



THE PERMANENT MISSION
OF THE
UNITED STATES OF AMERICA
TO THE
UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

January 4, 2022

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary
executions
Geneva, Switzerland

Dominique Day
Chair-Rapporteur of the Working Group of Experts on
People of African Descent
Geneva, Switzerland

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention
Geneva, Switzerland

Gerard Quinn
Special Rapporteur on the rights of persons with disabilities
Geneva, Switzerland

Olivier De Schutter
Special Rapporteur on extreme poverty and human rights
Geneva, Switzerland

E. Tendayi Achiume
Special Rapporteur on contemporary forms of racism,
racial discrimination, xenophobia and related intolerance
Geneva, Switzerland

Nils Melzer
Special Rapporteur on torture and other cruel, inhumane
or degrading treatment or punishment
Geneva, Switzerland

Dubravka Šimonovic
Special Rapporteur on violence against women, its causes
and consequences
Geneva, Switzerland

Elizabeth Broderick
Chair-Rapporteur of the Working Group on discrimination
against women and girls
Geneva, Switzerland

Dear Special Procedures Mandate Holders:

Please find enclosed the U.S. response to your letter dated March 21, 2021.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Daniel A. Kronenfeld', with a stylized, flowing script.

Daniel A. Kronenfeld
Deputy Permanent Representative
Human Rights

Thank you for your letter dated March 1, 2021, requesting information regarding the death penalty in the United States at the federal and state levels. We are grateful for the work you do across the globe to promote respect for human rights, and for the opportunity to provide the information below concerning U.S. law, policy, and practice.

While the United States Constitution does not, as a general matter, expressly prohibit capital punishment, its continued use remains the subject of serious discussion and close examination. As a Presidential candidate, President Biden stated that he would “work to pass legislation to eliminate the death penalty at the federal level, and incentivize states to follow the federal government’s example.”

In addition, on July 1, 2021, Attorney General Merrick B. Garland issued a memorandum imposing a moratorium on all federal executions pending review of certain of the Justice Department’s policies and procedures in this area. Attorney General Garland stated that “[s]erious concerns have been raised about the continued use of the death penalty across the country, including arbitrariness in its application, disparate impact on people of color, and the troubling number of exonerations in capital and other serious cases.” And the Attorney General made clear that the Justice Department “must ensure that everyone in the federal criminal justice system is not only afforded the rights guaranteed by the Constitution and laws of the United States but is also treated fairly and humanely. That obligation has special force in capital cases.”

Among other things, Attorney General Garland’s memorandum directs the Deputy Attorney General to lead a multi-pronged review of federal capital case policies and procedures. The Attorney General’s memorandum requires the reviews to include consultations with a wide range of stakeholders, including the relevant department components, federal and state agencies, medical experts and experienced capital counsel, and other relevant stakeholders, including members of the public.

No federal executions will be scheduled while the reviews are pending. For additional details on the Attorney General’s July 1 Memorandum, please see <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-imposes-moratorium-federal-executions-orders-review>.

While our system of government consists of an array of different sub-national entities, each responding to the needs of and beholden to its people, all are subject to the U.S. Constitution and committed to the goal of administering justice equally and fairly. While some states maintain the death penalty, nearly half of U.S. states (23) plus the District of Columbia have abolished the death penalty; most recently Virginia did so in March 2021. An additional 13 states have not carried out an execution in over a decade, including three states—California, Oregon, and Pennsylvania—that have gubernatorial moratoria on executions.

We look forward to remaining in contact with Special Procedures and other UN officials regarding the United States’ international human rights obligations.

