

03.12.2020

To,

Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland

Respected High Commissioner,

Sub: Submission of inputs for the preparation of the report of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution 43/1 on the “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers”

George Floyd’s death has once again highlighted the issue of widespread systemic racism in the United States of America. As we all saw, soon after Floyd’s death, black people took to the streets in the United States to protest not just against the actions of the police officers who ignored the rules or used unwanted force in apprehending an alleged suspect but also against the inherent bias against people of colour, especially, black people. The general assumption that young black men are more likely to commit a crime than their white counterparts is nothing but an example of the conscious racist attitude prevalent in the United States. This attitude often affects the investigation of a crime and leads to police officers taking the law into their own hands by acting as judge, jury and executioner. We must never forget that the inherent bias against people of colour also robs them of an opportunity to a fair trial and often leads to wrongful convictions.

We, as human rights advocates and members of the civil society, have a few recommendations to offer as measures to ensure accountability and provide effective remedy against systemic racism and racial discrimination experienced by Africans and people of African descent within law enforcement and the criminal justice system in the United States of America.

Yours sincerely,

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A. Racial bias within law enforcement and the criminal justice system in the United States of America

We begin by briefly highlighting some of the core concerns regarding the existence of racial bias within law enforcement and the criminal justice system prevalent in the United States:

- As per the data collected by [The Washington Post](#), Black Americans are killed in police shootings at a much higher rate than White Americans. According to a survey by the [Pew Research Centre](#) in 2019, 44% of Blacks said that they had been unfairly stopped by the police and 65% said that they were made to feel that others acted like they were suspicious of them.
- As per a report by the [National Registry of Exonerations](#), ‘Black people convicted of murder or sexual assault are significantly more likely than their white counterparts to be later found innocent of the crimes. The convictions that led to murder exonerations with black defendants were 22% more likely to include misconduct by police officers than those with white defendants. In addition, on average, black murder exonerees spent three years longer in prison before release than white murder exonerees, and those sentenced to death spent four years longer.’
- A [research](#) also concluded that white Americans are more likely to misidentify black people for one another than white people, a phenomenon that has a significant impact in relation to eyewitness misidentification.
- Less Black representation in the U.S. police force due to [race discrimination](#) in hiring and promotion:

A [Two Million Dollar settlement agreement](#) reached between the Department of Justice and the Baltimore County Police Department (BCPD), ‘requires the Baltimore County Police Department to develop and implement hiring criteria that do not discriminate on the basis of race and further reflects the Civil Rights Division’s continued commitment to the eradication of race discrimination in hiring through the vigorous enforcement of Title VII of the Civil Rights Act of 1964. Baltimore County will pay \$2,000,000 in back pay to eligible African Americans who were previously denied employment because of the employment tests challenged by the United States. The BCPD also must hire up to twenty of these previous applicants as entry-level police officers or cadets after the applicants demonstrate that they meet BCPD’s current qualifications for hire and successfully complete the county’s other selection requirements. In addition to back pay and priority hiring, the settlement agreement requires the county to develop a new hiring examination that is lawful under Title VII.’

B. Recommendations

We would like to make the following recommendations in order to effectively address the issues of systemic racism within law enforcement and the criminal justice system in the United States of America:

- a) **There is an urgent need to establish a nationwide database with respect to the number of civilian deaths caused by police departments during an arrest. This database must highlight the following points:**
- **the reasons for arrests,**
 - **the nature of arrests,**
 - **the level of force employed in such arrests,**
 - **who are the persons arrested,**
 - **which police officers were part of such arrests and,**
 - **which police departments in the country are responsible for the highest number of civilian deaths during an arrest.**

Such database should also be made accessible to the public without any cost. In this regard, the Department of Justice's (DOJ) [continued delay](#) in meeting its obligation to enforce the Death in Custody Reporting Act of 2013 (DCRA) [is a major cause for concern](#). We recommend the immediate enforcement of the DCRA with special emphasis on highlighting the above mentioned points with respect to arrests by police departments.

- b) **It should be made mandatory for every State to review their policing laws and bring in reforms to include provisions outlawing use of chokeholds and similar other submission moves as a means of arrest.**
- c) **Every police department should be mandated under law [not to acquire and use military equipment](#) for the purpose of local policing. This is important because an increase in access to military weaponry like armoured vehicles, flash-bang grenades is most likely to increase the level of violence by police officers. It should be noted that the police is supposed to act as a peacekeeper and not as a soldier in a battlefield.**
- d) **Every police department should be made to evolve its own rules and regulations in order to help initiate and/or assist judicial authorities in prosecuting police officers who have been found using excessive and unwarranted force in arresting a person. Such an action by the police department should be based either on its own initial enquiry or by an initial enquiry by any competent authority.**
- e) **Strict punishments must be imposed on those police officers that violate the law by making arbitrary arrests based on a person's race.**

- f) Every police department should be mandated under law to make available information to the public without any cost regarding the number of applications received every year from people of colour including African Americans for the post of entry-level police officers or cadets.**
- g) It should be made mandatory for every police officer to attend, once a month, a training program conducted by the police department on the level of use of force to be employed in making arrests depending on the nature of arrests and the immediate level of threat to the public at large. It should also be made mandatory for every police officer to attend, once a month, a training program conducted by the police department with experts in the field from the civil society, on assessing and improving race relations in the local jurisdiction of the police department. Every police department should evolve rules and regulations that make it mandatory for police officers to attend such training programs.**
- h) It should be made mandatory for every police department to evolve rules and regulations that make it compulsory for every police officer to attend, once a month, race sensitivity training. Such training should include the history of African Americans and other racial and ethnic minorities, their culture and tradition.**
- i) Such race sensitivity training must also form a part of school education, where it should be made a mandatory part of the curriculum. This training should also be extended to universities as well. It is also important to sensitize legislators, judges, media personnel and members of the civil society on growing intolerance based on race, which is extremely harmful for any liberal democratic society.**
