

Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Visit to the United States of America

Report of the Special Rapporteur on minority issues* **

Annex

Report of the Special Rapporteur on minority issues, Fernand de Varennnes, on his visit to the United States of America

I. Introduction

1. The Special Rapporteur on minority issues, Fernand de Varennnes, conducted an official visit to the United States from 8 to 22 November 2021 at the invitation of the Government to evaluate the current situation of minorities in the country. He visited the capital, Washington DC, and had both online and in person meetings in the states of California and Texas as well as the territories of Guam and Puerto Rico, including to locations in northern Guam and the island of Vieques. He consulted widely with more than one hundred officials at federal, state and territorial levels, academics, civil society organizations and minority representatives from different parts of the country, including senior government officials from federal ministries such as the State Department, the Department of Interior, the Department of Health and Human Services, the Department of Justice, the Department of Education, the Department of Homeland Security, the Federal Bureau of Investigation, the Federal Trade Commission, the Domestic Policy Council, the White House Office of Intergovernmental Affairs, US Congress Black Caucus, the US Congress Pacific Islands Caucus, the Congressional Asian Pacific American Caucus, and the Congressional Hispanic Caucus.

2. In California he was able to meet with official representatives from the State Department of Education and the Department of Justice, the California Latino Legislative Caucus, the California Legislative Black Caucus, and the California Asian Pacific Islander Legislative Caucus. In Texas, the Special Rapporteur met with the Chairman of the Mexican American Legislative Caucus and the Vice Chair of the Texas Black Legislative Caucus, as well as the Elections Administrator for Harris County.

3. In Guam, he had meetings with the Lieutenant Governor, the Speaker of the Legislature of Guam, the Chairperson of the Legislative Committee on Environment, the Attorney General, the Guam Preservation Trust Chief Program Officer, as well as with Kumision Fino' Chamoru Board Members. In Puerto Rico his meetings included the Director of the Civil Rights Commission of Puerto Rico and one member of the Puerto Rico Congress.

4. He also received a very large number of written submissions both in advance and during his visit from Civil Society Organizations, particular those representing Asian-Americans, Arabs, Atheists and Humanists, Bahais, African Americans, Cajuns, Chamorro, the Deaf community, Dominican, Haitian, Hindu, Hispanics and Latinx, Jewish, Korean, Muslim, Pacific Islanders, Roma, and other minorities. He is deeply grateful to all those who organized community consultations for him.

5. The Special Rapporteur would like to sincerely thank the United States for the invitation to undertake this mission and for the support and invaluable cooperation of the State Department.¹ He regrets to report that no official of the State of Texas was available or accepted meeting him.

6. The objectives of the visit were to identify, in a spirit of cooperation and constructive dialogue, good practices and to address existing gaps in the promotion and protection of the human rights of persons belonging to national or ethnic, religious and linguistic minorities in the United States of America, in conformity with the mandate of UN Special Rapporteur on minority issues. More specifically, this mission's purpose was to identify ways of improving

¹ I am grateful for the great support and work undertaken by Hee Kyong Yoo, Marina Narvaez, Isabelle Besse and particularly Christel Mobeck for the coordination and finalization of the mission to the USA, as well as staff of the UN Office of the High Commissioner for Human Rights and former UN Minority Fellow Manuel Lujan Cruz. Many provided invaluable and much appreciated assistance for meetings and other support in different locations such as the American Civil Liberties Union, the Center on Race, Immigration & Social Justice at California State University, the Bernard and Audre Rapoport Center for Human Rights and Justice at the University of Texas, and Fermín L. Arraiza Navas and the International Human Rights Clinic at the Interamerican University of Puerto Rico.

the effective implementation of international obligations in relation to the rights of minorities in the COUNTRY in areas of particular significance such as equality and non-discrimination, the right to effective political participation of minorities, education and the linguistic rights of minorities, access to justice and administration of criminal justice, and measures to address hate speech and hate crimes.

II.

13. The legal landscape for the protection of human rights inside the country is also far from comprehensive or even coherent. While the Fourteenth Amendment to the Constitution adopted grants full United States citizenship to all persons born or naturalized in the United States, and the Fifteenth Amendment to the Constitution prohibits denial of the right to vote on the basis of race, there are exceptions for territories which are not states, and therefore hundreds of thousands of US citizens – mainly minorities and indigenous peoples - do not fully enjoy equal rights with other Americans.

14. Neither is there a national human rights legislation or mechanism to ensure that the country's population can enjoy the full range of human rights generally recognized in international law. The Constitution's first ten amendments, or the Bill of Rights, provides important human rights protections, including the freedom of speech, religion, peaceful assembly, liberty and security, and fair trial. Yet at best it is an incomplete amalgam. Only certain rights are guaranteed, though some state constitutions go much further in terms of human rights protection. There were also significant and hard-won gains made mainly during the civil rights movement in the 1960s such as the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968.

15. The most marginalised individuals and communities are often the most vulnerable in the absence of comprehensive legal protection of human rights, and these tend to be minorities. The rate of African Americans

based organizations to deny adoptions if these are inconsistent with an agency's "religious or moral convictions or policies" to the "extent allowed by federal law." Complicating this evident issue of discrimination on the ground of religion is that federal law in the US only specifically prohibits, under Title VI of the Civil Rights Act of

the Puerto Rico Conservation Trust and the U.S. Department of Interior, including as a wilderness conservation area with no public access. None were, strictly speaking, returned to the local population.

69. While the US Navy, with EPA oversight, has completed significant clean-up work, including of 4,332 acres of surface and 489 acres of subsurface cleared of munitions and weapons contamination, the promised decontamination activities, including of at least one highly contaminated site, under a National Priorities List (NPL) for long-term cleanup financed by the federal Superfund program, have not progressed significantly in recent years as of 20 November 2021.

70. Also as of 20 November 2021, the hospital in Vieques damaged by Hurricane Maria had still not been repaired. The population must travel to the main island, not always a simple task, despite approval on 21 January 2020 by the Federal Emergency Management Agency (FEMA) of \$39.5 million to help rebuild the hospital. The Special Rapporteur personally saw no visible renovations on location almost two years later in November 2021. The results are people being sick and dying because of unavailable medical treatments in Vieques. Puerto Ricans present at the town hall in Vieques seemed convinced they are second-class citizens because of their ethnic background, and that what they experience would not occur if they were members of the White Anglo-Saxon majority. A similar sentiment was expressed in Guam in the widespread view that highly toxic waste left behind by the US military presence would not be left unanswered for so long if it occurred to members of the country's majority on the mainland. The Biden Administration and the EPA have more recently committed to take actions to address some of these longstanding environmental justice concerns.

XI. Conclusions and recommendations

71. :

(a)

(ii) The creation of a national human rights institution in line with the Paris Principles on the status of national institutions for the promotion and protection of human rights.

73. Protecting democracy and guaranteeing the equal right to vote and to political participation and representation:

(a) It is discriminatory that millions of American citizens, overwhelmingly minorities, cannot vote. The increasing number of barriers to the right and the opportunity without any discrimination to vote and to be elected at genuine periodic

obligations under international law. It also constitutes a direct and immediate danger to democracy in the country. More broadly, the US Government needs to pursue a campaign to update federal guarantees to the equal right of citizens. This must include:

(i) Revising and updating federal and other legislation to lift the denial of the right to vote in federal and presidential elections for US citizens and nationals of overseas territories.

(ii) Continuing efforts for the eventual adoption of the Freedom to Vote and the John R. Lewis Voting Rights Advancement Act. Alternatively, a campaign to completely revamp the Voting Rights Act of 1965 is needed to address contemporary forms of disenfranchisement, such as onerous ID

of 1964 so that it covers discrimination based on religion or belief, in addition to race, color, or national origin.

78. **Environmental Justice:**

(a) **A nation-**

risk in overseas territories and mainland states, in preparation of a national action plan to identify and prioritise the decontamination of sites still threatening communities water supplies and environment, including former and present sites used by the US military.

79. **Other Recommendations:**

(a) **A statelessness determination system so that many among the more than 200,000 stateless individuals living in the United States, particularly children, have a pathway towards citizenship for the effective protection of their human rights, access to vital services, and their presence in the country.**

(b) **The recognition of the Roma minority in the country, and an acknowledgment of their historical presence, which will help address the still-existing negative stereotyping and even anti-gypsyism. The Roma should, amongst other needed measures, be included as a distinct category in future censuses.**
