
ADVANCE UNEDITED VERSION

Human Rights Committee

Concluding observations on the fourth report of the United States of America*

1. The Committee considered the fourth periodic report of the United States of America (CCPR/C/USA/4 and Corr.1) at its 3044th, 3045th and 3046th meetings (CCPR/C/SR/3044, CCPR/C/SR/3045 and CCPR/C/SR/3046), held on 13 and 14 March 2014. At its 3061st meeting (CCPR/C/SR/3061), held on 26 March 2014, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of the United States of America and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high level delegation which included representatives of state and local governments on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/USA/Q/4/Add.1) to the list of issues (CCPR/C/USA/Q/4), which were supplemented by the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee notes with appreciation the many efforts undertaken, and the progress made in protecting civil and political rights by the State party. The Committee welcomes, in particular, the following legislative and institutional steps taken by the State party:

(a) The full implementation of article 6(5) of the Covenant in the aftermath of the Supreme Court's judgment in *Roper v. Simmons*, 543 U.S. 551 (2005), despite the State party's reservation to the contrary;

(b) The recognition by the Supreme Court in *Boumediene v. Bush*, 553 U.S. 723 (2008), of the extraterritorial application of constitutional habeas corpus rights to aliens detained at Guantánamo Bay;

(c) The Presidential Executive Orders 13491 ("Ensuring Lawful Interrogations"), 13492 ("Review and Disposition of Individuals Detained at the Guantanamo Bay Naval Base and Closure of Detention Facilities") and 13493 ("Review of Detention Policy Options"), issued on 22 January 2009;

* Adopted by the Committee at its 110th session (10–28 March 2014).

(d) The support for the U.N. Declaration on the Rights of Indigenous Peoples announced by President Obama on 16 December 2010;

(e) The Presidential Executive Order 13567 establishing periodic review for detainees at the Guantanamo Bay detention facility who have not been charged, convicted, or designated for transfer, issued on 7 March 2011.

C. Principal matters of concern and recommendations

Applicability of the Covenant at national level

4. The Committee regrets that the State party continues to maintain its position that the Covenant does not apply with respect to individuals under its jurisdiction but outside its territory, despite the contrary interpretation of article 2(1) supported by the Committee's established jurisprudence, the jurisprudence of the International Court of Justice and state practice. The Committee further notes that the State party has only limited avenues to ensure that state and local governments respect and implement the Covenant, and that its provisions have been declared to be non-self-executing at the time of ratification. Taken together, these elements considerably limit the legal reach and the practical relevance of the Covenant (art. 2).

The State party should:

(a) **Interpret the Covenant in good faith, in accordance with the ordinary meaning to be given to its terms in their context, including subsequent practice, and in the light of its object and purpose and review its legal position so as to acknowledge the extraterritorial application of the Covenant under certain circumstances, as outlined inter alia in the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant;**

(b) **Engage with stakeholders at all levels to identify ways to give greater effect to the Covenant at federal, state and local levels, taking into account that the obligations under the Covenant are binding on the State party as a whole, and that all branches of government, and other public or governmental authorities, at every level are in a position to engage the responsibility of the State party under the Covenant (General Comment. No. 31, para. 4);**

(c) **Taking into account its declaration that provisions of the Covenant are non-self-executing, ensure that effective remedies are available for violations of the Covenant, including those that do not, at the same time, constitute violations of U.S. domestic law, and undertake a review of such areas with a view to proposing to the Congress implementing legislation to fill any legislative gaps. The State party should also consider acceding to the Optional Protocol to the Covenant providing for an individual communication procedure.**

(d) **Strengthen and expand existing mechanisms mandated to monitor the implementation of human rights at federal, state, local and tribal levels, provide them with adequate human and financial resources or consider establishing an independent national human rights institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution 48/134).**

(e) **Reconsider its position regarding its reservations and declarations to the Covenant with a view to withdrawing them.**

Accountability for past human rights violations

5. The Committee is concerned at the limited number of investigations, prosecutions and convictions of members of the Armed Forces and other agents of the U.S. Government, including private contractors, for unlawful killings in its international operations and the

use of torture or cruel, inhuman or degrading treatment or punishment of detainees in U.S. custody, including outside its territory, as part of the so-called “enhanced interrogation techniques” program. While welcoming the Presidential Executive Order 13491 of 22 January 2009 terminating the programme of secret detention and interrogation operated by the Central Intelligence Agency (CIA), the Committee notes with concern that all reported investigations into enforced disappearances, torture and other cruel, inhuman or degrading treatment that had been committed in the context of the CIA secret rendition, interrogation and detention programmes were closed in 2012 leading only to a meagre number of criminal charges brought against low-level operatives. The Committee is concerned that many details of the CIA programme remain secret thereby creating barriers to accountability and redress for victims (arts. 2, 6, 7, 9, 10, and 14).

The State party should ensure that all cases of unlawful killing, torture or other ill-treatment, unlawful detention, or enforced disappearance are effectively, independently and impartially investigated, that perpetrators, including, in particular, persons in command positions, are prosecuted and sanctioned, and that victims are provided with effective remedies. The responsibility of those who provided legal pretexts for manifestly illegal behavior should also be established. The State party should also consider the full incorporation of the doctrine of ‘command responsibility’ in its criminal law and declassify and make public the report of the Senate Special Committee on Intelligence into the CIA secret detention programme.

Racial disparities in the criminal justice system

6. While appreciating the steps taken by the State party to address racial disparities in the criminal justice system, including the enactment in August 2010 of The Fair Sentencing Act and plans to work on reform of mandatory minimum sentencing statutes, the Committee continues to be concerned about racial disparities at different stages in the criminal justice system, sentencing disparities and the overrepresentation of individuals belonging to racial and ethnic minorities in prisons and jails (arts. 2, 9, 14, and 26).

The State party should continue and step up its efforts to robustly address racial disparities in the criminal justice system, including by amending regulations and policies leading to racially disparate impact at the federal, state and local levels. The State party should ensure the retroactive application of the Fair Sentencing Act and reform mandatory minimum sentencing statutes.

Racial profiling

7. While welcoming plans to reform the “stop and frisk” program in New York City, the Committee remains concerned about the practice of racial profiling and surveillance by law enforcement officials targeting certain ethnic minorities, and the surveillance of Muslims undertaken by the Federal Bureau of Investigation (FBI) and the New York Police Department (NYPD) in the absence of any suspicion of wrongdoing (arts. 2, 9, 12, 17, and 26).

The State party should continue and step up its measures to effectively combat and eliminate racial profiling by federal, state and local law enforcement officials, inter alia by: (a) pursuing the review of the 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies and expanding protection against profiling on the basis of religion, religious appearance or national origin; (b) continuing to train state and local law enforcement personnel on cultural awareness and inadmissibility of racial profiling; and (c) abolishing all “stop and frisk” practices.

Death penalty

8. While welcoming the overall decline in the number of executions and the increasing number of states that have abolished the death penalty, the Committee remains concerned about the continuing use of the death penalty and, in particular, racial disparities in its imposition that affects disproportionately African Americans, exacerbated by the rule that discrimination has to be proven case-by-case. It is further concerned by the high number of persons wrongly sentenced to death, despite existing safeguards, and by the fact that 16 retentionist states do not provide for compensation for the wrongfully convicted and other states provide for insufficient compensation. Finally, the Committee notes with concern reports about the administration by some states of untested lethal drugs to execute prisoners and the withholding of information on such drugs (arts. 2, 6, 7, 9, 14, and 26).

The State party should (a) take measures to effectively ensure that the death penalty is not imposed as a result of racial bias; (b) strengthen safeguards against wrongful sentencing to death and subsequent wrongful execution by ensuring inter alia effective legal representation for defendants in death penalty cases, including at the post-conviction stage; (c) ensure that retentionist states provide adequate compensation for the wrongfully convicted (d) ensure that lethal drugs for executions originate from legal, regulated sources, and are approved by the U.S. Food and Drug Administration (FDA) and that information on the origin and composition of such drugs is made available to individuals scheduled for execution; (e) consider establishing a moratorium on the death penalty at the federal level and engage with retentionist states with a view to achieving a nationwide moratorium. The Committee also encourages the State party, on the 25th anniversary of the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty, to consider acceding to the Protocol.

Targeted killings using unmanned aerial vehicles (drones)

9. The Committee is concerned about the State party's practice of targeted killings in extraterritorial counter-terrorism operations using unmanned aerial vehicles (UAV) also known as 'drones', the lack of transparency regarding the criteria for drone strikes, including the legal justification for specific attacks, and the lack of accountability for the loss of life resulting from such attacks. The Committee notes the State party's position that drone strikes are conducted in the course of its armed conflict with Al- Qaida, the Taliban, and associated forces and in accordance with its inherent right of national self-defense and are governed by international humanitarian law, as well as by the Presidential Policy Guidance that sets out standards for the use of lethal force outside areas of active hostilities. Nevertheless, the Committee remains concerned about the State party's very broad approach to the definition and the geographical scope of an armed conflict, including the end of hostilities, the unclear interpretation of what constitutes an "imminent threat" and who is a combatant or civilian taking a direct part in hostilities, the unclear position on the nexus that should exist between any particular use of lethal force and any specific theatre of hostilities, as well as the precautionary measures taken to avoid civilian casualties in practice (arts. 2, 6, and 14).

The State party should revisit its position regarding legal justifications for the use of deadly force through drone attacks. It should: (a) ensure that any use of armed drones complies fully with its obligations under article 6 of the Covenant, including in particular with respect to the principles of precaution, distinction and proportionality in the context of an armed conflict; (b) subject to operational security, disclose the criteria for drone strikes, including the legal basis for specific attacks, the process of target identification and the circumstances in which drones are used; (c) provide for independent supervision and oversight over the specific implementation of regulations governing the use of drone strikes; (d) in armed conflict situations, take all feasible measures to ensure the protection of civilians in specific drone attacks and to track

and assess civilian casualties, as well as all necessary precautionary measures in order to avoid such casualties; (e) conduct independent, impartial, prompt and effective investigations of allegations of violations of the right to life and bring to justice those responsible; (f) provide victims or their families with an effective remedy where there has been a violation, including adequate compensation, and establish accountability mechanisms for victims of allegedly unlawful drone attacks who are not compensated by their home governments.

Gun violence

10. While acknowledging the measures taken to reduce gun violence, the Committee remains concerned about the continuing high numbers of gun-related deaths and injuries and the disparate impact of gun violence on minorities, women and children. While commending the U.S. Commission on Civil Rights' investigation of the discriminatory effect of "Stand Your Ground Laws", the Committee is concerned about the proliferation of such laws that are used to circumvent the limits of legitimate self-defence in violation of the State party's duty to protect life (arts. 2, 6, and 26).

The State Party should take all necessary measures to abide by its obligation to effectively protect the right to life. In particular, it should: (a) continue its efforts to effectively curb gun violence, including through the continued pursuit of legislation requiring background checks for all private firearm transfers in order to prevent possession of arms by persons recognized as prohibited individuals under federal law and strict enforcement of the Domestic Violence Offender Gun Ban legislation of 1996 (the "Lautenberg Amendment"); and (b) review Stand Your Ground Laws to remove far-reaching immunity and ensure strict adherence to the principles of necessity and proportionality when using deadly force in self-defence.

Excessive use of force by law enforcement officials

11. The Committee is concerned about the still high number of fatal shootings by certain police forces, including, for instance, in Chicago, and reports of excessive use of force by certain law enforcement officers including the deadly use of tasers, which have a disparate impact on African Americans, and use of lethal force by Customs and Border Protection (CBP) officers at the U.S.-Mexico border (arts. 2, 6, 7, and 26).

The State Party should (a) step up its efforts to prevent the excessive use of force by law enforcement officers by ensuring compliance with the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officers; (b) ensure that the new CBP directive on use of deadly force is applied and enforced in practice; and (c) improve reporting of excessive use of force violations and ensure that reported cases of excessive use of force are effectively investigated, alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, that investigations are re-opened when new evidence becomes available, and that victims or their families are provided with adequate compensation.

Legislation prohibiting torture

12. While noting that acts of torture may be prosecuted in a variety of ways at both the federal and state levels, the Committee is concerned about the lack of comprehensive legislation criminalizing all forms of torture, including mental torture, committed within the territory of the State party. The Committee is also concerned about the inability of torture victims to claim compensation from the State party and its officials due to the application of broad doctrines of legal privilege and immunity (arts. 2 and 7).

The State party should enact legislation to explicitly prohibit torture, including mental torture, wherever committed and ensure that the law provides for penalties commensurate with the gravity of such acts, whether committed by public officials or

other persons acting on behalf of the State, or by private persons. The State party should ensure the availability of compensation to victims of torture.

Non-refoulement

13. While noting the measures taken to ensure compliance with the principle of non-refoulement in cases of extradition, expulsion, return and transfer of individuals to other countries, the Committee is concerned about the State party's reliance on diplomatic assurances that do not provide sufficient safeguards. It is also concerned at the State party's position that the principle of non-refoulement is not covered by the Covenant despite the Committee's established jurisprudence and subsequent state practice (arts. 6 and 7).

The State party should strictly apply the absolute prohibition against refoulement under articles 6 and 7 of the Covenant, continue exercising the utmost care in evaluating diplomatic assurances, and refrain from relying on such assurances where it is not in a position to effectively monitor the treatment of such persons after their extradition, expulsion, transfer or return to other countries and take appropriate remedial action when assurances are not fulfilled.

Trafficking and forced labour

14. While acknowledging the measures taken by the State party to address the issue of trafficking in persons and forced labour, the Committee remains concerned about cases of trafficking for purposes of labour and sexual exploitation, including of children, and criminalization of victims on prostitution-related charges. It is concerned about the insufficient identification and investigation of cases of trafficking for labour purposes and notes with concern that certain categories of workers, such as farm workers and domestic workers, are explicitly excluded from the protection of labour laws, thus rendering these categories of workers more vulnerable to trafficking. The Committee is also concerned that workers entering the U.S. under the H-2B work visa programme are also at a high risk of becoming victims of trafficking/forced labour (arts. 2, 8, 9, 14, 24, and 26).

The State party should continue its efforts to combat trafficking in persons, inter alia by strengthening its preventive measures, increasing victim identification and systematically and vigorously investigating allegations of trafficking in persons, prosecuting and punishing those responsible and providing effective remedies to victims, including protection, rehabilitation and compensation. It should take all appropriate measures to prevent the criminalization of victims of sex trafficking, including child victims, to the extent that they have been compelled to engage in unlawful activities. The State party should review its laws and regulations to ensure full protection against forced labour for all categories of workers and ensure effective oversight of labour conditions in any temporary visa program. It should also reinforce its training activities and provide training to law enforcement and border and immigration officials, as well as to other relevant agencies such as labour law enforcement agencies and child welfare agencies.

Immigrants

15. The Committee is concerned that under certain circumstances mandatory detention of immigrants for prolonged periods of time without regard to the individual case may raise issues under article 9 of the Covenant. It is also concerned about the mandatory nature of the deportation of foreigners without regard to elements such as the seriousness of crimes and misdemeanors committed, the length of lawful stay in the U.S., health status, family ties and the fate of spouses and children staying behind, or the humanitarian situation in the country of destination. Finally, the Committee expresses concerns about the exclusion of millions of undocumented immigrants and their children from coverage under the Affordable Care Act and the limited coverage of undocumented immigrants and immigrants residing lawfully in the U.S. for less than five years by Medicare and Children Health

Insurance, all resulting in difficulties in access of immigrants to adequate health care (arts. 7, 9, 13, 17, 24 and 26).

The Committee recommends to the State party to review its policies of mandatory detention and deportation of certain categories of immigrants in order to allow for individualized decisions, to take measures ensuring that affected persons have access to legal representation, and to identify ways to facilitate access of undocumented immigrants and immigrants residing lawfully in the U.S. for less than five years and their families to adequate health care, including reproductive health care services.

Domestic violence

16. The Committee is concerned that domestic violence continues to be prevalent in the State party, and that ethnic minorities, immigrants and American Indian and Alaska Native women are at a particular risk. The Committee is also concerned that victims face obstacles to obtaining remedies, and that law enforcement authorities are not legally required to act with due diligence to protect victims of domestic violence, and often inadequately respond to such cases (arts. 3, 7, 9, and 26)

The State party should, through the full and effective implementation of the Violence against Women Act and the Family Violence Prevention and Services Act, strengthen measures to prevent and combat domestic violence, as well as to ensure that law enforcement personnel appropriately respond to acts of domestic violence. The State party should ensure that cases of domestic violence are effectively investigated and that perpetrators are prosecuted and sanctioned. The State party should ensure remedies for all victims of domestic violence, and take steps to improve the provision of emergency shelter, housing, child care, rehabilitative services and legal representation for women victims of domestic violence. The State party should also take measures to assist tribal authorities in their efforts to address domestic violence against Native American women.

Corporal punishment

17. The Committee is concerned about the use of corporal punishment of children in schools, penal institutions, the home, and all forms of child care at federal, state and local levels. It is also concerned about the increasing criminalization of students to tackle disciplinary issues arising in schools (arts. 7, 10, and 24).

The State party should take practical steps, including through legislative measures where appropriate, to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment and should conduct public information campaigns to raise awareness about its harmful effects. The State party should also promote the use of alternatives to the application of criminal law to address disciplinary issues in schools.

Non-consensual psychiatric treatment

18. The Committee is concerned about the widespread use of non-consensual psychiatric medication, electroshock and other restrictive and coercive practices in mental health services (arts. 7 and 17).

The State party should ensure that non-consensual use of psychiatric medication, electroshock and other restrictive and coercive practices in mental health services is generally prohibited. Non-consensual psychiatric treatment may only be applied, if at all, in exceptional cases as a measure of last resort where absolutely necessary for the benefit of the person concerned provided that he or she is unable to give consent, for the shortest possible time, without any long-term impact, and under independent review. The State party should promote psychiatric care aimed at preserving the dignity of patients, both adults and minors.

Criminalization of homelessness

19. While appreciating the steps taken by federal and some state and local authorities to address homelessness, the Committee is concerned about reports of criminalization of people living on the street for everyday activities such as eating, sleeping, sitting in particular areas etc. The Committee notes that such criminalization raises concerns of discrimination and cruel, inhuman, or degrading treatment (arts. 2, 7, 9, 17, and 26).

The State party should engage with state and local authorities to: (a) abolish criminalization of homelessness laws and policies at state and local levels; (b) ensure close cooperation between all relevant stakeholders including social, health, law enforcement and justice professionals at all levels to intensify efforts to find solutions for the homeless in accordance with human rights standards; and (c) offer incentives for decriminalization and implementation of such solutions, including by providing continued financial support to local authorities implementing alternatives to criminalization and withdrawing funding for local authorities criminalizing the homeless.

Conditions of detention and use of solitary confinement

20. The Committee is concerned about the continued practice of holding persons deprived of their liberty, including juveniles and persons with mental disabilities under certain circumstances, in prolonged solitary confinement, and about detainees being held in solitary confinement also in pretrial detention. The Committee is furthermore concerned about poor detention conditions in death row facilities (arts. 7, 9, 10, 17, and 24).

The State party should monitor conditions of detention in prisons, including private detention facilities, with a view to ensuring that persons deprived of their liberty be treated in accordance with the requirements of articles 7 and 10 of the Covenant and the UN Standard Minimum Rules for the Treatment of Prisoners. It should impose strict limits on the use of solitary confinement, both pretrial and following conviction, in the federal system, as well as nationwide, and abolish the practice in respect of anyone under the age of 18 and prisoners with serious mental illness. It should also bring detention conditions of prisoners on death row in line with international standards.

Detainees at Guantánamo Bay

21. While noting President Obama's commitment to close the Guantánamo Bay facility and the appointment of Special Envoys at the Departments of State and Defense to continue to pursue the transfer of detainees designated for transfer, the Committee regrets that no timeline for closure of the facility has been provided. The Committee is also concerned that detainees held in Guantánamo Bay and in military facilities in Afghanistan are not dealt with within the ordinary criminal justice system after a protracted period of over a decade in some cases (arts. 7, 9, 10, and 14).

The State party should expedite the transfer of detainees designated for transfer, including to Yemen, as well as the process of periodic review for Guantánamo detainees, and ensure either their trial or immediate release, and the closure of the Guantánamo facility. It should end the system of administrative detention without charge or trial and ensure that any criminal cases against detainees held in Guantánamo and military facilities in Afghanistan are dealt with within the criminal justice system rather than military commissions and that those detainees are afforded the fair trial guarantees enshrined in article 14 of the Covenant.

NSA surveillance

22. The Committee is concerned about the surveillance of communications in the interests of protecting national security, conducted by the National Security Agency (NSA) both within and outside the United States through the bulk phone metadata program (Section 215 of the PATRIOT Act) and, in particular, the surveillance under Section 702 of Amendments to the Foreign Intelligence Surveillance Act (FISA) conducted through PRISM (collection of the contents of communications from U.S.-based companies) and UPSTREAM (tapping of fiber-optic cables in the U.S. that carry internet traffic) programs and their adverse impact on the right to privacy. The Committee is concerned that until recently, judicial interpretations of FISA and rulings of the Foreign Intelligence Surveillance Court (FISC) have largely been kept secret, thus not allowing affected persons to know the law with sufficient precision. The Committee is concerned that the current system of oversight of the activities of the NSA fails to effectively protect the rights of those affected. While welcoming the recent Presidential Policy Directive (PPD-28) that will now extend some safeguards to non-US persons “to the maximum extent feasible consistent with the national security”, the Committee remains concerned that such persons enjoy only limited protection against excessive surveillance. Finally, the Committee is concerned that those affected have no access to effective remedies in case of abuse (arts. 2, 5(1), and 17).

The State party should:

(a) **take all necessary measures to ensure that its surveillance activities, both within and outside the United States, conform to its obligations under the Covenant, including article 17; in particular, measures should be taken to ensure that any interference with the right to privacy complies with the principles of legality, proportionality and necessity regardless of the nationality or location of individuals whose communications are under direct surveillance;**

(b) **ensure that any interference with the right to privacy, family, home or correspondence be authorized by laws that (i) are publicly accessible; (ii) contain provisions that ensure that collection of, access to and use of communications data are tailored to specific legitimate aims; (iii) are sufficiently precise specifying in detail the precise circumstances in which any such interference may be permitted; the procedures for authorizing; the categories of persons who may be placed under surveillance; limits on the duration of surveillance; procedures for the use and storage of the data collected; and (iv) provide for effective safeguards against abuse;**

(c) **reform the current system of oversight over surveillance activities to ensure its effectiveness, including by providing for judicial involvement in authorization or monitoring of surveillance measures, and considering to establish strong and independent oversight mandates with a view to prevent abuses;**

(d) **refrain from imposing mandatory retention of data by third parties;**

(e) **ensure that affected persons have access to effective remedies in cases of abuse.**

Juvenile justice and life without parole sentences

23. While noting with satisfaction the Supreme Court decisions prohibiting life without parole sentences for children convicted of non-homicide offenses (*Graham v. Florida*), and barring mandatory life without parole sentences for children convicted of homicide offenses (*Miller v. Alabama*) and the State party’s commitment to their retroactive application, the Committee is concerned that a court still may, within its discretion, sentence a defendant to life without parole for a homicide committed as a juvenile and that a mandatory or non-homicide related sentence of life without parole may still be applied to adults. It is also concerned that many states exclude 16 and 17 year olds from juvenile court jurisdictions

and thus juveniles continue to be tried in adult courts and to be incarcerated in adult institutions (arts. 7, 9, 10, 14, 15, and 24).

The State party should prohibit and abolish all juvenile life without parole sentences irrespective of the crime committed, as well as all mandatory and non-homicide related sentences of life without parole. It should also ensure that all juveniles are separated from adults during pretrial detention and after sentencing and that juveniles are not transferred to adult courts. States that automatically exclude 16 and 17 year olds from juvenile court jurisdictions should be encouraged to change their laws.

Voting rights

24. While noting with satisfaction Attorney General Holder's statement of 11 February 2014 calling for a reform of prisoner disenfranchisement State laws, the Committee reiterates its concern about the persistence of state-level felon disenfranchisement laws, its disproportionate impact on minorities, and the lengthy and cumbersome state voting restoration procedures. The Committee is further concerned that voter identification and other recently introduced eligibility requirements may impose excessive burdens on voters resulting in de facto disenfranchisement of large numbers of voters, including members of minority groups. Finally, the Committee reiterates its concern that residents of the District of Columbia are denied the right to vote for and election of voting representatives to the U.S. Senate and House of Representatives (arts. 2, 10, 25, and 26).

The State party should ensure that all states reinstate voting rights to felons who have fully served their sentences, provide inmates with information about their voting restoration options and remove or streamline lengthy and cumbersome state voting restoration procedures, as well as review automatic denial of the vote to any imprisoned felon, regardless of the nature of the offence. It should also take all necessary measures to ensure that voter identification requirements and the new eligibility requirements do not impose excessive burdens on voters resulting in de facto disenfranchisement. The State party should also provide for the full voting rights of residents of Washington, D.C.

Rights of indigenous people

25. The Committee is concerned about the insufficient measures being taken to protect the sacred areas of indigenous peoples against desecration, contamination and destruction as a result of urbanization, extractive industries, industrial development, tourism and toxic contamination. It is also concerned about restricted access of indigenous people to sacred areas essential for preservation of their religious, cultural and spiritual practices and the insufficiency of consultation conducted with indigenous peoples on matters of interest to their communities (art. 27).

The State party should adopt measures to effectively protect sacred areas of indigenous peoples against desecration, contamination and destruction and ensure that consultations are held with the communities that might be adversely affected by State party's development projects and exploitation of natural resources with a view to obtaining their free, prior and informed consent for the potential project activities.

26. The State party should widely disseminate the Covenant, the text of the fourth periodic report, the written responses that it has provided in response to the list of issues drawn up by the Committee and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also requests the State party, when preparing its fifth periodic report, to continue its practice of broadly consulting with civil society and non-governmental organizations.

27. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 5, 10, 21 and 22 above.

28. The Committee requests the State party, in its next periodic report, due to be submitted on 28 March 2019, to provide specific, up-to-date information on all its recommendations and on the Covenant as a whole.
