



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the United States of America and welcome the constructive engagement of your Government during the 36th session of the UPR Working Group in November 2020.

As the final outcome report on the review of the United States of America has been recently adopted by the Human Rights Council at its 46th session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of the United States of America – the Compilation of United Nations information and the Summary of stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 116 delegations and the presentation made and responses provided by the delegation of the United States of America. I have also considered the actions taken by the Government of the United States of America to implement the 150 recommendations fully supported as well as those that were partially accepted during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I welcome the decision taken by the Government in 2021 to rejoin the Paris Agreement on climate change, to rescind the Zero-tolerance policy for improper entry, and to revoke previous policies in order to promote and protect reproductive health and rights of women and girls in the United States and globally, as well as resume its active engagement with the work of the Human Rights Council, in line with several recommendations put forward during the interactive dialogue held in November 2020.

I note some measures taken by the Government to advance racial justice and equity and to address structural barriers that discriminated minorities face in accessing their rights. I also note some policies adopted to combat discrimination on the basis of gender identity or sexual orientation.

I encourage the United States of America to develop a comprehensive national human rights action plan in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate preparations for the fourth cycle of the UPR. My advice to all Member States is to develop and implement national action plans in close consultation and cooperation with all stakeholders, in particular civil society organizations and, where necessary, with the support of international organizations, including my Office.

His Excellency
Mr. Antony J. BLINKEN
Secretary of State
United States of America



I also encourage the United States of America to establish a national mechanism for comprehensive reporting and follow-up in relation to recommendations received from all international and regional human rights mechanisms and to treaty obligations, while linking these to the Sustainable Development Goals. To this end, I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:
http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. One important measure that can positively contribute to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage the United States of America to consider submitting a mid-term report on follow-up to the third cycle of the review, by 2023.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist the United States of America in relation to the areas identified in this letter and its annex.

Please, accept, Excellency, the assurances of my highest consideration.

Michelle Bachelet
United Nations High Commissioner for Human Rights

cc: H.E. Ambassador Lisa PETERSON
Acting Assistant Secretary for the Bureau of Democracy, Human Rights and Labor,
Department of State
United States of America

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratifying the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, the Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Ratifying the Forced Labour Convention, 1930 (No. 29), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization.
- Ratifying the Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international armed conflicts (Protocol I), the Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of non-international armed conflicts (Protocol II), the Convention relating to the Status of Refugees, and the Rome Statute of the International Criminal Court.
- Extending a standing invitation to special procedures mandate-holders of the Human Rights Council.
- Rescinding sanctions imposed against officials and individual staff of the International Criminal Court.

National human rights framework

- Establishing a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Strengthening the protection, in law and in practice, against all forms of discrimination, including on the basis of race, colour, national or ethnic origin, religion, disability, sexual orientation and gender identity, as well as implementing effectively policies to address racial or ethnic disparities in all spheres of life.
- Condemning and addressing long-standing structural discrimination on the basis of race and combating all forms of racial discrimination, xenophobia and other forms of intolerance, including by addressing the root causes of the proliferation of racist manifestations targeting particularly people of African-descent, ethnic or ethno-religious minorities, migrants and refugees.

- Implementing effective measures to put an end to racial profiling, to track failures to comply, and to provide disciplining and correcting officers with training in diversity and implicit bias.
- Combating all forms of hate speech and hate crime, including incitement to violence and hatred in political speech, and promoting understanding, tolerance, and diversity between ethnic or racial groups, including by acknowledging their contribution to the history and diversity of the United States of America.
- Preventing and combating hate crime and physical violence against lesbian, gay, bisexual, transgender, queer and intersex persons.

Development, the environment, and business and human rights

- Stepping up efforts to tackle climate change and its negative impacts on the realisation of human rights and undertaking a review of policies to improve the protection of the environment.
- Ensuring, prior to the approval of large-scale projects, including extractive industry and infrastructure projects, that environmental impact assessments are prepared in full transparency and with the meaningful participation of affected communities, including indigenous peoples.
- Ensuring the protection against human rights abuses by business enterprises and investigating, sanctioning and redressing such abuses, as well as encouraging private corporations to follow the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework.

Human rights and counter-terrorism

- Putting an end to impunity for the human rights and humanitarian law violations committed in the so-called ‘global war on terror’, by ensuring independent and impartial investigations and prosecutions of all credible allegations of violations committed in this context, including torture and ill-treatment, arbitrary detention and unfair trial.
- Ensuring the closure of the Guantanamo Bay detention facility.

B. Civil and political rights

Right to life, liberty and security of person

- Working towards the abolition of the death penalty at the federal and state levels.
- Implementing effective measures to curb gun violence and to strengthen firearm control measures, including through improving and expanding the background check system for private firearm transfers and the periodic review of licences.
- Ensuring the protection of civilians, particularly children, in all military operations and preventing civilian casualties in accordance with the principles of distinction, proportionality and necessity.



- Intensifying efforts to prevent the excessive use of force by law enforcement officials, including in the context of peaceful protests and cases of police brutality (including fatal shootings) at the time of arrest and pre-trial detention, committed against predominantly African-American suspects.
- Ensuring systematic accountability in cases of excessive use of force and extrajudicial killings by police, including by investigating promptly and effectively such cases and prosecuting alleged perpetrators, and if convicted, punishing with appropriate sanctions.

Administration of justice, including impunity, and the rule of law

- Continuing efforts to achieve a comprehensive criminal justice reform in order to address racial bias and racial disparities in the justice system and to tackle high rates of incarceration and overcrowding in prisons.
- Preventing excessive bail and ensuring that bail and bonds are based on an individual risk assessment, which take into account the defendant's capacity to pay and is limited to the amount necessary to secure the defendant's appearance or to protect the community.
- Ensuring adequate conditions of detention, including effective access to health treatment and mental health services, and reducing prison populations to prevent large outbreaks of COVID-19.
- Ensuring that juveniles are separated from adults during pre-trial detention and after sentencing and that juvenile defendants are not treated as adult offenders.

Fundamental freedoms and the right to participate in public and political life

- Ensuring that media outlets and journalists are not subject to threats or intimidation while carrying out their role in democratic society.
- Ensuring that the legal framework affecting the rights of freedom of peaceful assembly and of association conform to international human rights norms, including by providing an objective and detailed framework through which decisions restricting rights are made while ensuring that restrictions are the exception and not the rule.
- Eliminating permission requirements and the excessive permit fees that are required to hold assemblies and adopting a notification system instead, and limiting restrictions on the time, place and manner of assemblies to those, which can be justified under international law.
- Reviewing tactics for the management of assemblies by police, including the use of military-style weapons and equipment by police, in order to ensure their compatibility with international human rights norms and standards and that management tactics are directed at facilitating rather than preventing the exercise of assembly rights.
- Ensuring that people living in poverty, minorities and other disfavoured groups are not deprived of their right to vote, including by repealing laws that restrict voting rights and by reinstating the voting rights of persons convicted of a felony who have completed their sentences, as well as revamping campaign finance laws to reduce the influence of money in the political process.
- Ensuring that all citizens, including those residing in the United States overseas territories are provided with full representation rights in Congress and that the right to vote in presidential elections are extended to them.

Prohibition of all forms of slavery

- Combating all forms of trafficking in persons, including labour and domestic servitude, addressing the root causes of human trafficking, including poverty and economic inequality, discrimination on the basis of gender and against other minorities, inadequate labour protections and restrictive immigration policies.
- Continuing efforts to ensure that anti-trafficking initiatives and actions are human rights-based and victim-centred.
- Enhancing the investigation and prosecution of cases involving labour trafficking, including in the hospitality, agricultural and construction industries.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Strengthening legal protection of workers' right to just and favourable conditions of work, including by increasing the minimum wage, strengthening paid and sick leave, and by facilitating the formation of unions in all sectors.
- Strengthening sanctions against employers who engage in unfair labour practices and adding fines, punitive damages and compensation provisions in order to deter future violations of workers' rights.
- Eliminating all forms of discrimination in employment, including by addressing the gender pay gap and amending the Equal Pay Act to include the right to equal pay for work of equal value and by addressing occupational segregation, both vertical and horizontal.
- Providing affordable and accessible facilities for childcare and after-school care and facilities for older persons and persons with disabilities to allow adults with care responsibilities – women and men - to work full-time.

Right to social security

- Implementing effective measures to reduce poverty and inequality in the economic sphere and addressing the disproportionate impact of the COVID-19 pandemic on vulnerable groups of the population.
- Reviewing policies that lead to criminalisation of poverty, which disproportionately affects African-Americans.

Right to an adequate standard of living

- Improving access to adequate housing, safe-drinking water and sanitation, and ensuring that essential services are provided in a non-discriminatory manner.
- Addressing homelessness among vulnerable groups across the country and the persistence of a de facto residential segregation in many of the metropolitan areas.

Right to health

- Extending access to affordable health care to a greater part of the population and addressing disparities faced by African-Americans, indigenous peoples and other minorities in realizing the right to the enjoyment of the highest attainable standard of health.
- Reducing the maternal mortality rate, including by addressing the root causes of increased maternal mortality, particularly among African-American women.
- Ensuring that women have effective access to reproductive health services and information, including safe and legal abortion, and that the provisions of the Patient Protection and Affordable Care Act regarding insured access to contraceptives are universally enforced.
- Ensuring that laws permitting the refusal of health care and services based on religious and moral beliefs do not restrict women's sexual and reproductive health and rights.

Right to education

- Ensuring adequate access to quality education for all.
- Ensuring that the school curriculum in each state reflect appropriately the history of the transatlantic trade in Africans, enslavement and segregation.
- Ensuring mandatory human rights education in schools and adequate and scientifically based sex education in school curricula.

D. Rights of specific persons or groups

Women

- Stepping up measures to advance gender equality and the status of women in decision making positions and to facilitate women's economic empowerment.
- Ensuring 14 weeks of paid maternity leave for all women workers in public and private employment.
- Combatting gender-based violence against women and girls, including by ensuring effective protection orders and increased availability of shelters, programmes and housing support.

Indigenous peoples

- Implementing effective policies that aim at addressing persisting disparities and social disadvantages between indigenous and non-indigenous citizens, including disparities between indigenous and non-indigenous health status and employment rates.
- Continuing to support indigenous peoples in developing their capacity and resources towards attaining self-determination in all areas as well as their capacity to address the health impacts of energy projects and providing them with additional services for the treatment of mental health, alcoholism and drug addiction, including drug rehabilitation services and hospitals.



- Strengthening legislation to enforce consultation for all projects having an impact on the traditional territories of local indigenous communities, in particular energy and infrastructure projects undertaken within indigenous peoples' traditional territories and on lands not currently owned by them.
- Improving existing laws governing the protection of sacred and cultural places beyond present-day reservation boundaries so as to further protect the religious freedoms of indigenous peoples and to reflect the vision of indigenous peoples' definition of sacredness.
- Ensuring that indigenous peoples have full access to redress for violations perpetrated on and against their lands and territories, including access to judicial forums to dispute claims and to concrete and timely assistance to mitigate adverse impacts on environmental and cultural resources.

Migrants, refugees and asylum seekers

- Ending the detention of children, either unaccompanied or with their families, based on their own or their parents' migration status, and seeking alternatives to detention, including family-based alternatives to deprivation of liberty to preserve family unity.
- Using non-custodial alternatives to administrative detention of immigrants and asylum seekers, especially in the time of a COVID-19 outbreak, and ensuring that any deprivation of liberty of immigrants, asylum seekers and refugees are a measure of last resort and for the shortest period.
- Providing a prompt administrative procedure for an individualized assessment of circumstances of immigrants and asylum seekers and a timely decision on their status.
- Addressing inadequate standards and human rights violations in migrant detention centres and ensuring effective investigations into the deaths of migrant children in the care and custody of the authorities responsible for administering immigration detention, and holding the perpetrators accountable.

E. Specific regions or territories

- Ensuring fair solutions to the public debt crisis in Puerto Rico and that economic, social and cultural rights are not undermined by giving absolute priority to creditors' rights and by imposing excessive austerity.