



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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REFERENCE: CERD/111th session/2023/FU/MJA/AKB/ks

8 December 2023

Excellency,

I wish to inform you that the Committee on the Elimination of Racial Discrimination, during its 111th session, considered the follow-up report submitted by the Government of United States of America, pursuant to article 9 (1) of the Convention and rule 65 (1) of the Rules of Procedure of the Committee.

The Committee welcomes the submission of the report, in response to its request to receive information within one year on the implementation of the recommendations contained in paragraphs 36, 50 (e) and 52 (a) of the Concluding Observations (CERD/C/USA/CO/10-12), adopted following the consideration of the State party's 10th to 12th reports, at its 107th session, held in August 2022.

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 combined thirteenth to fifteenth periodic reports, which is due for submission, in a single document, by 20 November 2025.

The Committee welcomes the information provided by the State party regarding its recommendations in paragraph 36. However, the information recalls measures adopted to guarantee sexual and reproductive health and rights in general. While recognizing that such measures may have the effect of alleviating racial and ethnic disparities in the field of sexual and reproductive health and rights, the Committee reiterates its recommendation, underlining the integration of an intersectional and culturally respectful approach.

H.E. Mrs. Bathsheba N. Crocker
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The Committee welcomes the information provided by the State party regarding its recommendations in paragraph 36. However, the information recalls measures adopted to guarantee sexual and reproductive health and rights in general. While recognizing that such measures may have the effect of alleviating racial and ethnic disparities in the field of sexual and reproductive health and rights, the Committee reiterates its recommendation, underlining the integration of an intersectional and culturally respectful approach.

The Committee also welcomes the information provided on the issuance of guidance to hospitals on the requirements under the Emergency Medical Treatment and Labor Act and the preliminary injunction of the U.S. District Court in Idaho blocking the enforcement of the abortion ban; recognizing both of these efforts to mitigate the risks faced by women seeking an abortion and by health providers assisting them. The Committee reiterates its recommendation to take all measures necessary, at the federal and state levels, to address the profound disparate impact of the ruling in *Dobbs v Jackson Womens' Health Organisation* on women of racial and ethnic minorities, Indigenous women, and those with low incomes, as well as to ensure that women and health providers are not subjected to criminal penalties.

In the absence of information on steps taken to eliminate racial and ethnic disparities in the field of sexual and reproductive health and rights, while noting the efforts of the State party to maintain and improve the rights of women, including women of racial and ethnic minorities and Indigenous women, the Committee considers the response to this recommendation partially satisfactory. The Committee reiterates its recommendation and encourages the adoption of all necessary legislative and administrative measures, at both the federal and state levels, in order to harmonize access to comprehensive sexual and reproductive health services across all States and requests the State party to provide further information on the implementation of its recommendations.

Regarding paragraph 50(e), The Committee notes the information provided by the State party on the continued implementation of statutes and policies that address the crisis concerning missing and murdered Indigenous Peoples, including the 2022 agreement between the Federal Bureau of Investigation (FBI) and the Department of Interior (DOI) under which all FBI, Bureau of Indian Affairs and tribal law enforcement officers are required to receive training. The Committee regrets that the State party has not provided information on the impact of these measures and invites the State party to do so in its next periodic report. Additionally, the Committee invites the State party to provide information on the impact of the implementation of the new comprehensive federal law enforcement strategy released by the Department of Justice and Department of Interior and the directive issued by the Deputy Attorney General in July 2022 to prioritise the disproportionately high rates of violence and missing reports concerning Indigenous Peoples.

The Committee also invites the State party to provide further information on the outcomes of the field hearings being held by the Not Invisible Act Commission, including information on how members were selected and appointed as well as how participants were identified and engaged.

The Committee notes that the Missing and Murdered Unit in the Bureau of Indian Affairs Office of Justice Services has marshalled law enforcement resources, and requests that the State party provide further information on this, including on the allocation of financial and technical resources.

The Committee regrets that no specific information on the provision of adequate funding was provided.

The Committee considers the response of the State party to this recommendation unsatisfactory and requests further information on the implementation of its recommendations in the next periodic report.

While the Committee takes note of the measures taken by the State party to implement the recommendation in paragraph 52(a), it nevertheless regrets the insufficient information on the guarantees that would allow affected individuals to exhaust the means of recourse referred to. The Committee also notes the re-establishment in 2021 of the Department of Justice's Office for Access to Justice and invites the State party to provide additional information on the mandate and activities of this office, as well as on their impact. The Committee notes with regret that the right to counsel is not guaranteed through expenses of the government, that access to counsel is sustained through legal orientation programs and pro bono legal service providers, as well as that just one-third of detained respondents have representation.

The Committee also notes that the State party has referred to the U.S. Immigration and Customs Enforcement (ICE) 287(g) program and the complaints reviews and biennial inspections conducted by the ICE Office of Professional Responsibility without providing specific information, including on the scope and mandate of the Memoranda of Agreements established under the program. In the absence of this information, the Committee cannot determine whether and to what extent the aforementioned program, complaints reviews and biennial inspections relate to mandatory detention and due process for all detained non-citizens. Therefore, the Committee invites the State party to provide specific information on the ICE 287(g) program, the ICE Office of Professional Responsibility biennial inspections as well as the reviews of complaints and allegations against officers within the program, including the number of complaints, the nature of the allegations, and the outcomes of the reviews. Additionally, the Committee invites the State party to provide further information on the investigations of complaints brought by individuals affected by the ICE 287(g) program conducted by the Office for Civil Rights and Civil Liberties, as well as those conducted by bodies independent of the Department of Home Security.

The Committee also invites the State party to provide in its next periodic report further information on the review of law enforcement training conducted by the Department of Home Security through the Law Enforcement Coordination Council, the representation of civil society organisations and affected communities in the reviews conducted by the National Use of Force Review Board and Local Use of Force Review Boards, as well as on the new updates of the Department of Home Security's Use of Force Policy and its implementation.

Lastly, the Committee requests that the State party provide further information on the policy work of the Department of Home Security Office for Civil Rights and

Civil Liberties as well as the outcomes of the evaluations of policies undertaken by U.S. Citizenship and Immigration Services.

As the State party provided no information on steps taken to end mandatory detention and insufficient information on steps taken to ensure due process for all detained non-citizens, the Committee considers the response to this recommendation unsatisfactory.

Rest assured, Excellency, that the Committee looks forward to continuing its constructive dialogue with the Government of 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,



Verene Shepherd
Chair

Committee on the Elimination of Racial Discrimination