

# UNITED STATES OF AMERICA

## CAT A/55/44 (2000)

175. The Committee considered the initial report of the United States of America (CAT/C/28/Add.5) at its 424th, 427th and 431st meetings, on 10, 11 and 15 May 2000 (CAT/C/SR.424, 427 and 431), and adopted the following conclusions and recommendations.

### **1. Introduction**

176. The Committee welcomes the submission of the comprehensive initial report of the United States of America, which, although almost five years overdue, was prepared in full accordance with the guidelines of the Committee.

177. The Committee also thanks the State party for its sincere cooperation in its dialogue with the Committee and takes note of the information supplied in the extensive oral report.

### **2. Positive aspects**

178. The Committee particularly welcomes the following:

(a) The extensive legal protection against torture and other cruel, inhuman or degrading treatment or punishment that exists in the State party and the efforts pursued by the authorities to achieve transparency of its institutions and practices;

(b) The broad legal recourse to compensation for victims of torture, whether or not such torture occurred in the United States of America;

(c) The introduction of executive regulations preventing refoulement of potential torture victims;

(d) The State party's contributions to the United Nations Voluntary Fund for the Victims of Torture;

(e) The creation by executive order of an inter-agency working group to ensure coordination of federal efforts towards compliance with the obligations of the international human rights treaties to which the United States of America is a party;

(f) The assurances given by the delegation that a universal criminal jurisdiction is assumed by the State party whenever an alleged torturer is found within its territory;

(g) The obviously genuine assurances of cooperation to ensure the observance of the Convention extended to the Committee by the delegation of the State party.

### **3. Subjects of concern**

179. The Committee expresses its concern about:

- (a) The failure of the State party to enact a federal crime of torture in terms consistent with article 1 of the Convention;
- (b) The reservation lodged to article 16, in violation of the Convention, the effect of which is to limit the application of the Convention;
- (c) The number of cases of police ill-treatment of civilians, and ill-treatment in prisons (including instances of inter-prisoner violence). Much of this ill-treatment by police and prison guards seems to be based upon discrimination;
- (d) Alleged cases of sexual assault upon female detainees and prisoners by law enforcement officers and prison personnel. Female detainees and prisoners are also very often held in humiliating and degrading circumstances;
- (e) The use of electro-shock devices and restraint chairs as methods of constraint, which may violate the provisions of article 16 of the Convention;
- (f) The excessively harsh regime of the "supermaximum" prisons;
- (g) The use of "chain gangs", particularly in public;
- (h) The legal action by prisoners seeking redress, which has been significantly restricted by the requirement of physical injury as a condition for bringing a successful action under the Prison Litigation Reform Act;
- (i) The holding of minors (juveniles) with adults in the regular prison population.

### **4. Recommendations**

180. The Committee recommends that the State party:

- (a) Although it has taken many measures to ensure compliance with the provisions of the Convention, also enact a federal crime of torture in terms consistent with article 1 of the Convention and withdraw its reservations, interpretations and understandings relating to the Convention;
- (b) Take such steps as are necessary to ensure that those who violate the Convention are investigated, prosecuted and punished, especially those who are motivated by discriminatory purposes or sexual gratification;
- (c) Abolish electro-shock stun belts and restraint chairs as methods of restraining those in custody; their use almost invariably leads to breaches of article 16 of the Convention;

- (d) Consider declaring in favour of article 22 of the Convention;
- (e) Ensure that minors (juveniles) are not held in prison with the regular prison population;
- (f) Submit the second periodic report by 19 November 2001.