

ADVANCE QUESTIONS TO UNITED STATES OF AMERICA – Add.1

BOLIVIA

- En el párrafo 31 de su Informe Nacional, se reconoce la falta de equidad e igualdad entre afroamericanos e hispanos en comparación a los denominados “blancos”. Afirman que están procurando que la igualdad de oportunidades sea una experiencia real para todos. Podría explicar ¿Qué medidas efectivas ha tomado EEUU para revisar las normas y prácticas que en efecto han creado las disparidades en el acceso al empleo, a la educación, a la vivienda, a la salud, y a la justicia y qué medidas pretende tomar para eliminar las persistentes disparidades expuestas en estas cinco áreas?
- En el párrafo 38 de su Informe Nacional, se admite la existencia de promesas incumplidas en la relación del Gobierno federal con los Pueblos Indígenas de Alaska y se reconoce la necesidad de un cambio urgente, observando que el índice de desempleo en algunas comunidades indígenas alcanza el 80% y que al menos la cuarta parte de indígenas estadounidenses viven en condiciones de pobreza. Podría explicar ¿Qué medidas concretas ha tomado el Gobierno federal para garantizar el respeto de las tierras ancestrales indígenas por parte de industrias extractivas? y ¿qué medidas existen para asegurar la participación de los pueblos indígenas en la toma de decisiones que afecten su ambiente natural, sus medios de subsistencia y su cultura?
- En el párrafo 50 de su Informe Nacional, se reconoce que “la utilización de perfiles raciales o étnicos no es eficaz para aplicar la ley”, ni coherente con su sistema judicial. Podría explicar ¿Qué medidas concretas tiene en pie para vigilar /monitorear que todas las fuerzas de seguridad a nivel estatal y federal no utilicen los perfiles raciales o étnicos? y de ser así, ¿cuáles son los avances que han logrado? ¿Qué medidas están tomando los Estados y el Gobierno Federal de los Estados Unidos para prevenir la proliferación de leyes migratorias que dan lugar a esta “perfilación racial”, tal como la recién aprobada en el Estado de Arizona?
- En el párrafo 23 de su Informe Nacional se anuncia que en la actualidad, hay varios proyectos de ley ante el Congreso cuyo objetivo es fortalecer los derechos de los trabajadores, garantizando que puedan seguir asociándose libremente, sindicándose y negociando colectivamente. Podría explicar ¿Qué medidas concretas ha tomado su Gobierno para que el Acta Nacional de Relaciones Laborales (National Labor Relations Act - NLRA) y el Acta de Estándares de Trabajo Justo (Fair Labor Standards Act - FLSA) deje de excluir a trabajadoras domésticas y trabajadores agrícolas?
- En el párrafo 58, dicen estar empeñados en proteger los derechos de las personas encarceladas. Luego en párrafos 83, 84, 85 y 87 mencionan órdenes presidenciales al respecto que incluyen la referencia a Guantánamo y centros de detención en otros países. Podría indicarnos si ¿efectivamente se han cerrado todos los centros de detención en otros países dirigidos por la Agencia Central de Inteligencia en cumplimiento de tales órdenes presidenciales? ¿Qué

medidas concretas han tomado para sancionar a los responsables de torturas y otros ultrajes a la dignidad de las personas detenidas o bajo el control efectivo del Gobierno de los Estados Unidos en Guantánamo y otros centros de detención en otros países? Podría además indicar ¿qué mecanismos de compensación por detenciones injustificadas piensan implementar?

- En el párrafo 80, afirman como una verdad fundamental de su Constitución el que todas las personas fueron creadas iguales y poseen derechos inalienables y que esto además es una verdad universal. En el párrafo 96, su informe nacional indica que su Presidente sigue plenamente decidido a reparar los fallos de su sistema de inmigración y que su Gobierno seguirá trabajando con el Congreso y las comunidades afectadas hacia ello. Podría explicar ¿Qué medidas concretas ha tomado su Gobierno para prohibir legislación a nivel federal y estatal que discrimine el goce de derechos laborales y de empleo según status migratorio? y ¿Qué medidas concretas ha tomado su Gobierno para investigar y sancionar individuos involucrados en el reclutamiento de “trabajadores invitados” (guestworkers visa H2a y H2b) a situaciones de trabajo forzoso, y formas contemporáneas de esclavitud, o que se han beneficiado del mismo?
- En el Informe de Recopilación preparado por la Oficina del Alto Comisionado para los Derechos Humanos, se hace notar que a Estados Unidos le falta ratificar 12 Instrumentos Internacionales de Derechos Humanos. ¿Qué medidas está tomando su gobierno para la respectiva ratificación de dichos instrumentos?

NETHERLANDS

- **Ratification of human rights instruments/ CEDAW**

In reference to paragraph 37 of the national report, The Netherlands welcomes the first White House Advisor on Violence Against Women, the appointment of two women to the U.S. Supreme Court and the unprecedented position of Ambassador-at-large for Global Women’s Issues. In reference to the same paragraph, the Netherlands also welcomes the fact that the Obama Administration strongly supports U.S. ratification of the Convention on the Elimination of all forms of Discrimination against Women and is working with the Senate towards this end. Could the government of the U.S. elaborate on the specific steps that have been taken to prepare the ratification process? Can the U.S. Government commit to offer CEDAW for advice and consent to the U.S. Senate before the next presidential elections? And could the U.S. Government also commit to bringing the Convention on the Rights of the Child up for ratification, within the same timeframe?

- **Death penalty**

Paragraph 61, 62 and 63 of the national report states that the death penalty is authorized by 35 states, the federal government and the U.S. military. However, paragraph 63 also states that there are currently 16 jurisdictions without the death penalty. Would the U.S. Government consider abolishing or declaring a

moratorium on the death penalty within the federal and military jurisdictions? If negative, could the U.S. government elaborate on the challenges?

- **Standing invitation special procedures**

The national report submitted by the United States of America ends with paragraph 100, stating that the United States views participation in this UPR process as an opportunity to discuss with fellow members of the Human Rights Council their accomplishments, challenges and vision for the future of human rights. In addition, paragraph 16 of OHCHR compilation states that the U.S. has received many visits or mission reports by special rapporteurs (e.g. working group of experts on African descent in January 2010). Taking this two paragraphs into account, the Netherlands would like to ask whether the U.S. Government is considering extending a standing invitation to special procedures (special rapporteurs, independent experts and treaty bodies) for work visits to the United States? If positive, when? If negative, could the government of the U.S. elaborate on the challenges they are facing not to extend a standing invitation?

- **Dignity and incarceration**

While the Netherlands welcomes the report of the independent National Prison Rape Elimination Committee as described in paragraph 59 of the national report, could the U.S. Government specify which comprehensive regulations are in the process of development by the Department of Justice to protect vulnerable groups against sexual violence, in particular LGBT persons? And can the U.S. Government pledge to implement the July 2006 Human Rights Committee recommendation to prohibit the shackling of detained women during childbirth?

- **Human Rights and counter-terrorism**

Taking into account the recommendations made by the special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism after his visit in 2007 (ref. A/HRC/6/17/Add.3 dated 22 November 2007), taking into account paragraphs 71, 72, 73 and 74 of the OHCHR compilation, and taking into account paragraphs 84 – 88 of the national report, could the U.S. Government provide an update on the status of the recommendations made by the special rapporteur?

- **Human Rights awareness**

In reference to paragraph 5 of the national report, quoting Secretary of State Hillary Clinton that ‘human rights are universal, but their experience is local. This is why we are committed to holding everyone to the same standard, including ourselves’, what concrete measures does the U.S. Government take to promote awareness about universal human rights and the U.N. human rights system within the United States, especially among young people? In particular, how is education about universal human rights, which include social, cultural and economic rights, integrated into school programmes?

RUSSIAN FEDERATION

- The United States of America has ratified only three of nine universal treaties in the field of human rights, is party to only two of eight core conventions of

the ILO and has not joined any regional human rights instruments under the auspices of the Organisation of American States.

Does the United States have an intention to expand its participation in universal and regional instruments in the field of human rights and international humanitarian law?

- The present Administration of the United States has announced a number of measures in order to obviate some of the gravest violations of human rights in the context of fight against terrorism, ensure observance of the law in the process of interrogation, close the so-called 'CIA secret prisons' and the detention center at the US naval base in Guantanamo Bay (Cuba).

What administrative and legislative steps are taken by the United States to hold accountable persons (including medical personnel) who had tortured detainees in US secret prisons as well as detention centres in Bagram (Afghanistan) and Guantanamo Bay?

What is being done to provide effective remedies to civilian victims of the "war on terror", including the detainees of the secret prisons and centers in Guantanamo and Bagram?

- As of now, the death penalty is abolished in only 15 States of the US, while judicial errors are not uncommon in the passing of death sentences – for the last 30 years more than 100 persons sentenced to death have been acquitted after execution.

Does the United States consider imposing a moratorium on the death penalty?

- The United States has not established an independent national human rights institution in accordance with the Paris Principles up to date.

Does the United States intend to comply with the recommendations of the Committee on the Elimination of Racial Discrimination, the Committee on Human Rights as well as the Working Group on People of African Descent to establish this institution?

- About 30 % of the population of the United States has insufficient revenue to meet its basic needs. 24.7 per cent of Afro-Americans and 14.5 per cent of women live below the poverty line officially established on the federal level. Every fifth child also lives in poverty.

Which steps does the United States plan to take to combat poverty?

SWEDEN

- In its resolutions 62/149 of 18 December 2007 and 63/168 of 18 December 2008, the UN General Assembly called on states to establish a moratorium on executions with a view to abolishing the death penalty. While welcoming the

repealing of the use of capital punishment in some states of the United States, Sweden regrets the recurring sentencing of persons to death as well as the carrying out of executions in many states. In its national report to the UPR, the United States refers to existing procedural safeguards applied in cases in which the death penalty may be imposed. Nonetheless, Sweden is concerned about the continued incidence of death sentences against and executions of persons in cases in which concerns have been raised over circumstances affecting the proceedings, including with regard to the mental health of defendants. Sweden also regrets the breaking of de facto moratoria on executions in a number of separate states in 2010.

Could the Government of the United States of America elaborate on the status of the death penalty, including in relation to the resolutions of the UN General Assembly, and with regard to whether there are any plans, notwithstanding the current system of allowing individual states within the United States to determine the status of the death penalty, on the part of the national government to impose an official moratorium on executions toward the complete abolition of the death penalty in the country?

- In its latest consideration of the United States of America in 2006, the Human Rights Committee expressed its concern at some aspects of the conditions of persons deprived of their liberty in the United States, recommending compliance with the requirements of article 10 of the International Covenant on Civil and Political Rights and the UN Standard Minimum Rules for the Treatment of Prisoners. In its national report to the UPR, the government of the United States cites measures taken to protect the rights of incarcerated persons. Nonetheless, civil society organizations have reported restrictions and concerns relating to different aspects of the treatment of the country's over two million prisoners. Prisoners in maximum security prisons are reported to often be incarcerated in very restricted spaces with little recourse to work or exercise. Prisoners in general are often denied the right to vote, while in some states of the United States, former prisoners may be banned from voting even after the completion of their prison sentences.

Could the Government of the United States of America elaborate on the measures it is taking to ensure the full enjoyment of human rights persons deprived of their liberty, including by way of ensuring treatment in maximum security prisons in conformity with international law and of ensuring the enjoyment of the right to vote both by persons deprived of their liberty and of persons who have completed their prison sentences?

SWITZERLAND

- Death penalty: Several US states have abolished the death penalty in the last years. Could the state and federal authorities impose a moratorium on executions with a view to abolishing the death penalty nationwide and ensure that prosecutors in all jurisdictions cease pursuing death sentences?

- Juvenile justice: Are the US envisaging to end the use of life imprisonment without parole for offenders under 18 years old at the time of the crime, and to review all existing sentences in order to ensure that any such convicted offender has the possibility of parole?
- When does the U.S. intend to provide prompt court review of the need for detention for arriving asylum seekers and other arriving aliens who are detained?

UNITED KINGDOM

- Please could you elaborate on whether the US Commission on Civil Rights operates in compliance with the Paris Principles designed to guide the practice of such institutions? What steps are you taking to ensure that there is an institution in the US which operates in compliance with the principles?
- We welcome the extent to which Civil Society was consulted in the preparation of your national report. Could you tell us if the same level of civil society consultation will continue during the follow-up to this review?
- The UK welcomes the US Administration's commitment to comply with its international obligations on consular notification and access to foreign nationals in US custody. Could you tell us what steps have been taken to ensure compliance at all levels and branches of law enforcement in the USA?
- Has the US government conducted any studies on the effects the Mexico City provisions on foreign assistance, whilst in force, may have had on the rights of vulnerable women abroad? If so, could you elaborate on the findings?
- The UK remains concerned about the continuing use of the death penalty in the US, and particularly by evidence that the death penalty is administered in an arbitrary and discriminatory manner with an inevitable risk of irreversible miscarriages of justice. Could you tell us what steps the Administration is taking to address these concerns?
- Could you please outline the next steps needed to ensure the final closure of the detention facility in Guantanamo?
- The UK also welcomes your commitment to seek progress in achieving greater fairness for minorities, persons with disabilities and LGBT individuals amongst others. Could you tell us what efforts the Federal government has recently made to ensure consistency and equality across the individual States?