

UNODC inputs to preparation of the report of the UN 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”

UNODC takes note of pp. 11 and 12 of resolution 43/1 recalling the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and encouraging States to look into their manuals and guidelines used for training law enforcement officers with a view to identifying the proportionality of measures in the handling of suspects and other persons in custody, with respect to the treatment of Africans and people of African descent.

In this regard, UNODC would like to highlight that as the custodian of the UN standards and norms on crime prevention and criminal justice it assists Member States in standard-setting, development of technical tools and delivery of legal and technical assistance including in the area of police reform and implementation of both the Code of Conduct and the Basic Principles.

Below is an overview of relevant work of UNODC and its policy-making organs.

1) Commission on Crime Prevention and Criminal Justice thematic discussion on the responsibility of effective, fair, humane and accountable criminal justice systems in preventing and countering crime motivated by intolerance or discrimination of any kind

In 2019, the Commission on Crime Prevention and Criminal Justice (CCPCJ) held its thematic discussion on the responsibility of effective, fair, humane and accountable criminal justice systems in preventing and countering crime motivated by intolerance or discrimination of any kind. The background paper¹ prepared by the Secretariat provided an overview of definitions and current situation, international and regional standards, and national legislation, data collection, strengthening responses by the criminal justice system and supporting, protecting and assisting victims of crimes motivated by intolerance and discrimination.

The paper in particular highlighted that:

“the police and other criminal justice institutions have a key role to play in preventing hate crime through outreach activities and community policing and measures to ensure diversity in policing [...]. The establishment and strengthening of effective, fair, humane and accountable criminal justice systems are prerequisites for addressing crimes motivated by discrimination. Criminal justice systems that are themselves discriminatory will not be efficient in addressing such crimes, as victims will not turn to the system for redress. States also have a duty to address discriminatory practices within the police and prevent ethnic profiling.”

The paper further highlighted that:

“a key concern in this area: the importance of adopting an intersectional approach in analysing the situation of persons at risk and victims of crime motivated by discrimination and intolerance to address the multiple, intersecting and aggravated forms of violence and discrimination.”

¹ E/CN.15/2019/6

The paper further summarised existing data sources in this regard, including on racist incidents involving police officers.

In his summary, the Chair of the Commission, summarised the salient points of the discussion, including the following:

“Many speakers expressed concern about the rising levels of crime motivated by intolerance or discrimination of all kinds. In that regard, speakers mentioned gender-related violence and killings, racism, xenophobia, anti-Semitism and Islamophobia. Violence against LGBTI+ individuals, migrants, refugees, indigenous peoples and ethnic minorities was also mentioned. Several speakers highlighted the underlying social norms, structures, prejudices and stereotypes associated with increased vulnerability to discrimination and intolerance.

A number of speakers underscored that crimes motivated by intolerance or discrimination would victimize entire communities and affect societies and that it was the responsibility of States to effectively prevent and investigate such crimes and to prosecute and punish the perpetrators, while providing protection and support for victims and witnesses, thereby strengthening the confidence of individuals to report and the willingness of officials to record such crimes.

A number of speakers highlighted that effective crime prevention and criminal responses required responsible leadership, transparency and accountability of officials.”²

2) Relevant policy documents and standards addressing racial discrimination

In the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation³, adopted by the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, Member States committed:

- To implement effective measures to eliminate violence against all migrants, migrant workers and their families, and to take all necessary legal and administrative steps to prevent and counter crimes involving violence against those groups;
- To conduct further research and gather data on crime victimization motivated by discrimination of any kind and to exchange experiences in and information on effective laws and policies that can prevent such crimes, bring perpetrators to justice and provide support to victims;
- To consider providing specialized training to criminal justice professionals to enhance capacities for recognizing, understanding, suppressing and investigating hate crimes motivated by discrimination of any kind, to help engage effectively with victim communities and to build public confidence and cooperation with criminal justice agencies;
- To intensify national and international efforts to eliminate all forms of discrimination, including racism, religious intolerance, xenophobia and gender-related discrimination by, inter alia, raising awareness, developing educational materials and programmes, and considering, where appropriate, drafting and enforcing legislation against discrimination.

² E/2019/30E/CN.15/2019/15

³ Please see full text of the Doha Declaration [here](#).

A number of UN standards and norms also addresses racial discrimination.

The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)⁴ provide in Rule 55 that, “*Pre- and post-release services shall be reviewed to ensure that they are appropriate and accessible to indigenous women prisoners and to women prisoners from ethnic and racial groups, in consultation with the relevant groups.*”

The United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime⁵, provide, under the guiding principle of non-discrimination, that, “*Every child has the right to be treated fairly and equally, regardless of his or her or the parent’s or legal guardian’s race, ethnicity, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth or other status*”, and that, “*Child victims and witnesses should have access to a justice process that protects them from discrimination based on the child’s, parent’s or legal guardian’s race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth or other status.*”

The Bangalore Principles of Judicial Conduct,⁶ under Value 5 – Equality, provide:

“Principle: Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Application

5.1. A judge shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes (“irrelevant grounds”).

5.2. A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.”

The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems⁷, provide, *inter alia*, in Guideline 2 on the Right to be informed on legal aid that:

“(d) Information on the rights of a person suspected of or charged with a criminal offence in a criminal justice process and on the availability of legal aid services is provided in police stations, detention centres, courts and prisons, for example, through the provision of a letter of rights or in any other official form submitted to the accused. Such information should be provided in a manner that corresponds to the needs of illiterate persons, minorities, persons with disabilities and children; and such information should be in a language that those persons understand.”

For the full collection of UN standards and norms refer to the Compendium of United Nations standards and norms in crime prevention and criminal justice available at the [UNODC website](#).

3) UNODC’s tools in the area of policing, criminal justice and racial discrimination

UNODC develops technical tools and manuals for law enforcement and justice professionals based on international human rights law, UN standards and norms and technical expertise and good practices from around the world. While these are not solely targeted on addressing racial discrimination by the

⁴ General Assembly resolution 65/229, annex, of 21 December 2010

⁵ ECOSOC resolution 2005/20, annex, of 22 July 2005

⁶ Economic and Social Council resolution 2006/23, annex, of 27 July 2006

⁷ General Assembly resolution 67/187, annex, of 20 December 2012

police or justice system, many of the existing tools contain guidance on how to address inequality and discrimination in different aspects of law enforcement and justice. The main relevant tools include:

The UNODC Handbook on Police Accountability, Oversight and Integrity provides detailed guidance to Member States on comprehensive structures for police accountability, obligations under international law, before police operations and actions, establishing internal and external oversight bodies and complaint mechanisms, internal accountability and police integrity, accountability to the State and to civil society as well as a roadmap towards police integrity and accountability. Discrimination and representation of minorities is highlighted in various parts of the handbook including with regard to recruitment, access to complaints mechanisms, engaging with civil society, investigations of allegations of police violence including deaths in custody and codes of conduct. Examples of practices from a number of countries are also included.

The UNODC/OHCHR Resource book on the use of force and firearms in law enforcement provides detailed guidance to Member States and other actors on the international legal framework on the use of force, human-rights based approaches to policing, the responsibility of law enforcement authorities, an overview of instruments of force, use of force in different policing situations, as well as accountability for the use of force and firearms by law enforcement. Detailed guidance is provided on non-discrimination including as concerns minorities and marginalized groups and the targeting of minorities in stop and search. Good practices on special measures for protection of such groups have also been highlighted. The resource book further highlights good practices in relation to protests and relations between law enforcement and journalists and other media. Guidance is provided on how to ensure that the law enforcement work force is representative of the communities served, including by highlighting that arbitrary or excessive use of force is often found to target communities that are underrepresented within the law enforcement agencies. Good practices on how to address such over/under-representation are included. The resource book provides extensive guidance and good practice examples on how to ensure that force is only used in line with international standards and that accountability and oversight for excessive use of force is achieved.

The technical report on Combating Violence against Migrants, developed by UNODC in cooperation with the International Federation of the Red Cross and Red Crescent Societies (IFRC) highlights ten measures to support States in their efforts to prevent and combat criminal acts committed against migrants, migrant workers and their families in all regions of the world, including acts of violence, and to prosecute its perpetrators as well as to protect its victims. The issue of racial discrimination is mainstreamed throughout the report, particularly as it relates to ensuring collection of appropriate data in relation to violence against migrants, strengthening legislation against racism, discrimination and xenophobia, providing training to criminal justice actors, including the police, and ensuring appropriate sentences for crimes of violence motivated by racial discrimination.

The UNODC Handbook on Prisoners with Special Needs provides an overview of main needs and possible responses in line with international standards of eight groups of prisoners, which have a particularly vulnerable status in prisons. A full chapter is dedicated to prisoners from ethnic and racial minorities and indigenous peoples and includes guidance on legislative measures and the implementation of alternatives to imprisonment, management guidelines setting out ways in which to respond to the special needs of this group, as well as a set of recommendations, summarizing the key suggestions.

The Handbook on Early Access to Legal Aid in Criminal Justice Processes, developed together with UNDP and the Open Society Justice Initiative, is a practical guide to developing and implementing policies and programmes to ensure early access to legal aid, including by implementing the international

standards set by the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems. In the Handbook, a special emphasis is given for the legal aid provider to act impartially and to avoid discrimination of any type, as well as to respect and take any necessary actions to further the interests of their clients, while having particular regard to the client's age, gender, ethnicity or sexual orientation.

The second edition of the UNODC Handbook on Restorative Justice Programmes aims to provide an overview of the concept, values and principles of restorative justice as well as practical guidance on restorative justice programmes and processes. It emphasizes that restorative processes often draw upon traditional and indigenous forms of justice and notes that restorative processes must consider the impact of power imbalances between the victim and the offender (or others involved in the process) that may potentially place one of the parties at a disadvantage during the restorative process. Among the disparities that must be considered are gender, age, intellectual capacity, racial, ethnic or cultural factors.

4) UNODC's technical assistance in the area of policing

UNODC provides technical assistance to requesting Member States in the area of police reform and police capacity building, including through conducting trainings of law enforcement officials in the area of accountability, integrity and oversight as well as police use of force. A number of large or medium-size technical assistance programmes have been implemented or are still underway in countries such as Pakistan, Mexico, Mauritius, Kyrgyzstan, Somalia and Kenya.

In March 2017, UNODC organized, in partnership with the Ministry of Interior of the United Arab Emirates (UAE), a three-day regional training workshop on the "Conduct of Law Enforcement Officials in Maintaining Order and Responding to Crime in the Middle East and North African Countries". Hosted in Abu Dhabi, the workshop gathered policy makers and law enforcement officials from Bahrain, Iraq, Jordan, Lebanon, Libya, Oman, Qatar, the UAE and the GCCPOL/Secretariat of the Cooperation Council for the Arab States of the Gulf (GCC).

In June 2017, UNODC collaborated with the United Nations Office of the High Commission for Human Rights (OHCHR) and the Jamaica Independent Commission of Investigations (INDECOM) to organise the Regional Conference on the Use of Force and Firearms, held in Kingston, Jamaica. The Conference also led to the development of the Caribbean Human Rights and Use of Force Model Policy. The policy included provisions related to prevention of and addressing alleged human rights violations by law enforcement officials.

In September 2020, UNODC in cooperation with CARICOM IMPACS and OHCHR developed and delivered a 3-day regional virtual and interactive training on Integrity, Ethics and Accountability in Law Enforcement, for over 100 law-enforcement officials in 18 CARICOM Member States and Associate Countries.

In Brazil, UNODC is implementing a project to Strengthen the Pretrial Detention Hearings (Audiências de Custódia) in partnership with the National Council of Justice of Brazil and UNDP. The initiative addresses procedural improvements for identifying torture cases, ill-treatment and excessive use of force by police, as well as the strengthening of social protection to vulnerable populations with the provision of emergency supplies, social care, mental health, among others. The Office is also providing technical assistance on the standardization of legal procedures and structuring access to social services with a focus ethnic and racial dimension. A number of manuals were produced addressing the following aspects of pretrial detention hearing: decision-making, prevention of torture and ill-treatment, social protection, and use of means of restraint. The Office also implements projects at State level aimed at

strengthening oversight mechanisms on police use of force in the territories prioritized by state policies in Rio Grande do Sul, Paraná and Pernambuco, involving the implementation of the Police Activity Compliance Index (ICAP) and monitoring of interactions of police with vulnerable youth, including Afro-Brazilians and youth coming from marginalized communities. Finally, the Office is developing nation-wide projects to strengthen youth resilience against crime and violence, and youth advocacy towards SDG 16. Capacity-building training programmes and participation in national and international decision-making conferences on youth shall be part of the project, placing youth of African descent at the core of its priority beneficiaries.

5) UNODC's efforts to counter online misinformation and disinformation

Online campaigns of misinformation and disinformation to undermine activists and protestors have been reported in the wake of the Black Lives Matter movement. Messaging apps have been used to spread content (such as hashtags, memes, slogans), which are further shared online on social media. Such misinformation campaigns aim to generate division, violence and feelings of insecurity. Disinformation campaigns further create a hostile environment for social protestors, with the objective of triggering violence and hatred. Human rights violations are more likely to appear in an environment where the level of verbal and symbolic violence is already high. UNODC is supporting the United Nations #verified campaign against misinformation, as well as the “Pledge to Pause” initiative launched in October by the Secretary General. The United Nations needs to continue raising the risks of disinformation on the international stage, inform Member States about the potential consequences of misinformation and disinformation, and seek consensual solutions with Member States and the private sector to counter disinformation, with criminalization being reserved for only the most serious of risks.

6) Data collection on use of lethal force by law enforcement agents

Unjustified killings by law enforcement officers or law enforcement agencies are defined as a form of homicide.⁸ Understanding homicide and other killings by law enforcement agents is challenging. In some countries, killings by the police are not recorded in the official crime statistics unless charges are brought, which is different from the procedure for recording other homicides. When charges are brought, killings by police are generally a subset of overall homicide statistics.⁹ Understanding patterns with regard to excessive use of force and other human rights violations can also constitute a challenge as many States do not collect disaggregated data based on race, colour, descent, or national or ethnic origin, and in instances where disaggregated data is systematically collected, the categories used vary across countries.

⁸ UNODC, *International Classification of Crime for Statistical Purposes (ICSS)*: Version 1.0 (Vienna, 2015).

⁹ For more information see p.73-75 of [Booklet 2](#) of the UNODC's Global Study on Homicide (2019).