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SUMMARY RECORD OF THE 2379th MEETING*

Held at the Palais de Nations, Geneva,
on Monday, 17 July 2006, at 3 p.m.

Chairperson: Ms. CHANET

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* No summary record was prepared for the 2375th, 2376th, 2377th and 2378th meetings.

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 5) (*continued*)

Second and third periodic reports of the United States of America (CCPR/C/USA/3; CCPR/C/USA/Q/3)

1. *At the invitation of the Chairperson, the delegation of the United States of America took places at the Committee table.*

2. Mr. TICHENOR (United States of America), presenting the report containing the second and third periodic reports of the United States of America (CCPR/C/USA/3), stressed that the composition of the delegation and the seriousness with which the report had been drafted bore witness to the importance which the Government attached to its obligations under the Covenant. Since its foundation, the United States had been an ardent defender of the rights and freedoms enshrined in the Covenant, and the current Administration remained faithful to that tradition.

3. Mr. WAXMAN (United States of America) said that the delegation, which had expended considerable effort in drafting the reports and preparing the replies to the list of issues to be taken up and had been constituted in such a way as to represent the bodies most actively involved in the implementation of the obligations arising from the Covenant, welcomed the dialogue that had just commenced with the Committee, which it hoped would be fruitful and constructive. Considering the Covenant to be the most important instrument in the field of protection of human rights since the Charter of the United Nations and the Universal Declaration of Human Rights, the United States was proud to have contributed to making the rights and freedoms recognized in those two founding texts binding obligations under the Covenant. A number of rights consecrated by the Covenant were also protected by the Constitution of the United States.

4. The legal framework for the implementation of the Covenant had not changed fundamentally since the submission of the initial report of the United States. The report contained updated and detailed information on the laws, court decisions, policies and programmes adopted in the meantime to strengthen both the guarantees of Covenant rights and recourse in the event of their violation. It was obvious that after the events of 11 September 2001 the threat of new large-scale terrorist attacks had forced the United States to adopt decisive measures, especially legislative, to ensure the security of its territory, which it had done in keeping with the Constitution and domestic law as well as international treaty obligations.

5. As to actions carried out by the United States outside its territory, the United States considered that the law of armed conflict, a branch of international humanitarian law, constituted the appropriate framework within which they must be placed. The United States, while not unaware of the opinion of the members of the Committee concerning the extraterritorial application of the Covenant, remained convinced that the Covenant applied solely to the territory of State parties. The application of the rules of interpretation of treaties contained in the Vienna Convention led one to conclude that under article 2, paragraph 1, of the Covenant, State parties were required to guarantee Covenant rights solely with regard to individuals who were both in their territory and subject to their jurisdiction. That interpretation was confirmed first of all by the ordinary meaning of the wording of

that article ("to all individuals within its territory and subject to its jurisdiction") and also by the preparatory work for the Covenant, in which one found that on the proposal of the representative of the United States, Eleanor Roosevelt, the words "within its territory" had been included in the text of article 2, paragraph 1, at the 1950 session, precisely in order to guarantee that States would not be required to implement the provisions of the Covenant outside their territory. It was clear, therefore, that the territorial limitation contained in article 2, far from being contrary to the object and purpose of the Covenant, was the very expression of the intention of its negotiators. Annex I to the report set forth in detail the position of the United States in that regard. It was important, however, to return to that point in order to point out that, while the United States did not apply the provisions of the Covenant outside its territory, its domestic law and international law, with which it complied rigorously, guaranteed the protection of individuals outside its territory. Furthermore, knowing the United States position regarding the territorial application of the Covenant would enable the Committee to understand why no written reply was provided to its questions relating to military operations carried out by the United States outside its territory.

6. As far as implementation of the Covenant within its territory was concerned, the United States fully complied with its obligations. The fundamental elements of democracy — freedom of expression, freedom of assembly and freedom of the press — were firmly entrenched there, the legal system was strong and independent and civil and political rights were protected by a set of constitutional, legislative and common-law provisions. The tradition and culture of legally challenging the Government were stronger in the United States than in any other country, as shown by the case law abundantly cited in the report. The scope of the guarantees offered by the Constitution, moreover, was often broader than that set forth in the Covenant. Yet the United States did not content itself with merely striving for the realization of the Covenant rights within its territory: it also devoted considerable resources — 1.4 billion dollars in 2006 — to helping other nations throughout the world to promote respect for human rights. While the United States might be proud of its national accomplishments in the area of civil rights and its commitment to human rights abroad, it still felt it had a great responsibility in a never-ending battle.

7. Mr. KIM (United States of America) said that the United States was deeply committed to freedom and equality. Being the first Assistant Attorney-General of Korean origin in the Department of Justice and the first immigrant director of the Civil Rights Division, he was living proof that equal opportunity did indeed exist in the United States. Since the creation of the Civil Rights Division, which was to celebrate its fiftieth anniversary in 2007, the Government had made considerable advances in the field of civil rights and in particular in the elimination of discrimination. The current Administration had scored numerous successes in that area: an unprecedented campaign in favour of voting by persons belonging to linguistic minorities; the quadrupling of the number of prosecutions instituted for human trafficking; a 30 per cent increase in the number of sentences handed down against law enforcement officers for civil rights violations; implementation of the rights of persons, both adults and minors, placed in institutions, including prisons and psychiatric establishments; court actions for the creation of housing for disabled persons; and the institution of an unprecedented number of proceedings to denounce discriminatory practices in the area of employment. The Department of Justice had also launched new initiatives aimed at guaranteeing equal protection of the law for

all American citizens in the areas of trafficking in human beings, the right to housing, rights of disabled persons and freedom of religion.

8. The effort to combat trafficking in human beings, in the United States as well as abroad, was a priority of President Bush and the Attorney-General. In that area, the Department of Justice had set up an effective system combining the sentencing of guilty parties and assistance to victims. It also saw to it that the right to housing was guaranteed for all without restriction. Such was the purpose of operation "Home Sweet Home", which had been launched to protect victims of Hurricane Katrina forced to find new housing against discrimination. Since the start-up of the New Freedom initiative, in January 2001, the Civil Rights Division had won satisfaction for the claims of disabled persons in over 2000 lawsuits brought under the Americans with Disabilities Act and negotiated agreements on access for disabled persons that had benefited more than 2 million individuals. Religious minorities were a category protected in most legislative texts but, under previous administrations, few cases of discrimination had ever been dealt with in court, a gap that the Department of Justice had striven to bridge. It had actively seen to the implementation of the 2000 law on land use for religious purposes and institutionalized persons. It also sought to protect student rights in the field of religion and had instituted a civil action to permit a young Muslim woman to wear the hijab in a public educational institution. The United States had equipped itself with a powerful legal armamentarium to combat all forms of discrimination but was well aware that it had not yet reached the end of the road to equality.

9. The CHAIRPERSON thanked the delegation of the United States for its presentation and invited it to reply to the questions on the list of issues (CCPR/C/USA/Q/3).

10. Mr. KIM (United States of America), replying to question No. 1 on the list of issues to be taken up, recalled that the complex history of the relations of the United States with the Native American tribes and the juridical framework applicable to those tribes had been dealt with in detail in the initial report (CCPR/C/81/Add.4). As for the point whether the United States based itself on the doctrine of "discovery" in its relations with the Indians, an observation formulated by the Supreme Court in 1823 had established that that doctrine had not arisen in the United States, but had originated with the European ruling class. When it broke with England, the United States inherited the latter's land rights, including the exclusive right to acquire land held or occupied by Indians belonging to a specified category. That right, however, had not deprived the Indians of their land rights: they had maintained them subsequently upon each new purchase of land by the State, which had obtained some 67 land titles by signing treaties with the tribes.

11. The treaties concluded with the Indian tribes had governed the relations between the United States and the Indians for 100 years. They were still in effect and had the force of Federal law. While they were similar to treaties concluded with foreign Governments, they differed from them in that they were conceived and interpreted in such a way as to favour the interests of the Indians. Exceptional guarantees had subsequently been granted to the Indian tribes by way of legislation. Thus, in 1946 they had obtained the right to apply to the court to denounce any violation of the rights guaranteed by the treaties. Under the Constitution, it was the United States Congress, and not the State governments, that was qualified to administer Indian affairs. In reply to the Committee's concern regarding the

compatibility of the powers thus granted to Congress with articles 1 and 27 of the Covenant, the Indians, he said, as United States citizens, enjoyed the same constitutional guarantees as all other citizens, including the right to take part in the management of the country's public affairs. Furthermore, the fifth amendment to the Constitution expressly prohibited depriving an individual of his life, liberty or property without due process of law, or taking private property for public use without just compensation. Moreover, any measure adopted by Congress was subject to judicial review.

12. As far as compatibility with article 1 of the Covenant was concerned, it must be borne in mind that the notion of sovereignty of the tribes defined in the laws of the United States was different from the notion of sovereignty employed in international law. Federal Indian law established that the right of tribes to self-determination meant their right to go about their business in accordance with their own governmental systems as political entities maintaining Government-to-Government relations with the United States. In addition to culture, religion and language, the spheres of competence of the autonomous tribal governments included education, information, social welfare, relations within the family, land administration and the management of resources and the environment. The tribes controlled access to tribal lands and managed the financing of their activities.

13. Mr. WAXMAN (United States of America), replying to question No. 2, said that with regard to article 6, paragraph 5, of the Covenant, which related to the possibility of pronouncing the death sentence in the case of minors aged less than 18 years, the United States had recently strengthened the restrictions to the application of the death penalty. In the case *Roper vs. Simmons*, the Supreme Court had decided that the execution of persons found guilty who had been less than 18 years of age at the time of the events was a violation of the Constitution, and that decision had created a precedent. Consequently, the Government did not intend to withdraw the reservation to article 6. The reservation expressed concerning article 7, on the other hand, according to which the expression "cruel, inhuman or degrading treatment or punishment" meant cruel or unusual treatment or punishment prohibited by the Fifth, Eighth and/or Fourteenth Amendments to the Constitution, had been formulated to specify the meaning of the expression "cruel, inhuman or degrading treatment or punishment" and to guarantee the compatibility of the existing constitutional norms with the obligations arising under article 7 of the Covenant. Inasmuch as those reasons were still valid, the Government did not intend to withdraw the reservation.

14. As for the compatibility with the Covenant of the definitions of terrorism contained in domestic law and congressional authorization of recourse to military force (question No. 3), it must be recalled that the Covenant contained no provision governing the manner in which a State party was supposed to define the term "terrorism" in its internal law. The different definitions of the term used in United States domestic law, set forth in annex A to the written replies, were in no way incompatible with the obligations incumbent on the United States under the Covenant. Moreover, they were coupled with procedural guarantees fully in conformity with the Covenant. Nor was the authorization to resort to military force contrary to the obligations of the United States under the Covenant. Adopted following the attacks of 11 September 2001, it legally established the existence of an armed conflict between the United States and Al-Qaida and the Taliban.

15. Questions Nos. 4 to 9 related to the application of the Covenant in places not under the jurisdiction of the United States. The delegation had explained at length the position of the United States in that regard in its opening statement and detailed components of a response could be found in the written replies. It would therefore confine itself to providing an overview of the way in which the measures to combat terrorism satisfied the obligations undertaken by the United States under the Covenant. The fight against Al-Qaida, the Taliban and movements affiliated with them placed the international community before new challenges which the United States was determined to take up while strictly respecting legality and discharging its obligations under its domestic law and applicable international law. The legal and judicial mechanisms that permitted the United States to discharge its obligations under the Covenant, which were amply described in the periodic report, also operated without restriction in the case of anti-terrorist measures.

16. In response to the multiple questions concerning the measures taken in respect of persons suspected of terrorism (question No. 10), M. Waxman pointed out first of all that article 7 of the Covenant did not provide any specific obligations relating to the transfer of persons. The United States delegation was nevertheless willing to respond to the question raised by the Committee in that regard. The United States, in compliance with the obligations to which it had subscribed in acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and as it had had occasion to say before the body created under that instrument, neither expelled nor returned or extradited a person to a country where he was likely to be subjected to torture. With regard to persons placed under the control of the United States outside its national territory, the State party applied an analogous norm whereby a person could not be transferred or sent back to a country where it was highly probable that he would be subjected to torture. Whenever necessary, the United States demanded reliable assurances that the person concerned would not undergo torture.

17. Like other countries, the United States did not comment on information related to what were considered operations of intelligence services. Notwithstanding, Secretary of State Condoleezza Rice had publicly confirmed that the United States and other countries had long carried out transfers of persons suspected of being terrorists from the country in which they had been arrested to their country of origin or another country in which they might be interrogated, placed in detention or brought to trial. The United States considered those transfers an essential instrument in the fight against international terrorism that made it possible to render terrorists harmless and spare human lives. Transfers were always carried out in respect for the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, even in cases where that instrument did not apply, there was never any transferral of an individual to a country where he was highly likely to be subjected to torture. It might also be pointed out that it was rare for the United States to request diplomatic assurances.

18. Mr. KIM (United States of America), responding to the Committee's concerns about the application of the material witness statute (question No. 11), said that the statute was aimed at guaranteeing the presence of a person as material witness in a grand jury or a petty jury proceeding when there existed a risk that the witness might fail to appear. The practice of detention to guarantee the presence of a witness was very old, going back to 1789, and related primarily to matters of illegal immigration, organized crime and terrorism. In any case, independent verification

was exercised by a judge, and sizeable bonds were called for. To place a material witness in detention, the authorities must demonstrate that there was every reason to believe that the testimony of the person concerned was essential and that a simple subpoena would not guarantee the presence of the witness. Furthermore, the right to be assisted by counsel, designated ex officio if necessary, and the right to appeal were guaranteed. The material witness was released after giving a total or partial deposition, unless detention must be extended for another reason, owing, for example, to questions connected with immigration or coming under the Penal Code. The witness then enjoyed the procedural rights provided within that framework. Between 11 September 2001 and the beginning of 2005, it was estimated that 10,000 warrants had been issued for the arrest of material witnesses, including 9,600 in matters of immigration, approximately 230 in cases related to traffic in drugs or weapons or other offences involving violence and nearly 90 in matters of terrorism. The possibility of ordering a closed hearing for material witnesses was not incompatible with the application of article 14 of the Covenant insofar as the hearing of the witness was not aimed at deciding on the merits of a criminal charge.

19. Mr. TIMOFEYEV (United States of America), turning to the question of the exclusion of the public from immigration court hearings, said that the measure, which might be applied either partially or fully, was thoroughly compatible with articles 9, 10 and 14 of the Covenant. The Covenant did not in fact require that expulsion procedures be public. Article 14 provided that everyone was entitled to have his cause heard publicly by a court deciding on the merits of a criminal charge. However, an accusation in an immigration case did not fall into that category, and the expulsion of an alien did not constitute criminal punishment. Immigration court hearings that were partially or totally closed to protect witnesses or parties or in the interest of the public had long been permitted. For several years, judges in immigration cases had also been authorized to adopt protection measures in cases in which the Government had shown that there was every reason to believe that the disclosure of certain information communicated under the seal of secrecy might be harmful to national security or the interests of justice. The principal procedural guarantees, however, were not restricted by the proceedings being held in camera. Thus, the persons concerned were informed of the charges against them and had the possibility of being heard, producing evidence and being assisted by counsel and, if necessary, by a sworn interpreter. Shortly after the terrorist attacks of 11 September 2001, the Attorney-General had deemed it necessary to impose closed hearings for a special class of expulsion cases. Yet even in those cases, the parties concerned and their counsel could disclose any information on the expulsion proceeding against them that was not specifically the object of a protective measure.

20. Mr. KIM (United States of America), responding to the question whether article 213 of the "USA PATRIOT" Act was in keeping with the Covenant (question No. 12), said that the procedure whereby a search warrant could be issued with late notification had existed and been frequently used for decades; it therefore considerably predated the passage of the "USA PATRIOT" Act. A late-notification search warrant was issued by a Federal judge only once it had been established that there was every reason to believe that the property to be searched or seized constituted proof of a crime. Article 213 had not granted the law-enforcement bodies any new powers, but had established a uniform standard and process throughout the nation for issuing those warrants. In fact, such search warrants with

late notification were rare (less than 0.2 per cent of all federal warrants issued between the entry into force of the "Patriot" Act and the start of 2005).

21. Regarding the compatibility of article 215 of the "Patriot" Act with the Covenant, the act in question merely granted to investigators in matters of international espionage and terrorism authority analogous to that of grand juries, except for the fact that the investigators must obtain prior judicial authorization to order the production of evidence. In accordance with the law to enhance and renew the "Patriot" Act adopted in 2005, persons against whom such a measure was taken could be assisted by counsel and contest the decision in court. The legislation had also coupled the measure with additional guarantees for cases in which the information was considered more sensitive. It also provided that the number of orders to produce evidence issued under article 215 would be made public each year. In 2005, the courts had granted only 155 requests for access to certain business records.

22. The system of "national security letters" predated the adoption of the "Patriot" Act. It allowed national security investigators to demand certain types of information from specific entities, but did not authorize searches and was not applied automatically. Thus, if the recipient of such a letter refused to comply, investigators had to turn to the courts to compel him to do so. The recipient might obtain the assistance of a lawyer and contest the validity of the letter in court. A "national security letter" was no longer automatically accompanied by a nondisclosure requirement, a prohibition which itself might also be contested in court.

23. Article 412 of the "Patriot" Act provided that, subject to close judicial review, a narrow category of aliens might be placed in temporary detention prior to their removal from the country, but that there must exist reasonable grounds to believe that the person in question had entered the United States in order to violate the laws on espionage or sabotage; had entered the United States in order to oppose the Government by force; was involved in terrorist activity; or threatened the national security of the United States. Article 412 expressly provided the right to contest the detention in court. The authorities must commence removal proceedings or charge the alien with a criminal offence within seven days, otherwise they must release him. The United States had never used the power granted by that provision of the "Patriot" Act to place an alien in detention. In any event, article 412 was fully compatible with the obligations arising under the Covenant.

24. In reply to the question of surveillance of communications between private citizens (question No. 13), he stated that, under the terrorist surveillance program, launched in December 2005, the National Security Agency meant to intercept communications between private individuals within the territory of the United States and abroad whenever there existed reasonable grounds to believe that either of the individuals was a member of Al-Qaida or an affiliated terrorist organization. "Reasonable grounds" constituted a type of proof compatible with the Fourth Amendment to the Constitution of the United States, which did not require a judicial warrant or order in all cases. Indeed, the Supreme Court had recognized that searches might be conducted without a warrant for "special needs beyond the normal need". The terrorist surveillance program answered such a need, for it protected the nation by detecting and preventing plots being hatched by an avowed enemy of the United States. Thus, the absence of a court warrant in the context of

that programme did not constitute a violation of the Fourth Amendment, any more than it constituted arbitrary or unlawful interference with privacy within the meaning of article 17 of the Covenant. In view of the speed and flexibility required to prevent new terrorist attacks within the United States, the task of determining whether communications between private individuals were part of the preparations for a terrorist attack had been entrusted to intelligence service experts rather than to the courts.

25. The Committee had requested information regarding steps taken to reduce segregation in public schools (question No. 14). The United States authorities assumed that the expression "de facto segregation" referred to situations in which certain establishments were frequented predominantly by persons belonging to a given race or other group referred to in article 26 of the Covenant. Such situations could be explained in many ways, in particular through the numerical superiority of a group in a given region. The authorities, at any level, were bent on preventing discrimination and the Department of Justice, for example, was currently examining 300 cases of de jure segregation, caused by an intentionally discriminatory act, and to do that it based itself on the 1964 Civil Rights Act and the Equal Opportunity in Education Act of 1974. To act, however, one had to be able to establish the discriminatory intention of the authorities. Thus, the mere numerical superiority of a population group could not constitute per se an instance of discrimination and was not incompatible with article 26 of the Covenant.

26. As for racial profiling practices (question No. 15), in 2001 President Bush had declared before Congress that racial profiling was a mistake and that it would be put an end to. He had requested the Attorney-General to see to it that race was no longer an element taken into account in arrests, searches and other law-enforcement procedures. Thus, the guidelines set by the Civil Rights Division prohibited Federal law-enforcement officers from practising racial profiling. Moreover, the Division was charged with collecting and dealing with related complaints pertaining to any law-enforcement body. Where racial profiling was found to exist, the Division helped the body concerned to revise its strategy, its procedures and the training it offered in order to bring them into line with the Constitution and Federal laws.

27. Mr. TIMOFEYEV (United States of America) said that Hurricane Katrina (question No. 16) had mobilized resources at every level of the State to a degree never before reached in connection with a national disaster. One learned with each disaster, and that had been the case with Hurricane Katrina. The Federal Government now sought to translate those lessons into reality, particularly by improving procedures whereby those who were economically weak could be better protected and assisted. One must realize, however, that it was to the state and local governments that belonged, first and foremost, the responsibility to provide emergency relief during a disaster and to organize evacuations. Within the Department of Homeland Security, the Federal Emergency Management Agency (FEMA) was charged with coordinating relief and reconstruction efforts in the wake of disasters. To that end, it cooperated with the state and local officials concerned and gave them the necessary support. The purpose of FEMA was to come to the aid of all disaster victims within the shortest possible time and without any discrimination whatsoever. Furthermore, title VI of the 1964 Civil Rights Act offered individuals protection against discrimination based on race, colour or national origin in programmes supported financially by the Federal authorities. FEMA also had a civil rights programme that offered counselling services to state

and local governments and dealt with complaints regarding discrimination. Finally, following Hurricane Katrina, an inter-agency council had been set up to collect and deal with the complaints and requests for assistance of people with disabilities and to coordinate private and public aid.

28. Mr. KIM (United States of America) provided a glimpse of the initiatives in the area of protection against discrimination that had been taken by the Civil Rights Division of the Department of Justice and the authorities concerned in the aftermath of Hurricane Katrina. In particular, on 15 February 2006, Attorney-General Alberto R. Gonzales had announced the start of operation "Home Sweet Home", aimed at ending discrimination in housing in the areas affected by the hurricane and those where accommodation was provided for the victims. The Office of the Louisiana Attorney-General had conducted an in-depth criminal investigation into allegations that law-enforcement officers had not permitted New Orleans inhabitants to go to Gretna, Louisiana, via the Greater New Orleans Bridge. The FBI (Federal Bureau of Investigation) had also conducted investigations into cases of detainees who had reportedly not been duly transferred from the Orleans Parish prison in the aftermath of the hurricane. Those investigations had been reported to the Civil Rights Division, but the Division had concluded that violation of the constitutional rights of the detainees had not been sufficiently established. The FBI and the Civil Rights Division would continue to cooperate in the ongoing investigations of the complaints of the Orleans Parish prison detainees. With regard to the protection of the electoral rights of the population, the Civil Rights Division had taken extraordinary steps very quickly in the aftermath of the hurricane to ensure that the election in New Orleans would be conducted properly. In the field of education, many school districts in Louisiana, including in the New Orleans region, were currently the object of school desegregation orders. When pupils displaced because of Hurricane Katrina were re-established in areas not subject to that type of order, the school districts might distribute them as they saw fit among the different institutions, depending on the capacity to accommodate them and the educational needs of the children. The Department of Justice felt that the texts must be construed with enough flexibility not to hamper the displaced children's enrolment. In the same spirit, the Department of Education had given up applying several criteria in certain Federal programmes in order to help states and districts affected by the hurricane respond to the educational needs of the children. Finally, it had allocated funds under new scholarship programmes to help states and districts hit by the hurricane to recover.

29. The CHAIRPERSON invited the members of the Committee to ask their additional questions on points 1 to 16 on the list.

30. Mr. KÄLIN emphasized that the consideration of the second and third periodic reports offered the Committee the possibility of resuming the dialogue with the State party after more than a decade, during which the latter had faced many difficulties and ordeals. He regretted, however, that neither the report nor the replies given orally by the delegation shed any light on the application of the Covenant outside the territory of the United States, and the information concerning the situation with respect to the states was rather skimpy. The State party had accompanied its instrument of ratification of the Covenant with an interpretative declaration in which it had stated that the Covenant must be applied by the Federal Government to the extent that the latter had legislative and judicial jurisdiction over the matters referred to therein, and otherwise by the states and local governments.

Other States parties ran up against the same constitutional difficulty in applying the provisions of the Covenant but made it a point to involve officials of the different states that made them up in the preparation and presentation of the periodic reports. It would be good if the United States did the same for their fourth periodic report. That having been said, the written replies showed some progress in the application of the Covenant rights, and account would be taken of that fact in the text of the concluding observations.

31. The Human Rights Committee, like the State party, he said, considered that international terrorism was a particularly grave assault on human rights and that Governments were required to protect the population effectively against acts of terrorism. The Committee also considered that terrorist acts were very often assimilable to crimes against humanity. However, terrorism would have won if it led to the renunciation of the fundamental values underlying internationally recognized human rights, and while the Committee certainly shared the State party's view concerning the need to combat terrorism, it was not always in agreement with it regarding the way in which that should be done. He recalled in that connection that the States parties to the Covenant had entrusted the Human Rights Committee with a mandate under which it must make sure that all measures adopted within the framework of the fight against terrorism were compatible with the provisions of the Covenant.

32. The United States had played a capital role in the history of human rights, but on a number of points (in particular the doctrine of "discovery" and its effects on the land ownership of native peoples, the denial of the right to vote for persons convicted of certain grave crimes, the refusal to consider the Covenant as applying outside the territory of the United States, life prison sentences for minors without any possibility of parole and the persistent discriminatory effects of prior and present policies relating to racial minorities) one might well wonder whether the State party made sufficient efforts to ensure that the promise of universality of human rights contained its Declaration of Independence was a reality for all persons within its jurisdiction. He personally was convinced that the dialogue with the representatives of the State party would enable the Committee to answer that question in the affirmative.

33. Returning to the application of the right of self-determination and the rights of persons belonging to minorities (articles 1 and 27 of the Covenant), he had noted constitutional limitations of the powers of Congress with regard to deprivation of the life, liberty or patrimony of private persons, or to the confiscation of private property for the purpose of public use. It was his understanding, however, that those limitations applied only to land covered by a treaty, excluding lands that had been assigned in connection with the creation of a reservation or were held by reason of historical ownership and land use. He wondered how one could affirm that constitutional guarantees existed when in 1955 the Supreme Court had established, in the Tee-Hit-Ton case (348 U.S. 272), that the United States Government could confiscate indigenous land and resources held by virtue of an indigenous right, in other words by virtue of historical ownership and use and not by virtue of a treaty. Furthermore, a decision handed down in 2000 by the Federal Circuit Court would deprive the Karuk Indian tribe of the right to compensation for land taken from it under a law passed by Congress, despite the fact that those lands had been reserved for it in accordance with Federal provisions. He also wondered what constitutional protection the Shoshone and other tribes enjoyed considering the

difficulties which they constantly faced in order to keep their territory. One might also wonder, at this start of the third millennium, how the very concept of trusteeship and the exercise of that trusteeship were compatible with the guarantees provided in articles 1 and 27 of the Covenant. He found it difficult to see how, under such conditions, the State party could affirm that the treaties it had signed remained fully in effect. What was more, one might wonder how the aforementioned constitutional guarantees fit in with the ruling handed down by the Supreme Court in 1998 in the case of South Dakota vs. Yankton Sioux, according to which Congress could modify or abolish tribal rights, and even abrogate a treaty, provided that the intention of the abrogation was sufficiently explicit.

34. Still in the context of the application of articles 1 and 27 of the Covenant, he had noted the adoption of a law whereby the authorities of the State party had apologized to the native Hawaiians for the illegal and forcible overthrow of the Kingdom of Hawaii. He would like, however, to know whether that law had had any concrete positive effects on the situation of native Hawaiians, many of whom remained marginalized in society.

35. On the question of counter-terrorist measures, he stressed that the very definition of terrorism must not be excessively broad to the point that it threatened the exercise of the freedoms and rights recognized in the Covenant. While the definition of a terrorist activity contained in US Code, Title 8, section 1182, posed few problems, that found in Executive Order 13224, section 3 (d), was a source of greater concern in that it characterized terrorist activity as including "a violent act or an act dangerous to human life, property, or infrastructure" and appearing "to be intended to influence the policy of a government by intimidation or coercion". If one was to take that definition literally, a person who took part in a political demonstration during which the national flag was burned, for example, might be qualified as a terrorist, with all the consequences that implied. It went without saying that an overly broad definition of terrorism that made a somewhat lively expression of political protest illegal would be against the Covenant. He hoped the delegation would indicate what measures were taken to avoid the occurrence of such a situation and to guarantee that the rights and freedoms recognized in the Covenant could not be restricted by an excessive interpretation of the notion of terrorism.

36. Regarding the territorial limits of the application of the Covenant, he pointed out that the Committee, like the State party, considered that the answer to the question depended on the interpretation of the provisions of article 2 of the instrument, an interpretation that must rest on articles 31 and 32 of the Vienna Convention on the Law of Treaties. Unlike the State party, however, the Committee considered that the last sentence in article 2, paragraph 1, of the Covenant, which affirmed the need for each State party to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the instrument, involved some ambiguity, because the conjunction "and" (within its territory <u>and</u> subject to its jurisdiction) could also be construed as an "or". The International Court of Justice, too, had had occasion to express the same opinion, notably in connection with the effects of the building of a wall by the Israeli authorities in the occupied Palestinian territory. He could cite different cases in which the International Court of Justice or the Committee itself had construed the provisions of the Covenant as applying to individuals in the territory of the State party <u>or</u> subject to its jurisdiction. To back up its position on the territorial application of the Covenant, the United States, in an annex to the report submitted for consideration,

had referred to the preparatory work of the Covenant. A reading of that work, however, showed on the contrary that the discussion of the provisions of draft article 2 had taken into account quite diverse situations. For example, the representative of the United States, Eleanor Roosevelt, had considered that troops sent to a foreign country remained under the jurisdiction of the sending State. Two important new events had taken place between the negotiations relating to the Covenant and the date on which the United States had ratified it: the Committee had adopted several decisions (notably in cases relating to arrests made by Uruguayan officers in Brazil and Argentina and in a case involving a passport confiscated by a Uruguayan consulate in Germany) and the General Assembly had adopted a resolution (resolution 45/170, on the situation of human rights in occupied Kuwait, in favour of which the United States had voted) clearly establishing the extraterritorial scope of the Covenant. Those events had been known to the United States at the time of its ratification of the Covenant. In the absence of any declaration or reservation on its part, the other States parties were entitled to expect it, by virtue of the principle of good faith set forth in article 31, paragraph 1, of the Vienna Convention on the Law of Treaties, to accept the Committee's interpretation. The International Court of Justice had also affirmed the extraterritorial scope of obligations under the Covenant in the consultative opinion it issued in 2004 on the legal consequences arising from construction of the wall on occupied Palestinian lands and in its 2005 judgement concerning armed activities on the territory of the Congo (*Democratic Republic of the Congo* v. *Uganda*). Thus, the Committee's position on extraterritorial scope was based on solid legal foundations.

37. With regard to extraordinary renditions (question No. 10), the Committee could not but reaffirm that "States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement" (General Comment No. 20, on article 7 of the Covenant) and consequently reject the argument of the United States, which held that the Covenant differed from the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in that it did not impose on States parties the obligation of non-refoulement. The Committee's interpretation of article 7 had already been known at the time of the ratification of the Covenant by the United States. That the United States might not have explicitly signalled its agreement did not permit it to argue that it had not accepted the obligation. Furthermore, precedents relating to article 7 abounded and, while the United States had sometimes disputed the facts, it had never disputed the principle set forth in General Comment No. 20. Article 2 of the Covenant, finally, provided that each State Party undertook to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant. There again, non-refoulement to countries where the person concerned was in danger of being tortured or treated inhumanely constituted an important enforcement mechanism. In its written replies, the State party's delegation had stated that the United States did not transfer a person to a country where it was "highly probable" that he would be subjected to torture. That norm, established by the United States Supreme Court (*INS* v. *Stevic*) in 1948 in relation to the question of political persecution, was clearly not in conformity with the degree of protection required by the Covenant and by article 3 of the Convention against Torture. For those reasons, the delegation should reply in greater detail to the Committee's question relating to detention in the context of the fight against terrorism, in particular with regard to secret detention centres (question No. 4).

38. Sir Nigel RODLEY said that he would focus on questions Nos. 4 to 9, to which the State party, while considering that it did not need to deal with them because the questions asked were supposedly not within the jurisdiction of the Committee, did respond in annex B to the replies communicated in writing. The delegation invoked "top secret" classification in order not to answer the questions pertaining to secret detention centres (question No. 4), but the existence of such centres seemed confirmed. The delegation had stated that no detainee was subjected to cruel, inhuman or degrading treatment or punishment; however, prolonged secret detention in itself constituted a violation of article 7. Thus in 1994 the Committee had concluded, on completing the examination of the case of *El-Megreisi* v. *Libyan Arab Jamahiriya*, that three years' secret detention was a form of torture. In another case, implicating a State at grips with violent acts of terrorism, the Committee had quite recently concluded that six months of unrecognized detention was a violation of article 7. One might well wonder what the reaction of the State party would be if a State kidnapped American nationals suspected of wanting to overthrow its regime and kept them in detention in secret places.

39. Concerning the Guantánamo detention centre (question No. 5), he said he found it difficult to understand why suspects had to be held "offshore" for the purposes of interrogation. The Combatant Status Review Tribunals and the Administrative Review Boards were a good thing, but additional explanations concerning their composition, their operation and review procedures would be welcome, particularly with regard to the meaning of the adjective "neutral" used to qualify the officers who made up the tribunals. Since detainees had the right to demand the appearance of witnesses for the defence if it was reasonably possible to bring them, the question might be asked whether that measure was intended for witnesses coming from Pakistan, Afghanistan or the countries of the Middle East. The delegation might also explain why the same system had not been set up in Afghanistan, where responsibility for the review of the status of a detainee was entrusted to an officer, and in Iraq, where the review board did not conduct a hearing of the person concerned.

40. On the question of evidence obtained through torture or ill-treatment (question No. 6), no one was unaware that the Secretary of Defense had initially authorized interrogation techniques that had subsequently been prohibited, some of which, being contrary to article 7, seemed to have been actually applied. The question then arose what recourse was open to those subjected to such methods at the time when they were in keeping with Defense Department guidelines. What was more, the 2005 Detainee Treatment Act prohibited Guantánamo detainees from having recourse to a court in case of maltreatment and did not recognize their right of *habeas corpus*, which was replaced by a mechanism of review by the United States Court of Appeals, whose powers in that sphere were limited. The delegation was invited to explain in what way those limitations were necessary. The act also exhibited positive points in that it defined the authorized interrogation methods exhaustively. It would be useful if the delegation would repeat the assurances given to the Committee against Torture in May 2006 concerning the abandonment of all methods other than those specified in the military field operations manual, which acknowledged that a technique that was legitimate in principle might give rise to illegal applications. Given that bodies other than the Department of Defense might have their own interrogation guidelines, information on the extent to which they were in keeping with Defense Department standards, on the possibility of detentions

controlled by agents other than those of the Department of Defense and on the legal protection accorded to detainees in such cases would be welcome. Inasmuch as the Detainee Treatment Act did not apply to persons detained for having violated criminal law or immigration law, one might also ask about the protection granted to such persons.

41. Following the judgement handed down by the United States Supreme Court in the case of *Hamdan* v. *Rumsfeld*, which recognized the applicability of common article 3 of the four Geneva Conventions to detainees under the control of the Department of Defense, it appeared that the standards established under article 3 were beginning to be subject to interpretation. Did the State party consider it necessary to move away from the definition of the elements of the offences included in the Rome Statute of the International Criminal Court?

42. With regard to the independence and impartiality of the official investigations conducted in respect of allegations of torture and ill-treatment (question No. 9), Defense Department officials had been prosecuted and convicted, but the sentences handed down had in many cases been more clement than those imposed in civil proceedings for similar acts, on the grounds, primarily, that the persons concerned had been acting on the orders of their superiors. Yet the hierarchical superiors had rarely been held responsible in those cases. Concerning the Central Intelligence Agency (CIA), the delegation had referred to the independent, internal oversight in the CIA exercised by the Inspector General and Congressional supervision, as well as the new guidelines and procedures put in place in recent years, but those assurances remained too vague, particularly in respect of the guarantees offered individuals. Only one CIA contractor had been convicted for the death of a detainee in Afghanistan, a number that seemed small considering the number of persons detained.

43. As far as the practice of extraordinary renditions was concerned (question No. 10), the State party had not given any concrete example of renditions or of assurances obtained in certain cases prior to the rendition. Nor was anything specific known about the threats that the renditions might have averted or the steps taken to verify that the State of destination had in fact lived up to the assurance it had provided. "Top secret" classification was regularly invoked. It would be helpful if the delegation would provide explanations capable of reassuring the Committee concerning those various points.

44. Mr. GLÈLÈ AHANHANZO noted that the Supreme Court had declared the application of the death penalty to persons aged less than 18 years for acts committed before the age of 18 unconstitutional and that it was hard to imagine that rule being reversed. He could not understand, therefore, the reasons that prevented the United States from lifting the reservations made to article 6, paragraph 5, and article 7 of the Covenant (question No. 2).

45. The practice of surveillance of communications by the National Security Agency (NSA) without judicial oversight (question No. 13) raised questions regarding compatibility with article 17 of the Covenant, which protected privacy, and the judicial oversight in place to prevent the system from getting out of hand.

46. President Bush had taken a laudable stance in condemning the practice of racial profiling (question No. 15), but in 1996, while serving as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related

intolerance, Mr. Ahanhanzo had observed that there existed structural racism in the United States. Currently there were consistent accounts that revealed widespread racial profiling. One might ask whether the United States should not adopt legal protective measures. Additional information would be welcome.

47. Mr. LALLAH asked what factors explained the late submission of the periodic reports of the United States. He commended the non-governmental organizations that furnished to the Committee factual data useful for examining a country's situation. Despite the constructive dialogue between the Committee and the State party at the time of the consideration of the initial report, shortly thereafter a bill had been introduced before the Senate to prohibit the incurring of any expenditure for the submission of the reports expected by the Committee. The problem was also illustrated by the fact that in March 2006 two the Supreme Court judges had received death threats because they had referred to the Covenant, a foreign law source. The State party could no doubt do something both to fight against that attitude and to sensitize American magistrates to a greater extent to the development of international human rights norms, an idea that the delegation had approved at the time when the initial report was considered, though it had apparently not been translated into action.

48. Noting that the Supreme Court had handed down an important decision in the case of *Hamdan* v. *Rumsfeld*, he objected that the argument that military commissions had existed in the past was not acceptable in respect of the obligations incumbent on the State party under article 14 of the Covenant. Article 4 provided for the possibility of derogation from certain obligations in a situation that endangered the life of the nation, but no derogating measure had been applied under that article and the "war on terrorism" was not sufficient to warrant abandoning values that had been elaborated over the centuries. Considering the Supreme Court ruling, he would like to know what the State party meant to do, and in particular whether it intended to verify that all the administrative and legislative measures it had adopted were in accord with the standards recognized in the Covenant.

49. With respect to question No. 11, concerning the material witness statute, he pointed out that paragraphs 168 to 171 of the third report were nearly identical with paragraphs 241 and 242 of the initial report, except for the fact that in the latter, the question had been dealt with from the standpoint of a trial that was going to take place, since the bill of indictment had already been established. He would like to know, inasmuch as the provision applied in grand jury proceedings, i.e., without any indictment, what happened if a person refused to testify or make a deposition and had the right not to incriminate himself. Indeed, he feared that such a system would entail enormous abuses. Thus, in respect of the 90 persons who had been detained in terrorism cases under the material witness statute, he recalled that article 9, paragraph 1, which had a totally different purpose, did not permit such a procedure, even if it was in keeping with a law of the State party, if that law was prejudicial to other Covenant rights. He noted that both the material witness statute and the provisions of the "Patriot" Act, referred to in question No. 12, constituted derogations from fundamental rights, but the United States had not given notice of any derogation. What troubled him most, however, was the feeling that a state of siege had taken root in the State party since the right of privacy and the right to lead a normal life were impaired by legal provisions that limited freedom of opinion, expression, etc. Last of all, he requested clarifications concerning paragraph 299 of the report in order to understand how agents could "not listen in on any

conversations not related to the crimes" for which their warrant had been issued, since he could not see how one could judge the content of a conversation without listening to it. He would like to know whether a person was informed of the surveillance that had been carried out on him, and how and at what time.

50. Mr. O'FLAHERTY expressed regret that the written replies to the list of issues to be taken up had not been made public at the opening of the meeting, contrary to the usual practice. He thanked civil society for the work it had accomplished and noted with satisfaction that the State party had talked with NGOs the previous evening. He hoped the dialogue would continue once the Committee had adopted its concluding observations. Concerning question No. 14, on de facto segregation in public schools, he noted that the written reply of the State party related primarily to article 26, whereas article 2 and all other provisions of the Covenant were also involved. Indeed, the duty to combat discrimination related to any policy, measure or action the spirit and effects of which were discriminatory, and it was from that point of view that school districts, urban districts, etc., must be examined. Referring to paragraph 6 of the Committee's General Comment No. 18, he expressed concern that school segregation still existed in numerous states of the United States and constituted a grave problem — as shown by the court decisions in the State party, from the case of *Brown* v. *Board of Education, 1954*, to the decision handed down by the United States Court of Appeals for the Ninth Circuit in 2005 in the case of *Parents Involved in Community Schools* v. *Seattle School District* — for it entailed many cases of discrimination against the black community. According to information received by the Committee, such segregation was on the rise and the percentage of black students in schools with a non-white majority had gone from 66 per cent in 2003 to 73 per cent in 2004. In that context he would like the delegation to return to question No. 14 in the light of the obligations set forth in the Covenant and the impact of segregation, even if not expressly aimed at discrimination. He would also like to know what steps the State party was contemplating taking in order to tackle that problem and overcome the obstacles posed by national laws and practices, when such matters were more often dealt with locally than federally.

51. He noted that the State party had replied directly and in detail to question No. 16 on Hurricane Katrina, acknowledging the existence of shortcomings and errors committed as well as the need to draw lessons from that experience. He would also like to know whether the application of derogations under the McKinney-Vento Homeless Assistance Act was not liable to create an obstacle to displaced children's access to education since, according to the information received by the Committee, it was very difficult for those children to gain access to education in a school environment. He also asked for particulars concerning the plans put in place to provide compensation to the victims of Hurricane Katrina and remedy the human rights violations committed in the wake of the disaster, especially if the State party had set up programmes similar to those adopted after 11 September. He was also surprised that the United States, in its replies, had failed to mention the Guiding Principles on Internal Displacement, when it recommended to other States everywhere in the world to apply them. He would like to know, therefore, whether the State party had taken those guiding principles into account in order to apply them to its own situation, and if not, whether it contemplated adopting them as a normative base within the framework of the lessons it drew from that disaster.

52. He also asked what measures the State party planned to take to protect the status and rights of the indigenous peoples of Hawaii after the failure to pass of the Federal bill on the recognition of those peoples (the Akaka bill). With regard to the discrimination and attacks committed because of sexual orientation, he drew attention to the landmark court decisions in the cases *Romer* v. *Evans* and *Lawrence* v. *Texas*, which he welcomed. In that connection, he expressed surprise that the State party's report barely mentioned the question of sexual orientation and the rights of lesbians, gays and bisexuals, whereas in general the United States mentioned those questions in the reports they did on human rights in other countries. Regarding that issue, very serious problems involving violence committed against individuals by reason of their sexual orientation or identity had been brought to the attention of the Committee: according to the association Human Rights Campaign, one transgender person out of 12 was likely to be the victim of murder, whereas the national homicide rate was one out of 18,000. According to the New York association Anti-Violence Project, 22 per cent of the clients of transgender persons had been the victims of police attacks. Moreover, inasmuch as more than half the population lived in areas where there was no protection against employment discrimination based on sexual orientation or identity. He would like the delegation to explain how the State party protected Covenant rights. Finally, he wondered whether the American authorities had learned of the report entitled "Stonewalled: Police abuse and misconduct against lesbian, gay, bisexual and transgender people in the US", published by Amnesty International in 2005, and if so, what measures it planned to adopt to take into account the recommendations made in the report.

53. Ms. PALM said that she had read with interest the information concerning article 3 contained in paragraphs 60 to 88 of the State party's report, but that it did not give a clear idea of the efficacy of the measures taken. The Committee's General Comment No. 28 indicated that articles 2 and 3 of the Covenant made it incumbent on States parties to take all necessary measures, including the prohibition of discrimination on grounds of sex, to put an end to discrimination in both the public and private sectors. Governments would of course have to be aware of such discrimination in order to be able to take the necessary measures to remedy it. Now, on the basis of information received by the Committee, in recent years, instead of adopting measures to strengthen the protection of equality between men and women, the United States had undertaken to dismantle a large number of programmes and policies aimed at reducing and prohibiting gender-based discrimination. Offices dealing with the status of women in the different Federal departments had been shut down and important information on women’s pay and employment had stopped being collected and published on the Government's Internet sites. Moreover, many bills on wage discrimination based on sex had been introduced in Congress but never adopted. She would like to be informed of the measures taken by the Government to guarantee equality before the law and asked whether there existed executive and legislative bodies tasked with monitoring questions of equality and promoting laws and policies aimed at remedying discrimination and if so, with what authority those bodies were invested. With regard to the wage gap between men and women, she would also like to hear about any measures taken to combat employment discrimination against women and asked whether there existed a plan of action designed to strengthen the law relating to equal pay and other relevant provisions in that sphere.

54. According to information received by the Committee, policies and laws relating to detainees were often misapplied and women were frequently the victims of mistreatment on the part of the authorities and penitentiary personnel. The Gender Shadow Report had shown that the courts did not protect the rights of incarcerated women, with the result that the women were deprived of their rights in the area of reproduction and their right to medical care, in particular prenatal care, and to access to abortion services. She asked whether the Government had adopted a concrete policy concerning women detainees and their access to reproductive health services, including abortion, and if so, how that policy was implemented. She would also like to know whether statistics existed on the number of penitentiary employees who had been prosecuted for mistreatment of women inmates over the previous five years and the outcome of those prosecutions.

55. Mr. SOLARI-YRIGOYEN said that he was greatly concerned over the problem of migrants who clandestinely entered the United States, currently estimated to total 9 million (12 million, according to NGOs). Every country was entitled to regulate immigration into its territory provided that in doing so it respected the Covenant rights. The United States had toughened its immigration law and adopted new deportation procedures, but the most alarming was the militarization of the Mexican border, which had become a veritable conflict zone, some sectors of which the Government appeared to want to wall in so as to have better control of clandestine immigration. President Bush had recently announced the sending of 6000 National Guard soldiers to the region, men who were trained in the methods of warfare, but one might wonder whether they would know how to protect the freedoms and safety of the border population, whether undocumented or not. Moreover, some sources reported the presence of paramilitary surveillance units tied to extremist groups. Immigrants had also been brutalized by American citizens and more than 4000 individuals had died at the Mexican border in recent years. He would like to know what measures were being taken against such reprehensible activities. He also asked what was to become of the 9 million illegal immigrants, most of whom came from South American countries, and in particular: whether they would all be deported; whether they would be dealt with in selective procedures, since a case-by-case approach was not possible; how the State party intended to guarantee that such selection was not based on discriminatory criteria, such as race; and what solutions it had contemplated to solve the problem. The United States had already done much for human rights, but those rights could never be taken for granted and were never adequately protected.

56. Mr. AMOR said that he did not understand why the provisions of article 4 had not been applied after 11 September, when emergency executive orders were issued on the basis of American legislation. It was true that the United States had said that articles 1 to 27 of the Covenant were not directly applicable, so that administrative and judicial authorities were unable to implement them immediately and directly. That did not hold true, however, for political authorities, and in particular the executive branch, since the notion could not be general or absolute in scope. Numerous jurisdictions, including courts of first instance, were beginning to take the Covenant into account, either directly or indirectly: the *Roper* v. *Simmons* decision, for example, showed that the Supreme Court justices considered article 14, paragraph 3, of the Covenant as reflecting indispensable judicial guarantees for civilized peoples.

57. With regard to the notion of national security, which appeared over and over again in the report, he asked whether there existed criteria that might enable one to ascertain what that notion covered. Indeed, whereas the rule called for an extensive interpretation whenever what was involved was the protection and strengthening of human rights and fundamental freedom, he had the impression that the notion of national security, which could not be subject to extensive interpretation, served to justify actions which, while no doubt understandable, were incompatible with the Covenant.

58. He pointed out that following 11 September 2001, many Arabs and Muslims had been the target of persistent suspicion, so much so that some had had to leave the United States. Those who had remained had been subjected to the heckling scrutiny not only of public opinion, but also of the authorities, and it seemed that the application of the notion of "material witness", which in fact meant "No. 1 suspect", had been quite excessive. The history and experience of the United States in the area of human rights were particularly rich and interesting: it was normal, therefore, for people in other countries to expect that State party to be above reproach, or at least to incur the same reproaches as other countries. The fact was that as a result of the excesses that had followed 11 September and because of Guantánamo, Abu Ghraib and the "rendition" of detainees, among other things, human rights were discredited in numerous countries because the United States was not playing the exemplary role justifiably expected of it.

59. The CHAIRPERSON invited the delegation and the members of the Committee to continue the examination of the report at the next meeting.

The meeting rose at 6.15 p.m.