

Annex IV: First Cycle UPR Recommendations Supported in Whole or in Part by the United States

Note: This document compiles in one place both the text of the recommendations supported by the United States during the first Universal Periodic Review (UPR) cycle, as they were listed in the UPR Working Group's January 2011 Report (A/HRC/16/11), and the comments and positions the United States articulated on those recommendations in its March 2011 response (A/HRC/16/11/Add.1). Because the second UPR cycle will focus on recommendations supported by the United States, this document omits those recommendations that the United States did *not* support in 2011. Although the titles of some headings and placement of some of the recommendations have been altered slightly, the recommendations, responses, and general substance remain unchanged.

GENERAL COMMENTS

Some recommendations ask the United States to achieve an ideal, e.g., end discrimination or police brutality, and others request action not entirely under the control of our Federal Executive Branch, e.g., adopt legislation, ratify particular treaties, or take action at the state level. Such recommendations enjoy our support, or our support in part, when we share the ideal that the recommendations express, are making serious efforts toward achieving their goals, and intend to continue to do so. Nonetheless, we recognize, realistically, that the United States may never completely accomplish what is described in the literal terms of the recommendation. We are also comfortable supporting a recommendation to do something that we already do, and intend to continue doing, without in any way implying that we agree with a recommendation that understates the success of our ongoing efforts.

Some countries added to their recommendations inaccurate assumptions, assertions, or factual predicates, some of which are contrary to the spirit of the UPR. In such cases, we have decided whether we support a recommendation by looking past the rhetoric to the specific action or objective being proposed. When we say we "support in part" such recommendations, we mean that we support the proposed action or objective but reject the often provocative assumption or assertion embedded in the recommendation.

The recommendations have been divided into ten subject matter categories:

- (1) Civil Rights, Ethnic, and Racial Discrimination
- (2) Criminal Justice Issues
- (3) Indigenous Issues
- (4) National Security
- (5) Immigration
- (6) Labor and Trafficking
- (7) Economic, Social and Cultural Rights and Measures
- (8) The Environment
- (9) Domestic Implementation of Human Rights
- (10) Treaties and International Human Rights Mechanisms

1. CIVIL RIGHTS, ETHNIC, AND RACIAL DISCRIMINATION

Recommendations the United States Supports:

Recommendations 68, 101, and 219: (68) Take legislative and administrative measures to ban racial profiling in law enforcement; (101) Ban, at the federal and state levels, the use of racial profiling by police and immigration officers; Prohibit expressly the use of racial profiling in the enforcement of immigration legislation; (219) Enact a national legislation that prohibits religious, racial and color profiling particularly in context of the fight against terrorism.

U.S. position: Profiling – the invidious use of race, ethnicity, national origin, or religion – is prohibited under the U.S. Constitution and numerous pieces of national legislation.

Recommendation 95: Undertake studies to determine the factors of racial disparity in the application of the death penalty, to prepare effective strategies aimed at ending possible discriminatory practices.

Recommendation 96: Take appropriate legislative and practical measures to prevent racial bias in the criminal justice system.

Recommendation 97: Review the minimum mandatory sentences in order to assess their disproportionate impact on the racial and ethnic minorities.

Recommendation 106: Take administrative and legal measures against perpetrators of racially motivated acts, targeting migrants and minority communities.

U.S. position: We support this recommendation insofar as it involves enforcing our laws, e.g., hate crimes legislation, and taking appropriate administrative actions.

Recommendations 107 and 111: (107) Adopt effective measures and an anti-discrimination act to address racial problems; (111) Adopt a comprehensive national work-plan to combat racial discrimination.

U.S. position: We have comprehensive Federal and State legislation and strategies to combat racial discrimination. We are working diligently toward better enforcement and implementation of these laws and programs.

Recommendations 86 and 112: (86) Undertake awareness-raising campaigns for combating stereotypes and violence against gays, lesbians, bisexuals and transsexuals, and ensure access to public services paying attention to the special vulnerability of sexual workers to violence and human rights abuses; (112) Take measures to comprehensively address discrimination against individuals on the basis of their sexual orientation or gender identity.

U.S. position: We agree that no one should face violence or discrimination in access to public services based on sexual orientation or their status as a person in prostitution, as these recommendations suggest. We have recently taken concrete steps to address discrimination on the basis of sexual orientation and gender identity, and are engaged in further efforts.

Recommendation 114: Increase its efforts to effectively guarantee human rights of persons with disabilities, while welcoming the signing of the Convention and urging their prompt implementation.

Recommendation 116: Continue its intense efforts to undertake all necessary measures to ensure fair and equal treatment of all persons, without regard to sex, race, religion, colour, creed, sexual orientation, gender identity or disability, and encourage further steps in this regard.

Recommendation 144: Increases its efforts to eliminate alleged brutality and use of excessive force by law enforcement officials against, inter alia, Latino and African American persons and undocumented migrants, and to ensure that relevant allegations are investigated and that perpetrators are prosecuted.

U.S. position: We support this recommendation insofar as it allows for the exercise of prosecutorial discretion.

Recommendation 151: Strengthen oversight with a view to ending excessive use of force by law enforcement bodies, particularly when it is directed to the racial minorities and bring those responsible for violation of laws to justice.

Recommendation 167: Take effective steps to put an end to child prostitution, and effectively combat violence against women and gun violence.

Recommendation 191: Continue to create an enabling climate for religious and cultural tolerance and understanding at the grass roots level.

Recommendation 198: Reinforce the broad range of safeguards in favor of the most vulnerable groups such as persons with disabilities and the homeless to allow them the full enjoyment of their rights and dignity.

Recommendation 209: Guarantee the prohibition of use of cruelty and excessive or fatal force by law enforcement officials against people of Latin American or African origin as well as illegal migrants and to investigate such cases of excessive use of force.

U.S. position: Law enforcement and immigration officers are lawfully permitted to use deadly force under certain exceptional circumstances; e.g., self-defense or defense of another person.

Recommendations the United States Supports in Part:

Recommendation 62: Review, reform and adequate its federal and state laws, in consultation with civil society, to comply with the protection of the right to nondiscrimination established by the Convention on the Elimination of all Forms of Racial Discrimination (CERD), especially in the areas of employment, housing, health, education and justice.

U.S. position: We disagree with some of the premises embedded in this recommendation, but we are committed to the objectives it states, in this case combating discrimination and promoting tolerance. While we recognize there is always room for improvement, we believe that our law is consistent with our CERD obligations. (See also the explanation of our positions regarding recommendations 65, 107, and 111.)

Recommendations 64, 67, 94, 98, 100, and 189: (64) Review, with a view to their amendment and elimination, all laws and practices that discriminate against African, Arab and Muslim Americans, as well as migrants, in the administration of justice, including racial and religious profiling; (67) Take legislative and administrative measures to address a wide range of racial discrimination and inequalities in housing, employment and education; (94) End the discrimination against persons of African descent; (98) Devise specific programs aimed at countering growing Islamophobic and xenophobic trends in society; (100) End all forms of racial discrimination in terms of housing, education, health care, social security and labor; (189) Consider discontinuing measures that curtail human rights and fundamental freedoms.

U.S. position: See general comments, as well as the explanation of our positions regarding recommendations 107 and 111.

Recommendation 99: Eliminate discrimination against migrants and religious and ethnic minorities and ensure equal opportunity for enjoyment of their economic, social and cultural rights.

U.S. position: A migrant's eligibility for full benefits under certain programs may depend on his/her lawful status.

Recommendation 103: Ensure the prosecution and punishment, according to the law, of those responsible of racial hate and xenophobic criminal acts, as well as guarantee a fair compensation to the victims, such as the case of the Ecuadoreans Marcelo Lucero and Jose Sucuzhañay, murdered in the United States.

U.S. position: We support the recommendation as it regards investigating and, where appropriate, prosecuting persons who violate criminal laws. We cannot support the part of the recommendation asking that we "guarantee a fair compensation." Although mechanisms for remedies are available through our courts, we cannot make commitments regarding outcomes.

Recommendation 190: Take effective measures to counter insults against Islam and Holy Quran, as well as Islamophobia and violence against Moslems, and adopt necessary legislation.

U.S. position: We take effective measures to counter intolerance, violence, and discrimination against all members of all minority groups, including Muslims. We cannot support this recommendation, however, to the extent that it asks us to take legislative measures countering insults. Insults (unlike discrimination, threats, or violence) are speech protected by our Constitution.

2. CRIMINAL JUSTICE ISSUES

Recommendations the United States Supports:

Recommendation 70: Take appropriate legislative and practical measures to improve living conditions through its prisons systems, in particular with regard to access to health care and education.

Recommendation 145: Guarantee the complete prohibition of torture in all prisons under its control.

U.S. position: U.S. law prohibits torture in all prisons and detention facilities under its control.

Recommendation 152: Prevent and repress the illegitimate use of violence against detainees.

U.S. position: U.S. law prohibits mistreatment of detainees in U.S. custody, requires investigations of credible mistreatment allegations, and prescribes accountability measures for violations.

Recommendation 162: Redouble its efforts to address sexual violence in correction and detention facilities as well as to address the problem of prison conditions, with a view to preserving the rights and dignity of all those deprived of their liberty.

Recommendation 163: Reduce overcrowding in prisons by enlarging existing facilities or building new ones and/or making more use of alternative penalties.

Recommendation 177: Ensure the full enjoyment of human rights by persons deprived of their liberty, including by way of ensuring treatment in maximum security prisons in conformity with international law.

Recommendation 179: Review of alternative ways to handle petty crime and of measures to improve the situation of inmates in prisons.

Recommendations the United States Supports in Part:

Recommendation 118: A national moratorium on the death penalty is introduced with a view to completely abolish the penalty and, before such a moratorium is introduced, to take all necessary measures to ensure that any use of the death penalty complies with minimum standards under international law relating to the death penalty such as under article 6 and 14 of the International Covenant on Civil and Political Rights.

U.S. position: We will continue to ensure that implementation of the death penalty complies with our international obligations; the portion asking that we end capital punishment does not enjoy our support.

Recommendations 134 and 135: (134) End the prosecution and execution of mentally-ill persons and minors; (135) Extend the exclusion of death penalty to all crimes committed by persons with mental illness.

U.S. position: We cannot support Recommendation 134 with respect to prosecution. We support both recommendations with respect to executions regarding minors and persons with certain intellectual disabilities, but not regarding all persons with any mental illness.

Recommendation 150: Take measures with a view to prohibiting and punishing the brutality and the use of excessive or deadly force by the law enforcement officials and to banning torture and other ill-treatment in its detention facilities at home and abroad.

U.S. position: See general comments, as well as explanations of the U.S. position for recommendations 145, 208, and 209.

Recommendation 173: Comply with the principles of international cooperation, as defined in Resolution 3074 of the General Assembly, for the extradition of persons accused of crimes against humanity and proceed to extradite former Bolivian authorities that are legally accused of such crimes, in order to be brought to trial in their country of origin.

U.S. position: The first part of this recommendation enjoys our support; we cannot support the recommendation's second part ("proceed to extradite former Bolivian authorities..."). In addition, decisions on extradition cases are made on a case-by-case basis, consistent with our international legal obligations, and the United States cannot prejudge the outcome of any particular case.

Recommendations 174 and 175: (174) Make those responsible for gross violations of human rights in American prisons and prisons under the jurisdiction of America outside its territory accountable, compensate victims and provide them with remedies; (175) Put on trial its gross violators of human rights and its war criminals and accede to ICC.

U.S. position: See general comments. In addition, we are committed to holding accountable persons responsible for human rights violations and war crimes. We cannot, however, support the portion of Recommendation 174 regarding compensation and remedies, because those are not always applicable.

Nor can we support the part of Recommendation 175 that we accede to the Rome Statute, although we are engaging with State Parties to the Rome Statute on issues of concern.

Recommendation 178: Ensure the enjoyment of the right to vote both by persons deprived of their liberty and of persons who have completed their prison sentences.

U.S. position: We support this recommendation to the extent that some State laws conform to it. Most inmates do not have the right to vote, however, and former felons do not have the right to vote in some States.

Recommendation 186: Ensure the right to habeas corpus in all cases of detention.

U.S. position: We support this recommendation to the extent provided for under the U.S. Constitution and U.S. laws, and consistent with our international obligations.

3. INDIGENOUS ISSUES

Recommendations the United States Supports:

Recommendations 83, 200, 202, 203, 205, and 206: (83) Implement concrete measures consistent with the Covenant on Civil and Political Rights, to ensure the participation of indigenous peoples in the decisions affecting their natural environment, measures of subsistence, culture and spiritual practices; (200) Guarantee the rights of indigenous Americans, and to fully implement the United Nations Declaration on the Rights of Indigenous Peoples; (202) Adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples; (203) Endorse the United Nations Declaration on the Rights of Indigenous Peoples when completing its national review process; (205) Continue its forward movement on the Declaration of the Rights of Indigenous Peoples; (206) Guarantee the full enjoyment of the rights on natives of America in line with the United Nations Declaration on the Rights of Indigenous Peoples.

U.S. position: We support these recommendations consistent with the “Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples – Initiatives to Promote the Government-to-Government Relationship & Improve the Lives of Indigenous Peoples.”

Recommendation 85: Formulate goals and policy guidelines for the promotion of the rights of indigenous peoples and cooperation between government and indigenous peoples.

Recommendations the United States Supports in Part:

Recommendation 199: End the violation of the rights of indigenous peoples.

U.S. position: See general comments.

Recommendation 201: Recognize the United Nations Declaration on the Rights of Indigenous Peoples without conditions or reservations, and implement it at the federal and state levels.

U.S. position: We cannot accept the first part of this recommendation (“Recognize ... without conditions”), but the second part (“implement ...”) enjoys our support, consistent with the “Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples – Initiatives to Promote the Government-to-Government Relationship & Improve the Lives of Indigenous Peoples.”

4. NATIONAL SECURITY

Recommendations the United States Supports:

Recommendations 58 and 176: (58) Make fully consistent all domestic anti-terrorism legislation and action with human rights standards; (176) Respect the human rights of prisoners of war, guaranteed by the penal norms.

U.S. position: We support these recommendations insofar as they recommend compliance with our international law obligations.

Recommendations 66 and 146: (66): Enact a federal crime of torture, consistent with the Convention, and also encompassing acts described as ‘enhanced interrogation techniques’; (146) Define torture as a federal offense in line with the Convention against Torture and investigate, prosecute and punish those responsible of crimes of extraterritorial torture.

U.S. position: Existing Federal criminal laws comply with our obligations under the Convention against Torture.

Recommendation 89: Consider the possibility of inviting relevant mandate holders as follow up to the 2006 joint-study by the 5 special procedures, in view of the decision of the current Administration to close the Guantanamo Bay detention facility.

Recommendation 90: Respond and follow-up appropriately the recommendations formulated to the United States by the Special Rapporteur for the Protection of Human Rights and Fundamental Freedoms while Countering Terrorism.

Recommendation 139: That measures be taken to eradicate all forms of torture and ill treatment of detainees by military or civilian personnel, in any territory of jurisdiction, and that any such acts be thoroughly investigated.

Recommendation 149: Observe the Amnesty International 12 points program to prevent torture perpetrated by government agents.

U.S. position: Some of the referenced points may not be fully applicable in every context.

Recommendations 159 and 160: (159) Close without any delay all detention facilities at the Guantanamo Bay as President Barack Obama has promised; (160) Find for all persons still detained in the Guantanamo Bay detention center a solution in line with the United States obligations regarding the foundations of international and human rights law, in particular with the International Covenant on Civil and Political Rights.

U.S. position: We have made clear our desire to close the Guantánamo Bay detention facility and will continue to work with Congress, the courts, and other countries to do so in a responsible manner that is consistent with our international obligations. Until it is closed, this Administration will continue to ensure that operations there are consistent with our international legal obligations.

Recommendation 161: Halt all transfer detainees to third countries unless there are adequate safeguards to ensure that they will be treated in accordance with international law requirements.

Recommendation 188: Adopt a set of legislative and administrative measures aimed at ensuring prohibition of the use by state and local authorities of modern technology for excessive and unjustified intervention in citizens' private life.

U.S. position: The U.S. Constitution's Fourth Amendment and existing U.S. law prohibit the use of modern technology for excessive and unjustified interference in individuals' private lives.

Recommendation 218: Do not prosecute those arrested for terrorist crimes or any other crime in exceptional tribunals or jurisdictions, but bring them to judicial instances legally established, with the protection of due process and under all the guarantees of the American Constitution.

U.S. position: Persons who are charged with terrorist-related crimes are tried under legally established processes in either civilian courts or military commissions, depending on the nature of the crime and the individual. They are afforded all applicable protections under domestic and international law.

Recommendations the United States Supports in Part:

Recommendation 59: Legislate appropriate regulations to prevent the violations of individual privacy, constant intrusion in and control of cyberspace as well as eavesdropping of communications, by its intelligence and security organizations.

U.S. position: Our Constitution and laws contain appropriate rules to protect the privacy of communications, consistent with our international human rights obligations. See also the general comments.

Recommendations 60, 137, 138, 140, 155, 166, and 217: (60) Take effective legal steps to halt human rights violations by its military forces and private security firms in Afghanistan and other States; (137) Prosecute the perpetrators of tortures, extrajudicial executions and other serious violations of human rights committed in Guantanamo, Abu Ghraib, Bagram, the NAMA and BALAD camps, and those carried out by the Joint Special Operations Command and the CIA; (138) Heed the call of the High Commissioner to launch credible independent investigations into all reliable allegations made to date of violations of international human rights law committed by American forces in Iraq, including extrajudicial killings, summary executions, and other abuses; (140) Stop the war crimes committed by its troops abroad, including the killings of innocent civilians and prosecute those who are responsible; (155) Close Guantanamo and secret centers of detention in the world, punish agents that torture, disappear and execute persons who have been arbitrarily detained, and compensate victims; (166) Take effective measures to put an end to gross human rights abuses including violence against women, committed for decades by the United States military personnel stationed in foreign bases; (217) Halt serious violations of human rights and humanitarian law including covert external operations by the CIA, carried out on the pretext of combating terrorism.

U.S. position: The United States supports recommendations calling for prohibition and vigorous investigation and prosecution of any serious violations of international law, as consistent with existing U.S. law, policy, and practice. We reject those parts of these recommendations that amount to unsubstantiated accusations of ongoing serious violations by the United States. See also the general comments.

Recommendation 88: Invite United Nations Special Rapporteurs to visit and investigate Guantanamo Bay prison and United States secret prisons and to subsequently close them.

U.S. position: The United States has consistently invited United Nations Special Rapporteurs to tour the detention facility at Guantánamo, to observe detention conditions, and to observe military commission proceedings. That invitation remains. See also the general comments.

Recommendations 136, 147, 148, 156, and 157: (136) Take legal and administrative measures to address civilian killings by the US military troops during and after its invasion of Afghanistan and Iraq by investigating and bringing perpetrators to justice and remedying the victims and to close its detention facilities in foreign territories like Guantanamo, including CIA secret camps; (147) Conduct thorough and objective investigation of facts concerning use of torture against imprisoned persons in the secret prisons of United States of America and detainees of the detention centres in Bagram and Guantanamo, bring those who are responsible for these violations to justice, and undertake all necessary measures to provide redress to those whose rights were violated, including payment of necessary compensation; (148) Take measures to ensure reparation to victims of acts of torture committed under United States' control and allow access to the International Committee of the Red Cross to detention facilities under the control of the United States; (156) Expedite efforts aimed at closing the detention facility at Guantanamo Bay and ensure that all remaining detainees are tried, without delay, in accordance with the relevant international standards; Proceed with the closure of Guantanamo at the earliest possible date and bring to trial promptly in accordance with the applicable rules of international law the detainees held there or release them; (157) Quickly close down Guantanamo prison and follow the provision of the United Nations Charter and the Security Council Resolution by expatriating the terrorist suspect to their country of origin.

U.S. position: We intend to close the Guantánamo Bay detention facility. The President has closed all CIA detention facilities and has prohibited CIA operation of such facilities. We allow the International Committee of the Red Cross access to individuals detained by the United States pursuant to armed conflict. We investigate allegations of torture, and prosecute where appropriate. We cannot accept portions of these recommendations concerning reparation, redress, remedies, or compensation. Although mechanisms for remedies are available through U.S. courts, we cannot make commitments regarding their outcome. We cannot accept the part of Recommendation 136 that we close *all* detention centers; the United States maintains certain internment facilities abroad, consistent with applicable U.S. and international law. We cannot agree to the part of Recommendation 156 that we release all individuals detained pursuant to an armed conflict who are not promptly brought to trial. Regarding Recommendation 157, transfers of detainees to their home countries will only be conducted in accordance with our humane treatment policies.

Recommendation 142: Halt selective assassinations committed by contractors, and the privatization of conflicts with the use of private military companies.

U.S. position: See general comments. Our contractors are not authorized to engage in direct hostilities or offensive operations or to commit assassinations. Like U.S. government personnel, contractors may only use force consistent with our international and domestic legal obligations. We have expressed support for the International Code of Conduct for Private Security Service Providers.

Recommendation 143: End the use of military technology and weaponry that have proven to be indiscriminate and cause excessive and disproportionate damage to civilian life.

U.S. position: See general comments. In U.S. military operations, great care is taken to ensure that only legitimate objectives are targeted and that collateral damage is kept to a minimum.

Recommendation 187: Guarantee the right to privacy and stop spying on its citizens without judicial authorization.

U.S. position: See general comments. We collect information about our citizens only in accordance with U.S. law and international obligations.

5. IMMIGRATION

Recommendations the United States Supports:

Recommendation 80: Spare no efforts to constantly evaluate the enforcement of the immigration federal legislation, with a vision of promoting and protecting human rights.

Recommendation 104: Make further efforts in order to eliminate all forms of discrimination and the abuse of authority by police officers against migrants and foreigners, especially the community of Vietnamese origin people in the United States.

Recommendation 108: Prohibit and punish the use of racial profiling in all programs that enable local authorities with the enforcement of immigration legislation and provide effective and accessible recourse to remedy human rights violations occurred under these programs.

Recommendation 144: Increases its efforts to eliminate alleged brutality and use of excessive force by law enforcement officials against, inter alia, Latino and African American persons and undocumented migrants, and to ensure that relevant allegations are investigated and that perpetrators are prosecuted.

U.S. position: We support this recommendation insofar as it allows for the exercise of prosecutorial discretion.

Recommendation 164, 184, and 210: (164) Ensure that detention centers for migrants and the treatment they receive meet the basic conditions and universal human rights law; (184) Adapt the detention conditions of immigrants in line with international human rights law; (210) Protect the human rights of migrants, regardless of their migratory status.

U.S. position: We support these recommendations insofar as they recommend compliance with our obligations under international human rights law.

Recommendation 165: Further foster its measures in relation to migrant women and foreign adopted children that are exposed to domestic violence.

Recommendation 183: Investigate carefully each case of immigrants' incarceration.

Recommendation 185: Ensure that migrants in detention, subject to a process of expulsion are entitled to counsel, a fair trial and fully understand their rights, even in their own language.

U.S. position: We support these recommendations insofar as "entitled" to counsel means that a migrant in removal proceedings in immigration court enjoys the right to counsel at his/her own expense, and "fully understand their rights" means to have been provided information in a language they understand.

Recommendation 208: Prohibit, prevent and punish the use of lethal force in carrying out immigration control activities.

U.S. position: Law enforcement and immigration officers are lawfully permitted to use deadly force under certain exceptional circumstances; e.g., self-defense or defense of another person.

Recommendation 212: Reconsider alternatives to the detention of migrants.

Recommendation 213: Ensure access of migrants to consular assistance.

U.S. position: We support this recommendation understanding “consular assistance” to mean access consistent with Article 36 of the Vienna Convention on Consular Relations and similar provisions in bilateral consular agreements.

Recommendation 214: Make greater efforts to guarantee the access of migrants to basic services, regardless of their migratory status.

U.S. position: We support this recommendation understanding that “basic services” refers to services such as primary education and emergency health services that are provided to migrants regardless of status.

Recommendation 220: Smarten security checks so as to take into account the frequent homonymy specific to Moslem names so as to avoid involuntary discrimination against innocent people with such names because of namesakes listed as members of terrorist groups.

Recommendation 223: Inform Foreign Missions regularly of efforts to ensure compliance with consular notification and access for foreign nationals in United States custody at all levels of law enforcement.

U.S. position: We support this recommendation because it comports with the United States’ general practice of widely disseminating information on its consular notification and access outreach and training efforts, including to foreign missions in the United States.

Recommendations the United States Supports in Part:

Recommendations 79 and 105: (79) Attempt to restrain any state initiative which approaches immigration issues in a repressive way towards the migrant community and that violates its rights by applying racial profiling, criminalizing undocumented immigration and violating the human and civil rights of persons; (105) Avoid the criminalization of migrants and ensure the end of police brutality, through human rights training and awareness-raising campaigns, especially to eliminate stereotypes and guarantee that the incidents of excessive use of force be investigated and the perpetrators prosecuted.

U.S. position: See general comments. We will continue to both conduct human rights training and awareness campaigns and, where appropriate, bring civil or criminal actions regarding racial profiling, police brutality, and excessive use of force, and other actionable civil rights violations against immigrants. While unlawful presence in the U.S. is not a crime, and the federal government does not support state initiatives that aim to criminalize mere status, we cannot support the parts related to the “criminalization” of migrants, as certain immigration offenses are subject to criminal sanction, e.g., illegal entry.

Recommendation 82: Adopt a fair immigration policy, and cease xenophobia, racism and intolerance to ethnic, religious and migrant minorities.

U.S. position: See general comments. It is consistent with our continuing efforts to improve our immigration policies and to eliminate xenophobia, racism, and intolerance in our society.

Recommendation 102: Revoke the national system to register the entry and exit of citizens of 25 countries from the Middle-East, South Asia and North Africa, and eliminate racial and other forms of profiling and stereotyping of Arabs, Muslims and South Asians as recommended by CERD.

U.S. position: See general comments. Our Constitution and numerous statutes prohibit the invidious use of race or ethnicity. The registration requirements of the National Security Entry-Exit Registration System are under review at this time.

Recommendation 207: End violence and discrimination against migrants.

U.S. position: See general comments.

6. LABOR AND TRAFFICKING

Recommendations the United States Supports:

Recommendation 115: Consider taking further action to better ensure gender equality at work.

U.S. position: We have comprehensive laws aimed at ensuring gender equality at work, and we are taking further action through the President's Equal Pay Taskforce.

Recommendation 168: Define, prohibit and punish the trafficking of persons and child prostitution.

Recommendation 169: Insist more on measures aiming to combat the demand and provide information and services to victims of trafficking.

Recommendation 192: Recognize the right to association as established by ILO, for migrant, agricultural workers and domestic workers.

U.S. position: We support the 1998 ILO Declaration on Fundamental Principles and Rights at Work, which reaffirms the commitment of all ILO Member States to respect, promote, and realize principles concerning fundamental rights in four categories including freedom of association and collective bargaining. Although not a party to ILO conventions 87 and 98 on those topics, we have robust laws addressing their fundamental principles.

Recommendation 193: Prevent slavery of agriculture workers, in particular children and women.

Recommendations the United States Supports in Part:

Recommendation 81: Take the necessary measures in favor of the right to work and fair conditions of work so that workers belonging to minorities, in particular women and undocumented migrant workers, do not become victims of discriminatory treatment and abuse in the work place and enjoy the full protection of the labor legislation, regardless of their migratory status.

U.S. position: Members of minority groups enjoy important anti-discrimination and labor protections. While labor laws apply to undocumented migrant workers, such individuals may not be entitled to certain types of remedies.

7. ECONOMIC, SOCIAL, AND CULTURAL RIGHTS AND MEASURES

Recommendations the United States Supports:

Recommendation 109: Promote equal socio-economic as well as educational opportunities for all both in law and in fact, regardless of their ethnicity, race, religion, national origin, gender or disability.

Recommendation 113: That further measures be taken in the areas of economic and social rights for women and minorities, including providing equal access to decent work and reducing the number of homeless people.

Recommendation 195: Ensure the realization of the rights to food and health of all who live in its territory.

U.S. position: We are a non-party to the International Covenant on Economic, Social and Cultural Rights, and accordingly we understand the references to rights to food and health as references to rights in other human rights instruments that we have accepted. We also understand that these rights are to be realized progressively.

Recommendation 196: Expand its social protection coverage.

U.S. position: The U.S. government seeks to improve the safety net that our country provides for the less fortunate.

Recommendation 197: Continue its efforts in the domain of access to housing, vital for the realization of several other rights, in order to meet the needs for adequate housing at an affordable price for all segments of the American society.

Recommendation 226: Persevere in the strengthening of its aid to development, considered as fundamental, in particular the assistance and relief in case of natural disasters.

8. THE ENVIRONMENT

Recommendations the United States Supports in Part:

Recommendations 51, 221, and 222: (51) Comply with its international obligations for the effective mitigation of greenhouse gas emissions, because of their impact in climate change; (221) Take positive steps in regard to climate change, by assuming the responsibilities arising from capitalism that have generated major natural disasters particularly in the most impoverished countries; (222) Implement the necessary reforms to reduce their greenhouse gas emissions and cooperate with the international community to mitigate threats against human rights resulting from climate change.

U.S. position: See general comments. We disagree with premises embedded in these recommendations, but agree with their essential objectives (reduce greenhouse gas emissions and cooperate internationally).

9. DOMESTIC IMPLEMENTATION OF HUMAN RIGHTS

Recommendations the United States Supports:

Recommendation 65: Review its laws at the Federal and State levels with a view to bringing them in line with its international human rights obligations.

U.S. position: We regularly engage in such reviews of our laws in light of our human rights obligations, including through the enforcement of our Federal civil rights laws and implementation of our domestic civil rights programs, litigation and judicial review, our reports to UN human rights treaty bodies, engagement with UN Special Procedures, and active discussions with civil society. Although the Federal government does not consistently or systematically review State laws, our civil rights mechanisms allow for review of State laws, as appropriate.

Recommendation 74: That a human rights institution at the federal level be considered in order to ensure implementation of human rights in all states.

U.S. position: There are Federal and State institutions to monitor human rights; we are considering whether this network of protection is in need of improvement.

Recommendation 87: Incorporate human rights training and education strategies in their public policies.

U.S. position: Programs at the Federal and State levels provide training on human rights, particularly on issues related to civil rights and non-discrimination; we are continuing to explore ways to strengthen such programs.

Recommendation 225: Continue consultations with non-governmental organizations and civil society in the follow up.

Recommendations the United States Supports in Part:

Recommendation 227: That the model legal framework expressed by the Leahy Laws be applied with respect to all countries receiving US's security assistance, and that the human rights records of all units receiving such assistance be documented, evaluated, made available and followed up upon in cases of abuse.

U.S. position: This recommendation enjoys our support except for the last part regarding making our decision-making publicly available. We apply the Leahy laws (which impose human rights-related restrictions on assistance to foreign security forces) to all countries receiving U.S. security assistance, and we respond appropriately in cases of abuse. However, to do so, we consider information from all sources, including classified sources, and cannot make our decision-making public.

10. TREATIES AND INTERNATIONAL HUMAN RIGHTS MECHANISMS

Recommendations the United States Supports:

Recommendations 10, 11, 13, 14, 20, 21, 22, 26, 28, 30, 33, 34, 35, 39, 43, 47, 48, 49, and 93: (10) Consider ratifying ICESCR, CEDAW and CRC at the earliest; (11) Consider undertaking necessary steps

leading to ratification of the parent/umbrella United Nations Convention on the Rights of the Child and CEDAW respectively; (13) Proceed with ratifying the CRPD and CRC; (14) Ratify, and ensure implementation into domestic law of CEDAW and CRC; (20) Consider ratifying the treaties to which it is not a party, including the CEDAW, CRC, ICESCR, and CRPD; (21) Consider ratifying CEDAW, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities; (22) Consider prioritizing acquiescence to the Convention of the Rights of the Child, CEDAW, the ILO Convention No. 111 on Discrimination in Respect of Employment and Occupation so as to further strengthen its national framework for human rights, but also to assist in achieving their universality; (26) Consider ratifying ILO Convention 100 on equal remuneration for men and women for work of equal value, and ILO Convention 111 on discrimination in employment and occupation; (28) Consider ratifying the Rome Statute of the International Criminal Court and the Additional Protocols I and II of the Geneva Conventions; (30) Consider signing the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; (33) Swiftly ratify CEDAW; Ratify CEDAW; Become a party to CEDAW; (34) Ratify the Convention on the Rights of the Child; Become a party to the Convention on the Rights of the Child; (35) Ratify the Convention on the Rights of Persons with Disabilities as a matter of priority; Become a party to the Convention on the Rights of Persons with Disabilities; (39) Examine the possibility of ratifying the core human rights treaties to which the country is not yet a party and raising its reservations on those which it has ratified; (43) Consider the signing, ratification or accession, as corresponds, of the main international and Inter-American human rights instruments, especially the Convention on the Rights of the Child; (47) Consider lifting reservations to a number of ICCPR articles; (48) Take the necessary measures to consider lifting the United States reservation to article 5, paragraph 6 of the International Covenant on Civil and Political Rights that bans the imposition of the death penalty for crimes committed by persons under 18; (49) Consider the withdrawal of all reservations and declarations that undermine the objective and spirit of the human rights instruments, in particular reservation to article 6 paragraph 5 of the International Covenant on Civil and Political Rights that bans the imposition of the death penalty to those who committed a crime when they were minors;(93) Consider extending a standing invitation to special procedures.

U.S. position: We support the recommendations asking us to ratify the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, and ILO Convention 111. We also support the recommendations that we ratify the Convention on the Rights of the Child, as we support its goals and intend to review how we could move toward its ratification. We also support recommendations urging deliberative treaty actions, such as that we “consider ratifying” them.

Recommendation 54: Take appropriate action to resolve the obstacles that prevent the full implementation of the *Avena* Judgment of the International Court of Justice and, until this occurs, avoid the execution of the individuals covered in said judgment.

U.S. position: This recommendation is consistent with the longstanding U.S. policy of supporting the International Court of Justice and taking appropriate action to comply with judgments of the Court. The United States intends to continue to make best efforts to ensure compliance with the *Avena* judgment.

Recommendations the United States Supports in Part:

Recommendations 1-9, 15-19, 23, 24, 25, 27, 37, 38, 40, 41, and 42: (1) Ratify without reservations the following conventions and protocols: CEDAW; the ICESCR; the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; the Statute of the International Criminal Court;

those of the ILO; the United Nations Declaration on Indigenous Peoples, and all those from the Inter-American Human Rights System; (2) Continue the process to ratify CEDAW and adhere to the other human rights fundamental instruments, such as the Statute of Rome of the International Criminal Court, the Convention on the Rights of the Child, the Optional Protocol to the Convention against Torture and the International Convention for the Protection of all Persons against Enforced Disappearance; (3) Ratify, until the next universal periodic review, ICESCR, the Convention on the Rights of the Child, Protocols I and II of the Geneva Conventions of 12 August 1949, ILO Conventions no. 87 (on freedom of association) and no. 98 (on the right to collective bargaining) as well as withdraw the reservation made to article 4 of the International Convention on the Elimination of Racial Discrimination; (4) Ratify ICESCR and its Optional Protocol; the first Optional Protocol to the International Covenant of Civil and Political Rights, CEDAW, the Convention on the Rights of the Child, the Optional Protocol to the Convention against Torture, the Convention on the Rights of Persons with Disabilities, the Convention for the Protection of All Persons from Enforced Disappearance; (5) Continue its efforts to realise universal human rights by a) ratifying CEDAW; b) becoming a party to the United Nations Convention on the Rights of the Child; c) acceding to ICESCR; d) ratifying the United Nations Convention on the Rights of Persons with Disabilities; (6) Ratify the core human rights treaties, particularly the CRC, ICESCR, CEDAW and its Optional Protocol, the OP-CAT and the CMW and the CRPD with its Optional Protocol; (7) Ratify the ICESCR, CEDAW and the Convention of the Rights of the Child at an early stage together with other important human rights conventions; (8) Ratify CEDAW, ICESCR, and CRC in token of its commitment to their implementation worldwide, as well as become party to other international human rights conventions as referred to in the OHCHR report; (9) Ratify all core international instruments on human rights, in particular ICESCR, CEDAW, the Convention on the Rights of the Child; (15) Ratify the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; (16) Endeavour to ratify international instruments that USA is not party, in particular among others the CRC, OP-CAT; CEDAW; and Rome Statute of the International Criminal Court; (17) Ratify ICESCR, CEDAW, the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities and other core human rights treaties as soon as possible; (18) Ratify additional human rights treaties such as the ICESCR; the Convention of the Rights of the Child; the International Convention for the Protection of All Persons from Enforced Disappearances and the Convention on Rights of Persons with Disabilities in order to further strengthen their support to the United Nations Human Rights mechanisms; (19) Ratify the pending core international human rights instruments, in particular CRC, ICESCR, and its OP, CEDAW and its OP as well as CRPD, and others, and ensure their due translation into the domestic legislation and review existing ratifications with a view to withdraw all reservations and declarations; (23) Proceed with the ratification of Additional Protocols I and II of the Geneva Conventions of 1949, of the Convention on the Rights of the Child, of CEDAW as well as the Optional Protocol to the Convention against Torture; (24) Ratify at its earliest opportunity other core human rights instruments, particularly, those to which it is already a signatory, namely CEDAW, Convention on the Rights of the Child, ICESCR, and the Convention on the Rights of Persons with Disabilities; (25) Ratify the ICESCR, CEDAW, CRC the CRPD, the Additional Protocol I and II (1977), to the Geneva Conventions, the ICC Statute, as well as the 1st and 2nd Protocol to the Hague Convention 1954; (27) Accede to ICESCR, the CRC and ILO convention No. 111. (37) Ratify the 12 international human rights instruments to which it is not a party; (38) Implement a program of ratification of all international human rights instruments, and then proceed to the incorporation of these in its internal legal system; (40) Accede to international human rights instruments which is not yet acceded to; (41) Continue the process to ratify and implement into domestic law the several international human rights instruments that still wait for this formal acceptance; (42) Accede to the universal core treaties on human rights and those of inter-American system, in particular the recognition of the jurisdiction of the Inter-American Court on Human Rights.

U.S. position: We support the parts of these recommendations asking us to ratify those treaties, identified above, of which the Administration is most committed to pursuing ratification. We cannot support the other portions. Nor can we support “without reservations” in Recommendation 1.

Recommendation 29: Ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and observe international standards in this regard.

U.S. position: We support the second part (“observe international standards ...”), understanding such standards to mean applicable international human rights law.

Recommendations 44 and 45: (44) Withdraw all reservations and declarations on the international instruments to which it is a party that undermine its obligations or the purpose of the treaty; (45) Withdraw reservations, denunciations, and interpretations of the Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture, that undermine their compliance, and accept their individual procedures.

U.S. position: See general comments. We do not believe that any reservations, understandings, and declarations accompanying our ratification of international instruments undermine our obligations, or the treaty’s object or purpose. We cannot support the part of Recommendation 45 regarding individual procedures.

Recommendation 52: Ensure the implementation of its obligations under international humanitarian law vis-à-vis Palestinian people.

U.S. position: See general comments. The U.S. government complies with its international humanitarian law obligations, but we note that international humanitarian law governs conduct in the context of armed conflict, and cannot accept this recommendation’s implication that we are in an armed conflict with the Palestinian people.