the domestic legal order. It regrets the lack of sufficient information 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 under its jurisdiction, but outside its territory, despite the interpretation to the contrary of article 2, paragraph 1, by 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 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 review its legal position 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 adversely affecting the enjoyment of the rights enshrined in the Covenant by persons under its jurisdiction, regardless of the location. The State party should also reconsider its position regarding its reservations, declarations and understandings to the Covenant with a view to withdrawing them. It should further 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 also 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. **Recalling its 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.**

### 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

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

<sup>5</sup> CCPR/C/USA/CO/4, para. 4 (d).

or punishment of detainees under its custody, as part of its so-called “enhanced interrogation techniques” and in the context of the CIA secret rendition, interrogation and detention programmes. It continues noting with concern that many details of the CIA programmes remain secret, creating obstacles for 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 disappearances 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 be established; and that victims and their families are provided with effective remedies. It further reiterates that the State party should declassify and release the report of the Senate Special Committee on Intelligence into the CIA secret detention programme, and consider the full incorporation of the doctrine of “command responsibility” in 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 Emmet Till Anti-lynching Act of 2022, the Committee is concerned about the persistence of hate crimes, including mass shootings, and hate speech against people of African descent, Indigenous Peoples, persons of Hispanic/Latino origin, persons of Asian descent, members of Muslim and Jewish communities, migrants, asylum seekers and against persons based on their real or perceived sexual orientation and 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 (FBI) 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 and strengthen its efforts to combat hate crimes and hate speech, and in particular:**

- (a) **Take effective measures to prevent and publicly condemn hate speech, particularly those 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 to investigate hate crimes;**
- (e) **Improve data collection regarding hate crimes, including by making the reporting of hate crimes to the FBI mandatory for all law enforcement agencies;**
- (f) **Investigate hate crimes thoroughly, ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and provide access to victims and their families to full reparation.**

#### **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 of May 2023. However, it remains concerned

<sup>6</sup> CCPR/C/USA/CO/4, para. 5.

about the persistence of the practice of racial profiling by law enforcement officials, including practices by Customs and Border Protection (CBP) and by Immigration and Customs Enforcement (ICE), targeting certain ethnic and racial minorities, in particular people of African Descent, Indigenous Peoples, persons of Hispanic/Latino origin and Muslims. It is also concerned with the lack of legislation explicitly prohibiting this practice (art. 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 on the State party to:**

**(a) Prohibit racial profiling in federal, state and local legislation, taking into account initiatives like the “End Racial and Religious Profiling Act” and the “George Floyd Justice in Policing Act”;**

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

**(c) Collect disaggregated data for all incidents, complaints and investigations of racial profiling by law enforcement agencies, including CBP and ICE;**

**(d) 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, Indigenous Peoples and persons of Hispanic/Latino origin, are overrepresented in the criminal justice system, are disproportionately placed and held in pre-trial detention and affected by parole and probation sentences, and are more often subject to prison labour and harsher sentences (arts. 2, 9, 14 and 26).

15. **Recalling its previous recommendations,<sup>9</sup> the State party should take additional measures to effectively eliminate racial disparities at all stages of the criminal justice system, 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 leading to racially disparate impacts at the federal, state, local and territorial levels, such as mandatory minimum sentencing policies, including for drug offenses; and ensuring that parole and probation sentences are only applied when necessary and are proportionate to the offense.**

#### **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 Proclamation 9645 of 24 September 2017, commonly known as the “Muslim ban”, and efforts at mitigating its prolonged impact. However, it is concerned that the impacts of the proclamation of 2017 are still ongoing, including prolonged delays in 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 the lack of effective measures to prevent future discriminatory bans (art. 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 that continue to be affected by the ban, in particular those that applied for family reunification. It should also adopt additional measures to prevent**

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<sup>7</sup> CCPR/C/USA/CO/4, para. 7.

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

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

**future discriminatory bans, including legislative measures such as the No BAN 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 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 also consider ratifying the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol.**

### **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 last reauthorization of the Violence Against Women Act (VAWA) in 2022. Nonetheless, it is concerned at the persistence of violence against women, including domestic and sexual violence, and 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 as well as within the State Party's armed forces. While acknowledging the adoption of the Strengthening the Opposition to Female Genital Mutilation Act (Stop FGM Act) in 2020, the Committee is concerned at reports indicating that implementation of the law has been slow and that not all states have specific laws against FGM (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 who come forward, and protecting them from retaliation, including those who are 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, as well as means of protection and legal, medical, financial and psychological assistance, notably access to accommodations or shelters and other supportive 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 on combating gender stereotypes and judicial bias against women;**

**(e) Effectively implementing laws, policies and programmes at all levels, *inter alia*, the VAWA, Executive Order 14021, the Campus Save 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 FGM and to effectively implement the Stop FGM Act.**

**Missing and murdered indigenous women and girls**

22. The Committee welcomes the issuing 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 surrounding murdered and missing indigenous women and at the lack of adequate resources that hinders effective and culturally appropriate investigations 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 prevent the occurrence of murders and disappearances of indigenous women and girls, in consultation with indigenous women’s organizations and families of the victims. It should also improve data collection and analysis to better understand the extent and causes of the missing and murdered indigenous women crisis. 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 of state legislation that severely restricts the rights of persons based on their sexual orientation or gender identity, such as laws that, inter alia, 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 that corresponds with their gender identity; and limit discussions on sexual orientation and gender identity issues in schools. It is also concerned at reports on the discriminatory treatment that persons continue to face based on their sexual orientation or gender identity, particularly in access to housing, employment and treatment in correctional facilities as well as 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 based on 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 also intensify its efforts to combat violence against and discrimination of persons based on their sexual orientation and gender identity, including with regard to access to housing, health, employment and in correctional facilities. It should further ensure that any act of discrimination, harassment and violence is investigated, perpetrators are brought to justice and 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 of 24 June 2022, the Committee is deeply concerned at the increase of maternal mortality and morbidity in the State party, which has the highest rate of maternal mortality among developed countries, and particularly affects women from vulnerable and minority groups. It is also deeply concerned that racial and ethnic minorities have the highest rates of maternal mortality in the country, in particular women of African descent and Indigenous women, and notably Native Hawaiians and other Pacific Islander people. It is further 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 income, those living in rural areas, people of African descent and 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 in 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 further 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 Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, of 24 June 2022. However, it is alarmed at the increase of legislation, barriers and practices at the state level that impede women's access to safe and legal abortion, *inter alia*, the criminalization of various actors linked to their role in providing or seeking abortion care, including health care providers, persons who assist women to procure an abortion, notably family members, and the pregnant women seeking an abortion. It is also deeply concerned at restrictions to inter-state travel, bans on medication abortion, and surveillance of women seeking abortion care through their digital data for prosecution purposes. Furthermore, the Committee is deeply concerned at the profound impact of these measures on the rights of women and girls seeking an abortion, including the rights to life, privacy and not to be subject 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 the necessary measures 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, free of violence and coercion, including through the adoption of legislative initiatives such as the Women Health's Protection Act;**

(b) **Put an end to the criminalization of abortion by repealing laws that criminalize abortion, including laws that apply criminal sanctions to women and girls who undergo abortion, to health service providers who assist women and girls to undergo abortion and to persons who assist women and girls to procure an abortion, and consider harmonizing its legal and policy framework with the World Health Organization's Abortion Care Guidelines (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 existing barriers 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.**

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

<sup>11</sup> CERD/C/USA/CO/10-12, para. 36.

**Death penalty**

30. While welcoming the reinstatement of a temporary moratorium on federal executions and the increasing number of states that have abolished the death penalty, the Committee remains gravely concerned at the continuing use of the death penalty and at racial disparities in its imposition, with a disproportionate impact on people of African descent. It is also concerned at reports of a high number of persons wrongly sentenced to death and at the lack of compensation or adequate compensation for persons who are wrongfully convicted in retentionist states. It regrets the lack of information regarding the allegations of the use of untested lethal drugs to execute prisoners and about reported cases of excruciating pain caused by the use of these 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 recalling its previous recommendations,<sup>12</sup> the State party should:**

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

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

**(c) Strengthen safeguards against wrongful sentencing to death and subsequent wrongful execution, guarantee effective legal representation for defendants in death penalty cases, including at the post-conviction stage, and ensure adequate compensation for persons wrongfully convicted as well as appropriate support services such as 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 continuing practice of the State party of killings in extraterritorial counter-terrorism operations using armed drones, the lack of full and continuous transparency regarding the legal and policy criteria for drone strikes, the alleged possibility of variations through classified plans, as well as the lack of accountability for the loss of life and for other serious harm caused, particularly to civilians. The Committee notes that the State party maintains its position that extraterritorial counter-terrorism operations, including drones 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 as well as by the current Presidential Policy Memorandum that establishes standards and procedures that govern the use of lethal force outside of various active hostilities. However, it reiterates its concern about the State party's broad approach to the definition of "armed conflict", including an overbroad geographical and temporal scope.<sup>13</sup> While noting the adoption of the Civilian Harm Mitigation and Response Action Plan (CHMR-AP), the Committee is seriously concerned that it only applies to lethal strikes carried out by the Department of Defence and not by other agencies such as the Central Intelligence Agency (CIA). It is further 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 light of the Committees' general comment 36 on the right to life, the Committee reiterates its previous recommendations<sup>14</sup> that the State party should revisit its position regarding legal justifications for the use of deadly force through drone attacks, and:**

**(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**

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

<sup>13</sup> CCPR/C/USA/CO/4, para. 9.

<sup>14</sup> CCPR/C/USA/CO/4, para. 9.



**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, 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 specific implementation of regulations governing the use of drone strikes;**

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

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

**(f) Strengthen, improve and expand the CHMR-AP to all lethal strikes carried out by the State Party, including those by the CIA; ensure that victims and their families are provided with an accessible and effective remedy where there has been 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 affects racial and ethnic minorities as well as women and children (arts. 2, 6 and 26).

35. **Recalling its previous recommendations,<sup>15</sup> the State Party should take all necessary measures 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 firearm and ammunition acquisition and transfer; 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 by Customs and Border Protection (CBP) officers, which has a disparate impact on people of African descent, Indigenous peoples, persons of Hispanic/Latino origin, migrants and asylum seekers. It is also concerned at reports of the lack of accountability in the majority of cases of excessive and deadly use for force by law enforcement officials (arts. 2, 6, 7 and 26).

37. **Recalling its 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;**

<sup>15</sup> CCPR/C/USA/CO/4, para. 10.

<sup>16</sup> CCPR/C/USA/CO/4, para. 11.

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

**(c) Make the data collection and the reporting of excessive or deadly use of force mandatory for law enforcement agencies at all levels for its inclusion in the Federal Bureau of Investigation's database and ensure that the data is 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 to protect persons, including the 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 faced in recent years. The Committee also notes the State party's efforts to ensure access to clean, safe and affordable water for its population, but it is concerned by various water crises 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 disproportionately impact people of African descent and 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, especially the most vulnerable, from the negative impacts of climate change and natural disasters. It should also reinforce existing measures to prevent life-threatening water crisis, 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 of state and local laws criminalizing homelessness, of violence against homeless persons as well as at 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 racial and ethnic minorities, particularly people of African descent, Indigenous Peoples and persons of Hispanic/Latino origin (art. 2, 6, 7, 9, 17 and 26).

**41. The Committee reiterates its previous recommendations<sup>17</sup> that 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 homeless people;**

**(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 the homeless, 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 the information provided by the State party that a range of federal and state laws prohibit conduct constituting torture or cruel, inhuman or degrading treatment or

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<sup>17</sup> CCPR/C/USA/CO/4, para. 5.

punishment, the Committee is seriously concerned that the specific offence of torture has not yet been introduced at the federal level (art. 7).

43. **Recalling its previous recommendations,<sup>18</sup> the State party should review its position and 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 with article 7 of the Covenant, in order to enhance torture prevention and ensure that evidence and confessions obtained through torture is inadmissible in legal proceedings, without exception. It should also:**

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

(b) **Strengthen the training on human rights of judges, prosecutors and law enforcement officials, including on the Principles on Effective Interviewing for Investigation and Information Gathering (the “Méndez Principles”);**

(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 confinement, and of its use with respect to juveniles and persons with mental disabilities and health needs (arts. 7, 9 and 10).

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

#### **Life imprisonment without parole**

46. The Committee regrets the lack of sufficient information 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 also concerned at reports indicating that persons of African descent are disproportionately subject to life imprisonment without parole sentences (arts. 2, 7, 10 and 26).

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

<sup>18</sup> CCPR/C/USA/CO/4, para. 12.

<sup>19</sup> CCPR/C/USA/CO/4, para. 20.

<sup>20</sup> CCPR/C/USA/CO/4, para. 23.

### **Detainees at Guantánamo Bay**

48. The Committee welcomes 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 Guantánamo Detention Facility, which took place at the beginning of 2023. The Committee also notes the President's efforts to reducing the detainee population and ultimately closing the Guantánamo Bay facility. However, it remains deeply concerned that no timeline for closure of the facility has been provided and that some of the detainees have been held in the facility without trial or without any charges for more than 20 years. While noting the information provided by the State party that it is committed to ensuring safe, humane and legal care of detainees, including appropriate medical care, it is concerned at reports of the lack of specialist care and facilities to address the complex health issues of detainees (arts. 7, 9, 10 and 14).

**49. Recalling the Committees' previous recommendations,<sup>21</sup> the State party should expedite the transfer of detainees designated for transfer and the closure of the Guantánamo Bay facility. It should also 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 further 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 by the persistence of human trafficking practices, including those involving children, the criminalization of victims of trafficking on prostitution related charges, the insufficient identification of trafficking victims, and the limited access to effective protection, in particular for non-citizen victims. It is also concerned that workers entering the State party under H-2A and H-2B work visa programmes are at high risk of becoming victims of trafficking and/or forced labour, in particular agricultural workers; that many employers force agricultural workers to pay for housing, food, medical care or safety equipment despite the legal requirement that employers should pay these costs; and that there is a lack of effective inspections by 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, increasing victim identification; strengthening its preventive measures; prosecuting and punishing those responsible, and providing effective remedies to all victims without discrimination, including protection, rehabilitation and compensation. It should also take measures to prevent the criminalization of victims of sex trafficking, including child victims and non-nationals. In addition, it should increase its efforts to ensure full protection against forced labour for all categories of workers, particularly 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 in the future and ensure that victims have access to effective remedies and receive full reparation, including adequate compensation and appropriate support services.**

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<sup>21</sup> CCPR/C/USA/CO/4, para 21.

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

54. While acknowledging the challenges involved with regard to the increasing number of migrants arriving on the territory of the State party and noting the actions taken by the State party to address these challenges, the Committee is gravely concerned with recent measures adopted by the State party, in particular the administrative rule “Circumvention of Lawful Pathways”, the CBP One mobile application, 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 also concerned at reports of the continued use of mandatory and prolonged detention of immigrants; 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 deaths of numerous detained persons, including children; and instances of violence, ill treatment and abuse in public and private migrant detention facilities, including sexual violence, and use of prolonged solitary confinement (2, 6, 7, 9, 10, 12-14, 24 and 26).

55. **The State party should take all measures necessary to enhance 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 in line with international human rights and humanitarian standards, withdraw the 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 technology 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 these cases as well as 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 overbroad scope of Section 702 of the Foreign Intelligence Surveillance Act (FISA), which allows for the surveillance of a wide range of electronic communications of foreign nationals outside of the United States, who are not protected against unreasonable searches under the Fourth Amendment of the State party’s constitution. It is further concerned at reports that loopholes of the Act may also allow law enforcement officials to have broad access to 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 (ICE), resorted to databases of personal information systematically collected by private entities without individuals’ consent, particularly for surveillance purposes and without proper mechanisms for protecting the right to privacy (art 2, 17 and 26).

57. **Recalling its 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 also 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, including safeguards, oversight and remedies to effectively protect the right to privacy. It should further 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 harassment and intimidation against journalists and media outlets by some government authorities and political figures as well as instances of threats and attacks against journalists and media workers by law enforcement officials and private individuals. It is also concerned at the passing of anti-boycotting laws by some states aimed at sanctioning individuals and enterprises who attempt to boycott foreign countries and corporations for their alleged involvement in human rights violations. It is further concerned by the increase 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 or history of slavery (art. 2, 19, 24 and 26).

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

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

(b) **Adopt federal measures to protect journalists against improper intrusions from federal agency investigations and surveillance;**

(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 districts regulations on educational materials and books fully comply with article 19 of the Covenant.**

#### **Freedom of assembly**

60. The Committee is concerned at the increase of legislation and other measures at the state level that severely restrict the right to peaceful assembly. It is also concerned by the use of anti-terrorism laws to prosecute peaceful protestors, including anti-racism demonstrators, environmental activists and indigenous protestors. It is further concerned at reports of excessive use of force by law enforcement officers and private security companies during peaceful protests as well as of surveillance, arbitrary arrests and mass detention of peaceful demonstrators. (art. 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**

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<sup>22</sup> CCPR/C/USA/CO/4, para. 22.

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, arbitrary arrest and 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 the child welfare facilities of the State party. It is also concerned at the overrepresentation of children belonging to racial and ethnic minorities in the child welfare system, in particular children of African descent and indigenous children. The Committee is also concerned at reports of high levels of police presence at schools and of harsh disciplinary practices in the school system, including school-related arrests, suspensions and referral to law enforcement, that result in children's early entry into the criminal legal system ("school to prison pipeline"), which disproportionately affects children with disabilities and children from racial and ethnic minorities. It is further concerned about the fact that marriage under the age of 18 years is legally permitted in forty-one states of the State party (art. 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 poverty-related circumstances or lack of financial resources as factors that can trigger child welfare interventions, 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 also take active steps with a view to ending the permanent placement of police in schools and law enforcement involvement in student discipline as well as to preventing and eliminating discriminatory bias in the administration of student discipline. It should further adopt measures at all levels in order to prohibit marriage under the age of 18 years.**

### **Voting rights**

64. While noting the actions taken by the State party to guarantee equal access to voting, including Executive Order 14019 on promoting access to voting, the Committee is concerned at the increase of legislative initiatives and practices at the state level that limit the exercise of the right to vote, inter alia, partisan gerrymandering, restrictions on voting by mail and on ballot collection, and burdensome voter identification requirements. It is also concerned about the disproportionate impact of these measures on low-income voters, persons with disabilities, and racial and ethnic minorities as well as at reports of increasing 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. It is further concerned at massive and disproportionate campaign expenditures through election-related advertisements and other communications ("outside spending"), which is managed independently from candidates' campaigns and do not require disclosure of the sources, which reportedly gives excessive influence on the elections to anonymous groups and individuals (arts. 2, 25 and 26).

65. **Recalling its previous recommendations,<sup>24</sup> the State party should:**

(a) **Take all necessary measures to ensure that all persons entitled to vote are able to exercise that right, including by eliminating excessive burdens on voters that**

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

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

could result in de facto disenfranchisement, and ensuring that polling stations are accessible, particularly in states with weak election infrastructure and for persons with restricted accessibility;

(b) Fully restore the Voting Rights Act and increase funding and other resources for federal agencies to enforce 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 the Freedom to Vote Act;

(c) Ensure that electoral districts are drawn by non-partisan commissions who 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 based on racially discriminatory grounds;

(d) Conduct thorough and effective investigation on the harassment and attacks against election officials, ensure 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 fully served their sentences or are on parole; provide inmates with information about their voting restoration options; remove lengthy and cumbersome voting restoration procedures; and review 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 on “Tribal consultation and strengthening nation-to-nation relationships” of 2021, the Committee is concerned at the obstacles to the recognition of Indigenous Peoples, which impede non-federally recognized communities to enjoy 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 further 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. Recalling its previous recommendations,<sup>25</sup> the State party should redouble its efforts to ensure the promotion and protection, both in law and in practice, of the rights of Indigenous Peoples, in particular with respect to land, territory and natural resources. It should also:

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

(b) Adopt measures to guarantee access of Indigenous peoples to their lands and sacred sites and to effectively protect their lands and sites from any 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;

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<sup>25</sup> CCPR/C/USA/CO/4, para. 25.



(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 2031 in Geneva.

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