



# International Covenant on Civil and Political Rights

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## Human Rights Committee 139th session

### Summary record of the 4051st meeting

Held at the Palais des Nations, Geneva, on Wednesday, 18 October 2023, at 10 a.m.

*Chair:* Ms. Abdo Rocholl

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(*continued*)

*Fifth periodic report of the United States of America (continued)*

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*The meeting was called to order at 10:05 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Fifth periodic report of the United States of America (continued) (CCPR/C/USA/5;  
CCPR/C/USA/QPR/5)*

*In accordance with rule 108 of the Committee's rules of procedure, Mr. Helfer withdrew during the consideration of the fifth periodic report of the United States of America.*

1. *At the invitation of the Chair, the delegation of the United States of America joined the meeting.*
2. **Ms. Bassim** said that she would like all those present to observe a minute of silence in remembrance of the civilian victims of the recent violence.
3. *At the invitation of the Chair, all those present observed a minute of silence.*
4. **A representative of the United States of America** said that school discipline guidance documents were distributed to all of the nation's approximately 18,000 school districts and posted on the website of the Department of Education. Press releases about their issuance were also distributed. Though the guidance was not binding, robust federal laws had been in place since 1964 which prohibited racial discrimination by any recipient of federal funds, and those laws were also aggressively enforced by means of school investigations. LGBTQI+ rights were protected at the state and local levels by means of investigations, the provision of resource materials to every federally funded school and public outreach activities. The Constitution provided that federal law prevailed over state and local laws in the event of a conflict, and her Government stood ready to enforce federal law in all school communities.
5. **A representative of the United States of America** said that the Department of Housing and Urban Development made family reunification vouchers available to parents, particularly those of colour, whose children had been placed in foster care if housing issues had played a role in their loss of custody. Various types of outreach were being used to increase public awareness of the availability of those vouchers.
6. In order to avoid the revictimization and additional traumatization of survivors of domestic violence, the Department of Housing and Urban Development had been given enforcement authority under the Violence Against Women Act Reauthorization Act of 2022 to assist survivors who were tenants of subsidized housing to avail themselves of their legal right to housing transfers. Since the passage of the Reauthorization Act, more than 450 persons had contacted the Department for that purpose.
7. **A representative of the United States of America** said that her Government was committed to prosecuting perpetrators of female genital mutilation and had brought three such prosecutions to date. The Strengthening the Opposition to Female Genital Mutilation Act of 2020 had expanded the scope of punishable acts in that regard, and millions of dollars in awards had been funded to assist front-line workers and victims.
8. With respect to the question asked by Mr. Gómez Martínez regarding state laws on marriage, the Violence Against Women Act required the Attorney General to report on conflicts between the marriage age established in state laws and laws defining age-based sex offences. Regarding the subject of violence and sexual abuse of women in prisons, under the Reauthorization Act of 2022, it was a strict liability crime for federal law enforcement officers to engage in sexual conduct with persons in federal custody. Senior Department of Justice officials had issued a report in November 2022 with more than 50 recommendations for improving the Department's response to sexual misconduct by Federal Bureau of Prison employees involving inmates, and the implementation of those recommendations was under way. Updated guidance had been released in May 2022 to help law enforcement agencies recognize and prevent gender bias when responding to incidents involving gender-based violence.
9. Though she was unable to comment on the case of Mr. Leonard Peltier because a clemency petition on his behalf was pending at that time, the Sentencing Commission had

recently voted to expand the availability of compassionate release for elderly and ill inmates and those serving unusually long sentences. Defendants' ability to petition courts directly for relief under the First Step Act had led to a large increase in the number of sentence reductions granted by federal courts.

10. Although there were laws and requirements designed to avert racial bias in sentencing, the overrepresentation of members of minority groups among persons sentenced to death was a serious concern. Upon imposing a moratorium on federal executions, the Attorney General had referred to the concerns prompted by arbitrariness in the imposition of the death penalty, its disproportionate application to people of colour and the implications of the troubling number of exonerations of persons on death row. Her Government was in the process of reviewing federal capital case policies and procedures. As one of the goals of the existing capital case review protocol at the federal level was to ensure the application of penalties in a non-discriminatory manner, reviewers were not apprised of the race or ethnic origin of the defendants or victims.

11. **A representative of the United States of America** said that 23 states had banned the death penalty, and governors had imposed a moratorium on the death penalty in 3 of the 27 states which had retained that penalty. In all of those where the death penalty was still allowed, lethal injection was prioritized as the means of execution, although secondary methods were approved in some. More than half of the inmates sentenced to death in Nevada were people of colour. Various factors had prevented executions from taking place since the last time that the death penalty had been carried out in the State of Nevada in 2006, including personnel assigned to execution duties declining to perform their role and pharmaceutical companies refusing to sell the required drugs. Some family members of murder victims had also spoken out against the death penalty, and public opinion in favour of doing away with the death penalty appeared to be gaining momentum.

12. **A representative of the United States of America** said that, if passed by Congress, the Women's Health Protection Act would establish a statutory right for health-care professionals to provide abortion care and their patients' right to receive care free from bans and medically unnecessary restrictions. The White House had issued a policy statement in July 2022 strongly supporting that bill and urging Congress to support it.

13. **A representative of the United States of America** said that his Government understood its duty to ensure that clean, safe drinking water was accessible and affordable. To that end, the Environmental Protection Agency, in partnership with the Department of Health and Human Services, was allocating approximately \$1 billion for a supplemental affordability programme for provisioning and paying for water for at-risk and in-need families, in particular. In addition, under the Bipartisan Infrastructure Act, his Government was providing more than \$50 billion in direct funding, much of which was being used for principal forgiveness and interest rate reduction, in addition to provisioning additional infrastructure for at-risk and highly needy communities.

14. **A representative of the United States of America** said that, while the Supreme Court decision in *Dobbs et al. v. Jackson Women's Health Organization et al.* had torn away the constitutional right to privacy and bodily autonomy, it had not instituted a nationwide ban on abortion; as a result, states had a greater ability either to limit or to protect women's access to abortion. He was working with 23 other attorneys general to block efforts to ban the abortion drug mifepristone, which had been proven to be safe.

15. **Ms. Šurlan**, noting that the crime of torture, as a specific offence, had yet to be introduced into the State party's federal legislation, said that she would be interested to know what steps the State party was taking to adopt a comprehensive prohibition of all forms of torture and cruel, inhuman and degrading treatment or punishment into domestic law and to ensure that the associated penalties were commensurate with the gravity of the crime. What steps had the State party taken to implement the Committee's recommendation in its previous concluding observations that it should ensure the availability of compensation to victims of torture and ensure the inadmissibility of evidence obtained through torture or so-called enhanced interrogation techniques?

16. She would be grateful to know what steps the State party was taking to comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson

Mandela Rules) and to limit solitary confinement to a maximum of 15 days. She would like to know exactly what the “limited circumstances” were under which solitary confinement was permitted for juveniles in federal custody in accordance with the First Step Act and what other measures were being taken to end its imposition for excessive or indefinite periods of time or for any period of time at all in the case of juveniles and persons with serious mental health conditions.

17. She would be interested to know when the Guantanamo Bay detention facility would finally be closed and what legal remedies were available to individuals who had been detained for years or even decades, sometimes without ever standing trial. Information on the status of Executive Order 13823 with regard to the continued operation of that facility would be appreciated. She would be interested to hear the State party’s views regarding the fact that detainees were not being dealt with through the ordinary criminal justice system. Did the State party intend to repeal the Military Commissions Act? In the light of the State party’s obligations under the Covenant, she invited the delegation to explain how the State party planned to address the ongoing cruel, inhuman and degrading treatment to which the detainees in Guantanamo were reportedly subjected and their lack of adequate medical and rehabilitative services. She wished to know how long the 16 detainees in Guantanamo who were eligible for transfer had been awaiting transfer and if they had ever stood trial. The Committee had received reports that some of the detainees who had already been transferred had been subjected to further human rights violations. She would therefore be interested to learn whether the State party had developed measures for ensuring the well-being of such detainees.

18. **Mr. Yigezu** said that he would be grateful if the State party could inform the Committee about measures adopted or envisaged to halt the practices of bringing prostitution-related charges against victims of sex trafficking, deporting them and removing their children from their custody, which made it far less likely that they would report instances of abuse. Information would be welcome on any measures taken to put an end to those cycles of harm by protecting such victims and ensuring that they had adequate access to health care, education, employment opportunities, rehabilitation services and compensation. He would be grateful for clarification as to what measures the State party was taking or envisaged taking to eliminate gaps in the law in order to improve its ability to prevent the use of artificial intelligence to create sexually explicit content that was then employed to extort or harass victims. Information would also be appreciated about any steps being taken to address inconsistencies across state laws that hindered efforts to combat online sexual exploitation and abuse, including sex trafficking.

19. He wished to know whether the State party could provide further information on any plans to update the H and J visa programmes and to strengthen on-site inspection systems for monitoring unsafe working conditions, ensuring that participation in those programmes was truly voluntary and making certain that employers complied with state and federal laws and regulations. Reports before the Committee indicated that unaccompanied migrant children were often placed in foster care in remote areas without having properly vetted the host families and that some of those children were subjected to labour exploitation and prevented from attending school. Information on plans for providing greater protection to such children would be appreciated. He would also be interested in hearing about any measures that were envisaged for doing away with forced labour in prisons and detention centres and for curbing the exploitation of incarcerated workers.

20. In the light of the steep increase in campaign spending seen in the wake of the 2010 Supreme Court decision in *Citizens United v. Federal Election Commission*, which disallowed any law that placed a ceiling on campaign spending, he would be grateful for information on the regulatory measures that the State party planned to adopt to ensure greater transparency in the campaign funding provided by outside interest groups in order to prevent or limit their apparent undue influence on the conduct of elections in the State party.

21. **Mr. Soh** said that he would be interested to know what steps the State party was taking to limit immigration detention and ensure due process, including access to legal counsel, for all detained non-citizens without discrimination. Were any measures taken to ensure that alternatives to detention were available in law and in practice, apart from electronic monitoring surveillance programmes? He would be grateful if the State party could comment

on how its newly adopted migration measures aligned with the Covenant and with the recommendations made by the Committee in 2014.

22. He would be interested to learn about any comprehensive reforms being considered to improve conditions at public and private immigration detention facilities and to ensure transparency and accountability on the part of Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) regarding their treatment of detainees. He invited the delegation to comment on reports that the Voluntary Work Program was abused by private operators who pressured detainees into performing menial tasks for minimal compensation on pain of retaliation, including solitary confinement.

23. In addition to the information provided on the subject at the preceding meeting, he would be grateful to know what progress had been made by the Family Reunification Task Force. Information would be welcome on the measures adopted to overcome the obstacles to the timely reunification of families separated as a result of the “zero tolerance” policy, to completely halt any further separations and to ensure that victims were provided with full reparations, including rehabilitative services.

24. He would appreciate up-to-date data on deaths of migrants in CBP custody and investigations into those deaths. What measures were in place to protect the lives of detained children and to provide full reparations to the families of victims? He wondered what the reasons were for the continuous systemic failures that led to such deaths despite initiatives such as Directive 2210-004 regarding enhanced medical support efforts.

25. Could the State party provide information on oversight of the use of force by border agents, the number of such incidents reviewed, the outcomes of those reviews and the steps taken to address the excessive use of force and to provide remedies to victims?

26. He would be grateful if the delegation could comment on the status of the renewal of section 702 of the Foreign Intelligence Surveillance Act of 1978 and on any plans to introduce amendments to safeguard privacy by, for example, requiring a warrant to access communications, strengthening the judicial review authority of the Foreign Intelligence Surveillance Court and placing reasonable limits on the scope of surveillance. Information on the Federal Bureau of Investigation (FBI) guidelines on the erasure of all records that had not led to investigations would be appreciated. He wished to know that measures were in place to ensure that the surveillance, data collection and data sharing practices of government agencies were in compliance with the Covenant. More generally, he would welcome a description of the regulatory framework at federal and state levels governing the collection, storage, use and retention of personal data and the avenues available for challenging such practices. Lastly, he wished to know whether there were any plans to introduce comprehensive privacy legislation and/or establish an independent privacy or data protection agency at the federal level.

27. **Ms. Kran** said that she wished to know that measures were available to protect journalists against undue federal investigations and surveillance. She would like to know how many complaints had been brought against law enforcement officials for violating journalists’ rights during the reporting period and what the outcomes of the ensuing investigations had been. She would like to know how the State party planned to address the safety concerns of journalists, especially those reporting on misconduct by public officials, and how it proposed to deal with the problem of press harassment by high-level politicians.

28. The Committee wished to know what would be done to ensure that state laws that hindered attempts to boycott foreign entities for alleged human rights violations complied with the Covenant and what legal recourse was available to individuals unjustly targeted under anti-boycotting legislation.

29. She would appreciate clarification on the steps taken or planned to ensure accurate data collection on hate crimes and the measures adopted since 2021 to counter the sharp rise in hate-motivated violence. She wished to know if there were any plans to enact laws prohibiting hate speech or to withdraw the State party’s reservation to article 20 of the Covenant. She wondered if the federal government planned to take any action to ensure that individual states complied fully with the Covenant’s provisions on freedom of information.

Did it have any plans to safeguard LGBTQ+ individuals' access to books and other informational materials?

30. The Committee wished to hear what efforts were being made to achieve individual states' compliance with the Executive Order on Promoting Access to Voting. Did the State party intend to restore the full protections previously afforded by the Voting Rights Act of 1965? She would like to learn of any plans for improving voter education and offering election materials in languages other than English. Information on plans to support states' administration of secure and accessible elections in accordance with the Covenant would be welcome. She would appreciate information about measures for addressing the challenges faced by persons with accessibility issues. She further wished to know what action was being taken to prevent harassment and threats directed at election officials. The Committee would be grateful if the delegation could describe the mechanisms in place to ensure that new electoral maps were not partisan or discriminatory and could inform the Committee how many states had implemented laws to prevent gerrymandering. Lastly, she would like to learn of any measures for securing compliance with article 25 of the Covenant by removing obstacles to voting faced by felons who had served their sentence and been released.

31. **Ms. Donders** said that her first question concerned measures taken to ensure that broad anti-protest laws at the state level did not unjustifiably limit freedom of expression and freedom of assembly. The Committee wished to know that measures and specific targets were in place for putting a stop to the excessive use of force by public and private actors against protesters, journalists, legal observers and paramedic teams. The Committee wished to reiterate its question about the need for the 1033 Program and the proportionality issues raised by the use of military equipment by law enforcement agencies during demonstrations. She was curious to know how the State party ensured that counter-terrorism laws and laws on critical infrastructure were in full compliance with the Covenant and were not misused to suppress lawful political and other protests.

32. She would like to know why agricultural and domestic workers were not covered by the National Labor Relations Act, which guaranteed the right to form and join trade unions. She wondered whether it was really possible to draw a distinction between strikers against unfair labour practices and strikers seeking economic concessions, since strikers' protests often encompassed several issues. How could the consequences of that distinction be reconciled with the requirements of the Covenant?

33. She wished to know how the State party facilitated recognition of Indigenous Peoples at the federal level and what measures it had taken to protect Indigenous sacred sites and places of cultural, spiritual or religious significance from infringement by public and private actors. What did it do to ensure that permission for economic and development projects was subject to consultation and the free, prior and informed consent of the affected communities? She was anxious to find out whether environmental and socioeconomic impact assessments were conducted before activities were planned and what measures were in place to enforce bilateral treaties with Indigenous Peoples. The Committee would appreciate information on any efforts to establish study, truth or reconciliation commissions or other initiatives to address the legacies of colonialism and slavery.

34. Specific information on efforts to make real progress in combating violence against Indigenous women would be welcome. She wished to know what measures were being taken to give victims and their families access to justice, information and legal aid. She would like to learn how the State party promoted cooperation between tribes and law enforcement agencies and what kind of training was given to enforcement officials who worked with victims and their families. What steps was the State party taking to address the root causes of violence against Indigenous women?

35. **A representative of the United States of America** said that the current Administration had called on Congress to pass the John Lewis Voting Rights Advancement Act to restore the protections afforded under the Voting Rights Act of 1965 and to pass the Freedom to Vote Act, which would establish national standards for ballot access, ensure fair electoral maps and restore voting rights to felons who had served their sentences. President Biden was committed to ensuring an ethical and transparent Government that was

accountable to the American people, and he supported legislation to reform the campaign finance system.

36. **A representative of the United States of America** said that he recognized the challenges that remained to enable each and every American to vote. To that end, action was also required at the state and municipal levels. The Supreme Court's decision in the recent case of *Merrill v. Milligan*, which had restored part of section 2 of the Voting Rights Act, was an important first step, but much more needed to be done.

37. **A representative of the United States of America** said that, sadly, many states had passed restrictive voter identification laws that had made it more difficult for people of colour, veterans and senior citizens to vote. In some states, research indicated that those groups' mail-in votes had been rejected at a higher rate than that of white voters. In Nevada, however, every active registered voter could vote in primaries and general elections by post. His state had same-day voter registration and automatic voter registration. It had also restored the right to vote of former offenders once they had left prison.

38. **A representative of the United States of America** said that, despite the Supreme Court's decision in *Shelby County v. Holder*, which had severely undermined the Voting Rights Act, the Department of Justice was committed to using all its tools to address intimidation, discrimination and bias that hindered people's ability to exercise their right to vote. It had recently secured a federal court finding that a redistricting exercise in Galveston County, Texas, had been an instance of racial gerrymandering, in violation of the Voting Rights Act. The Department had also filed briefs in support of the plaintiffs in *Allen v. Milligan*, a case in which the Supreme Court had ordered the creation of a district in which minorities constituted a majority. Criminal prosecutions had been brought against persons who had attempted to intimidate election officials and voters. The Department of Justice was also partnering with colleagues at the state and local levels to help them ensure that all eligible voters knew how to cast their vote and how to report incidents of harassment or intimidation. It had urged Congress to fully restore the Voting Rights Act and other necessary legislation. However, it would not wait for Congress to act, but would use its authority under the Voting Rights Act, the National Voter Registration Act and the Help America Vote Act to support voters' rights.

39. **A representative of the United States of America** said that some of the steps taken to combat violence against Indigenous persons included Executive Order 14053 on Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People and the proclamation of Missing and Murdered Indigenous Persons Awareness Day, which was held on 5 May. The Department of Justice, the Department of the Interior and the Department of Health and Human Services had issued a comprehensive law enforcement strategy for the effective administration of criminal investigations. It required all Bureau of Indian Affairs, FBI and tribal law enforcement officers to receive training regarding trauma-informed culturally responsive investigative approaches. The Office on Violence against Women administered four grant programmes that were specifically designed for tribal communities. Tribes and tribal organizations were also eligible for funding to counter violence against women under other programmes run by the Office.

40. **A representative of the United States of America** said that, in order to address violence against American Indians and Alaska Natives, especially women and girls, precedent-setting policies based on a relationship of trust between the federal government and the 574 federally recognized tribes had been introduced to promote tribal self-governance. Members had been appointed to the Not Invisible Act Commission, a federal advisory committee composed of law enforcement officials, tribal leaders, federal partners, service providers, family members of missing and murdered individuals and survivors. It was tasked with making recommendations to Congress and federal agencies about ways of improving intergovernmental coordination and establishing best practices for state, tribal and federal law enforcement personnel, bolstering resources for survivors' services and carrying forward efforts to combat the human trafficking crisis. The Commission had already held eight meetings to obtain public feedback that would help to shape its recommendations. Its report was to be published in November 2023. Under Executive Order 14053, several departments had been directed to identify the essential pillars

for a strategy for improving coordination between federal and other law enforcement agencies operating in tribal territories. The Missing and Murdered Unit, which had been established in 2021 as a component of the Bureau of Indian Affairs, was headquartered in New Mexico and had set up 17 offices in 11 states. Executive Order 14019 promoted access to voting in Indian country and elsewhere.

41. **A representative of the United States of America** said that American Indian and Alaskan tribal nations were sovereign Governments recognized under the Constitution, treaties, statutes and executive orders. The current Administration was committed to respecting tribal sovereignty and governance, fulfilling federal trust and treaty responsibilities to tribal nations and making meaningful consultations with tribal nations a cornerstone of federal policy. The Department of the Interior and the Department of Health and Human Services transferred programmes by contract or compact to tribal Governments in accordance with federal law. By way of example, in 2022 the Department of the Interior had distributed \$1 billion to over 280 tribes. That self-governance model was being expanded to include programmes run by the Department of Agriculture. At the Tribal Nations Summit in 2022, 17 federal agencies had released a new report on best practices to assist federal field staff in integrating the consideration of tribal treaty and reserve rights into decision-making processes. Those best practices had been developed in consultation with tribal nations with a view to implementing the Memorandum of Understanding regarding Inter-agency Coordination and Collaboration for the Protection of Tribal Treaty Rights and Reserved Rights. There was also a memorandum of understanding on sacred sites.

42. **A representative of the United States of America** said that the first-ever Tribal Intergovernmental Advisory Committee of the Housing and Urban Development Department, which included elected tribal leaders from across the country, had held two meetings so far to discuss tribal governance, tribal sovereignty, housing and community needs and the funding provided for tribal nations.

43. **A representative of the United States of America** said that, although Executive Order 13823 of 2018 had stated that the facility at Guantanamo Bay would remain open, the current Administration was dedicated to responsibly reducing the detainee population and ultimately closing the facility and was actively working to develop an approach for doing just that. Until that goal was achieved, the Department of Defense would continue to ensure the safe, humane and legal care and treatment of the detainees. There were currently 30 detainees, of whom 16 were eligible for transfer, 3 were in continuing law-of-war detention and eligible for periodic review, 9 were undergoing prosecution before military commissions and 2 had been convicted by military commissions. The State Department was endeavouring to identify appropriate receiving countries which would provide assurances that the transferees would receive safe and humane treatment. It was a very complex matter, and her Government needed the support of other countries. As a matter of long-standing policy and practice, the United States of America did not transfer any individual to a foreign country where it was likely that that person would be tortured. It took account of all the relevant factors relating to the detainee and the Government in question, including the detainee's allegations of prior or potential mistreatment by the receiving Government, a potential recipient country's human rights record, whether post-transfer detention was contemplated and whether individuals in a similar situation had been tortured in the country in question.

44. Her Government had been pleased to facilitate the visit to Guantanamo Bay of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. However, it disagreed, respectfully but emphatically, with many of his findings, in particular his finding that the cumulative effects of certain structural deficiencies at Guantanamo amounted to cruel, inhuman and degrading treatment under international law. The United States of America condemned all such treatment and punishment, which was also prohibited under domestic law. Detainees received medical care comparable to that of the military personnel who were serving in the Joint Task Force Guantanamo.

45. **A representative of the United States of America** said that there had been no known acts of torture committed in the United States that it had not been possible to prosecute for lack of legal authority. Domestic law also provided for a range of civil remedies for victims of torture, including injunctions and compensatory and punitive damages. Moreover, the



federal government was authorized to bring civil actions to enjoin acts or patterns of conduct that violated constitutional rights, including those that amounted to torture. The Constitution prohibited the use of seclusion in a manner that constituted cruel and unusual punishment and required the granting of due process to prisoners in solitary confinement.

46. In February 2023, in compliance with an executive order of 25 May 2022, the Attorney General had issued a report on steps taken to ensure that restrictive housing was subject to reasonable constraints and was used rarely and fairly. Prisoners in restrictive housing had their status reviewed periodically and were not deprived of human contact, recreation, environmental stimulation or health care. The Federal Bureau of Prisons and the Department of Justice were committed to further reducing the use of restrictive housing, with the former having assembled a task force to conduct an assessment and provide recommendations in that regard.

47. **A representative of the United States of America** said that, in Nevada, legislation had been passed to prohibit the solitary confinement of juveniles and ensure that, in general, the measure was used only as a last resort and for the shortest time possible. Barring exceptional circumstances, inmates in Nevada could not be placed in solitary confinement for more than 15 days, within 90 days of their release date or if they had a mental health issue unless it was ordered by their mental health practitioner. Inmates in solitary confinement received a daily health and welfare check and were allowed visitors and a telephone.

48. **A representative of the United States of America** said that the United States was facing hemispheric migration challenges with outdated immigration laws that only Congress could fix. The Biden-Harris Administration had worked diligently to create an unprecedented expansion of lawful pathways to protect immigrants from exploitation by ruthless smugglers. The Circumvention of Lawful Pathways rule, adopted to incentivize the use of those pathways, established a rebuttable presumption of asylum ineligibility for those who had not sought protection in a country through which they had transited or attempted to make an appointment to appear at a port of entry using the CBP One Mobile application. Exceptions to the rule were granted to unaccompanied children and persons who were illiterate or faced language barriers. The application had enabled the scheduling of over 300,000 appointments at eight ports of entry across the south-west border.

49. Regarding expedited removal, a trained asylum officer conducted a credible fear screening of individuals claiming to be in fear of being persecuted in their country of origin. Those individuals also had an opportunity to consult counsel beforehand. Hundreds of privacy booths had been installed in CBP facilities to enable private legal consultations. Information on free legal service providers had been posted in all the booths.

50. **A representative of the United States of America** said that the Inter-Agency Task Force on the Reunification of Families, established by executive order in February 2021, had set up a website where families could register to begin the reunification process. To date, the Task Force had identified over 4,000 children who fell within the scope of the order. More than 3,200 children had since been reunited with their families, while the families of a further 200 had been informed of their access to reunification and other services but had not yet taken action. Some 80 children were currently in the process of being reunified with their families. The Task Force supported applications for humanitarian parole and employment authorization and provided families with behavioural health services prior to and after reunification to address the trauma of separation. The previous day, the United States had reached a settlement in *Ms. L., et al. v. ICE, et al.*, a class action litigation filed in 2018 seeking injunctive relief relating to the separation of parents and children at the south-west border. The Government had agreed to provide medical insurance and legal and housing support to members of the class action, in addition to streamlined immigration processing.

51. All deaths of persons in CBP custody were subject to the same review protocols. The Office of the Chief Medical Officer determined whether the deceased had received appropriate health care, while the Office of Professional Responsibility determined whether relevant detention standards had been followed and whether any criminal or administrative misconduct had occurred. Findings were referred to the appropriate law enforcement or investigative agency and reported to senior CBP officials and the Office for Civil Rights and Civil Liberties. Deaths were notified to Congress, non-governmental organization

stakeholders and the media. The Office of Professional Responsibility was conducting an exhaustive investigation into the death of an 8-year-old girl who had been in CBP custody on 17 May 2023.

52. The Office of Refugee Resettlement served unaccompanied children through two distinct programmes: the Unaccompanied Refugee Minors Programme and the Unaccompanied Children Programme. Under the former, it offered a comprehensive set of services, including out-of-home placement, case management and educational, physical and mental health support. The Department of Education and the Department of Justice had recently published a fact sheet on access to education for unaccompanied children that highlighted specific challenges and available services.

53. **A representative of the United States of America** said that detention oversight within the Department of Homeland Security was provided by, among other bodies, the Office of the Immigration Detention Ombudsman, the Office for Civil Rights and Civil Liberties and internal affairs offices of CBP and ICE. The Office for Civil Rights and Civil Liberties investigated complaints of profiling and discrimination and notified complainants or their representatives of the results. The Office was currently looking into several allegations of prolonged detention and bond denials affecting members of racial minorities. In one investigation in the New Orleans area, it had issued numerous recommendations in response to claims of inadequate medical care, improper use of force and other types of abusive treatment of peaceful hunger strikers, the imposition of segregation, racially discriminatory abuse of black detained non-citizens and unsanitary conditions. The Office also reviewed complaints related to language access. The Department of Homeland Security was updating its language access plans and had launched its first-ever Indigenous languages plan. The Office's online complaint portal was available in 10 languages, but complaints could be submitted in any language.

54. ICE had the discretion to use alternatives to detention and was bound by policies dictating that members of certain vulnerable populations could not be detained. Earlier that year, it had rolled out the Young Adult Case Management Program, which provided community services to 18- and 19-year-olds who posed a low flight risk. Congress had allocated \$20 million to the Department of Homeland Security to implement the Case Management Pilot Program, under which funds were awarded to local governments and non-profit organizations to provide voluntary case management and other services, including mental health screenings and cultural and legal orientation assistance.

55. **A representative of the United States of America** said that human trafficking and forced labour remained far too prevalent in the United States. A national action plan and a national strategy to combat human trafficking had been launched in December 2021 and January 2022, respectively, with a focus on prevention, prosecution and victim protection. The Department of Justice had developed recommendations and best practices, including the creation of anti-human-trafficking task forces supported by state law enforcement agencies. The Department was also coordinating labour trafficking investigations and prosecutions and developing victim screening protocols. In the 2022 fiscal year alone, it had brought human trafficking charges against 310 individuals and had obtained over 250 convictions. It had also launched an inter-agency initiative to step up the detection of forced labour violations and the prosecution of the persons responsible for those violations.

56. **A representative of the United States of America** said that, in October 2021, the Department of Homeland Security had directed its components to incorporate a victim-centred approach into all policies, programmes and activities involving interaction with victims of crime. In a similar vein, Homeland Security Investigations had issued a directive underscoring its personnel's responsibilities regarding victim identification and assistance. The Center for Countering Human Trafficking had launched a public website to serve as a one-stop shop for the Department's resources for combating human trafficking. United States Citizenship and Immigration Services had released the first-ever stand-alone T visa law enforcement resource guide to provide information to certifying agencies about how they should support victims of human trafficking during investigations and prosecutions. It had also released updated, comprehensive policy guidance on T visa eligibility requirements.

57. **A representative of the United States of America** said that workers' immigration status was not a factor in the application of most federal labour and employment laws or the investigation of employment agencies. Steps were being taken to strengthen protections for temporary workers through the H-2A temporary agricultural workers programme and the H-2B temporary non-agricultural workers programme. In 2022, the Department of Labor, in cooperation with the Department of State and the United States Agency for International Development, had issued guidance on fair recruitment practices for temporary migrant workers. The guidance, which was based on the General Principles and Operational Guidelines for Fair Recruitment of the International Labour Organization (ILO) and Department of Labor regulations, encouraged countries and employers participating in the H-2A and H-2B programmes to implement best practices, such as prohibiting recruiters from seeking or receiving certain fees from prospective workers and reimbursing workers for costs related to visa processing, border crossing, transportation and room and board.

58. The Occupational Safety and Health Administration had recently been authorized to issue law enforcement certifications in support of applications for T and U visas when it identified criminal activities during workplace safety inspections. The Department of Labor's Wage and Hour Division had been issuing U visa certifications since 2011 and T visa certifications since 2015. In September 2023, the Department had announced the issuance of a notice of proposed rulemaking on improving protections for workers in temporary agricultural employment aimed at promoting worker self-advocacy, reinforcing protections against retaliation, making foreign labour certification more transparent and strengthening the enforcement of employers' contractual obligations. The Wage and Hour Division conducted *motu proprio* investigations into employer compliance in the agricultural industry. The Department's outreach efforts included the Consular Partnership Programme with the Governments of El Salvador, Guatemala, Honduras and Mexico, as well as a website offering information on the rights and protections available to migrant workers under federal law.

59. **A representative of the United States of America** said that, in 2021, the Secretary of the Interior had announced the Federal Indian Boarding School Initiative to address the troubled legacy of federal Indian boarding school policies and their impact on American Indian, Alaska Native and Native Hawaiian communities. Under the Initiative, in 2022 the Department of the Interior had published the first volume of a report on at least 408 boarding schools that the United States had operated or supported across 37 states for over 150 years up to the early 1970s. The second volume of the report was to be published in December 2023. The Secretary of the Interior was currently hosting the "Road to Healing" tour, a series of listening sessions to hear from survivors of the boarding school system. The Government also continued to support legislative efforts to establish a formal truth and healing commission to investigate past injustices and provide survivors with resources.

60. **A representative of the United States of America** said that there were strong constitutional and statutory protections against arbitrary interference with people's privacy in law enforcement investigations. The Fourth Amendment prohibited unreasonable searches and seizures, while additional safeguards were provided by the Electronic Communications Privacy Act of 1986. The Privacy Act of 1974 required federal agencies to protect personally identifiable information. Under the Foreign Intelligence Surveillance Act, the Government had a duty to notify persons whose communications were subject to collection if it planned to use the evidence against them in legal proceedings. Evidence challenged and found to have been obtained unlawfully had to be excluded. Several statutes authorized individuals to seek redress for violations in civil lawsuits. Although civil litigation remedies were sometimes limited by the classified nature of intelligence information, there was also a broader system of safeguards: in addition to the Privacy and Civil Liberties Oversight Board, privacy and civil liberties officers and independent inspectors general were stationed at all intelligence agencies.

61. **A representative of the United States of America** said that ICE integrated privacy, civil rights and civil liberties considerations into its development and procurement of information technology systems. It was currently carrying out a privacy impact assessment covering, in part, its use of database subscription services to support law enforcement investigations. The assessment would describe any identified risks to personal privacy and the controls in place to mitigate them. Once completed, it would be posted publicly online.

The acquisition of commercial data services, including facial recognition technology, had been paused pending the issuance of an overarching policy on the use of commercial data. For the duration of the pause, such services could be acquired only with approval from the ICE deputy director and only after balancing mission needs against privacy and other related concerns.

62. **A representative of the United States of America** said that President Biden had pledged to be the most pro-worker and pro-union president in the country's history, and support for unions was at its highest level in more than half a century. In April 2021, the Government had established the White House Task Force on Worker Organizing and Empowerment to mobilize its policies, programmes and practices to empower workers to organize and successfully bargain with their employers. The Government had also called on Congress to pass the Protecting the Right to Organize Act, which would make it easier for workers to form unions and more difficult for businesses to engage in unfair labour practices.

63. The National Labor Relations Board was an independent federal agency that investigated unfair labour practice claims under the National Labor Relations Act and litigated on behalf of covered employees and employers to obtain relief for violations. It also conducted extensive outreach activities to educate members of the public about their rights and responsibilities under the Act, which covered certain categories of agricultural and domestic workers. The Board rigorously investigated the status of employees alleged to fall outside its statutory jurisdiction and extended coverage to those found to be within it.

64. **A representative of the United States of America** said that, 153 years on from the foundation of the Department of Justice, with its primary goal at the time being to protect newly emancipated African Americans from members of the Ku Klux Klan and other white supremacists, hate crimes remained far too common in the United States. FBI figures for 2022 revealed that hate crimes were at their highest level in a generation, yet those figures were surely an undercount because many such crimes went unreported. The Department of Justice was using its criminal prosecution authority to hold perpetrators of hate crimes accountable, in addition to combating non-criminal acts of hate, funding the establishment of state-level hotlines to increase reporting and providing relevant training to state officials.

65. **A representative of the United States of America** said that identifying, addressing and preventing violent extremism in the country was a top priority of the Department of Homeland Security, whose Center for Prevention Programmes and Partnerships followed an evidence-informed, multidisciplinary public health approach to prevention that was implemented locally by community partners. In the wake of the senseless murder of a Palestinian child in Illinois earlier that week, the Secretary of Homeland Security had once again condemned violence, especially violence born of hate, and reiterated that the Department would continue to work every day to prevent it.

66. **A representative of the United States of America** said that hate speech often preceded or included other hate-based behaviour. Even before the tragic killing in Illinois, the Department of Housing and Urban Development had been focused on preventing discrimination based on national origin or religion through the enforcement of the Fair Housing Act and Title VI of the Civil Rights Act of 1964.

67. **A representative of the United States of America** said that the First Amendment guaranteed the rights to peaceably assemble and petition the Government, which included the right to protest. The Department of Justice had undertaken investigations of police departments believed to have engaged in practices that infringed the rights of protesters. In recognition of the fact that freedom of the press was critical to democracy, in 2022 the Attorney General had issued guidance and regulations governing the ways in which law enforcement tools, including subpoenas, could and could not be used to collect information from journalists.

68. **A representative of the United States of America** said that mayors, police chiefs and community members needed to build strong relationships that would help to bring about a change in the culture within police departments in order to prevent the excessive use of force against protesters. In addition, law enforcement officers required training on the use of force and needed to be encouraged to exercise self-discipline and to work on changing a "warrior" mentality into a "guardian" mentality.

69. **Ms. Šurlan** said that the Committee wished to know what measures were in place to prevent the misuse of solitary confinement provisions in immigration detention centres. It would also appreciate an answer to the question posed in the list of issues (CCPR/C/USA/QPR/5) concerning the number and status of habeas corpus petitions filed on behalf of detainees in Guantanamo Bay before the federal courts.

70. **Mr. Yigezu** said that he would be grateful to learn when the State party expected the bill on the disclosure of campaign funding – the DISCLOSE Act – to be adopted. He also wished to know whether the Government envisaged full decriminalization of victims of sex trafficking. The Committee would welcome information on the use of prison labour, including forced labour in the case of minors. In particular, he wished to know whether the State party planned to grant the Occupational Safety and Health Administration jurisdiction over labour conditions and establish rules or at least guidance on the implementation of the Fair Labor Standards Act. In addition, it would be useful to know what was being done to implement the Abolition of Forced Labour Convention, 1957 (No. 105) and to ratify the Forced Labour Convention, 1930 (No. 29) of the International Labour Organization.

71. **Mr. Soh** said that, with regard to the reported deaths of persons held in CBP facilities, he wished to know whether the families of the victims had received full reparations and what actions had been taken to improve health-care services in such facilities. He would also be interested in the delegation's comments on whether or not the fear screening process, which apparently involved only a visual scan to determine the extent to which persons apprehended while entering the country unlawfully would be at risk if returned to their home country, was in compliance with the Covenant. Lastly, he wished to know whether the State party planned to adopt a comprehensive data privacy law or to establish a federal agency responsible for ensuring privacy and data protection.

72. **Ms. Kran** said that the Committee wished to know what support, including mental health services, was available for victims and survivors of racially motivated hate crimes and whether they had access to compensation. In follow up to the question she had asked the day before regarding due diligence with respect to the country's arms trade, she would like to know how the State party ensured that its foreign aid policy and actions did not contribute to human rights violations abroad.

73. **Ms. Donders** said that she wondered how the State party ensured that the implementation of meaningful and robust consultations with Indigenous Peoples was not limited to a restrictive interpretation of the principle of free, prior and informed consent, as recognized in the United Nations Declaration on the Rights of Indigenous Peoples. The Committee would be grateful to learn of specific examples of instances in which the State party's laws and policies on Indigenous rights had had a decisive impact on the ground. In particular, she wished to know what the State party had done to protect Indigenous Peoples' rights, including their right to peaceful protest, in relation to the proposed police training centre referred to as "Cop City", the Dakota Access Pipeline and the Black Hills. Lastly, she wished to know whether training on the proportionate use of force for law enforcement officers was compulsory and whether any data had been collected to evaluate its impact.

74. **Mr. Carazo** asked whether, in the light of ongoing conflicts around the world, such as the aggression against Ukraine and the conflagration between Israel and Hamas, the current Administration of the State party intended to issue a declaration of peace and suspend its provision of military aid.

75. **A representative of the United States of America** said that segregation placement was used in immigration centres on a limited basis only and in line with ICE detention standards. Segregation could be used as either an administrative or a disciplinary measure. Vulnerable persons were not involuntarily segregated solely because they were vulnerable. The Office for Civil Rights and Civil Liberties of the Department of Homeland Security was conducting investigations into allegations of the inappropriate use of segregation at immigration detention centres. In 2020, it had also launched a periodic review of the ICE segregation oversight programme.

76. **A representative of the United States of America** said that non-citizens in detention had the opportunity to participate – on a purely voluntary basis – in work programmes; participants were compensated in the amount of at least \$1 per day under national standards

but the sums varied in accordance with local laws. Detention centres were obligated to ensure that detainees received all pay owed to them before they were transferred or released.

77. The Department of Homeland Security was working to improve health services for all persons in custody, including children in CBP custody. Both CBP and ICE provided direct health care for non-citizens being held in their facilities. The Office of Health Security had recently been established within the Department to fulfil all health and safety functions, including reviewing the health-care services provided by CBP. It also served as the principal medical workforce for the Department, with some 1,700 federal employees. The Office for Civil Rights and Civil Liberties was responsible for investigating complaints of inadequate medical care.

78. **A representative of the United States of America** said that, while human trafficking was a violation of federal law, sex work was regulated at the state and local levels. The federal government nonetheless recognized the importance of listening to victims and survivors of trafficking and abuse when developing law enforcement strategies.

79. **A representative of the United States of America** said that prison labour could be seen as a remnant of the convict leasing that had been allowed under the Thirteenth Amendment to the Constitution, which had prohibited slavery and servitude except in the case of incarcerated persons. Certain states had endeavoured to pass minimum wage legislation for prisoners but had had no success thus far. Efforts would continue to be made to that end, however. Nevada might be the only state to have decriminalized sex work. It was working to secure the passage of laws to ensure that victims of sex trafficking were not treated as offenders.

80. **A representative of the United States of America** said that, in relation to the Black Hills issue, in 2021 the Environmental Protection Agency had published an action plan to strengthen its nation-to-nation partnership with tribes on water issues and provide vital water protections to support public health, environmental sustainability, cultural activities and subsistence practices. The National Environmental Policy Act and the National Historic Preservation Act also provided institutional protections which had, for example, been deployed to address concerns regarding the construction of a telescope in Hawaii. The Government was committed to addressing tribes' concerns regarding such projects.

81. **A representative of the United States of America** said that, with regard to violence directed at Indigenous persons, the Office on Violence Against Women provided culturally responsive services to foster healing for victims of violence in Indigenous communities, especially in remote areas with little access to law enforcement or medical services. It had awarded almost \$40 million in grants to help tribes respond to domestic violence, sexual assault, stalking and sex trafficking, to support survivor safety and to develop educational and prevention strategies. Under the 2022 reauthorization of the Violence Against Women Act, tribal authority over non-Indian offenders had been expanded for crimes of violence against women and children, sex trafficking and stalking.

82. **A representative of the United States of America** said that, as most hate crimes were prosecuted at the local and state level, they fell outside the jurisdiction of the federal government. The Administration nonetheless recognized the need to address hate crimes and the impact they had both on individual victims and on the larger community that had been targeted. As hate crimes were often underreported, the Department of Justice conducted an annual hate crime victimization survey. The Office for Victims of Crime provided technical assistance and funding to state and local organizations that provided support to victims, including mental health support.

83. **A representative of the United States of America** said that persons apprehended while attempting to enter the country by crossing its south-west border were asked whether they had a fear of returning to their home country and, if so, were screened for protection concerns by a trained asylum officer. The visual scans referred to by Mr. Soh were used in the case of persons interdicted at sea, who were generally repatriated unless they established a well-founded fear, verbally or non-verbally, of persecution or torture if they were returned. Those persons were referred to the Citizenship and Immigration Services for screening. If a credible fear of persecution or torture was established, the individuals were voluntarily

transferred to a migrant operations centre at the Naval Station Guantanamo Bay, where they were interviewed to determine whether that fear was well founded.

84. **A representative of the United States of America** said that her Government had filed 13 periodic reports under ILO Convention No. 105 since its accession and was currently working on the next report that would be coming due. No new legislation or other measures that affected the application of the Convention had been enacted since its previous report. Decisions on the ratification of ILO conventions were made in consultation with the Tripartite Advisory Panel on International Labor Standards.

85. The Department of Labor had significantly enhanced its enforcement efforts in response to a notable increase in illegal child employment, including by establishing an emergency task force to combat child labour exploitation. In addition, its Wage and Hour Division had launched a national strategic enforcement initiative focused on vulnerable young workers through which it had handed down some \$6.6 million in fines between October 2022 and July 2023.

86. **A representative of the United States of America** said that the President had been outspoken on the harm caused by book bans. The Department of Education had appointed a coordinator to help address book bans throughout the country. In August 2023, the Department had released guidance on the legal provisions applicable to book bans and on schools' responsibility to prevent discriminatory, hostile environments from blocking students' access to education. It had also acted to enforce compliance with those obligations, including, for example, by securing an agreement from a school in Georgia after students had testified to the emergence of a racially and sexually hostile environment following the introduction of a book ban.

87. **A representative of the United States of America** said that the State of Nevada was prioritizing efforts to increase access to midwife and doula services and to improve maternal health, especially among women of colour, who had a higher rate of maternal mortality. In April 2022, the legislature had approved doula services as a provider type covered by the state's medical insurance programme for very low-income persons, under which costs for doula services could be reimbursed up to \$350 per pregnancy. Nevada was desperately lacking fully integrated midwifery care but had been unable to secure agreement on the creation of a certified midwifery licensing scheme. Certified nurse midwives, on the other hand, were recognized under state law and regulated by the Nevada State Board of Nursing; however, there were only 10 such nurses in Nevada. Nonetheless, the state had established several programmes to reduce maternal mortality and morbidity, especially among black women, which had been successful in doing just that.

88. **Ms. Taylor** (United States of America) said that her Government remained committed to implementing the Covenant and hoped to continue to lead by example through its transparent, open and humble approach to human rights challenges. It valued its engagement with the Committee and with civil society, which had served to sharpen its focus on the issues discussed.

89. **The Chair** said that, given the important role played by the United States of America in the adoption of the Universal Declaration of Human Rights, which marked its 75th anniversary in 2023, she wished to invite the State party to ratify the human rights treaties to which it had yet to accede and to lift its reservations to the International Covenant on Civil and Political Rights.

*The meeting rose at 1.15 p.m.*