



REFERENCE: CERD/89<sup>th</sup>/FU/GH/SK/ks

24 May 2016

Excellency,

I wish to inform you that the Committee on the Elimination of Racial Discrimination, in the course of its 89<sup>th</sup> session, considered the follow-up report submitted by the Government of the United States of America, pursuant to Rule 65 (1) of the Rules of Procedure of the Committee.

The Committee welcomes the timely submission of the report, in response to its request to receive information within one year on the implementation of the recommendations contained in paragraphs 17 (a) and (b), 18 and 22 of the Concluding Observations (CERD/C/USA/CO/7-9), adopted following the consideration of the State party's combined 7<sup>th</sup>-9<sup>th</sup> periodic reports, at its 85<sup>th</sup> session in August 2014. The Committee appreciates the opportunity provided to continue its dialogue with the State party, and would like to draw the State party's attention to the observations mentioned below. The Committee requests that comments and responses on actions taken by the State party on these issues be included in its 10<sup>th</sup> to 12<sup>th</sup> periodic reports to be submitted in a single document on 20 November 2017.

**Paragraphs 17 (a) and (b) of the Concluding Observations:** The Committee thanks the State party for the information provided on a number of investigations launched into cases involving excessive use of force by the police. However, it regrets that such information is inadequate, in particular with regard to excessive use of force by Customs and Border Protection officials. The Committee also regrets the low number of criminal indictments against police officers despite the high number of fatal police shootings of members of ethnic minorities in recent years. It therefore reiterates its recommendation that the State party provide detailed information concerning investigations undertaken into allegations of excessive use of force by law enforcement officials against members of ethnic minorities as well as their outcomes.

The Committee would also like to seek further information on the police reform agreements concluded between the Department of Justice and the cities of Ferguson and Cleveland, and their outcomes.

Her Excellency Ms. Pamela K. Hamamoto  
Permanent Representative of United States of  
America to the United Nations Office  
Geneva  
Email: mission.usa@ties.itu.int

While noting the information provided by the State party that its policies are consistent with the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Committee regrets the lack of information on how the Basic Principles are applied in practice. The Committee recommends that the State party intensify its efforts in providing systematic training on the use of non-lethal force, while incorporating the 1990 Basic Principles in all police training. The Committee would also like to receive information on the Customs and Border Protection directive on the use of force (2014).

**Paragraph 18 of the Concluding Observations:** The Committee regrets that no action has been taken to abolish ‘Operation Streamline’ and that immigration and deportation related proceedings continue to fall under the ambit of criminal law. The Committee therefore reiterates its recommendation in this regard.

The Committee notes the announcement by the Department of Homeland Security in June 2015 on the Change of the Department’s detention policy. However, it regrets the lack of information if and how this change generated individualized assessments for decisions concerning detention and deportation. The Committee would appreciate further information on the report entitled ‘Modernizing and Streamlining Our Legal Immigration System for 21st Century’.

The Committee, while taking note of some initiatives adopted by the State party to increase availability of pro bono legal services for immigrants, regrets that in practice many immigrants remain without legal representation throughout the immigration proceedings. The Committee encourages the State party to consider appointing State counsels for immigrants and step up its efforts to facilitate access to free legal aid in all immigration related proceedings.

The Committee appreciates the information about raising the minimum age for handling pesticides to 16 years of age. It however regrets the absence of other steps taken to review the State party’s legislation aimed at protecting all migrant workers from exploitive and abusive working conditions. It therefore reiterates its recommendation to raise the minimum age for harvesting and hazardous work in agriculture in line with international standards. The Committee also regrets the lack of information on labour inspections and requests that the State party step up its efforts in this regard. The Committee further recommends that the State party review its position on ratifying the ILO Conventions Nos. 29 and 138.

**Paragraph 22 of the Concluding Observations:** While noting the measures taken to reduce the number of individuals held in the Guantanamo Bay detention facility, the Committee regrets that appropriate action was not taken to close Guantanamo Bay detention facility. The Committee therefore reiterates its recommendation and requests that the State party take operational steps to close the Guantanamo Bay detention facility. The Committee reiterates its recommendation that any detainee not facing criminal charges be released immediately, and those facing such charges are expeditiously prosecuted and afforded fair trial guarantees.



Rest assured, Excellency, that the Committee looks forward to continuing its constructive dialogue with the Government of the United States of America, with a view to providing it with assistance in its efforts to ensure the effective implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Anastasia Crickley".

Anastasia Crickley  
Chair

Committee on the Elimination of Racial Discrimination