



**International Convention on
the Elimination
of all forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1474th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 3 August 2001, at 3 p.m.

Chairman: Mr. SHERIFIS

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First, second and third periodic reports of the United States of America

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The meeting was called to order at 3.10 p.m.

First, second and third periodic reports of the United States of America (CERD/C/351/Add.1; HRI/CORE/1/Add.49)

1. At the invitation of the Chairman, the members of the delegation of the United States of America took their places at the Committee table.
2. Mr. PARMLY (United States of America) said that in the past half century his country had taken several major steps to halt the racial segregation and discrimination that had previously been prevalent in many parts of the country. In doing so, the Government had gradually constructed a solid legal framework to fight racism and racial discrimination. He stressed that the Report under consideration, as well as the statements and replies of the delegation, were the product of a concerted effort by various departments and federal agencies and entities including contributions from many non-governmental organizations, especially those active in the areas of civil rights, civil liberties and human rights.
3. The Government took its obligations under the Convention on the Elimination of All Forms of Racial Discrimination very seriously and fully supported the goals of the Convention, all the more so as, in many respects, its provisions reflected the most important objectives of the country's domestic civil rights laws.
4. The United States was adamantly opposed to racism in all its forms and manifestations and was fully committed to being a world leader in the cause of human rights. It was a party to the main international agreements on human rights, including the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination. It was also actively involved in the preparations for the third World Conference against Racism.
5. Regarding the reservations of the United States concerning article 4 of the Convention, the reluctance to "declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred (...) and all other propaganda activities" (art. 4) should not in any way be taken as support for racist views and propaganda but rather as a consequence of the First Amendment to the United States Constitution, which protected free speech without regard to content (para. 150 of the Report), except for certain types of speech intended and likely to cause imminent violence, which could be restricted under the Constitution (para. 150). Given the historical support of the American people for the First Amendment protection and the extensive body of jurisprudence, however, the United States did not believe it to be appropriate to restrict freedom of expression, all the more so as the marketplace of ideas had always been the best way to discredit racist arguments. Although that approach could lead to some ugly statements in the short term, the United States Government believed that it would ultimately make the bankruptcy of racist views clear for all to see.
6. The United States recognized that racism could do great harm to individuals and to society, but believed that it was a universal problem to which no nation was immune. For that reason, the nations of the world had to work together to tear down racial walls and build societies in which every person could develop his or her talents to the full. For the same reason, it lent its support to programmes around the world that fought against racism, discrimination and ethnic prejudice. The United States Government awaited the Committee's recommendations for further improving the country's civil rights system.
7. Mr. BOYD (United States of America) said that the United States had ratified the Convention on the Elimination of All Forms of Racial Discrimination in 1994 and believed that the elimination of racial discrimination remained a compelling moral and legal imperative for it and other nations around the world. Some 38 years earlier, during the campaign for racial justice, Martin Luther King had delivered his historic "I have a dream" speech on the steps of the Lincoln Memorial, a monument dedicated to President Lincoln, who had abolished slavery in the United States, and a symbol of the

nation's historic struggle for racial equality. In his dream, Dr. King had envisioned the day when his four children would live in a nation where they would be judged not by the colour of their skin but rather by their character, and in accordance with the fundamental truth that all men are created equal. Thirty years later, Martin Luther King's dream remained vital: the ideal of what life should be like for all citizens of the United States, regardless of whether they were of African, Hispanic, Asian or other descent.

8. With the passing of time and the persistent efforts of many committed people in America, the dream was becoming a reality, as could be seen from a variety of statistics. In 1940, six out of ten African-American women had been household employees and a large majority of African-American men worked as unskilled labourers, whereas today many African-Americans served at the highest levels of government, police, university education, health care, business and the media. The number of African-American engineers had risen from 300 in 1940 to more than 60,000, and the number of black nurses from 8,000 to 165,000. In the "Deep South" there had not been one single black law-enforcement officer, compared with several thousand at present. Approximately 75 per cent of African-Americans now lived above the poverty line, compared with just 23 per cent in 1940.

9. The American political landscape had also changed dramatically over the past decades, the number of African-American congressmen and other elected officials in several Southern states having risen considerably since 1970. Between 1967 and 1993, African-Americans had won mayoral elections in 87 cities with populations of 50,000 or more, including cities where Blacks comprised a minority.

10. Over the past 40 years, civil rights had undergone a positive transformation in the United States. More than half of the present population had never lived without the protection of major civil rights laws, such as the Civil Rights Act of 1964 and the Voting Rights Act of 1965, federal laws that protected all citizens against racial discrimination perpetrated not only by the Government, but also by individuals and private parties, particularly in employment, education, public services, voting, housing, lending and contracting. Although there was still important work to be done before "little black boys and black girls will be able to join hands with little white boys and white girls and walk together as sisters and brothers", schools were largely desegregated and African-Americans attended university at nearly six times the rate that had prevailed in 1960. It was only 34 years since the Supreme Court had struck down laws prohibiting interracial marriages, and today there were more than three million mixed couples in the United States. All those advances had had a real impact on the minds of African-Americans, who were more optimistic than members of other ethnic groups that their children would enjoy a higher standard of living than they had themselves.

11. The United States had been actively involved at all levels—legislative, executive and judicial—in the fight against racism. Congress had passed far-reaching civil rights laws, including the Civil Rights Act of 1964, which outlawed discrimination in public services, employment and education. That Act was one of the most significant pieces of legislation ever enacted in the United States and had served as a model for other civil rights statutes.

12. In 1965, Congress had passed the Voting Rights Act, which prohibited discrimination by public officials in the voting process. It accelerated the participation of African-Americans in the political and electoral process, particularly in the South. Other laws had been enacted subsequently to protect citizens against discrimination on the basis of race or ethnicity in major areas of everyday life such as place of residence, financing a home, obtaining credit or getting a job, access to education or travelling anywhere in America. The Immigration Reform and Control Act prohibited employment discrimination against certain categories of immigrants and refugees, and the Civil Rights of Institutionalized Persons Act protected people who were in government nursing homes or prisons.

13. The executive branch was actively involved in enforcing those laws through the Department of Justice and the Equal Employment Opportunity Commission. In addition, every federal agency and most state agencies had equal employment opportunity offices to ensure compliance by the agencies with federal and state anti-discrimination laws.

14. Finally, the judicial branch was playing an independent and equally important role in combating racial discrimination. In 1954, the Supreme Court had issued a landmark decision in Brown v. Board of Education of Topeka, banning racial segregation in public education and signalling the emergence of the civil rights movement in the country. The Supreme Court continued to play a leading role in interpreting the provisions of the Constitution prohibiting discrimination and stipulating that the Government had to make every effort to implement policies and programmes that treated every citizen fairly without regard to race or ethnicity.
15. The Government could not have taken such measures without the desire of the American people to live up to the stated ideal of equal opportunity for all. Moreover, the various religions, civil rights organizations and non-governmental organizations had played significant roles in the struggle against racism and other forms of injustice.
16. Notwithstanding the progress, there were obviously areas in which the United States would have to redouble its efforts. Race was too often a factor in decisions whether to rent an apartment, hire an applicant for a job or arrest suspects. Problems continued to exist in education where 70 per cent of inner-city fourth graders were unable to read. In 1999, only 56 per cent of Hispanics had graduated from high school. One African-American in seven enrolled in college actually graduated. More than 50,000 Native American children attended schools managed by the Bureau of Indian Affairs in conditions that were often deplorable. The Government needed to redouble its efforts to ensure that all children had access to an excellent education.
17. The Bush administration had developed a set of programmes, policies and initiatives that would significantly advance the cause of civil rights in the twenty-first century, particularly in primary and secondary education, by tracking the progress of children from disadvantaged groups, targeting resources more effectively so that they reached the students in greatest need, funding community-school partnerships and creating programmes to develop the skills necessary to find a job.
18. The Bush administration also intended to increase financial support from the Government for faith-based and community-based groups in the country providing a range of services to people in need, such as reducing the tax burden of working people, encouraging savings, and assisting business start-ups in disadvantaged areas.
19. Moreover, protection of the Civil Rights of all people was equally essential to eliminate racial discrimination and its lingering effects. Therefore, the Government had given an absolute priority to voting rights reform so as to prevent abuses of voting rights and prosecuting individuals or institutions who sought to disenfranchise would-be voters. For that purpose, the Counsel for Voting Rights was to be appointed and the budget for the Voting Rights Section of the Civil Rights Division was to be increased by 22 per cent.
20. The Government was also committed to eliminating the practice of racial profiling to ensure that people were not treated differently because of their race. The Attorney General had denounced it as unconstitutional and was coordinating efforts throughout the United States to eliminate it. His work had already begun to yield results, as police departments had begun to examine their practices to put an end to racial profiling.
21. The Government would also emphasize the enforcement of fair housing laws with regard to members of racial and ethnic minorities who were often victims of discrimination when purchasing and renting homes and securing mortgages or mortgage insurance.
22. The Government would provide better protection of the rights of new immigrants, particularly those without legal authorization, by vigorously prosecuting employers who exploited their vulnerability by forcing them to work in unacceptable conditions. They were often subjected to modern-day slavery and forced to work in the sex trade. Trafficking in persons was an international problem that the Department of Justice and Department of State aimed to combat in collaboration with the Governments of other countries.

23. The Government needed to create a country that was more welcoming for Hispanic, Asian and other immigrants. The President and Attorney General were committed to reforming the Immigration and Naturalization Service so that all immigrants would be treated with respect, dignity and fairness. In that respect, the Government was engaged in negotiations with Mexico to ensure that people crossing the southern border of the United States illegally were treated humanely.
24. In spite of the progress that had been made, Martin Luther King's dream of racial justice would not come true unless all citizens, businesses, institutions of higher learning, places of worship and all people of good faith redoubled their efforts to combat all forms of discrimination by supporting the Government's activities. There was still a lot to be done, and the Government looked forward to hearing the Committee's recommendations for improving the civil rights of all American citizens.
25. The CHAIRMAN said that the reference to Martin Luther King was not only welcome but particularly moving. In that context, he believed that if the Convention on the Elimination of All Forms of Racial Discrimination were fully applied, without reservation, by all States parties, equality would become a reality for all—not only in the United States but in all States, whether or not they were Parties to the Convention. If black and white children were able to take each others' hands and live like brothers and sisters, they would finally be free: "Free at last".
26. Mr. RESHETOV (Rapporteur for the United States of America) felt that the day was particularly important, indeed historic, since the United States had finally decided to submit its first report on the implementation of the Convention to the Committee.
27. Explaining that his remarks were based on reports provided by other United Nations bodies concerning the United States, as well as by American international non-governmental organizations, he welcomed in the first place the objectivity of the report and the sincerity of its authors, who recognized the scale of the efforts required in the struggle against racial discrimination. Thus the kind of explanation given in paragraph 7 of the report—"the United States has struggled to overcome the legacies of racism, ethnic intolerance and destructive policies relating to Native Americans" but nonetheless "issues relating to race, ethnicity and national origin continue to play a negative role in American society"—was altogether objective and essential. The delegation had likewise furnished the Committee with a great deal of additional information regarding the manner in which the new Government envisaged implementing the Convention, notably on legislative measures which had been introduced and the real improvements in the lives of ethnic minorities that had taken place during the last few decades—very important information which would enable the Committee to form a clearer view of the situation.
28. He drew the Committee's attention to the chapter of the report entitled "Factors affecting implementation" and referred in particular to the legacy of racial segregation and discrimination that still persisted in the areas of employment, housing, judicial procedures and electoral rights. One extremely important element of the negative situation prevailing in the United States in the matter of ethnic relations lay in the fact that unbridled utterance of racist ideas was actually permitted under the First Amendment to the Constitution, an analysis that had been confirmed by the Special Rapporteur of the Commission on Human Rights concerning contemporary forms of racism, racial discrimination, xenophobia and associated intolerance in the report he had drawn up following his mission to the United States in October 1994. According to that report (E/CN.4/1995/78/Add.1), "incitement to racial hatred must be considered jointly with racist violence" (para. 67) and racial violence in the United States was directly linked to racist propaganda against Jews, African-Americans, Latin American immigrants, the Arabs and other persons of colour (E/CN.4/1995/78/Add.1, paras. 67 to 76).
29. He further quoted paragraph 283 of the report of the State party, which affirmed that the American people rejected "all theories of the superiority of one race" and that the "Government condemned such theories", none of which were "espoused at any level of government". Since every State party to the Convention was committed to implement the provisions contained in it, the United

States could in no event appeal to the principle of judicial independence in order to escape that commitment. As matters stood, however, in many cases it seemed that the American Supreme Court had complicated or blocked the fight against racial discrimination instead of promoting it by calling into question many federal laws prohibiting racial discrimination, notably in the area of electoral rights (see in particular para. 87 of the report). Similarly, it seemed that the Supreme Court had judged anti-constitutional certain municipal decrees aimed at preventing racial discrimination (para. 150), had watered down legislative measures aimed at preventing discrimination in employment (para. 207) and believed that, where electoral rights were concerned, only purposeful discrimination (para. 213) was actually prohibited by the Voting Rights Act. Likewise, it appeared to be true that the Supreme Court had put a powerful damper on the application of numerous measures adopted by the public authorities to eliminate segregation and guarantee equality in education (para. 234).

30. With regard to the practical implementation of the Convention, he was concerned by the statement in paragraph 170 of the report that “the provisions of the Convention are not self-executing” in the United States, a situation that would certainly oblige the Committee to discuss the question of incorporating the provisions of the Convention in the domestic legislation of the State party. More specifically, with regard to the application of article 2 of the Convention, it was disturbing to learn that, despite the measures adopted by the federal Government, and the departments of housing, energy and defence (paras. 181 to 190), the gap between Whites and Hispanics on the one hand and between Whites and Blacks as well in higher education had actually become greater between 1971 and 1998 (para. 199).

31. He welcomed the fact that programmes incorporating palliative measures (para. 249) had been put in place in application of article 2 of the Convention with a view to remedying, in particular, “segregated, inferior schooling” which, “combined with historic economic disadvantage left many effectively barred from participating in the benefits of a growing national economy” (para. 250). It seemed to him, however, that the Government of the United States considered—wrongly—that adoption of such special measures was left to the discretion of each State party (para. 249), for, in reality, the Convention required States parties to take measures of that kind. The fact that a substantial part of society appeared to be opposed to the measures and programmes designed to protect certain racial groups seemed to him disturbing, especially as it seemed to be precisely because of that opposition that the President of the United States had decided, in 1995, to maintain only certain palliative measure programmes (paras. 276 and 277).

32. The increase in the number of hate crimes in the United States (para. 290) could no doubt be explained by tolerance towards the racists. He noted, moreover, that the report accorded a central role to the application of article 5 of the Convention, recognizing that the different ethnic groups were not in fact equal before the criminal justice and penal systems (para. 299) and that certain elements of discrimination could be imputed to those responsible for enforcing the laws.

33. He read in the report that 47 per cent of the prison population consisted of African-Americans (para. 308) and that the prisons contained a large number of anti-racist militants who considered themselves to be political prisoners. It would be interesting to hear the opinion of the United States Government on that subject. With regard to inequality of treatment before the courts based on ethnic origin, he stressed that the penalties applied were often more severe than those prescribed by the law. In addition, he underlined the fact that Blacks were at much greater risk than Whites or any other racial group of having the death penalty imposed upon them and that, according to the Special Rapporteur of the Commission on Human Rights responsible for examining the question of religious intolerance, many incidents involving racial discrimination took place in American prisons (E/CN.4/1999/58/Add.1). He would be glad if the delegation could provide the Committee with more specific information on the measures that had apparently been taken by the public authorities to combat racial inequalities in the award of penalties, trusting that the State party had statistics on incidents involving racial discrimination in prisons (para. 333).

34. He welcomed the fact that the State party condemned the practice of establishing electoral zones on a discriminatory basis and hoped that that problem would soon be settled. On the other hand, the

underrepresentation of minority groups in the public administration was regrettable, as were the difficulties encountered by ethnic minorities in claiming their economic, social and cultural rights (paras. 348 ff.), the deplorable environmental conditions prevailing in the areas where certain minority groups lived (Blacks and Indians)—conditions which amounted to a kind of “environmental racism” and constituted situations to which the Committee should give particular attention. In that context he raised the question of the Shoshone tribe, whose right to make use of their ancestral territory the Administration refused to recognize, the territory in question having now been confiscated and converted to a zone for nuclear explosions and other military activities; he likewise mentioned the alarming situation of the native populations in certain parts of the United States such as Hawaii and Alaska, which also raised problems the Committee should consider.

35. He noted further that problems of discrimination persisted (para. 347) in the area of education, a situation made worse by the fact that certain rights under article 5 were not explicitly recognized as legally enforceable rights under United States legislation (para. 298). He noted that the report contained information on the measures that had been taken to implement the provisions of articles 6 and 7 of the Convention.

36. Finally, he could only agree with the State party’s conclusion in the report, namely that it had worked hard to overcome a legacy of racism and racial discrimination but that nevertheless certain serious obstacles still remained (para. 465).

37. Mr. LECHUGA HEVIA said that the reservations regarding the Convention formulated by the State party were so numerous that it was difficult to judge in what measure the Convention was in fact being implemented on the territory of that State. It was clear from the report that discrimination existed in the United States in fundamental sectors and activities of society, affecting principally African-Americans in all areas: figures on life expectancy, infant mortality, unemployment, poverty, the level of education and the level of income reflected substantial inequalities favouring Whites. The report recognized that members of minority groups were continuing to experience racial discrimination in housing, purchase of homes, and in obtaining loans and gaining access to training in advanced technology.

38. It likewise emerged from the report that the amendments to the Constitution, the legislation adopted in civil rights questions and judicial decisions had not made it possible to substantially improve the situation of underprivileged and vulnerable groups (Indians, African-Americans, Hispanics, Asians and numerous immigrants), who were continuing to suffer numerous injustices.

39. Racial discrimination in the United States had dramatic aspects, particularly with regard to the application of capital punishment, which, according to the Coalición Nacional para abolir la Pena de Muerte (National Coalition to Abolish the Death Penalty), was powerfully influenced by race. The majority of prisoners condemned to death (African-Americans, Hispanics or Asians) were too poor to procure the services of good lawyers. Nearly all judges were Whites, and judicial decisions were often based on political motives or racial prejudices. The disparities in conviction and imprisonment were such that 50 per cent of defendants were African-Americans when in fact that community represented only 6 per cent of the population. Owing to racial and class prejudices, young African-Americans, Hispanics and Asians incurred a much higher risk of being arrested, prosecuted and condemned to heavy sentences than young Whites. Women belonging to these minorities were victims of double discrimination owing to their ethnic or racial affiliation and their sex. Furthermore, according to the International Commission of Jurists, judges, lawyers and other members of the legal professions were unaware of the international instruments ratified by their countries and had no knowledge of the obligations imposed by those instruments. There were also irregularities in the manner of appointing juries that had to decide on the death penalty, and the procedures relating to that penalty were not such as to guarantee fair judgements for poor or indigent prisoners.

40. Furthermore, the Special Rapporteur of the Commission on Human Rights for contemporary forms of racism noted that many militant anti-racists and freedom fighters who considered themselves to be political prisoners were being held in American prisons, in particular a hundred or

so militants opposed to white supremacy and partisans of self-determination for coloured persons, who regarded themselves as having been condemned to excessively severe punishment. Among these detainees were 18 Puerto Rican anti-colonialist militants.

41. Racial discrimination was also practised in the realm of health. Many studies revealed that African-Americans, Native Americans and Hispanics were less well cared for in hospitals and health establishments than White patients, a form of institutional discrimination against which existing legislation was inadequate.

42. Discrimination was likewise striking the Shoshone people and impeding their ability to make use of their ancestral territories, and also the indigenous populations of Alaska who had submitted complaints to the Commission on Human Rights because of racial discrimination related to employment, life expectancy and access to secondary education. In that context he pointed out that racial discrimination also persisted in education, despite the Supreme Court decision of 1954 declaring segregation in public schools illegal; that decision did not prevent substantial inequalities persisting in the quality of teaching, which was far better in rich districts than in those where African-American, Latin American and Native American minorities lived. Racial discrimination was also at the bottom of the brutality, aggression and abuse perpetrated by members of the police against members of minorities in the streets and in prisons.

43. He invited the United States delegation to inform the Commission of the measures which the United States Government intended to take to improve the situation he had just described with a view to applying the provisions of the Convention on its territory.

44. Mr. VALENCIA RODRÍGUEZ said that the State party's report was extensive and complete and described in frank terms the situation with regard to racial discrimination, although it was plain that despite the efforts of the Government certain discriminatory practices still remained.

45. He pointed out that the State party was a multi-ethnic, multiracial and multicultural country whose enormous population of more than 275 million people included large indigenous groups as well as immigrants and descendants of immigrants originating from all parts of the world. That diversity, as well as the steady increase of minority groups, were parameters that had to be taken into account in analysing the report.

46. He noted that the Convention had the same rank as federal laws in domestic United States law, but that its provisions could not be applied directly nor pleaded before the courts of law. Since the State party considered its legislation to be in keeping with the Convention, it would be well to follow up that point in order to determine whether all federal laws, as well as the legislation of individual states and local provisions, fully corresponded to the provisions of the Convention. He would like to know whether the present Administration intended to continue with the activities and programmes undertaken by its predecessor.

47. With regard to the application of article 2 of the Convention, he noted that the State party had adopted legislation prohibiting racial discrimination, but that numerous discriminatory practices nevertheless persisted in subtle forms—in access to housing, employment, education and so forth. He would like to see the State party look into those situations and adopt measures to remedy the ills, in particular positive action measures in conformity with article 2, paragraph 2, of the Convention, and he felt that it should place emphasis on the situation of Native Americans (para. 274).

48. With regard to the application of article 3 of the Convention, he drew attention to the residential segregation imposed in the course of the past 50 years on a large part of the Black community within the large American cities. The State party should do its best to strengthen measures designed to remedy that situation.

49. With regard to the application of articles 2, 4 and 7 of the Convention, he believed that the Committee would do well to ask the Government to reconsider the compatibility of its reservations on those articles with the practice of the Committee itself and that of most States parties, bearing in

mind the fact that unlimited application of freedom of speech, expression and association might actually endanger the political and social stability of the State party itself. He noted with satisfaction that the law provided penal sanctions for racially motivated acts of violence (paras. 288 ff.). Since offences of that kind were frequent in the country, he hoped that the State party would be constantly watchful to ensure application of that legislation and strengthen the conciliation work of the Community Relations Service (para. 292). Similarly, he hoped that, without any infringement of freedom of expression, measures would be taken to stop racist propaganda on the Internet.

50. The information provided in the report on the application of article 5 of the Convention recognized quite frankly that the penal system incorporated ethnic or racist tendencies reflected in the large number of prisoners belonging to minority groups and in the severity of the punishment meted out to those prisoners. He thus encouraged the Government to continue its efforts to improve that situation. He also drew the attention of the State party to the problem of underrepresentation of ethnic minorities in the judiciary as well as to the discriminatory practices that were rampant in the area of economic, social and cultural rights (paras. 347 ff.), wrongs that could be remedied simply by implementing existing measures or by adopting other adequate measures.

51. Information concerning the persistent racial discrimination practised against foreign or migrant workers, whether in a regular or irregular situation, constituted a highly sensitive question. The State party should improve the training of immigration and law enforcement officials in matters of human rights, particularly the rights referred to in the Convention. In that context, he wished to conclude by saying that as long as misery persisted in third world countries, where poverty was being further aggravated by the consequences of globalization, the flow of immigrants, whether legal or not, would continue—particularly towards the countries of the North in general and the United States in particular. It was therefore important to respect the basic rights of those persons under the international conventions, notably the Universal Declaration of Human Rights—in particular the right to life, liberty and security and the right not to be exposed to racial discrimination.

52. In conclusion, he expressed the hope that the United States Government would continue, in subsequent reports, to inform the Legal Affairs Committee regarding its application of article 6 of the Convention.

53. Mr. de GOUTTES said that he would first make a number of general comments on the United States report before going on to consider it in greater detail. In the first place he emphasized the complexity of the fight against racial discrimination in the United States, which took place at three levels, superimposed on one another and mutually interpenetrating: the Constitution, federal legislation and the executive power, and the measures adopted by individual states. Secondly, he noted a contrast between the cautious and restrictive attitude of the Government towards the Convention, on the one hand, characterized by reservations and declarations of the United States concerning the Convention, the purpose of which was to maintain the freedom of expression set out in the First Amendment to the Constitution and to ensure respect for private life and for the respective areas of competence of the federal Government and the states as well as local authorities, and the indirect manner of application of the Convention; and, on the other hand, the very important power of interpretation vested in the courts, which were called upon to apply the anti-discrimination laws and did so in a manner which was often inventive, dynamic and extensive. Thirdly, he noted the frankness of the information furnished in the report concerning the numerous obstacles to application of the Convention in the United States (paras. 71 and 72). Fourthly, it was worth mentioning the possible consequences of the change of government, namely the accession of a new President of the United States. Given the scope of presidential power and the numerous initiatives taken by President Clinton during his period in office on behalf of human rights, he would like to know whether the new President intended to guarantee continuity of the American policy against racism.

54. He drew attention to two questions which had substantial effects on the application of the Convention by the United States: the American conception of freedom of expression and the discriminations practised in the area of justice.

55. The American doctrine was, he believed, in conflict with article 4 of the Convention, which prohibited the spread of racist ideas, as well as Recommendation XV of the Committee, which affirmed that that prohibition was in no way incompatible with freedom of opinion and expression, since racist propaganda was a punishable offence and racism itself a danger for democracy and public order. However, since in the United States only acts of racial violence and not racist remarks were punishable by law, the chances of successful prosecution for racist propaganda, in particular via the Internet, were very limited. And yet the United States occupied a key position in that area, because in effect it controlled the Internet. He wished to know what measures the United States authorities intended to take in order to combat that type of propaganda and asked the delegation to provide recent examples of administrative or legal steps taken to combat misuse of the Internet for racist purposes.

56. The report frankly recognized the existence of the problem of discrimination within the judicial system, abundantly illustrated by the non-governmental organizations and the Special Rapporteur of the Commission on Human Rights for contemporary forms of racism in his 1997 report. Without underestimating the efforts deployed by the American authorities to improve the situation, he wished to hear more precise indications of the corrective measures being considered to abolish discrimination within the judicial system at five stages of the legal process: access to justice, police inquiries, sentencing and penalties, imprisonment and the composition of the bench.

57. As to the first question, access to justice, what was being done to ensure perfect equality of access, in particular on behalf of the most vulnerable groups among the population? What role was being played by victims' defence associations? Did legal assistance services exist for the most helpless? With regard to police inquiries it would be useful to know what measures had been taken to counter partiality, notably "racial profiling" and other forms of police behaviour tainted with racism (paras. 301 ff. of the report) in the course of roadside monitoring and checks carried out within the framework of the anti-drug campaign. What measures were anticipated to punish police brutality, too often brought to bear against persons of colour, against minorities or immigrants, and why were there such disparities in prosecutions for murder depending on whether the victim was a coloured person or a White?

58. With regard to sentencing and penalties, he wished to know what measures the Government planned to introduce to correct the existing imbalance between the sentences handed down, which were decidedly more severe for Blacks and minorities, and in particular the use of mandatory minimum sentences (para. 309 of the report). With regard to capital punishment, what did the Government intend to do to avoid a situation in which capital punishment was inflicted more frequently upon persons of colour, including minors, than on others? Considering the number of offenders condemned and executed since the restoration of the death penalty in 1976, could the Government envisage a moratorium on the use of capital punishment as non-governmental organizations were demanding? Furthermore, was it doing everything in its power to ensure that fair trial rules were applied to persons of colour as well as to Whites?

59. As far as the prisons were concerned, he would like to know what the Government could do to ensure that the rate of imprisonment of persons of colour was not disproportionately large in comparison with that of Whites and what measures it could introduce to improve detention conditions for persons of colour, Native Americans and immigrants. Finally, with regard to the composition of the bench, the United States report revealed in paragraph 340 that Whites were over-represented among federal judges. What measures was the Government considering to diversify recruitment and increase the representation of persons of colour and minorities on the bench?

60. In concluding, he pointed out to the United States delegation that his numerous questions reflected the special interest generated by the periodic report of the United States, a large and influential country.

61. Mr. FALL also welcomed the presentation of the first report by the United States, the accession of that country to the Convention in 1994, and the fact that many public and private bodies involved in the defence of human rights had participated in the preparation of the report. However, he noted a

certain conflict between paragraph 6 of the report, in which the United States Government expressed its support for the cause of human rights, and the numerous reservations it had entered at the time of its accession with regard to several articles of the Convention, in particular articles 2, 3, 4, 5, 7 and 22—reservations which were such as to limit the scope of application of the Convention. That restrictive approach seemed rather surprising for a country which was characterized by its racial, ethnic and cultural diversity. In that context he noted in the report an absence of information on the ethnic composition of the population and on the practices applied with regard to Native Americans. He asked the United States delegation to give the Committee further information on those two points.

62. With regard to the question of civil rights, despite the undeniable progress made during the last few decades it would be well to introduce legal measures aimed at completely eliminating racism, the more so as the report recognized (paras. 18 and 71) the persistence of de facto segregation. Re-examination of the reservations made by the United States at the time of its accession to the Convention would help to ensure full application.

63. With regard to the scope of application of the Convention, paragraph 50 reaffirmed the primacy of duly ratified international treaties over domestic law, but that affirmation was in effect contradicted by the information provided in paragraphs 169 and 170 which said that the provisions of the Convention were not self-executing, even though the Government expressed, in paragraph 146, its support for the objectives of the Convention. Removal of the reservations made at the time of accession would demonstrate the reality of the Government's support and would favour full application of the Convention.

64. With regard to the application of article 4 of the Convention, he was concerned, as were other members of the Committee, by the complacency with which the authorities tolerated actions of organized racist groups such as the Ku Klux Klan in the name of freedom of speech, expression and association. In that regard it should be remembered that most of the great democracies had taken steps to ensure respect for public order, without having to impinge on freedom of speech for that purpose. He would like to know what the Government of the United States intended to do to put an end to the numerous racist manifestations that occurred in the country—in keeping with article 4, under which States parties were to prohibit racist propaganda and organizations which claimed the superiority of one race over another—and what it would do to punish the spread of ideas involving racial hatred or claiming racial superiority. The partiality of the police with regard to Blacks was particularly regrettable, involving as it did brutality and serious acts of cruelty of which a number of well-known examples could be cited, for example the Rodney King affair and the assassination of Amadou Diallo. It would be helpful to know what measures the Government intended to take, in line with the Committee's recommendations, to halt such excesses. He stressed, furthermore, the persistence of racial discrimination in many other spheres such as education, employment, justice, health, housing and the protection of minorities. Finally he requested the delegation of the United States to indicate whether the Government was considering making the declaration provided for in article 14 of the Convention.

65. He congratulated the delegation of the United States on the objectivity and candour of its report, particularly with regard to the consequences of the country's racial past. The statistics presented by the head of the delegation in his statement were eloquent about the undeniable progress that had been made in matters of civil rights and equality, but also in connection with what remained to be done to achieve full racial integration. He noted the presence at the head of the United States delegation of the Assistant Attorney General, Mr. Ralph Boyd, and welcomed the present opportunity for an initial dialogue which augured well for fruitful exchanges with the Committee in future.

66. Mr. ABOUL-NASR shared the views of other members of the Committee concerning the tardiness with which the United States had adhered to the Convention; its slow pace was all the more surprising because, during the debates which had preceded adoption of the Convention, the attitude of the United States delegation had suggested that the country would accede very soon. However, generally speaking the United States tended to be slow in ratifying conventions and other instruments adopted within the framework of the United Nations; and once it had done so, its adherence was

accompanied by a plethora of reservations which in effect rendered it inoperative. Nevertheless, he appreciated the frankness of the report, which demonstrated the good will of the authorities, who apparently intended to correct problems which they themselves recognized.

67. He felt bound to bring up a problem which was close to his heart, namely the unfortunate situation of Arabs in the United States; his remarks were based on a report by a non-governmental organization, ARIS (Anti-Racism Information Service), entitled "1996-1997—Report on Hate Crimes and Discrimination against Arab Americans", which dealt with the serious problems and hate-inspired crimes afflicting Americans of Arab origin as well as the defamatory propaganda and racist films to which they were exposed. He invited the United States delegation to give its attention to the recommendations appearing in that report.

68. The CHAIRMAN said that the Committee would continue its consideration of the initial report and of the second and third reports at the next meeting.

The meeting rose at 6.05 p.m.