

HUMAN RIGHTS COMMITTEE

Meeting of the 87th session, Geneva 10 - 28 July 2006

United States of America (2nd and 3rd periodic report)

Information submitted to the Committee

The United States of America (USA) submitted its combined second and third periodic report¹ (due in 1999 and 2003) along with the written replies² to the list of issues³ presented by the Human Rights Committee (the Committee). Contrary to the regular practice of the Committee the written replies were only submitted shortly before the beginning of the consideration. This meant that there was no time to translate the replies for those Committee members who do not work in English. The report is composed of two substantial parts and three annexes.

The main part of the report provided by the Government is an article-by-article breakdown of how the USA complies with its obligations under the *International Covenant on Civil and Political Rights* (the Covenant). The focus of the State report is on the legislative framework relating to the relevant articles, programmes established to improve the protection of Covenant rights and the main court decisions and judgments relating to rights protected under the Covenant. While widely elaborating on the before mentioned themes, the State report contains almost no information on the degree of success in implementation or statistical data. The annexes provide further information on the following issues: the territorial application of the Covenant; the establishment of programmes to protect women from violence; and refugee admissions from 1994 to 2004. In general the State report does not seem very comprehensive considering the wide scope of the treaty in general and the allegations of grave violations of the Covenant raised by a large number of non-governmental organisations (NGOs).

More than 36 NGOs⁴ submitted alternative reports to the Committee. The reports focus on a wide range of issues including the aftermath of Hurricane Katrina; native and indigenous peoples; prisoner abuse in Iraq, Afghanistan and Guantánamo naval base; racial profiling; police brutality and the use of electroshock devices; women in the prison system; lesbian, gay, bisexual and transgender (LGBT) issues; the death penalty; and involuntary human scientific experimentation. A number of reports also focus substantially on the issue of extraterritorial jurisdiction and problems relating to this question including extraordinary renditions and *incommunicado* detention; the principle of non-refoulement; and diplomatic assurances. In general the NGOs were very well coordinated. They held no fewer than five public meetings with Committee members, elaborating in a very structured way on the different issues NGOs wanted the Committee to raise. As a quite innovative measure one of the meetings was scheduled between the first and the second meetings giving the NGOs a chance to comment on the first round of answers given by the delegation. This is a practice that NGOs presenting information to the treaty bodies could learn from as it provides an opportunity to correct or modify information provided by the State party during the session.

Reservations, understandings and declarations

Upon ratification of the Covenant in 1992, the US Government lodged a number of reservations, understandings and declarations. Amongst the most important of these is the reservation to Article 6 regarding imposing the death penalty on juvenile offenders; the reservation to Article 7 restricting the meaning of cruel, inhuman or degrading treatment or punishment to what is already covered by the fifth, eighth and/or fourteenth amendment to the *Constitution of the United States*; and the declaration stating that provisions 1 through 27 are not self-executing. Regarding the reservation to Article 6, the delegation noted that the Supreme Court had recently held that it was unconstitutional to impose the death penalty on juvenile offenders. However, the reservation would not be withdrawn as only a small part of it involved juvenile death penalty, and the domestic procedure for

¹ CCPR/C/USA/3, 28 November 2005 [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.USA.3.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.USA.3.En?Opendocument)

² <http://www.ohchr.org/english/bodies/hrc/docs/AdvanceDocs/USA-writtenreplies.pdf>

³ CCPR/C/USA/Q/3, 26 April 2006

<http://daccessdds.un.org/doc/UNDOC/GEN/G06/426/26/PDF/G0642626.pdf?OpenElement>

⁴ The reports and names of NGOs can be found on the Human Rights Committee's website at http://www.ohchr.org/english/bodies/hrc/87ngo_info.htm

withdrawing reservations is complicated. The Committee expressed regret at the position of the USA on this issue but did not comment on it any further. In relation to the reservation to Article 7, the delegation responded that this was merely a clarification of the responsibilities assumed by the US Government. When the Committee enquired on whether the fifth, eight and fourteenth amendments to the *United States Constitution* provided a clearer definition of the responsibilities assumed, the delegation replied that there is ample jurisprudence defining the scope of these amendments.

Themes and Issues

The meeting was moved to a large room to accommodate the size of both the delegation and the number of NGOs and other State observers. The US delegation consisted of 21 members from various governmental departments, including the State Department, the Department of Defence, the Department of Interior, Department of Justice, and the Department of Homeland Security. Two other States⁵, the European Union and no less than 145 NGOs were represented in the room. In his opening statement, Mr. Matthew Waxman, the head of the US delegation, emphasised the importance of the Covenant and called it the most important human rights instrument adopted since the *UN Charter* and the *Universal Declaration on Human Rights*. This position was also reflected in the seriousness with which the USA had approached its reporting obligations, Mr. Waxman said. In a seemingly very positive ending to his opening statement Mr. Waxman noted that even though the USA is very proud of its civil rights achievements at home there is always more work to be done.

The delegation and the Committee were unable to resolve their difference of opinion regarding the extraterritorial applicability of the Covenant and interpretive powers of the Committee. This somehow blocked genuine discussion on a number of subjects.

Applicability of the Geneva Conventions and the question of the extraterritorial applicability of the Covenant

In its opening statement the delegation noted that, as it had explained during the examination by the Committee Against Torture, it was the view of the US Government that, regarding the detention operations in Guantánamo Bay, Afghanistan and Iraq, the *Geneva Conventions* and not the Covenant is the *lex specialis*⁶. The effect of this would be that persons detained in these places are not protected by the rights provided for in the Covenant but only by those provided in international humanitarian law. The delegation further stated that it is the long-standing view of the USA that, despite the view of the Committee and its General Comment No. 31, the Covenant does not apply outside the territory of the USA. Therefore the delegation did not feel obliged to answer questions relating to matters outside the territory of the USA, but as a courtesy to the Committee the delegation would touch upon some of the questions anyway. The Committee⁷ strongly challenged the position of the USA that the Covenant did not apply outside its territory. Committee members presented a range of different legal arguments founded in the wording of Article 2(1) of the Covenant, General Comment No. 31, decisions by the International Court of Justice (ICJ) and General Assembly *Resolution 45/170*, concluding that the Covenant applied in any country under the jurisdiction of a State party. One of the main arguments made by the Committee was that General Assembly *Resolution 45/170* condemning Iraqi human rights violations in Kuwait, which the USA voted for, specifically mentions Iraqi violations of the international covenants on human rights in Kuwait. Since Kuwait, at that time, was not considered Iraqi territory, the Covenant must at that time have been seen as applying anywhere within the jurisdiction of a State party. This led to a very legalistic discussion between the delegation and the Committee each standing firmly on their interpretation of international law. Without directly commenting on this argument, the delegation made a general statement explaining that the difference of opinion reflected a deeper difference of opinion on the status and effect of treaty law and in the opinion of the USA treaty law should be changed through amendments to the treaties and not through interpretation.

⁵ Egypt and the United Kingdom

⁶ *Lex specialis* refers to the principle that a more specific legal norm prevails over a more general legal norm. When two legal norms apply the same situation the one that more specifically applies to the situation in question will prevail.

⁷ This issue was addressed by Mr. Walter Kälin and Sir Nigel Rodley

In its Concluding Observations⁸, the Committee expresses concern about the US position and suggests that the US Government review its approach to interpreting the obligations provided by the Covenant. The Covenant should be interpreted in good faith, leading to, amongst other things, the acknowledgment of its extraterritorial applicability.

Rendition

Article 7 of the Covenant provides for a total prohibition of torture and cruel inhuman or degrading treatment or punishment. According to General Comment No. 20⁹ the prohibition in Article 7 also covers exposing “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”. This principle of **non-refoulement**¹⁰ is provided in Article 3 of the *Convention against Torture*. The Committee is of the opinion that this principle of non-refoulement is covered by Article 7 of the Covenant. In several NGO reports¹¹ the USA has been accused of rendering persons to countries where they would face torture or cruel, inhuman or degrading treatment or punishment upon their return. According to the Committee this practice would fall under the protection provided by Article 7 of the Covenant. In determining whether to render a person or not, the USA uses the standard of whether it is “**more likely than not** that he would get tortured”. **Diplomatic assurances** are used as a parameter in determining if the standard is met. The delegation explained these discrepancies by stating that the “more likely than not” standard is more familiar to US law than the one in the Covenant as it has been applied by US courts since 1980. Furthermore, diplomatic assurances are used as one of many parameters in rendition decisions. Regardless of these arguments it is the firm position of the USA that non-refoulement is not covered by the covenant as it does not accept the General Comments as legally binding and it is not explicitly included in Article 7. The Committee¹² was not satisfied with the use of the standard “more likely than not”, as it does not provide safeguards equivalent to those provided by General Comment No. 20. The Committee felt that the standard used by the USA suggests that as long as the risk of a person being tortured is 49% or below, the principle of non-refoulement will not apply. It was also concerned about the kind of diplomatic assurances sought and whether this is effective at all. Considering that there was no information on monitoring mechanisms in place or on specific rendition cases, the Committee was concerned that the “more likely than not” standard combined with the use of diplomatic assurances will provide for an insufficient safeguard. This position was reiterated in the Committee’s Concluding Observations in which the USA was urged to review its position on the scope of Article 7 of the Covenant and “exercise the outmost care in the use of diplomatic assurances”.

Monitoring and review of off-shore detention

The Guantánamo detention facility along with official detention facilities in Afghanistan and Iraq was one of the major topics of discussion during the session. Besides from using these official detention facilities the USA have been accused of using **secret detention** facilities around the world where the CIA can use **unauthorised interrogation techniques** on detainees. It is a firm position of the USA that it will not discuss matters directly related to intelligence activity with the different UN human rights committees. Therefore, Committee members¹³ directed their questions towards areas relating to intelligence activity that should not be sensitive. Despite this effort to accommodate the need for secrecy in intelligence activity, the delegation still refused to answer questions relating to the protection afforded by the CIA Inspector General who functions as the monitoring mechanism of the CIA, and the application of the Army Field Manual to non-military personnel. Another issue that the delegation would not comment on was the issue of *incommunicado* detention in secret detention facilities. On this point the Committee took a very strong position. Assuming that these secret detention facilities exist since the International Committee of the Red Cross (ICRC) is seeking access to them, Sir Nigel Rodley

⁸ CCRP/C/USA/CO, available at www.ohchr.org/english/bodies/hrc/docs/AdvanceDocs/CCPR.C.USA.CO.pdf

⁹ General Comment NO. 20, 10 March 1992

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/6924291970754969c12563ed004c8ae5?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/6924291970754969c12563ed004c8ae5?Opendocument)

¹⁰ The principle of non-refoulement is set down in Article 3 of the Convention against Torture. It prohibits states from returning people to countries where they are in risk of being tortured.

¹¹ Human Rights Watch, Supplemental Submission to the Human Rights Committee at the 87th session, June 2006 and Amnesty International report, submitted to the 86th session of the Human Rights Committee, February 2006.

¹² This topic was addressed by Mr. Walter Kälin and Sir Nigel Rodley.

¹³ This topic was addressed by Mr. Walter Kälin and Sir Nigel Rodley.

stated that even if no unauthorised interrogation techniques are being used, prolonged *incommunicado* detention is in it self considered torture or cruel, inhuman or degrading treatment or punishment¹⁴.

In the view of the USA the detention operations in Guantánamo bay, Afghanistan and Iraq are part of an ongoing armed conflict and therefore governed by the law of armed conflict rather than the Covenant. Regarding the detention of prisoners in Guantánamo bay, the US Government is relying on the general rule of armed conflict following which prisoners can be held until the end of the conflict. However, the delegation did recognise that the USA is participating in a special kind of war, which is why the Combatant Status Review Tribunals (CSRT) and the Administrative Review Boards (ARB) have been set up. These bodies determine and conduct a yearly review of the status of the prisoners detained at Guantánamo bay replacing the option of bringing *habeas corpus writs*¹⁵. The US Supreme Court Decision in *Hamdan v. Rumsfeld*¹⁶ held that replacing the access to bring *habeas corpus writs* with the CSRT and the ARB is unlawful. Sir Nigel Rodley enquired about the US Governments' interpretation of this decision and which effect it will have on the situation of the Guantánamo detainees in light of the recently enacted *Detainee Treatment Act*¹⁷ (DTA). In the view of the USA the decision stipulated that the DTA cannot take effect retroactively, meaning that all *habeas corpus writs* brought after the DTA came into force are to be dealt with under the provisions of the DTA. Therefore, these cases will still be examined by the CSRT and the ARB. In a related comment Sir Rodley noted that in his opinion holding people detained indefinitely could be considered inhuman treatment.

In a more practically related matter the Committee questioned the need for detaining people on Guantánamo bay instead of on American soil. Sir Rodley initiated a series of questions by noting that while understanding that the concept of off-shore banking was to get around tax laws, he would like some clarification on the reasons for the off-shore detention at Guantánamo bay. In his opinion there is no reason for not detaining the Guantánamo prisoners in a maximum-security prison in the USA. The delegation stuck to the opinion that detention at Guantánamo bay is necessary to keep the prisoners away from the battlefield and in a safe distance from the American public.

The Committee noted in its Concluding Observations that it is concerned about the practices of secret and prolonged *incommunicado* detention and recommended that the USA substitute these practices with a practice of granting the ICRC access to all persons detained in relation to armed conflict. The Committee also noted its concern about the lack of mechanisms to monitor the intelligence agencies that might still be using unauthorised interrogation techniques. In relation to the access of detainees to bringing *habeas corpus writs*, the Committee recommended that the USA ensure access before a court to decide the lawfulness of their detention in accordance with Article 9(4) of the Covenant.

Implementation of the covenant

In accordance with the understanding nr. 5 lodged by the US Government¹⁸ the USA will implement the Covenant on either **the federal or the State level**. During the consideration of the initial report in 1995 the USA had committed to improving in this area by various means such as education of judges. Several Committee members expressed their concern about the lack of implementation of the Covenant on the State level especially in relation to raising awareness about the Covenant and international law in general amongst the judiciary. The Committee therefore expressed deep concern about the total lack of information on what had been done for the past ten years. The delegation replied that federal judges are given training on the Covenant and international law in general, but failed to give information on State-level training. Despite of many NGOs highlighting the problem of State-level implementation the Committee did not follow this up.

¹⁴ Commission on Human Rights *Resolution 2003/32*, adopted by consensus, notes that prolonged *incommunicado* detention is to be considered torture or cruel, inhuman or degrading treatment or punishment.

¹⁵ Habeas corpus def. right provided in Article 9(4)

¹⁶ Available at <http://www.law.cornell.edu/supct/html/05-184.ZS.html>.

¹⁷ *Detainee Treatment Act* of 31 December 2005 (<http://jurist.law.pitt.edu/gazette/2005/12/detainee-treatment-act-of-2005-white.php>)

¹⁸ Understanding nr. 5 of the reservation, understandings and declarations lodged by the US Government upon ratification of the Covenant.

Two main issues were taken up by the Committee in relation to **immigration**. The Committee was concerned about the escalating situation at the Mexican border. The Committee felt that the construction of a security wall and the deployment of the National Guard had turned the area into a “combat zone”, where migrants were often subject to various forms of violence. Another main concern was the denial of basic workers rights to be afforded to illegal immigrants. The Committee especially focused on the right to form and join trade unions provided in Article 22 of the Covenant. Mr. Michael O’Flaherty expressed his concern about the discrepancy between interpretation of the Hoffman case taken by the US Government and the International Labour Organisation (ILO). He was especially concerned about the effect the Hoffman case might have had on the access to employment rights of illegal immigrants. The delegation replied in general terms that the Government was working on a way to ensure that illegal immigrants are treated with respect and dignity and regarding the National Guard that this unit would receive the relevant training and not be involved in direct law enforcement. Contrary to the suspicion of the Committee, the delegation was of the opinion that the Hoffman case has confirmed the principle that illegal immigrants have the right to form and join trade unions. In its Concluding Observations the committee reiterated its concern about the increased level of militarisation on the Mexican border and requested more detailed information on training of immigration officials.

Article 6 of the Covenant prohibits the use of the death penalty for crimes committed by persons below 18 years of age and limits it to be imposed for only to the most serious crimes. The Committee expressed its concern about the expanding number of offences carrying the **death penalty** despite its previous Concluding Observations¹⁹ recommending that the death penalty should be restricted to the most serious crimes. On a positive note the Committee welcomed Supreme Court decisions *Atkins v. Virginia*²⁰ and *Roper v. Simmons*²¹ prohibiting the execution of mentally retarded persons and persons under the age of 18. However, the Committee was concerned that people suffering from schizophrenia, bipolar disorder and other incapacitating mental illnesses are still being executed. In the opinion of the Committee the culpability of this group should be limited in a similar way as in the situation with mentally retarded persons. In its reservation No. 2²² the USA reserves the right to impose the death penalty on any person besides from pregnant women. Therefore, the delegation did not feel obliged to answer most of these questions. However, it did offer the opinion that there is a difference between mentally retarded and mentally ill persons. In its Concluding Observations, the Committee reiterated its concern about the growing number of offences carrying the death penalty but did not comment any further on the ongoing executions of mentally ill persons.

The Committee also enquired about the conditions in **domestic prisons and detention centres** especially relating to women and juvenile offenders. Article 10 of the Covenant provides general principles for the treatment of prisoners. During the session, the Committee addressed a number of issues including the conditions in maximum security prisons; prolonged cellular confinement; sexual assaults and violence against female prisoners; the treatment of juveniles as adults; the access to compensation for mental or emotional injury suffered in custody; and the poor living conditions of people on death row. The issue of violence against women was taken up by a number of different Committee members requesting information on the effects of the *Prison Rape Elimination Act of 2003*²³ in the light of the report of the Special Rapporteur on violence against women concerning violence against women in State and federal prisons²⁴ (E/CN.4/1999/68/Add.2). The delegation responded in very general terms and provided some statistics on prosecution of prison officials but did not recognise that there is a general problem. The position of the Committee was reiterated in the Concluding Observations and the Committee recommended that the access of male officers to female quarters of prisons should be limited to situations where they are accompanied by female officers.

On a very specific point relating to both the prison system and the military, the Committee enquired about the **medical experiments** carried out on prisoners and military personnel in relation to the informed-consent requirement. Article 7 explicitly prohibits medical experimentation on persons without his or her free consent.

¹⁹ Note to previous Concluding Observations.

²⁰ Available at <http://supct.law.cornell.edu/supct/html/00-8452>.

²¹ Available at <http://www.law.cornell.edu/supct/html/03-633.ZS.html>.

²² Reservation nr. 2 of the reservation, understandings and declarations lodged by the US government upon ratification of the Covenant.

²³ http://en.wikisource.org/wiki/Prison_Rape_Elimination_Act_of_2003

²⁴ E/CN.4/1999/68/Add.2 (<http://daccessdds.un.org/doc/UNDOC/GEN/G99/100/12/PDF/G9910012.pdf?OpenElement>)

The Committee was of the opinion that vulnerable groups such as prisoners, mentally ill persons and others were not in a position to give informed consent. Furthermore, it was worried about the right of the President to waive the requirement of informed consent for military personnel if it is in the interest of national security. In general the delegation felt that there is sufficient mechanisms in place to protect the rights of even vulnerable persons. Regarding the President's power to waive the requirement for informed consent, the delegation noted that these powers have been limited several times and this power have never been used. The Committee recommended that the USA should refrain from conducting the before mentioned experiments whenever there is doubt about the ability of a person to give informed consent to the experiment.

Discrimination

In addressing the issue of **racial profiling**, the Committee focused especially on law enforcement and post 9/11 attacks on Muslims and Arabs. Specific questions were raised regarding the Chicago police torture cases and racial profiling in the "war on drugs". The Committee also expressed the opinion that racial profiling could be one of the reasons for the huge differences between the numbers of "black" and "white" people in prison. Despite the allegations of widespread practices of racial profiling and a body of statistics to support these allegations, the delegation maintained that there is no pattern of racial profiling and that all of the isolated incidents were being dealt with. Without actually focusing on the tangible cases of racial profiling, the delegation summarised the constitutional safeguards in place to prevent such instances. On a related issue, one Committee member, Mr. Michael O'Flaherty, directed the delegation's attention towards the Amnesty International report "Stonewalled"²⁵ focusing on police **abuses against lesbian, gay, bisexual and transgender people** in the USA. The position of the delegation was that violence is illegal everywhere in the USA and since sexual orientation is not specifically mentioned in the Covenant it is not relevant in this context. Mr. O'Flaherty then noted that it is a long-standing practice of the Committee to include sexual orientation under the scope of the Covenant and the position of the USA could be translated as a lack of will to afford lesbian, gay, bisexual and transgender people the basic Covenant rights. In its Concluding Observations the Committee noted that the USA should acknowledge its obligations to ensure Covenant rights to everyone and that the issue of sexual orientation is addressed in both federal and State law. In relation to the issue of racial profiling concern remained about such practices and the Committee asked for more information on the extent to which racial profiling still exists.

The Committee expressed a general interest in the aftermath of **Hurricane Katrina** and asked a number of questions relating to issues such as racial profiling in the evacuation; right to housing; right to education; access to legal remedies; and voting rights. The Committee²⁶ enquired about the original evacuation plan for New Orleans and the allegation that it only focused on evacuation by car, thereby discriminating against the poorest part of the population who did not own a car. Regarding the evacuation plan the alleged roadblocks of the Greater New Orleans Bridge, preventing "blacks" from leaving the city, was of special concern. Another issue given intense focus was the **right to housing** in the context of post-Katrina homelessness. This issue was taken up under the right to privacy provided by Article 17 of the Covenant. As a general recommendation, the Committee referred the delegation to the UN *Guiding Principles on Internal Displacement*²⁷. The delegation noted that the *Guiding Principles on Internal Displacement* had been taken into account even though they were not drafted with this kind of situation in mind. In the view of the US Government the evacuation had not been discriminatory, however it was in the process of investigating the alleged roadblocks on the Greater New Orleans Bridge. With regards to the right to housing the delegation referred the Committee to the large sums spent on financial and housing aid for the Katrina victims. Furthermore, the delegation noted that the US Government had recently initiated "Operation Home Sweet Home" seeking discrimination in the access to housing. In an answer to a question relating to housing in general a member of the delegation said that housing rights are guaranteed by both federal and State legislation. This was a significant moment, as the USA has never considered itself bound by economic, social or cultural rights. In the Concluding Observations, the Committee reiterated its opinion and requested information on the results of the enquiry into the alleged roadblock of the Greater New Orleans Bridge.

²⁵ "Stonewalled – still demanding respect" (<http://web.amnesty.org/library/index/engamr510012006>)

²⁶ This issue was mainly addressed by Mr. O'Flaherty

²⁷ http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html

The **right to vote** is provided by Article 25 of the Covenant. This issue was addressed both from the perspective of the displaced Katrina victims who were not able to vote for the mayoral election and the large amount of disenfranchised voters due to criminal record. Concern was expressed at the lack of measures taken to enable displaced Katrina victims to exercise their right to vote, which have had a disproportionately negative effect on the African-American population. Another major concern was the exclusion of millions of criminals from voting as it could be seen as having a discriminatory effect on marginalised communities. This large number of disenfranchised voters could also possibly influence the outcome of elections. The delegation did not seem to agree with this position and noted that voting rights are guaranteed by both federal and State legislation. In regards to the Katrina situation the delegation further noted that the State of Louisiana went to extraordinary length to ensure the voting rights of the displaced persons. The Committee recommended that the USA take measure to restore the voting rights of persons no longer imprisoned, in its Concluding Observations.

Miscellaneous

The Committee also dealt with a number of issues not addressed by this report including those of Indigenous peoples; the material witness statute; the use of electro shock devices; segregation in public schools; and sexual education.

Conclusions and next steps

With both the US delegation and the Committee showing up very well prepared, the stage was set for a fruitful dialogue. Compared to the somehow inadequate examination conducted by the Committee Against Torture in May, this Committee was much better prepared as the different issues had been divided between Committee members and it had a seemingly better understanding of the legislative issues in front of it. While the delegation still refused to answer questions concerning intelligence activity and a range of other issues it felt was outside the jurisdiction of the Covenant, the meeting saw a thorough discussion on many issues.

The Committee touched upon a wide range of subjects both domestic and international. It presented very credible arguments especially on issues relating to the extraterritorial application of the Covenant; off-shore detention in Guantánamo; racial profiling; and problems related to Hurricane Katrina. However the delegation was also very strong in its counter arguments and on most issues the discussion ended in a deadlock, with neither of the parties wanting to give in. For this reason the consideration never reached a point where the Committee could focus on giving advise to the USA on how to increase the level of compliance with the Covenant.

In the Concluding Observations, the Committee got around most of the issues discussed and presented quite strong suggestions for areas of improvement. However, a number of areas were not sufficiently addressed in the Concluding Observations including the issues of housing rights; the right for immigrants to form or join trade unions; and the general implementation of the Covenant on federal or State level. It was especially surprising that the Committee did not take up the fact that the USA seemed to recognise the existence of a right to housing. In general the consideration was a positive experience and the Concluding Observations provide a good base to built on for future considerations of the compliance with the Covenant by the USA.