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Human Rights Committee**List of issues prior to submission of the fifth periodic report of the United States of America*****A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant**

1. Please provide information on measures taken to implement the recommendations contained in the Committee's previous concluding observations (CCPR/C/USA/CO/4)¹. Also indicate if the State party has considered acceding to the Optional Protocol to the Covenant, providing for an individual communication procedure.

2. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the last follow up information received from the State party (CCPR/C/USA/CO/4/Add.1).

B. Specific information on the implementation of articles 1-27 of the Covenant, including with regard to the previous recommendations of the Committee**Constitutional and legal framework within which the Covenant is implemented (art. 2)**

3. As the State party operates in a federal system of government, please provide information on the extent to and manner in which the Covenant has been incorporated into domestic law at the local, state and federal level. Please also provide examples of cases in which national courts and other law-applying institutions have referred to the provisions of the Covenant. In addition, please indicate the steps taken to increase awareness and understanding of the Covenant among the general public and State employees such as judges, lawyers and law enforcement officials.

4. Please clarify the State party's current legal position on the scope of applicability of the Covenant with respect to individuals under its jurisdiction but outside its territory, such as those of individuals detained at Guantanamo Bay, as well as on US-registered ships and aircrafts in programs such as Operation Martillo, and individuals directly targeted by US operated aircrafts and unmanned aerial vehicle (UAVs).

5. Report on any progress made in withdrawing reservations to the Covenant including the reservation to article 6 regarding capital punishment for crimes committed by persons

* Adopted by the Committee at its 125th session (4-29 March 2019).

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the Committee's previous concluding observations (CCPR/C/USA/4).

below eighteen years of age, which appears to have become moot following the Supreme Court decision of *Roper v. Simmons*.

Use of lethal force in military contexts (art. 2, 6, 7, 9, 10, and 14)

6. Please comment on the practice of using lethal force outside the context of recognized armed conflict and theatres of hostilities, including existing safeguards to ensure that the use of armed drones is consistent with article 6 of the Covenant, as well as relevant principles of international humanitarian law pertaining to the protection of civilians, and conduct of hostilities. Further comment on reports that the Presidential Policy Guidance on the use of lethal force outside “areas of active hostilities” is no longer operational and has been replaced by a new policy, entitled “Principles, Standards and Procedures”. Describe the contents of the current policies, in particular on the applicable legal framework and on remedies. Indicate what safeguards are currently in place to guard against civilian harm caused by such force, including measures of transparency. To what extent are they applicable to the Central Intelligence Agency (CIA)?

Non-discrimination and equal rights of men and women (art 2, 3, and 26)

7. Please provide information on steps taken to address racial disparities in the criminal justice system, including the overrepresentation of individuals belonging to racial and ethnic minorities in detention, and the disproportionate representation in pre-trial detention of minorities, including on account of the bail system, and the length of sentences for racial and ethnic minorities.

8. Concerning foreign nationals, please comment on the ability of individuals to obtain visas under “Presidential Proclamation 9645 Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats”, commonly known as the “Muslim Ban”. In addition, comment on reports that the discretionary waiver process implemented through this presidential proclamation has a 98% rejection rate. Indicate how the Presidential Proclamation is compatible with the non-discrimination and non-refoulement provisions of the Covenant.

9. With reference to the Committee’s previous recommendation (par. 19), please provide information on steps pursued to decriminalize everyday activities associated with homelessness. Include information on measures adopted, including incentives to local authorities to implement alternatives to criminalization and to give effect to the relationship between homelessness and the right to life.

10. Please detail measures adopted by the State party to combat physical and sexual violence against women in schools and institutions of higher learning and within the U.S. Military.

11. Please provide the Committee with information on existing legislative and judicial protections and remedial avenues available to LGBT individuals who have been subject to discriminatory practices such as unjust dismissals from employment, housing eviction, and/or refusal of services because of their sexual orientation or gender identity. Also inform on protections available to transgender individuals from discrimination in schools, prisons and jails, and the U.S. Military.

Maternal mortality, termination of pregnancy, and reproductive rights (art. 2, 3, 6, 7 and 26)

12. Please provide information on measures undertaken by the State party to address maternal mortality and morbidity, and in particular to address persistent racial disparities in maternal health outcomes. Further comment on the impact on the Covenant rights of women in the State party or women directly impacted by the State party, of the following legislative instruments and measures, as well as on their compatibility with the Covenant : (a) Presidential Executive Order 13798 “Promoting Free Speech and Religious Liberty” which allows employers and insurers to assert “conscience-based objections” to the preventive-care mandate of the Affordable Care Act (ACA), and thereby restricts women’s access to reproductive care; (b) States laws enacted since the latest Committee recommendations,

restricting women's access to reproductive health and abortion and new barriers, in practice, particularly in light of the Committee's interpretation of article 6, that any States parties regulation of pregnancy or abortion must ensure that women and girls do not have to undertake unsafe abortions; (c) The criminalization of pregnant women using drugs; (d) The "Global Gag Rule"; and (e) the practice of shackling detained women also while giving birth. Please further provide information on the terms of availability of abortion services in immigration detention facilities.

Right to life, including the death penalty and excessive use of force by law enforcement agents (art. 6)

13. With reference to the Committee's previous recommendation (par. 8) on the death penalty, and reports regarding execution methods, please provide information on: (a) Death sentences imposed, the number of executions carried out, the grounds for each conviction and sentence, the age of the offenders at the time of committing the crime, and their ethnic origins; (b) Steps taken to eradicate racial bias in death penalty convictions; (c) Execution methods used in carrying out the death penalty and whether such methods were reviewed since the last reporting period; (d) The compatibility of lethal drugs used in executions reported to cause severe physical and mental suffering with the Covenant; (e) Steps taken to prevent wrongful convictions leading to death penalty sentences and provide compensation for those exonerated; and (f) steps taken to implement the judgment of the International Court of Justice on review and reconsideration of death penalties for individuals whose right to consular assistance was violated. Provide information on the number of wrongful death sentence convictions since the prior reporting period and any remedial measures taken. Indicate, also, whether the State party has considered establishing a federal moratorium on executions, with a view to abolishing the death penalty.

14. With respect to the Committee's previous concluding observations (par. 10) and the State party's follow up report of 21 March 2015, please provide information on the number of victims of gun violence, including in the context of domestic violence. Please describe the efforts by the State party to restrain access to firearms by those most at risk of abusing them, and steps taken to counter patterns of abuse. Please further indicate steps the State party is taking to limit excessive use of force by law enforcement officials against civilians, particularly racial minorities. In addition, please comment on accountability mechanisms in place to hold law enforcement officials using excessive force accountable, including data on the investigations and prosecutions pursued in cases of firearm use by law enforcement officials. Also name the relevant laws, and describe the legal standards under domestic law on the appropriate use of force and firearms by law enforcement and security forces, during arrest, demonstrations, in custody, in anti-terrorism or anti-poaching operations, and under any other circumstances where force may be used, including an indication on the compliance of such laws on the use of force with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1990, in law and in practice. Please comment on reports that nine states and Washington D.C. do not have laws on the use of lethal force by their law enforcement officials.

15. Please indicate what steps the State party is taking to ensure access to safe and clean water for its population. Specifically describe efforts to remedy the water crisis in Flint, Michigan, as well as efforts to keep water affordable for low-income populations when publicly owned water services are privatized. Further clarify the State party's initiatives to address significant threats to the right to life posed by impacts of climate change such as flash floods, coastal flooding, wildfires, infectious disease, extreme heat and air pollution.

Prohibition of torture and cruel, inhuman or degrading treatment of punishment, right to liberty and security of person, and treatment of persons deprived of their liberty (art. 7, 9, 10 and 14)

16. With reference to the Committee's previous recommendation (par. 12), please provide updated information on measures taken to provide a comprehensive definition and criminalization of torture at the federal level, and on the admissibility of evidence obtained through torture or "enhanced interrogation techniques", including pursuant to the Military Commissions Act of 2009. Describe steps taken to impose strict limits nationwide, in prisons

and detention facilities, on the use of solitary confinement and to abolish the practice for anyone under the age of 18 or having a serious mental illness.

17. Please provide information pertaining to the Committee's previous concluding observations on the Guantanamo Bay detainees (par. 21) including:

(a) What plans are in place for the closure of the detention facilities at Guantanamo Bay;

(b) Whether new detainees have been incarcerated in Guantanamo during the reporting period, and the legal basis for their detention;

(c) The status and whereabouts of the previously reported 73 transferred detainees, and whether these transfers were made pursuant to diplomatic assurances, as well as the status of the five detainees previously approved for transfer;

(d) A description of the remaining inmate population, which includes the current number of detainees, disaggregated by status (pre-trial phase, convicted detainees, and those retained without charge);

(e) Timelines for prosecution or release, including details on the envisaged jurisdiction and forum in case of prosecution, and the timelines for the pending trials;

(f) The current status of Executive Order 13567, establishing periodic review for detainees at Guantanamo Bay who have not been charged, convicted, or designated for transfer; and

(g) The number of habeas corpus petitions filed on behalf of detainees before Federal Courts, challenging the legality of their detention, and the current status of such petitions.

(h) Any measures taken to strengthen due process guarantees in military commission trials.

Elimination of slavery and servitude (art. 8)

18. With reference to the Committee's concluding observations (par 14) please indicate what steps have been taken to strengthen preventative measures against human trafficking, increase victim identification, systematically and vigorously investigate allegations of trafficking, prosecuting and punishing those responsible, and providing effective remedies to victims. In addition, indicate what steps the State party has taken to prevent the criminalization of sex trafficking victims, including child victims.

19. Please indicate how the State party is ensuring full protection against forced labour for all categories of workers and effective oversight of labour conditions in temporary visa programs.

Treatment of foreign nationals, including refugees and asylum seekers (arts. 2, 9, 10, 13, 14, 17, 23, 24, 26)

20. Please provide information on the specific safeguards in place while implementing the "zero tolerance policy." Further provide information on the number of individuals who were prosecuted pursuant to the memorandum "*Zero Tolerance for Offences under 8 U.S.C § 1325(a)*," and "*Renewed Commitment to Criminal Immigration Enforcement*," for illegally crossing the border with children, and the number of children placed into the custody of the Department of Health and Human Services. In addition, comment on reports that despite a court order mandating the reunion of migrant families, over 300 children are still separated from their parents. Please indicate if any investigations have commenced into the deaths of migrant children in the care and custody of US Customs and Border Patrol, as well as any newly enacted safeguards to ensure such deaths do not happen again.

21. Please provide information on the conditions of immigrant detention facilities, both public and privately held, including access to health care. Describe the conditions of migration detention specifically for family units, unaccompanied minors, pregnant women and persons with special needs, the alleged use of 'ice boxes' and the use of forced labor. Further provide information on the recent reported use of force by U.S Customs and Border

Protection (CBP) at the southern border, including use of tear gas, smoke and pepper spray on migrants, including information on existing oversight mechanisms in place to limit the use of force by CBP.

Right to Privacy (art. 17)

22. With reference to the Committee's Concluding observations (par. 22) and the State party's follow up information, please provide information on available legislative and policy guarantees to protect United States and non-United States citizens against excessive surveillance, including those individuals located abroad and migration rights activists. Describe the measures taken by the State party to combat interference with privacy rights by non-state actors, such as Facebook, including but not limited to enforcement of judicial orders, enactment of comprehensive privacy laws and/or the creation of a data protection authority. Has anyone been granted effective remedies resulting from violations of section 702 of Foreign Intelligence Surveillance Act (FISA) or Executive Order 12333?

Freedom of expression (art. 19)

23. Please comment on reports of a pattern of threats and intimidation, by some government authorities, including the President himself, against journalists and media outlets and indicate what measures the US Administration has in place, or plans to enact, to encourage the right to freedom of opinion and expression including the free operation of an uncensored and unhindered press and other media, and the ability of individuals or businesses to call for boycotts of private enterprises or foreign countries allegedly involved in human rights violations.

24. Please report on measures adopted to address violent acts of discrimination against racial and other minorities, and to ensure that the right to freedom of expression and association, and the right to peaceful assembly are not exercised to promote hate speech and hate crimes by racist groups, including white supremacists, anti-gay and other groups.

Freedom of assembly and association (arts. 21 and 22)

25. Comment on reports that state laws on demonstrations are increasingly restrictive. Please indicate steps the State party is taking to eliminate excessive uses of force by police during protests. Also comment on the necessity of the federal "1033 Program," which provides surplus military weapons and equipment to state and local police authorities, and related reports of heavily militarized responses to local protests.

26. Please provide information as to implementation of the National Labor Relations Act (NLRA), which guarantees the right of employees to form and join trade unions. Please specifically inform on the protections ensured to agricultural and domestic workers excluded from coverage under the NLRA. Please also provide information on the so-called "permanent replacement of employees engaged in economic strikes", which has been described, effectively, as a negation of the right to strike, as well as on available remedial avenues under this federal statute.

Right to political participation (art. 25 and art. 26)

27. Please provide updated information on measures adopted by the State party since the Committee's previous concluding recommendations (par. 24) to encourage the review of state laws on felony disenfranchisement, and the removal of lengthy and cumbersome voting restoration procedures. Please further comment on the prevalence of voter suppression laws in the State party including cuts to early voting and voter ID laws, which may impose excessive burdens on voters, especially minority voters. Also comment on the compatibility of practices of drawing electoral boundaries with a view to influencing election outcomes with article 25.

28. Please provide information on measures taken to prevent undue influence on the conduct of elections and the state and federal level, and to ensure that rules governing campaign funding preserve an equal right to take part in the conduct of public affairs.

Rights of Indigenous Peoples (art. 27)

29. Please provide updated information on steps taken to give effect to the Committee's recommendation (par. 25), to protect traditional ways of life and sacred areas of indigenous peoples, and ensure that consultations are held with the indigenous communities with respect to development projects and exploitation of natural resources with a view to obtaining their free prior and informed consent (FPIC). Indicate what redress measures are available to indigenous communities adversely affected by development projects. Please provide further information on steps taken to combat the high incidence of missing and murdered indigenous women in the State Party, including efforts to accurately gather data and statistics on these crimes, investigative efforts, and training and support for law enforcement officials who confront these matters. Please also comment on the high levels of gender based violence against indigenous women and initiatives to accurately gather data surrounding such crimes.
