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## **Draft report of the Working Group on the Universal Periodic Review\***

### **United States of America**

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\* The final document will be issued under the symbol A/HRC/16/11. The annex to the present report is circulated as received.

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## Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1, held its ninth session from 1 to 12 November 2010. The review of the United States of America was held at the 9th meeting, on 5 November 2010. The delegation of the United States of America was headed jointly by the Honourable Esther Brimmer, Assistant Secretary, Bureau of International Organizations, Department of State; the Honourable Harold Hongju Koh, Legal Adviser, Office of the Legal Adviser, Department of State; and the Honourable Michael Posner, Assistant Secretary, Democracy, Human Rights and Labour, Department of State. At its 13th meeting, held on 9 November 2010, the Working Group adopted the report on the United States of America.

2. On 21 June 2010, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of the United States of America: Cameroon, France and Japan.

3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of the United States of America:

(a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/9/USA/1);

(b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in accordance with paragraph 15 (b) (A/HRC/WG.6/9/USA/2);

(c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/9/USA/3/Rev.1).

4. A list of questions prepared in advance by Plurinational State of Bolivia, the Czech Republic, Denmark, Germany, Japan, Latvia, Mexico, the Netherlands, Norway, the Russian Federation, Slovenia, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland was transmitted to the United States of America through the troika. Those questions are available on the extranet of the universal periodic review.

## I. Summary of the proceedings of the review process

5. During the interactive dialogue, 56 delegations made statements. Additional statements, which could not be delivered during the interactive dialogue owing to time constraints, will be posted on the extranet of the universal periodic review when available.<sup>1</sup> Recommendations made during the dialogue are found in section II of the present report.

### A. Presentation by the State under review

6. The delegation expressed its pleasure at presenting its first UPR report and noted President Obama's and Secretary Clinton's deep commitment to multilateral engagement, human rights, and the rule of law. The story of the United States has been one of striving

<sup>1</sup> Colombia, Panama, Argentina, Chile, Paraguay, Slovenia, Nepal, Rwanda, Chad, Bhutan, Kuwait, Belarus, Peru, Timor-Leste, Latvia, Jordan, South Africa, Iraq, Ukraine, Nigeria, Burkina Faso, Cameroon, Afghanistan, Burundi, the former Yugoslav Republic of Macedonia, Mauritius and Namibia.

for a more perfect union. By admitting the possibility of imperfection, new opportunities to improve are revealed – the ability to do this has been and continues to be a source of national strength.

7. The United States explained that it encourages the involvement of its civil society, and works through law-abiding executives, democratic legislatures and independent courts to make progress. The United States expressed pride in its accomplishments, recognized that there remains room for further progress and reiterated its commitment to principled engagement with the international system to advance human rights at home and abroad.

## **B. Interactive dialogue and responses by the State under review**

8. Cuba made recommendations.

9. The Bolivarian Republic of Venezuela expressed the hope that President Obama would make a commitment to human rights.

10. The Islamic Republic of Iran expressed concern over the situation of human rights and systematic violations committed by the United States at both the national and international levels.

11. The Russian Federation positively assessed the current Government's efforts to eliminate a number of human rights violations that had been committed in the course of the "fight against terrorism" and to join in the work of the Human Rights Council. On the other hand, in a number of areas, including, first of all, acceding to the international human rights treaties and ensuring human rights in the process of the fight against terrorism, additional efforts by the United States were required.

12. Nicaragua stated that the United States had made the use of force the cornerstone of its expansionist policy and that Latin America was one of its victims. It stated that the United States had violated human rights while pretending to be the world's guardian of human rights.

13. Indonesia noted positively the United States' commitment to freedom and equality, and welcomed the country's engagement with the Human Rights Council. It expressed its belief that the United States needed to make efforts to protect human rights in a balanced manner and to promote tolerance. Indonesia acknowledged the United States' contribution to the development of the United Nations norms.

14. The Plurinational State of Bolivia made recommendations.

15. Ecuador noted the Government's efforts to improve human rights, although the results had been limited.

16. The Democratic People's Republic of Korea remained concerned about the persistent reports of human rights violations committed by the United States at home and abroad.

17. Algeria stated that the election of a President of African descent had spoken louder than any statement about the United States' commitment to civil and political rights. Algeria noted that prison overcrowding was the norm and that prisons housed 60 per cent more inmates than they had been designed for.

18. Qatar welcomed the United States' efforts in combating racial and religious discrimination, providing social services and ensuring the enjoyment of economic, social and cultural rights.

19. Mexico recognized the robust institutional infrastructure for the protection of human rights.

20. Egypt expressed the hope of seeing concrete steps undertaken by the United States to ensure the protection of the human rights of the members of Muslim, Arab, African-American and South Asian communities. It remained concerned about certain policies and practices in the human rights field.

21. China noted the Government's efforts in past years to promote and protect human rights and to make progress in health care and education. However, China expressed concern about the gaps in human rights legislation and the fact that the United States had not become a party to a number of core international human rights instruments. It was also concerned, inter alia, that the law enforcement agencies tended to use excessive force and that the incidence of poverty was higher among Afro-Americans, Latinos and Native Americans.

22. India commended the United States for its commitment to human rights and its acknowledgment of the remaining challenges. India was concerned about human rights abuses by business corporations and inquired about the United States' position on its Alien Tort Claims Act. It was concerned at the sexual harassment of women in the United States military and the disproportionately high conviction rates for African-Americans, as well as their low access to education, health and employment.

23. Bangladesh stated that, while progress had been made in the protection of civil and political rights, the protection of social and economic rights had not been fully recognized. It stated that the United States played a positive role internationally in supporting many countries' development efforts. Bangladesh was concerned at the recent enactment of an immigration law that might encourage discriminatory attitudes and ill treatment against migrants.

24. Malaysia appreciated the renewed commitment expressed by the Government to re-engage on the full range of human rights, including through United States membership of the Human Rights Council. Malaysia stated that several issues, such as racial discrimination, racial profiling, religious intolerance and widening income equality, could be given more attention.

25. Brazil welcomed the measures announced by the United States to address violations of human rights that had been committed under its counter-terrorism policy. It noted with concern the rise in the number of persons living in poverty. Brazil encouraged the United States to investigate and address situations of forced labour against migrants.

26. Switzerland noted with satisfaction that several states had abolished the death penalty. Switzerland also noted, inter alia, that thousands of migrants had been detained in harsh conditions and without access to legal counselling for violations of immigration laws.

27. The Republic of Korea commended the Government's decision to close the Guantanamo Bay detention facility and to ban methods of interrogation that might not be in compliance with international law. It welcomed the adoption of legislation to expand access to health care for its citizens.

28. In addressing a number of observations and recommendations related to ratification of treaties, the delegation noted that its practice was to ensure that it could fully implement a treaty before it became a party to it and not to ratify unless it could do so. Under its Constitution, such ratification required approval of two thirds of the United States Senate. The United States was strongly committed to ratifying the CEDAW and the Convention on the Rights of Persons with Disabilities.

29. In response to questions regarding the creation of a national human rights institution, the U.S. delegation noted that this was an issue currently under consideration in the United States. The United States believed that multiple levels of complementary work at the

federal and sub-federal levels and by different branches of government (executive, legislative and judicial) provided multiple and reinforcing protections for individual rights.

30. The United States then discussed other points raised by several countries: torture and the closing of the detention facility at Guantanamo Bay.

31. The delegation explained that the United States is unequivocally committed to the humane treatment of all individuals in detention, whether criminal detention or detainees in United States custody in armed conflict. Through Executive Orders, the President affirmed the United States commitment to abiding by the ban on torture and inhumane treatment, ordered CIA “black sites” closed, and instructed that any interrogations must be conducted consistent with United States treaty obligations and the revised Army Field Manual. President Obama also ordered a review to ensure that the detention facility at Guantanamo Bay fully complied with Common Article 3, and established a special interagency task force to review United States interrogation and transfer policies and to ensure that all United States transfer practices comply with United States law, policy and international obligations and never result in the transfer of any individual to face torture.

32. The United States reaffirmed the President’s commitment to closing the Guantanamo detention facility as quickly as possible, noting that the task has proven enormously complex and also involves United States allies, the courts, and the United States Congress. The United States expressed its gratitude to those countries that had accepted detainees for resettlement.

33. The delegation addressed questions related to its work to combat discrimination. The United States is committed to ensuring political participation by all qualified voters through enforcement of voting rights laws. The Justice Department will review redistricting plans after the 2010 Census to ensure that voting districts are not drawn with the purpose or effect of discriminating against minority voters. The United States explained its enforcement of laws to ensure equal access to housing, lending, credit, educational opportunities, and environmental justice. Although still grappling with the legacy of slavery and addressing problems of racial discrimination, the United States remains mindful of the need to address other inequalities as well.

34. The United States is committed to promoting equal rights for women. The delegation discussed the passage of the Lilly Ledbetter Fair Pay Act, the creation of an Ambassador-at-Large for Global Women’s Issues, and other measures.

35. The delegation also noted important initiatives to ensure more robust protections for lesbian, gay, bisexual and transgender individuals. In addition to several non-legislative measures, the United States is seeking the legislative repeal of the Defence of Marriage Act and the “Don’t Ask, Don’t Tell law” and policy.

36. The United States continues to be a world leader in protecting disability rights. In addition to signing the Disabilities Convention, it vigorously enforces laws against architectural barriers and unnecessary institutionalization. In the past year, the United States filed or participated in more than a dozen lawsuits to promote full inclusion of persons with disabilities.

37. The delegation then addressed questions regarding the Arizona immigration law. The Justice Department had challenged this law on grounds that it unconstitutionally interferes with the federal Government’s authority to set and enforce immigration policy, and litigation is ongoing in which a federal judge has enjoined the law. The United States expressed its commitment to advancing comprehensive immigration reform.

38. Thailand noted with appreciation that the United States had initiated the ratification process relating to a number of human rights instruments. It also welcomed the

Government's efforts to address discrimination on various grounds and to promote equality before the law for all.

39. The Libyan Arab Jamahiriya was concerned at, inter alia, the racial discrimination and intolerance against persons with African, Arab Islamic and Latin American origins, the denial of the indigenous community of their rights, human rights violations resulting from its policies of occupation and invasion and the imposition of blockades. It was concerned over the large number of prisoners at Guantanamo, deprived of their right to a fair trial.

40. The United Kingdom noted that the United States had a strong record in human rights protection. However, it was concerned by evidence that the death penalty could sometimes be administered in a discriminatory manner and encouraged the United States to address those systematic issues. It asked about the steps that the United States had taken towards the ratification of ICESCR, CEDAW, CRC, OP-CAT and Optional Protocols to the Geneva Conventions of 1949 that the United States had already signed. The United Kingdom also encouraged the United States to redouble its efforts to ensure the closure of the Guantanamo detention facilities in a timely manner.

41. France welcomed the United States' pledge to ratify CEDAW and its intention to close the Guantanamo detention centre. It asked what measures had been taken in that regard and when the closure was expected.

42. Australia noted that the United States, in many ways, led by example in promoting human rights standards around the world. It expressed concern, however, at the country's continued use of the death penalty. It remained concerned about reports of violent crimes against persons of minority sexual orientation. Australia welcomed the United States' efforts to address the gap between the rights of Native and other Americans. Australia encouraged the United States to become a party to CRPD.

43. Belgium noted with regret that the death penalty was still applied by some 35 states. It expressed concern at the situation in the prison system, including violence against detainees; prison overpopulation and overrepresentation of some ethnic groups; and imprisonment, sometimes for life, without any possible reprieve for those who were minors when the acts were carried out.

44. The Sudan commended the United States' efforts to promote and protect human rights on its territory and globally. It commended the United States for its efforts to create the conditions necessary for the ratification of international conventions.

45. Austria stated that the United States had set positive examples in the protection of human rights at the national and international levels.

46. Bahrain noted the adoption of legislation on health care. Bahrain referred to the recommendations made by CAT on CAT's applicability in times of war and peace, and asked on the steps taken to implement that recommendation. It also referred to the recommendation made by CERD on the establishment of a national human rights institution.

47. Viet Nam noted the United States' commitment to strengthening its system of human rights protection. It expressed concern about the reported discrimination against migrants and foreigners, including Vietnamese migrants and students, and the lack of Government commitment to support many core international human rights instruments.

48. Ireland asked whether the United States intended to withdraw its reservations to ICCPR and CAT. Ireland also asked about the steps taken to close the Guantanamo detention centre and about the United States' intention to proceed to the introduction of a nationwide moratorium on the death penalty.

49. Morocco expressed appreciation for the United States' commitment to development assistance and referred to a number of programmes and innovative solutions concerning housing rights.

50. Cyprus noted with appreciation that the United States had signed the Rome Statute of ICC. It was concerned about the use of the death penalty and referred to the concerns expressed by a number of treaty bodies related to allegations of brutality and the use of excessive force by law enforcement officials against migrants.

51. Spain asked questions about the closing of the Guantanamo prison, the new regulations on military commissions and the right to a fair trial, and the guarantees for the remaining detainees; and about the United States' obligations related to consular access to foreign detainees, particularly in relation to the *Avena* ruling.

52. The delegation addressed issues raised by a number of states, including the relationship between human rights and national security, the death penalty, and indigenous issues. The United States was committed to establishing national security policies that respect the rule of law. It has redoubled its efforts over the past two years to ensure that all armed conflict operations comply fully with all applicable domestic and international law. Torture and cruel treatment are crimes in the United States and steps are taken to prosecute those who commit such acts. All individuals held in armed conflict are held lawfully. In response to a question from Spain, the United States said that all detainees in the US and Guantanamo have robust access to habeas review by its federal courts.

53. United States targeting practices, including lethal operations conducted with the use of unmanned aerial vehicles, comply with all applicable law. To the extent that human rights law may apply in armed conflict or national actions taken in self-defence, in all cases, the United States works to ensure that its actions are lawful. The delegation noted first, that international human rights law and international humanitarian law are complementary, reinforcing, and animated by humanitarian principles designed to protect innocent life. Second, while the United States complied with human rights law wherever applicable, the applicable rules for the protection of individuals and the conduct of hostilities in armed conflict outside a nation's territory are typically found in international humanitarian law, which apply to government and non-government actors. Third, determining which international law rules apply to any particular government action during an armed conflict is highly fact-specific.

54. In answer to a number of questions regarding detainee treatment, the Defence Department has well-established procedures for reporting detainee abuse and investigates all credible allegations of abuse by United States forces. Between Iraq, Afghanistan, and Guantanamo, the United States has conducted hundreds of investigations regarding detainee abuse allegations, which have led to hundreds of disciplinary actions. All credible allegations of detainee abuse by United States forces have been thoroughly investigated and appropriate corrective action has been taken. The United States further noted its commitment to ensuring that it does not transfer individuals to torture in Iraq and elsewhere.

55. In response to comments from a number of countries regarding capital punishment, the delegation noted that while the matter is a subject of earnest debate in the United States, as a matter of law that punishment is permitted for the most serious crimes with appropriate safeguards. Recently, the United States Supreme Court has narrowed the class of individuals that can be executed, the types of crimes subject to the penalty, and the manner by which the punishment is administered so that it is not cruel and unusual. In response to questions from Mexico and the United Kingdom about consular notification and foreign nationals on death row, the United States noted its commitment, and pending federal legislation, to comply with the *Avena* ICJ judgment.



56. Turning to indigenous issues, the delegation noted the many challenges faced by Native Americans – poverty, unemployment, health care gaps, violent crime, and discrimination – and the laws and programmes it has in place to address these problems. The United States stated its belief that tribes and their members will flourish if they are empowered to deal with the challenges they face. This conclusion is reflected in law and policy regarding tribal self-determination. President Obama hosted the White House Tribal Nations Conference at which he directed all agencies to submit plans for and progress reports on implementation of the Executive Order on Consultation and Coordination with Indian Tribal Governments. As a result, the level of tribal consultations is now at an historic high.

57. In response to questions from Australia, Cyprus, Finland, and Norway, the delegation noted the considerable attention that has been paid to the interagency consultations with tribal leaders as a part of the United States review of its position on the United Nations Declaration on the Rights of Indigenous Peoples. The decision to review its position was made in response to calls from tribes and other indigenous groups and individuals.

58. The United States has also taken numerous steps to address particular challenges faced by indigenous communities. These include health care reform, the settlement of certain claims, and improvements in criminal justice issues.

59. Denmark urged the Government to follow the recommendations of the international community that it ensure that state and federal authorities applied a moratorium on executions with a view to ultimately abolishing the death penalty nationwide. It would like to see the United States join the vast majority of States that adhered to ICESCR, CEDAW, CRC and OP-CAT.

60. Finland, while welcoming the progress made by the United States in enhancing the rights of indigenous peoples, including the ongoing review of its position on the United Nations Declaration on the Rights of Indigenous Peoples, asked how the Government was conducting the review and about the current situation with respect to the process. Finland also asked about measures undertaken to combat discrimination against women.

61. Ghana commended the United States for, inter alia, efforts that had transformed the country into a multi-racial, multi-ethnic and multi-religious society. It noted with appreciation that the Government continued to work to ensure that equal opportunity was not only guaranteed in law, but experienced by all Americans. Ghana, however, referred to the concerns expressed by several special procedures concerning ongoing structural discriminations.

62. Hungary recognized that the United States had a well-developed system of domestic human rights laws. However, the United States had limited obligations under the international human rights treaties. Hungary welcomed the change in the country's attitude towards ICC, and hoped for further steps to deepen relations with it.

63. Slovakia stated that the United States had been one of the prominent global defenders and promoters of human rights, dedicating significant resources to that commitment.

64. The Netherlands, while noting the Government's support for the ratification of CEDAW by the United States, noted with concern that no specific steps had been taken thus far to that end. The Netherlands also expressed concern at the use of death penalty in 35 states. The Netherlands commended the United States for having received many visits by Special Rapporteurs.

65. Turkey welcomed the decision of the United States to become a member of the Human Rights Council. Turkey expressed its belief that the increasing multilateral

cooperation and engagement that the United States had embraced would contribute to global peace and stability and constitute an important factor for the protection of the human rights of those belonging to minority groups, in particular Muslims and immigrants.

66. Norway noted with appreciation the role that the United States played in the international human rights arena. It welcomed the answers provided by the United States to advance questions that it had posed. Norway stated that it looked forward to the transparent and inclusive follow-up in the universal periodic review implementation phase.

67. Sweden welcomed the repeal of the use of capital punishment in some states, but regretted the recurring sentencing to the death penalty and executions in many states. Sweden asked the United States to elaborate on the status of the death penalty and about the plans to impose an official moratorium on executions towards the complete abolition of the death penalty. It also asked about the measures taken by the United States to ensure the full enjoyment of the human rights of persons deprived of their liberty.

68. The Holy See noted that “Operation Streamline” against irregular migrants should be suspended and asked for information about the Government’s decision to review its position on the United Nations Declaration on the Rights of Indigenous Peoples.

69. Italy noted with appreciation the Government’s efforts to fight economic, social, gender and ethnic discrimination. It noted that the death penalty was still in force in 35 states, even though some states had applied a de facto moratorium.

70. Uruguay made recommendations.

71. The United States delegation noted that the United States criminal justice system is based on the protection of individual rights. The United States has acted to address a history of racially based law enforcement, through, among other things, enactment and enforcement of laws that prohibit discrimination based on race, colour or national origin by police departments that receive federal funds. The United States was working actively to study and address persistent racial and ethnic disparities in the U.S. criminal justice system and to implement appropriate corrective measures.

72. The United States assured delegations that it condemns racial and ethnic profiling in all of its forms, and is conducting a thorough review of policies and procedures to ensure that none of its law enforcement practices improperly target individuals based on race or ethnicity. With regard to Switzerland’s concern for juveniles, the United States delegation noted that the United States Supreme Court recently decided that juvenile offenders convicted of crimes other than homicide may no longer be sentenced to life imprisonment without parole. The United States is committed to meeting its obligations under both international and domestic law for proper treatment of persons detained or incarcerated in the criminal justice system, including those in maximum security facilities. In response to inquiries from the Netherlands and Sweden about prison conditions, the United States confines inmates in prisons and community-based facilities that are safe, humane, and appropriately secure, and in response to questions from the Netherlands, Latvia and Denmark, noted that the United States has hosted visits from eight Special Procedures during the past three years.

73. The United States addressed additional questions regarding immigration. Over the last five years, it welcomed over 5.5 million new permanent residents and over 3.5 million new naturalized citizens, and resettled or granted asylum to nearly 425,000 refugees. It is committed to improving its immigration system. The Departments of Homeland Security (DHS) and Labour are working together to improve protections for migrants. In response to concerns from civil society regarding immigration detention and the removal process, DHS has undertaken major reforms to improve detention center management, health, safety, and uniformity among facilities. DHS’s reforms are designed to ensure that

detention was used only when appropriate, in light of legal requirements and the need to ensure public safety. In 2010 the United States lifted a 22-year ban on travel to the country by HIV-infected individuals. The United States delegation discussed recent programmes to combat international trafficking in persons.

74. In consultation with civil society and the United Nation High Commissioner for Refugees, the United States established that each arriving alien with a credible fear of persecution or torture would be considered for release; and that those who established their identity and did not pose a flight risk or a danger to the community would not be detained pending completion of their immigration proceedings. For detained aliens, the United States recognizes the need to improve conditions of confinement, medical care, and the ability to exercise their human rights. DHS is revising standards governing immigration detention conditions, implemented a new detainee locator system, and assigned new oversight personnel nationwide. In the context of immigration enforcement, the United States recognized concerns regarding racial and ethnic profiling by local law enforcement officials and reaffirmed its commitment and recent actions to combat profiling through significantly strengthened protections and training against such discrimination.

75. The Republic of Moldova underlined the important involvement of the United States in countering human trafficking. It noted with appreciation the fact that the number of applied death penalties had been decreasing and that the death penalty as a punishment was excluded for those offenders who were under the age of 18 at the time of the offence.

76. Trinidad and Tobago noted the Government's efforts to respect human rights, including those to eliminate all forms of racial discrimination, and the enactment of legislation in 2009 to combat gender-based wage discrimination.

77. New Zealand stated that the United States had demonstrated leadership in the promotion of human rights. It noted with appreciation that the United States had excluded the death penalty for those under 18 years of age at the time of the offence, and those with intellectual disabilities. However, it noted that significant numbers of people continued to be executed. New Zealand welcomed the signing by the United States of CPRD.

78. Haiti deplored the difficulties encountered by persons of African descent who, for example, faced a high rate of unemployment and had lower income. Haiti asked about the Government's intention to set up a national human rights institution.

79. Israel expressed appreciation for the United States' significant contribution and commitment to the advancement and protection of human rights throughout the world. It also noted with appreciation the United States' engagement with stakeholders in a comprehensive consultation process.

80. Japan praised the United States for its efforts to tackle human rights issues in the unique context of its multi-racial, multi-national and multi-religious society. Japan was concerned about the alleged use of excessive force by law enforcement officials, especially against Latino and African-American persons.

81. Canada welcomed reinvigorated United States efforts to enforce its Civil Rights Act of 1964, which prohibited discrimination based on race, colour, sex, national origin and religion. It recognized the anti-human-trafficking efforts of the United States. Canada noted with appreciation the active re-engagement in the Human Rights Council by the United States.

82. Germany asked how the United States was following up the recommendations of the treaty bodies on the ratification of CRC, Additional Protocols I and II to the Geneva Conventions and the Rome Statue of ICC. Germany noted that the United States did not have a national human rights institution.

83. Guatemala made recommendations.

84. Costa Rica acknowledged the United States' openness and commitment to the protection and promotion of the human rights of its people. Costa Rica noted with appreciation the constructive contribution of the United States in the formulation of international law and mechanisms. However, it noted the gap between the Government's ratification and contribution to international law.

85. The United States delegation responded to a number of questions and concerns regarding discrimination against Muslims, Arab Americans, and South Asians. The United States is committed to addressing negative stereotypes, discrimination and hate crimes through measures such as the creation of a 9/11 backlash taskforce, litigation to protect religious freedom including the right of school girls to wear the hijab, nationwide community outreach, and enforcement of employment discrimination laws. The United States is taking concrete measures to make border and aviation security measures more effective and targeted to eliminate profiling based on race, religion, or ethnicity.

86. Regarding online privacy, the United States recognized that new technologies like the Internet demand legitimate and effective law enforcement as well as protection of privacy, free expression, and the rule of law. Secretary Clinton was deeply committed to Internet Freedom at home and around the world, and to ensuring that the rights of free expression and association through the Internet were protected and defended.

87. Regarding questions related to economic, social and cultural rights, what Franklin Roosevelt described as "freedom from want," the United States has focused on democratic solutions and civil society initiatives while courts have defined constitutional obligations primarily by focusing on procedural rights to due process and equal protection of the law. As a matter of broader public policy, the United States is committed to help create a society in which prosperity is shared, including social benefits provided by law.

88. The United States is committed to working to pursue laws and policies that will build an economy and society that lifts up all Americans. The Government is taking on the structural inequalities that have too often held back some citizens. The United States is taking significant measures to ensure equal opportunities and access to areas including housing, education, and health care. The Government is actively responding to the foreclosure crisis by helping millions of families restructure or refinance their mortgages to avoid foreclosure. The United States has taken important measures to help lift up every child in every school in the country, particularly those most disadvantaged. Recent legislation allowed schools to invest in technology, teacher development, and other measures. In 2010, President Obama signed into law the Affordable Care Act, which is projected to expand health insurance to 32 million Americans who would otherwise lack coverage.

89. The United States is also committed to enforcing employment and labor laws to protect workers' rights, has revitalized its engagement with ILO, and is renewing work on ratification of ILO conventions.

90. In closing, the United States delegation expressed its deep appreciation to civil society – not only for helping in the preparation of its report and presentation, but also in continuing to push the government to do better. United States civil society has been invaluable to the United States' Universal Periodic Review, and commended to other states active engagement with civil society throughout the process.

91. It is a testament to the steady erosion of barriers of race, gender, sexual orientation, religion, disability, and ethnicity that United States delegation members of such diversity were present to speak for the United States today. The United States is proud of its record

of accomplishments, humbled by the recognition that more work remains, and remains committed to improvement and to continuing this dialogue going forward.

## **II. Conclusions and/or recommendations**

92. In the course of the discussion, the following recommendations were made to the United States of America:

92.1. Ratify without reservations the following conventions and protocols: CEDAW; the ICESCR; the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; the Statute of the International Criminal Court; those of the ILO; the United Nations Declaration on Indigenous Peoples, and all those from the Inter-American Human Rights System (Bolivarian Republic of Venezuela);

92.2. Continue the process to ratify CEDAW and adhere to the other human rights fundamental instruments, such as the Statute of Rome of the International Criminal Court, the Convention on the Rights of the Child, the Optional Protocol to the Convention against Torture and the International Convention for the Protection of all Persons against Enforced Disappearance (France);

92.3. Ratify, until the next universal periodic review, ICESCR, the Convention on the Rights of the Child, Protocols I and II of the Geneva Conventions of 12 August 1949, ILO Conventions no. 87 (on freedom of association) and no. 98 (on the right to collective bargaining) as well as withdraw the reservation made to article 4 of the International Convention on the Elimination of Racial Discrimination (Russian Federation);

92.4. Ratify ICESCR and its Optional Protocol; the first Optional Protocol to the International Covenant of Civil and Political Rights, CEDAW, the Convention on the Rights of the Child, the Optional Protocol to the Convention against Torture, the Convention on the Rights of Persons with Disabilities, the Convention for the Protection of All Persons from Enforced Disappearance (Spain);

92.5. Continue its efforts to realise universal human rights by a) ratifying CEDAW; b) becoming a party to the United Nations Convention on the Rights of the Child; c) acceding to ICESCR; d) ratifying the United Nations Convention on the Rights of Persons with Disabilities (Canada);

92.6. Ratify the core human rights treaties, particularly the CRC, ICESCR, CEDAW and its Optional Protocol, the OP-CAT and the CMW and the CRPD with its Optional Protocol (Sudan);

92.7. Ratify the ICESCR, CEDAW and the Convention of the Rights of the Child at an early stage together with other important human rights conventions (Japan);

92.8. Ratify CEDAW, ICESCR, and CRC in token of its commitment to their implementation worldwide, as well as become party to other international human rights conventions as referred to in the OHCHR report (Indonesia);

- 92.9. Ratify all core international instruments on human rights, in particular ICESCR, CEDAW, the Convention on the Rights of the Child (Viet Nam);
- 92.10. Consider ratifying ICESCR, CEDAW and CRC at the earliest (India);
- 92.11. Consider undertaking necessary steps leading to ratification of the parent/umbrella United Nations Convention on the Rights of the Child and CEDAW respectively (Malaysia);
- 92.12. Ratify ICESCR (Democratic People's Republic of Korea, Ghana); Become a party to the ICESCR (Australia);
- 92.13. Proceed with ratifying the CRPD and CRC (Qatar);
- 92.14. Ratify, and ensure implementation into domestic law of CEDAW and CRC (Turkey);
- 92.15. Ratify the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Haiti);
- 92.16. Endeavour to ratify international instruments that USA is not party, in particular among others the CRC, OP-CAT; CEDAW; and Rome Statute of the International Criminal Court (Costa Rica);
- 92.17. Ratify ICESCR, CEDAW, the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities and other core human rights treaties as soon as possible (China);
- 92.18. Ratify additional human rights treaties such as the ICESCR; the Convention of the Rights of the Child; the International Convention for the Protection of All Persons from Enforced Disappearances and the Convention on Rights of Persons with Disabilities in order to further strengthen their support to the United Nations Human Rights mechanisms (Netherlands);
- 92.19. Ratify the pending core international human rights instruments, in particular CRC, ICESCR, and its OP, CEDAW and its OP as well as CRPD, and others, and ensure their due translation into the domestic legislation and review existing ratifications with a view to withdraw all reservations and declarations (Slovakia);
- 92.20. Consider ratifying the treaties to which it is not a party, including the CEDAW, CRC, ICESCR, and CRPD (Republic of Korea);
- 92.21. Consider ratifying CEDAW, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities (Austria);
- 92.22. Consider prioritizing acquiescence to the Convention of the Rights of the Child, CEDAW, the ILO Convention No. 111 on Discrimination in Respect of Employment and Occupation so as to further strengthen its national framework for human rights, but also to assist in achieving their universality (Trinidad and Tobago);
- 92.23. Proceed with the ratification of Additional Protocols I and II of the Geneva Conventions of 1949, of the Convention on the Rights of the Child, of CEDAW as well as the Optional Protocol to the Convention against Torture (Cyprus);
- 92.24. Ratify at its earliest opportunity other core human rights instruments, particularly, those to which it is already a signatory, namely CEDAW,

**Convention on the Rights of the Child, ICESCR, and the Convention on the Rights of Persons with Disabilities (Thailand);**

**92.25. Ratify the ICESCR, CEDAW, CRC the CRPD, the Additional Protocol I and II (1977), to the Geneva Conventions, the ICC Statute, as well as the 1<sup>st</sup> and 2<sup>nd</sup> Protocol to the Hague Convention 1954 (Hungary);**

**92.26. Consider ratifying ILO Convention 100 on equal remuneration for men and women for work of equal value, and ILO Convention 111 on discrimination in employment and occupation (India);**

**92.27. Accede to ICESCR, the CRC and ILO convention No. 111 (Islamic Republic of Iran);**

**92.28. Consider ratifying the Rome Statute of the International Criminal Court and the Additional Protocols I and II of the Geneva Conventions (Austria);**

**92.29. Ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and observe international standards in this regard (Egypt);**

**92.30. Consider signing the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Turkey);**

**92.31. Accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Guatemala);**

**92.32. Complement its signature of ICESCR by ratifying it and recognizing the justiciability of these rights in its domestic legal systems (Egypt);**

**92.33. Swiftly ratify CEDAW (Finland); Ratify CEDAW (Democratic People's Republic of Korea, Ghana, Netherlands, New Zealand); Become a party to CEDAW (Australia);**

**92.34. Ratify the Convention on the Rights of the Child (Democratic People's Republic of Korea, New Zealand); Become a party to the Convention on the Rights of the Child (Australia);**

**92.35. Ratify the Convention on the Rights of Persons with Disabilities as a matter of priority (New Zealand); Become a party to the Convention on the Rights of Persons with Disabilities (Australia);**

**92.36. Proceed with the ratification process of the Rome Statute of the International Criminal Court at the earliest possible (Cyprus);**

**92.37. Ratify the 12 international human rights instruments to which it is not a party (Nicaragua);**

**92.38. Implement a program of ratification of all international human rights instruments, and then proceed to the incorporation of these in its internal legal system (Plurinational State of Bolivia);**

**92.39. Examine the possibility of ratifying the core human rights treaties to which the country is not yet a party and raising its reservations on those which it has ratified (Algeria);**

**92.40. Accede to international human rights instruments which is not yet acceded to (Libyan Arab Jamahiriya);**

- 92.41. Continue the process to ratify and implement into domestic law the several international human rights instruments that still wait for this formal acceptance (Holy See);
- 92.42. Accede to the universal core treaties on human rights and those of inter-American system, in particular the recognition of the jurisdiction of the Inter-American Court on Human Rights (Brazil);
- 92.43. Consider the signing, ratification or accession, as corresponds, of the main international and Inter-American human rights instruments, especially the Convention on the Rights of the Child (Uruguay);
- 92.44. Withdraw all reservations and declarations on the international instruments to which it is a party that undermine its obligations or the purpose of the treaty (Spain);
- 92.45. Withdraw reservations, denunciations, and interpretations of the Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture, that undermine their compliance, and accept their individual procedures (Bolivarian Republic of Venezuela);
- 92.46. Withdraw reservations to the Convention against Torture (Brazil);
- 92.47. Consider lifting reservations to a number of ICCPR articles (Indonesia);
- 92.48. Take the necessary measures to consider lifting the United States reservation to article 5, paragraph 6 of the International Covenant on Civil and Political Rights that bans the imposition of the death penalty for crimes committed by persons under 18 (France);
- 92.49. Consider the withdrawal of all reservations and declarations that undermine the objective and spirit of the human rights instruments, in particular reservation to article 6 paragraph 5 of the International Covenant on Civil and Political Rights that bans the imposition of the death penalty to those who committed a crime when they were minors (Uruguay);
- 92.50. Withdraw the reservation to article 6, paragraph 5 of the International Covenant of Civil and Political Rights and consider further to abolish the death penalty in all cases (Austria);
- 92.51. Comply with its international obligations for the effective mitigation of greenhouse gas emissions, because of their impact in climate change (Bolivarian Republic of Venezuela);
- 92.52. Ensure the implementation of its obligations under international humanitarian law vis-à-vis Palestinian people. (Islamic Republic of Iran);
- 92.53. Respect the ruling of the International Court of Justice of the Hague, of 27 June 1986, which orders the United States Government to compensate Nicaragua for the terrorist acts that the people of Nicaragua suffered on those years from the part of the American President Ronald Reagan (Nicaragua);
- 92.54. Take appropriate action to resolve the obstacles that prevent the full implementation of the *Avena* Judgment of the International Court of Justice and, until this occurs, avoid the execution of the individuals covered in said judgment (Mexico);



- 92.55. **Repeal the amendment which allows for slavery as a punishment (Bolivarian Republic of Venezuela);**
- 92.56. **Repeal the norms that limit freedom of expression and require journalists to reveal their sources, under penalty of imprisonment (Bolivarian Republic of Venezuela);**
- 92.57. **Abolish its extrajudicial and extraterritorial laws and refrain from the application of unilateral measures against other countries (Islamic Republic of Iran);**
- 92.58. **Make fully consistent all domestic anti-terrorism legislation and action with human rights standards (Islamic Republic of Iran);**
- 92.59. **Legislate appropriate regulations to prevent the violations of individual privacy, constant intrusion in and control of cyberspace as well as eavesdropping of communications, by its intelligence and security organizations (Islamic Republic of Iran);**
- 92.60. **Take effective legal steps to halt human rights violations by its military forces and private security firms in Afghanistan and other States (Islamic Republic of Iran);**
- 92.61. **Unconditionally abolish its extraterritorial legislation on human rights and other related matters against other countries including the ‘North Korea Human Rights Act’, as these legislations represent flagrant breach of their sovereignty and insulting violations of the dignity and the rights of the people (Democratic People’s Republic of Korea);**
- 92.62. **Review, reform and adequate its federal and state laws, in consultation with civil society, to comply with the protection of the right to non-discrimination established by the Convention on the Elimination of all Forms of Racial Discrimination, especially in the areas of employment, housing, health, education and justice (Plurinational State of Bolivia);**
- 92.63. **Modify the definition of the discrimination in the law to bring it in line with the ICERD and other international standards (China);**
- 92.64. **Review, with a view to their amendment and elimination, all laws and practices that discriminate against African, Arab and Muslim Americans, as well as migrants, in the administration of justice, including racial and religious profiling (Egypt);**
- 92.65. **Review its laws at the Federal and State levels with a view to bringing them in line with its international human rights obligations (Egypt);**
- 92.66. **Enact a federal crime of torture, consistent with the Convention, and also encompassing acts described as ‘enhanced interrogation techniques’ (Austria);**
- 92.67. **Take legislative and administrative measures to address a wide range of racial discrimination and inequalities in housing, employment and education (Democratic People’s Republic of Korea);**
- 92.68. **Take legislative and administrative measures to ban racial profiling in law enforcement (Democratic People’s Republic of Korea);**
- 92.69. **Take legislative and administrative measures to end defamation of religion (Democratic People’s Republic of Korea);**

- 92.70. Take appropriate legislative and practical measures to improve living conditions through its prisons systems, in particular with regard to access to health care and education (Austria);
- 92.71. Consider raising to 18 years the minimum age for the voluntary recruitment to the armed forces, and explicitly define as a crime the violation of the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Uruguay);
- 92.72. Establish a national human rights institution, in accordance with the Paris Principles (Egypt, Germany, Ghana, Sudan, Bolivarian Republic of Venezuela);
- 92.73. Implement recommendations of the United Nations human rights bodies concerning the establishment of an independent national human rights institute in line with the Paris Principles (Russian Federation); Taking necessary steps to establish an independent national human rights institution, in accordance with Paris Principles, in order to strengthen human rights at federal and state level in addition to the local level. (Qatar); Establish an independent national human rights institution in accordance with Paris Principles, to monitor compliance with international standards and to ensure coordination in implementing its human rights obligations between federal, state and local governments (Republic of Korea); Establishment of an independent national human rights institution compliant with Paris Principles at federal level with appropriate affiliated structures at state level (Ireland);
- 92.74. That a human rights institution at the federal level be considered in order to ensure implementation of human rights in all states (Norway);
- 92.75. End the blockade against Cuba<sup>2</sup> (Cuba); Put an end to the infamous blockade against Cuba (Bolivarian Republic of Venezuela); Lift the economic, financial and commercial blockade against Cuba, which affects the enjoyment of the human rights of more than 11 million people (Plurinational State of Bolivia);
- 92.76. Lift the infamous economic, commercial and financial blockade as well as liberate immediately the five Cubans held in prison for 12 years (Nicaragua);
- 92.77. Put an end to the economic financial and commercial embargo against Cuba and Sudan (Sudan);
- 92.78. Unconditionally lift its measures of economic embargoes and sanctions unilaterally and coercively imposed upon other countries, as these measures are inflicting severe and negative impact on the human rights of the peoples (Democratic People's Republic of Korea);
- 92.79. Attempt to restrain any state initiative which approaches immigration issues in a repressive way towards the migrant community and that violates its rights by applying racial profiling, criminalizing undocumented immigration and violating the human and civil rights of persons (Guatemala);

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<sup>2</sup> The original recommendation as read during the interactive dialogue: "End the blockade against Cuba, which qualifies as the crime of genocide and which seriously violates the human rights of the Cuban people, as well as fundamental freedoms of American and third states citizens."

- 92.80. Spare no efforts to constantly evaluate the enforcement of the immigration federal legislation, with a vision of promoting and protecting human rights (Guatemala);
- 92.81. Take the necessary measures in favor of the right to work and fair conditions of work so that workers belonging to minorities, in particular women and undocumented migrant workers, do not become victims of discriminatory treatment and abuse in the work place and enjoy the full protection of the labour legislation, regardless of their migratory status (Guatemala);
- 92.82. Adopt a fair immigration policy, and cease xenophobia, racism and intolerance to ethnic, religious and migrant minorities (Bolivarian Republic of Venezuela);
- 92.83. Implement concrete measures consistent with the Covenant on Civil and Political Rights, to ensure the participation of indigenous peoples in the decisions affecting their natural environment, measures of subsistence, culture and spiritual practices (Plurinational State of Bolivia);
- 92.84. Include and rank the human rights situation in the United States in the United States Annual Country Reports on Human Rights as was done for the annual report on trafficking of persons (Algeria);
- 92.85. Formulate goals and policy guidelines for the promotion of the rights of indigenous peoples and cooperation between government and indigenous peoples (Finland);
- 92.86. Undertake awareness-raising campaigns for combating stereotypes and violence against gays, lesbians, bisexuals and transsexuals, and ensure access to public services paying attention to the special vulnerability of sexual workers to violence and human rights abuses (Uruguay);
- 92.87. Incorporate human rights training and education strategies in their public policies (Costa Rica);
- 92.88. Invite United Nations Special Rapporteurs to visit and investigate Guantanamo Bay prison and United States secret prisons and to subsequently close them (Islamic Republic of Iran);
- 92.89. Consider the possibility of inviting relevant mandate holders as follow-up to the 2006 joint-study by the 5 special procedures, in view of the decision of the current Administration to close the Guantanamo Bay detention facility (Malaysia);
- 92.90. Respond and follow-up appropriately the recommendations formulated to the United States by the Special Rapporteur for the Protection of Human Rights and Fundamental Freedoms while Countering Terrorism (Mexico);
- 92.91. Accept individual applications procedures provided for in human rights instruments (Denmark);
- 92.92. In view of its positive cooperation with special procedures of the Human Rights Council, extend an open standing invitation to these procedures (Costa Rica); Issue a standing invitation to the Special Procedures of the Human Rights Council (Austria); Issue an open and standing invitation to the Special Procedures (Spain); Extend a standing invitation to all special procedures (Netherlands);

- 92.93. Consider extending a standing invitation to special procedures (Cyprus); (Denmark); (Republic of Korea);
- 92.94. End the discrimination against persons of African descent (Cuba);
- 92.95. Undertake studies to determine the factors of racial disparity in the application of the death penalty, to prepare effective strategies aimed at ending possible discriminatory practices (France);
- 92.96. Take appropriate legislative and practical measures to prevent racial bias in the criminal justice system (Austria);
- 92.97. Review the minimum mandatory sentences in order to assess their disproportionate impact on the racial and ethnic minorities (Haiti);
- 92.98. Devise specific programs aimed at countering growing Islamophobic and xenophobic trends in society (Egypt);
- 92.99. Eliminate discrimination against migrants and religious and ethnic minorities and ensure equal opportunity for enjoyment of their economic, social and cultural rights (Bangladesh);
- 92.100. End all forms of racial discrimination in terms of housing, education, health care, social security and labor (Libyan Arab Jamahiriya);
- 92.101. Ban, at the federal and state levels, the use of racial profiling by police and immigration officers (Plurinational State of Bolivia); Prohibit expressly the use of racial profiling in the enforcement of immigration legislation (Mexico);
- 92.102. Revoke the national system to register the entry and exit of citizens of 25 countries from the Middle-East, South Asia and North Africa, and eliminate racial and other forms of profiling and stereotyping of Arabs, Muslims and South Asians as recommended by CERD. (Sudan);
- 92.103. Ensure the prosecution and punishment, according to the law, of those responsible of racial hate and xenophobic criminal acts, as well as guarantee a fair compensation to the victims, such as the case of the Ecuadoreans Marcelo Lucero and Jose Sucuzhañay, murdered in the United States (Ecuador);
- 92.104. Make further efforts in order to eliminate all forms of discrimination and the abuse of authority by police officers against migrants and foreigners, especially the community of Vietnamese origin people in the United States (Viet Nam);
- 92.105. Avoid the criminalization of migrants and ensure the end of police brutality, through human rights training and awareness-raising campaigns, especially to eliminate stereotypes and guarantee that the incidents of excessive use of force be investigated and the perpetrators prosecuted (Uruguay);
- 92.106. Take administrative and legal measures against perpetrators of racially motivated acts, targeting migrants and minority communities (Bangladesh);
- 92.107. Adopt effective measures and an anti-discrimination Act to address racial problems (Ghana);
- 92.108. Prohibit and punish the use of racial profiling in all programs that enable local authorities with the enforcement of immigration legislation and provide effective and accessible recourse to remedy human rights violations occurred under these programs (Mexico);

- 92.109. **Promote equal socio-economic as well as educational opportunities for all both in law and in fact, regardless of their ethnicity, race, religion, national origin, gender or disability (Thailand);**
- 92.110. **Repeal and do not enforce discriminatory and racial laws such as Law SB 1070 of the State of Arizona (Ecuador);**
- 92.111. **Adopt a comprehensive national work-plan to combat racial discrimination (Qatar);**
- 92.112. **Take measures to comprehensively address discrimination against individuals on the basis of their sexual orientation or gender identity (Australia);**
- 92.113. **That further measures be taken in the areas of economic and social rights for women and minorities, including providing equal access to decent work and reducing the number of homeless people (Norway);**
- 92.114. **Increase its efforts to effectively guarantee human rights of persons with disabilities, while welcoming the signing of the Convention and urging their prompt implementation (Costa Rica);**
- 92.115. **Consider taking further action to better ensure gender equality at work (Finland);**
- 92.116. **Continue its intense efforts to undertake all necessary measures to ensure fair and equal treatment of all persons, without regard to sex, race, religion, colour, creed, sexual orientation, gender identity or disability, and encourage further steps in this regard (Israel);**
- 92.117. **Respect the Cuban people's right to self-determination and cease its actions of interference and hostility against Cuba (Cuba);**
- 92.118. **A national moratorium on the death penalty is introduced with a view to completely abolish the penalty and, before such a moratorium is introduced, to take all necessary measures to ensure that any use of the death penalty complies with minimum standards under international law relating to the death penalty such as under article 6 and 14 of the International Covenant on Civil and Political Rights (Sweden);**
- 92.119. **Consider the possibility of announcing moratorium on the use of the death penalty (Russian Federation);**
- 92.120. **Establish a moratorium on the use of the death penalty at the federal and state level as a first step towards abolition (United Kingdom); Establish a moratorium on executions on the entire American territory, with a view to a definitive abolition of the death penalty (Belgium); Establish, at all levels, a moratorium on executions with a view to completely abolish the death penalty (Switzerland); Adopt a moratorium on the use of the death penalty with a view to abolishing capital punishment in federal and national legislations (Italy); Establish a moratorium to the death penalty with a view to its abolition (Uruguay); Impose a moratorium on executions with a view to abolishing the death penalty nationwide (New Zealand); Work towards a moratorium on executions with the view to abolishing the death penalty, in conformity with General Assembly resolution 62/149, adopted on 18 December 2007 (Netherlands);**

- 92.121. **Take all necessary measures in order to impose a moratorium on the use of the death penalty, with a view to abolishing it both at the federal and State levels (Cyprus);**
- 92.122. **Abolish the death penalty and in any event, establish a moratorium as an interim measure towards full abolition (Australia); Abolish capital punishment and, as a first step on that road, introduce as soon as practicable a moratorium on the execution of death sentences (Hungary); That steps be taken to set federal and state-level moratoria on executions with a view to abolish the death penalty nationwide (Norway);**
- 92.123. **Impose a nationwide moratorium on executions and commute existing death sentences to imprisonment term with a view to abolish the capital punishment entirely (Slovakia);**
- 92.124. **Consider abolishing death penalty (Turkey);**
- 92.125. **Abolish the death penalty (Germany);**
- 92.126. **Implement at the federal level a moratorium on executions (France);**
- 92.127. **Begin a process leading to the ending of the death penalty punishment (Ireland); Pursuing the process to abolishing the death penalty (Holy See);**
- 92.128. **Abolish as soon as possible the death penalty in the 35 Federal States where this brutal practice is authorized (Nicaragua);**
- 92.129. **Study the possibility for the Federal Government of campaigning in favour of applying the United Nations Moratorium on the death penalty (Algeria);**
- 92.130. **Establish a de jure moratorium of the death penalty at the federal level and in the military justice, in view of its abolition and as an example for the States that still retain it (Spain);**
- 92.131. **That, until a moratorium is applied, steps be taken to restrict the number of offences carrying the death penalty (Denmark);**
- 92.132. **A review of federal and state legislation with a view to restricting the number of offences carrying the death penalty (Norway);**
- 92.133. **Abolish the death penalty, which is also applied to persons with mental disabilities and commute those which have already been imposed (Bolivarian Republic of Venezuela);**
- 92.134. **End the prosecution and execution of mentally-ill persons and minors; (Cuba);**
- 92.135. **Extend the exclusion of death penalty to all crimes committed by persons with mental illness (Ireland);**
- 92.136. **Take legal and administrative measures to address civilian killings by the US military troops during and after its invasion of Afghanistan and Iraq by investigating and bringing perpetrators to justice and remedying the victims and to close its detention facilities in foreign territories like Guantanamo, including CIA secret camps (Democratic People's Republic of Korea);**
- 92.137. **Prosecute the perpetrators of tortures, extrajudicial executions and other serious violations of human rights committed in Guantanamo, Abu Ghraib, Bagram, the NAMA and BALAD camps, and those carried out by the Joint Special Operations Command and the CIA (Cuba);**

- 92.138. Heed the call of the High Commissioner to launch credible independent investigations into all reliable allegations made to date of violations of international human rights law committed by American forces in Iraq, including extrajudicial killings, summary executions, and other abuses (Egypt);
- 92.139. That measures be taken to eradicate all forms of torture and ill-treatment of detainees by military or civilian personnel, in any territory of jurisdiction, and that any such acts be thoroughly investigated (Norway);
- 92.140. Stop the war crimes committed by its troops abroad, including the killings of innocent civilians and prosecute those who are responsible (Cuba);
- 92.141. Halt immediately the unjustified arms race and bring to justice those responsible for all war crimes and massacres against unarmed civilians, women, children as well as acts of torture carried-out in prisons such as Abu Ghraib, Bagram and Guantanamo (Nicaragua);
- 92.142. Halt selective assassinations committed by contractors, and the privatization of conflicts with the use of private military companies (Bolivarian Republic of Venezuela);
- 92.143. End the use of military technology and weaponry that have proven to be indiscriminate and cause excessive and disproportionate damage to civilian life (Egypt);
- 92.144. Increases its efforts to eliminate alleged brutality and use of excessive force by law enforcement officials against, inter alia, Latino and African American persons and undocumented migrants, and to ensure that relevant allegations are investigated and that perpetrators are prosecuted (Cyprus);
- 92.145. Guarantee the complete prohibition of torture in all prisons under its control (Islamic Republic of Iran);
- 92.146. Define torture as a federal offense in line with the Convention against Torture and investigate, prosecute and punish those responsible of crimes of extraterritorial torture (Plurinational State of Bolivia);
- 92.147. Conduct thorough and objective investigation of facts concerning use of torture against imprisoned persons in the secret prisons of United States of America and detainees of the detention centres in Bagram and Guantanamo, bring those who are responsible for these violations to justice, and undertake all necessary measures to provide redress to those whose rights were violated, including payment of necessary compensation (Russian Federation);
- 92.148. Take measures to ensure reparation to victims of acts of torture committed under United States' control and allow access to the International Committee of the Red Cross to detention facilities under the control of the United States (Brazil);
- 92.149. Observe the Amnesty International 12 points program to prevent torture perpetrated by government agents (Ecuador);
- 92.150. Take measures with a view to prohibiting and punishing the brutality and the use of excessive or deadly force by the law enforcement officials and to banning torture and other ill-treatment in its detention facilities at home and abroad (Democratic People's Republic of Korea);

- 92.151. Strengthen oversight with a view to ending excessive use of force by law enforcement bodies, particularly when it is directed to the racial minorities and bring those responsible for violation of laws to justice (China);
- 92.152. Prevent and repress the illegitimate use of violence against detainees (Belgium);
- 92.153. Release the five Cuban political prisoners – arbitrarily detained, as acknowledged by the Working Group on Arbitrary Detentions in its Opinion No. 19/2005, serving unjust sentences that resulted from a politically manipulated trial in open disregard for the rules of due process (Cuba);
- 92.154. End the unjust incarceration of political prisoners, including Leonard Peltier and Mumia Abu-Jamal (Cuba);
- 92.155. Close Guantanamo and secret centers of detention in the world, punish agents that torture, disappear and execute persons who have been arbitrarily detained, and compensate victims (Bolivarian Republic of Venezuela);
- 92.156. Expedite efforts aimed at closing the detention facility at Guantanamo Bay and ensure that all remaining detainees are tried, without delay, in accordance with the relevant international standards (Egypt); Proceed with the closure of Guantanamo at the earliest possible date and bring to trial promptly in accordance with the applicable rules of international law the detainees held there or release them (Ireland);
- 92.157. Quickly close down Guantanamo prison and follow the provision of the United Nations Charter and the Security Council Resolution by expatriating the terrorist suspect to their country of origin (China);
- 92.158. The closure of Guantanamo prison as the detention conditions violate the UDHR and ICCPR and the European Convention on Human Rights (ECHR) and all other related human rights instruments (Sudan);
- 92.159. Close without any delay all detention facilities at the Guantanamo Bay as President Barack Obama has promised (Viet Nam);
- 92.160. Find for all persons still detained in the Guantanamo Bay detention center a solution in line with the United States obligations regarding the foundations of international and human rights law, in particular with the International Covenant on Civil and Political Rights (Switzerland);
- 92.161. Halt all transfer detainees to third countries unless there are adequate safeguards to ensure that they will be treated in accordance with international law requirements (Ireland);
- 92.162. Redouble its efforts to address sexual violence in correction and detention facilities as well as to address the problem of prison conditions, with a view to preserving the rights and dignity of all those deprived of their liberty (Thailand);
- 92.163. Reduce overcrowding in prisons by enlarging existing facilities or building new ones and/or making more use of alternative penalties (Belgium);
- 92.164. Ensure that detention centers for migrants and the treatment they receive meet the basic conditions and universal human rights law (Guatemala);
- 92.165. Further foster its measures in relation to migrant women and foreign adopted children that are exposed to domestic violence (Republic of Moldova);



- 92.166. **Take effective measures to put an end to gross human rights abuses including violence against women, committed for decades by the United States military personnel stationed in foreign bases (Democratic People's Republic of Korea);**
- 92.167. **Take effective steps to put an end to child prostitution, and effectively combat violence against women and gun violence (Islamic Republic of Iran);**
- 92.168. **Define, prohibit and punish the trafficking of persons and child prostitution (Bolivarian Republic of Venezuela);**
- 92.169. **Insist more on measures aiming to combat the demand and provide information and services to victims of trafficking (Republic of Moldova);**
- 92.170. **Guarantee civilians to be tried by their natural judge and not by military commissions (Bolivarian Republic of Venezuela);**
- 92.171. **Prosecute or extradite for trial Luis Posada Carriles and dozens of other well-known terrorists living in impunity in the United States<sup>3</sup> (Cuba);**
- 92.172. **Extradite the confessed terrorist Luis Posada Carriles (Bolivarian Republic of Venezuela);**
- 92.173. **Comply with the principles of international cooperation, as defined in Resolution 3074 of the General Assembly, for the extradition of persons accused of crimes against humanity and proceed to extradite former Bolivian authorities that are legally accused of such crimes, in order to be brought to trial in their country of origin (Plurinational State of Bolivia);**
- 92.174. **Make those responsible for gross violations of human rights in American prisons and prisons under the jurisdiction of America outside its territory accountable, compensate victims and provide them with remedies (Libyan Arab Jamahiriya);**
- 92.175. **Put on trial its gross violators of human rights and its war criminals and accede to ICC (Islamic Republic of Iran);**
- 92.176. **Respect the human rights of prisoners of war, guaranteed by the penal norms (Nicaragua);**
- 92.177. **Ensure the full enjoyment of human rights by persons deprived of their liberty, including by way of ensuring treatment in maximum security prisons in conformity with international law (Sweden);**
- 92.178. **Ensure the enjoyment of the right to vote both by persons deprived of their liberty and of persons who have completed their prison sentences (Sweden);**
- 92.179. **Review of alternative ways to handle petty crime and of measures to improve the situation of inmates in prisons (Algeria);**
- 92.180. **Incorporate in its legal system the possibility of granting parole to offenders under 18 sentenced to life imprisonment for murder (Switzerland); Renounce to life in prison without parole sentences for minors at the moment of**

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<sup>3</sup> The original recommendation as read during the interactive dialogue: "Prosecute or extradite for trial Luis Posada Carriles and dozens of other well-known terrorists living in impunity in the United States, who are responsible for the deaths of more than 3,000 Cubans and for causing disabilities to over 2,000."

the actions for which they were charged and introduce for those who have already been sentenced in these circumstances the possibility of a remission (Belgium); Prohibit sentencing of juvenile offenders under the age of 18 without the possibility of parole at the federal and state level (Austria); Cease application of life imprisonment without parole for juvenile offenders and to review all existing sentences to provide for a possibility of parole (Slovakia);

92.181. Enact legislation to ensure that imprisonment is only used as a last resort when sentencing all juvenile offenders and provide systematic re-socialisation support (Austria);

92.182. Incarcerate immigrants only exceptionally (Switzerland);

92.183. Investigate carefully each case of immigrants' incarceration (Switzerland);

92.184. Adapt the detention conditions of immigrants in line with international human rights law (Switzerland);

92.185. Ensure that migrants in detention, subject to a process of expulsion are entitled to counsel, a fair trial and fully understand their rights, even in their own language (Guatemala);

92.186. Ensure the right to habeas corpus in all cases of detention (Austria);

92.187. Guarantee the right to privacy and stop spying on its citizens without judicial authorization (Bolivarian Republic of Venezuela);

92.188. Adopt a set of legislative and administrative measures aimed at ensuring prohibition of the use by state and local authorities of modern technology for excessive and unjustified intervention in citizens' private life (Russian Federation);

92.189. Consider discontinuing measures that curtail human rights and fundamental freedoms (Bangladesh);

92.190. Take effective measures to counter insults against Islam and Holy Quran, as well as Islamophobia and violence against Moslems, and adopt necessary legislation (Islamic Republic of Iran);

92.191. Continue to create an enabling climate for religious and cultural tolerance and understanding at the grass roots level (Indonesia);

92.192. Recognize the right to association as established by ILO, for migrant, agricultural workers and domestic workers (Plurinational State of Bolivia);

92.193. Prevent slavery of agriculture workers, in particular children and women (Bolivarian Republic of Venezuela);

92.194. Decree maternity leave as mandatory (Bolivarian Republic of Venezuela);

92.195. Ensure the realization of the rights to food and health of all who live in its territory (Cuba);

92.196. Expand its social protection coverage (Brazil);

92.197. Continue its efforts in the domain of access to housing, vital for the realization of several other rights, in order to meet the needs for adequate housing at an affordable price for all segments of the American society (Morocco);

- 92.198. Reinforce the broad range of safeguards in favour of the most vulnerable groups such as persons with disabilities and the homeless to allow them the full enjoyment of their rights and dignity (Morocco);
- 92.199. End the violation of the rights of indigenous peoples (Cuba);
- 92.200. Guarantee the rights of indigenous Americans, and to fully implement the United Nations Declaration on the Rights of Indigenous Peoples (Islamic Republic of Iran);
- 92.201. Recognize the United Nations Declaration on the Rights of Indigenous Peoples without conditions or reservations, and implement it at the federal and state levels (Plurinational State of Bolivia);
- 92.202. Adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples (Libyan Arab Jamahiriya);
- 92.203. Endorse the United Nations Declaration on the Rights of Indigenous Peoples when completing its national review process (Finland);
- 92.204. That the United Nations Declaration on the Rights of Indigenous People be used as a guide to interpret the State obligations under the Convention relating to indigenous peoples (Ghana);
- 92.205. Continue its forward movement on the Declaration of the Rights of Indigenous Peoples (New Zealand);
- 92.206. Guarantee the full enjoyment of the rights on natives of America in line with the United Nations Declaration on the Rights of Indigenous Peoples (Nicaragua);
- 92.207. End violence and discrimination against migrants (Cuba);
- 92.208. Prohibit, prevent and punish the use of lethal force in carrying out immigration control activities (Mexico);
- 92.209. Guarantee the prohibition of use of cruelty and excessive or fatal force by law enforcement officials against people of Latin American or African origin as well as illegal migrants and to investigate such cases of excessive use of force (Sudan);
- 92.210. Protect the human rights of migrants, regardless of their migratory status (Ecuador);
- 92.211. Reconsider restrictions on undocumented migrants' access to publicly supported healthcare (Brazil);
- 92.212. Reconsider alternatives to the detention of migrants (Brazil);
- 92.213. Ensure access of migrants to consular assistance (Brazil);
- 92.214. Make greater efforts to guarantee the access of migrants to basic services, regardless of their migratory status (Uruguay);
- 92.215. Put an end to its actions against the realization of the rights of peoples to a healthy environment, peace, development and self-determination (Cuba);
- 92.216. Raise the level of official development assistance to achieve the United Nations target of 0.7 percent of GDP and allow duty free-quota-free access to all products of all LDCs (Bangladesh);

- 92.217. **Halt serious violations of human rights and humanitarian law-including covert external operations by the CIA, carried out on the pretext of combating terrorism (Islamic Republic of Iran);**
- 92.218. **Do not prosecute those arrested for terrorist crimes or any other crime in exceptional tribunals or jurisdictions, but bring them to judicial instances legally established, with the protection of due process and under all the guarantees of the American Constitution (Ecuador);**
- 92.219. **Enact a national legislation that prohibits religious, racial and colour profiling particularly in context of the fight against terrorism (Qatar);**
- 92.220. **Smarten security checks so as to take into account the frequent homonymy specific to Moslem names so as to avoid involuntary discrimination against innocent people with such names because of namesakes listed as members of terrorist groups (Algeria);**
- 92.221. **Take positive steps in regard to climate change, by assuming the responsibilities arising from capitalism that have generated major natural disasters particularly in the most impoverished countries (Nicaragua);**
- 92.222. **Implement the necessary reforms to reduce their greenhouse gas emissions and cooperate with the international community to mitigate threats against human rights resulting from climate change (Plurinational State of Bolivia);**
- 92.223. **Inform Foreign Missions regularly of efforts to ensure compliance with consular notification and access for foreign nationals in United States custody at all levels of law enforcement (United Kingdom);**
- 92.224. **Abandon the State Department practice of qualifying other States according to its interpretation of human rights and contribute to the strengthening and effectiveness of the Universal Periodic Review as a fair and appropriate mechanism of the international community to evaluate the situation of human rights between States (Ecuador);**
- 92.225. **Continue consultations with non-governmental organisations and civil society in the follow up (Austria);**
- 92.226. **Persevere in the strengthening of its aid to development, considered as fundamental, in particular the assistance and relief in case of natural disasters (Morocco);**
- 92.227. **That the model legal framework expressed by the Leahy Laws be applied with respect to all countries receiving US's security assistance, and that the human rights records of all units receiving such assistance be documented, evaluated, made available and followed up upon in cases of abuse (Norway);**
- 92.228. **The removal of blanket abortion restrictions on humanitarian aid covering medical care given women and girls who are raped and impregnated in situations of armed conflict (Norway);**
93. **The response of the United States of America to these recommendations will be included in the outcome report adopted by the Council at its sixteenth session.**
94. **All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.**

## Annex

### Composition of the delegation

The delegation of the United States of America was headed jointly by the Honourable Esther Brimmer, Assistant Secretary, Bureau of International Organizations, Department of State; the Honourable Harold Hongju Koh, Legal Adviser, Office of the Legal Adviser, Department of State; and the Honourable Michael Posner, Assistant Secretary, Democracy, Human Rights, and Labor, Department of State and was composed of the following members:

#### Advisers

- Ambassador Eileen Chamberlain Donahoe, United States Representative to the Human Rights Council;
- Honourable Larry Echo Hawk, Assistant Secretary Bureau of Indian Affairs Department of the Interior;
- Honourable Hilary Chandler Tompkins, Solicitor Department of the Interior;
- Honourable Ivan Fong, General Counsel Department of Homeland Security;
- Evelyn Mary Aswad, Assistant Legal Adviser for Human Rights and Refugees Office of the Legal Adviser Department of State;
- Daniel B. Baer, Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labour Department of State;
- Samuel R. Bagenstos, Principal Deputy Assistant Attorney General for Civil Rights Department of Justice;
- Joan Barrett, International Relations Officer, Department of Labor;
- Sarah Cleveland, Counsellor to the Legal Adviser, Office of the Legal Adviser Department of State;
- Todd Cox, Director, Communications and Legislative Affairs, Equal Employment Opportunity Commission
- Laura de la Rambilje, Foreign Affairs Officer Bureau of Democracy, Human Rights and Labor Department of State;
- Robert K. Harris, UPR Coordinator, Office of the Legal Adviser, Department of State;
- Tara Jones, Director, External Affairs, Office of Detainee Policy Department of Defense;
- Brian Douglas Kelliher, Assistant General Counsel Immigration Law Division Office of General Counsel, Department of Homeland Security;
- Joanne Levine, Senior Adviser, Bureau of International Organization Affairs Department of State;
- William Lietzau, Deputy Assistant Secretary of Defense for Detainee Policy Department of Defense;
- Jonathan Morgenstein, Global Strategic Fellow, Rule of Law and International Humanitarian Policy Department of Defense;

- Suzanne Nossel, Deputy Assistant Secretary, Bureau of International Organization Affairs Department of State;
- Karen Lynn Stevens Pierce, Acting Chief, Policy and Strategy Section, Civil Rights Division; Department of Justice;
- Catherine Powell, Policy Planning Staff Member, Office of Policy Planning Department of State;
- Phillip Rosenfelt, Deputy General Counsel for Program Services Department of Education;
- Margo Schlanger, Officer for Civil Rights and Civil Liberties Department of Homeland Security;
- Robert Trent Shores, Assistant United States Attorney, Northern District of Oklahoma, Department of Justice;
- David Bryan Sullivan, Attorney-Adviser, Office of the Legal Adviser Department of State;
- Gaye Lisa Tenoso, Deputy Director, Office of Tribal Justice Department of Justice;
- Georgina Verdugo, Director Office for Civil Rights, Department of Health and Human Services;
- Tina Mary Thomas, Paralegal Specialist, Office of the Legal Adviser Department of State;
- Eric Bruce Wilson, Senior Program Analyst, Indian Affairs, Department of the Interior
- Tseming Yang, Deputy General Counsel, Environmental Protection Agency;

Private Sector Advisers

- Zainab Al-Suwaij, Executive Director, American Islamic Conference;
- David Morrissey, Executive Director, United States International Council on Disabilities;
- Robin Toma, Executive Director, Los Angeles County Commission on Human Relations.

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