

**Human Rights Council****Forty-seventh session**

21 June–9 July 2021

Agenda items 2 and 9

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of  
the High Commissioner and the Secretary-General****Racism, racial discrimination, xenophobia and related  
forms of intolerance, follow-up to and implementation of  
the Durban Declaration and Programme of Action****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****Report of the United Nations High Commissioner for Human Rights\* \*\****Summary*

The murder of George Floyd on 25 May 2020 and the ensuing mass protests worldwide have marked a watershed in the fight against racism. In some countries, there is now broader acknowledgment of the systemic nature of the racism that affects the lives of Africans and people of African descent and of the need to address the past in order to secure future conditions of life that uphold the dignity and rights of all. It is our collective duty to address these issues – immediately and everywhere.

Prepared pursuant to Human Rights Council resolution 43/1 and in recognition of the unprecedented opportunity for change, the present comprehensive report – to be read in conjunction with an accompanying conference room paper – presents an agenda towards transformative change for racial justice and equality.

The objectives of this transformative agenda in the annex are to reverse cultures of denial, dismantle systemic racism and accelerate the pace of action; end impunity for human rights violations by law enforcement officials and close trust deficits in this area; ensure that the voices of people of African descent and those who stand up against racism are heard and that their concerns are acted upon; and acknowledge and confront legacies, including through accountability and redress.

The United Nations High Commissioner for Human Rights calls upon States to translate this agenda into action plans and concrete measures developed through national dialogues and with the meaningful participation of people of African descent to address the

\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.

\*\* The annex to the present report is reproduced as received.



specific histories, lived experiences and current realities in each State. The Office of the High Commissioner looks forward to working with States and the Human Rights Council to implement this agenda, including by: strengthening assistance to States and other stakeholders; documenting and following up on specific incidents; consulting and partnering with victims, survivors and affected communities; and providing guidance for relevant racial justice processes in States, for which additional dedicated capacity is needed.

The High Commissioner also recommends that the Human Rights Council sustain its close engagement on these issues and establish a specific, time-bound mechanism, or that it strengthen an existing mechanism by providing it with additional capacity, in order to advance racial justice and equality in the context of law enforcement in all parts of the world, including by examining relevant patterns, incidents, policies and processes, such as those highlighted in the present report and in the accompanying conference room paper.

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## I. Introduction and methodology

1. The murder of George Floyd on 25 May 2020 in Minnesota, United States of America, the mass protests that ensued in many countries and the momentous verdict against one responsible law enforcement official<sup>1</sup> represent a seminal point in the fight against racism.

2. The worldwide mobilization of people calling for racial justice has forced a long-delayed reckoning with racism and shifted debates towards a focus on the systemic nature of racism and the institutions that perpetrate it. Prompted by this groundswell, on 17 June 2020 the Human Rights Council held an urgent debate on current racially inspired human rights violations, systemic racism, police brutality and violence against peaceful protests. On 19 June 2020, the Council adopted resolution 43/1 by consensus, in which it requested the United Nations High Commissioner for Human Rights to prepare a report on systemic racism, violations of international human rights law against Africans and people of African descent by law enforcement agencies, especially those incidents that resulted in the death of George Floyd and other Africans and people of African descent, to contribute to accountability and redress for victims; to examine government responses to anti-racism peaceful protests, including the alleged use of excessive force against protesters, bystanders and journalists; and to present a comprehensive report to the Council at its forty-seventh session.

3. In the present report – to be read in conjunction with an accompanying conference room paper<sup>2</sup> – the High Commissioner examines the compounding inequalities that Africans and people of African descent<sup>3</sup> face in all areas of life as a result of their marginalization and the lack of equal access to opportunities, resources and power. She highlights how systemic racism manifests itself in the area of law enforcement, focusing on incidents that result in death as its most visible and irreversible outcome, and on the consistent lack of accountability and redress for victims. The High Commissioner emphasizes the importance of ensuring that the voices of people of African descent and all those standing up against racism are heard. She considers the long-overdue need to confront the legacies of enslavement, the transatlantic trade in enslaved Africans and colonialism and to seek reparatory justice. Recognizing the imperative for action, in the present report she presents an agenda towards transformative change for racial justice and equality for Africans and people of African descent globally (see annex).

4. Given the pivotal importance of this moment, the High Commissioner has established a team dedicated to implementing Human Rights Council resolution 43/1. The Office of the High Commissioner (OHCHR) has recognized the importance of building on decades of research, recommendations and action on these issues based on existing international human rights law obligations, in particular those enshrined in the International Convention on the Elimination of All Forms of Racial Discrimination.

5. The analysis carried out by OHCHR is based on over 110 contributions made in response to a detailed call for submissions addressed to States and other stakeholders that included specific questions on all the issues raised in Human Rights Council resolution 43/1,<sup>4</sup> on a review of publicly available material and on 23 consultations held online with over 340 persons (over 65 per cent of whom were women), mostly people of African descent. Family members of people of African descent killed by law enforcement officials were listened to attentively, as were academics, practitioners, representatives of civil society, businesses,

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<sup>1</sup> [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27016&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27016&LangID=E).

<sup>2</sup> To be issued with the symbol A/HRC/47/CRP.1. See also [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26326&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26326&LangID=E); [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26921&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26921&LangID=E).

<sup>3</sup> People of African descent are those referred to as such by the Durban Declaration and Programme of Action and who identify themselves as people of African descent (Committee on the Elimination of Racial Discrimination, general recommendation No. 34 (2011), para. 1).

<sup>4</sup> Contributions were received from States (Algeria, Andorra, Argentina, Bolivia (Plurinational State of), Costa Rica, Cyprus, Finland, Guatemala, Mexico, Sweden, Ukraine and United States of America), intergovernmental organizations, national human rights institutions, United Nations bodies and specialized agencies and non-governmental organizations, among other stakeholders. See [www.ohchr.org/EN/Issues/Racism/Pages/Call-Implementation-HRC-Resolution-43-1.aspx](http://www.ohchr.org/EN/Issues/Racism/Pages/Call-Implementation-HRC-Resolution-43-1.aspx).

national human rights institutions and equality bodies, as well as regional human rights experts. Specific consultations were held on the major themes of the report: systemic racism, law enforcement policies and conduct, and accountability and redress for victims. It was critical for OHCHR to learn from the lived experiences of people and communities of African descent in order to formulate recommendations for ways to achieve transformative change.

6. Additional consultations were held with United Nations special procedure mandate holders and members of the human rights treaty bodies. OHCHR benefited notably from the ongoing perspectives and insights of the Working Group of Experts on People of African Descent, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the rights to freedom of peaceful assembly and of association – all of which enriched the present report.

7. OHCHR received information on over 250 incidents of deaths of Africans and people of African descent, at least 190 of which were at the hands of law enforcement officials. Of the 190 incidents, 98 per cent reportedly took place in Europe, Latin America and North America. While the incidents occurred in countries with varying legal systems, some of the practices, patterns and challenges were the same. Given the inherent limitations of this time-bound and global mandate, OHCHR has selected seven emblematic incidents and examined them in detail to illustrate these practices, patterns and challenges and to formulate concrete recommendations for structural and institutional change. With regard to the seven incidents, OHCHR reached out to the States concerned and their views are summarized in the accompanying conference room paper.

8. The analysis by OHCHR of the submissions and consultations indicates that racism and racial discrimination against Africans and people of African descent are often rooted in policies and practices grounded in the debasement of the status of individuals in society.<sup>5</sup> Their impact is particularly apparent in, although not limited to, States with a legacy of or with significant links to enslavement, the transatlantic trade in enslaved Africans and/or colonialism resulting in sizeable communities of people of African descent. The submissions and consultations repeatedly highlighted the situations of people of African descent in such States. While the present report reflects that focus, OHCHR and numerous United Nations human rights mechanisms have raised concerns regarding racism and racial discrimination against Africans and people of African descent worldwide, notably in contemporary migration trends<sup>6</sup> and towards smaller communities of people of African descent.<sup>7</sup>

9. Further to consultations with experts, for the purposes of the present report the concept of systemic racism against Africans and people of African descent, including as it relates to structural and institutional racism, is understood to be the operation of a complex, interrelated system of laws, policies, practices and attitudes in State institutions, the private sector and societal structures that, combined, result in direct or indirect, intentional or unintentional, de jure or de facto discrimination, distinction, exclusion, restriction or preference on the basis of race, colour, descent or national or ethnic origin. Systemic racism often manifests itself in pervasive racial stereotypes, prejudice and bias and is frequently rooted in histories and legacies of enslavement, the transatlantic trade in enslaved Africans and colonialism.

<sup>5</sup> The analysis was complemented by OHCHR public reports, the findings of United Nations and regional human rights mechanisms and open source information.

<sup>6</sup> A/HRC/38/52. See also CCPR/C/AUS/CO/6; [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22741](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22741); [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22765](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22765); [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/LBY/INT\\_CERD\\_SWA\\_LBY\\_8609\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/LBY/INT_CERD_SWA_LBY_8609_E.pdf); <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23339>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=3275>.

<sup>7</sup> CERD/C/PAK/CO/21-23; <https://minorityrights.org/minorities/siddi/>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25213>.

## II. Reversing cultures of denial, dismantling systemic racism and accelerating the pace of action

10. The submissions and consultations highlighted that people of African descent face interconnected, intersectional and compounded forms of racial discrimination, marginalization and exclusion that are shaped by historical legacies and mutually reinforced through cycles of structural inequalities that have lasted for generations, affecting the enjoyment of human rights in every part of life. Systemic racism persists, in large part, due to misconceptions that the abolition of slavery, the end of the transatlantic trade in enslaved Africans and colonialism, and measures taken by States to date, have removed the racially discriminatory structures built by those practices and created equal societies.

11. Stark socioeconomic and political marginalization shapes the lives of people of African descent in many States. In countries where there are sizeable communities of people of African descent, the members of these communities are more likely to live in or to be vulnerable to poverty, suffer disproportionately high unemployment rates, earn lower wages and occupy less-skilled positions.<sup>8</sup> They are more likely to lack access to adequate housing and to live in segregated, disadvantaged and hazardous neighbourhoods.<sup>9</sup> In several countries, they also suffer disproportionately from environmental pollution and lack of access to clean water.<sup>10</sup> In some instances, measures relating to citizenship and immigration status have reportedly resulted in discriminatory outcomes for some people of African descent.<sup>11</sup> Despite some formal measures to protect land rights, people of African descent continue to experience displacement, dispossession, exclusion from and expropriation of their lands in some countries.<sup>12</sup>

12. People of African descent also face obstacles in gaining equal access to quality education and health care. In several countries, reports highlight higher levels of illiteracy and of dropping out of school, as well as being subjected to racial discrimination in schools.<sup>13</sup> Higher mortality rates at all ages and a higher incidence of poor health compared with other ethnic groups have also been reported, including in countries where there are sizeable communities of people of African descent.<sup>14</sup> Long-standing structural inequalities in the area

<sup>8</sup> A/HRC/15/18; A/HRC/38/33/Add.1; A/HRC/36/60/Add.1; A/75/363; submission by the Association for the Prevention of Torture; [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-being-black-in-the-eu\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-being-black-in-the-eu_en.pdf); [www.worldbank.org/en/region/lac/brief/afro-descendants-in-latin-america](http://www.worldbank.org/en/region/lac/brief/afro-descendants-in-latin-america); [www.cepal.org/es/publicaciones/46191-afrodescendientes-la-matriz-la-desigualdad-social-america-latina-retos-la](http://www.cepal.org/es/publicaciones/46191-afrodescendientes-la-matriz-la-desigualdad-social-america-latina-retos-la); [https://www.oas.org/en/iachr/afro-descendants/docs/pdf/afros\\_2011\\_eng.pdf](https://www.oas.org/en/iachr/afro-descendants/docs/pdf/afros_2011_eng.pdf); [www.oas.org/en/iachr/reports/pdfs/PoliceUseOfForceAfrosUSA.pdf](http://www.oas.org/en/iachr/reports/pdfs/PoliceUseOfForceAfrosUSA.pdf).

<sup>9</sup> A/HRC/33/61/Add.2; A/74/274; [www.oas.org/en/iachr/reports/pdfs/PoliceUseOfForceAfrosUSA.pdf](http://www.oas.org/en/iachr/reports/pdfs/PoliceUseOfForceAfrosUSA.pdf); [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-being-black-in-the-eu\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-being-black-in-the-eu_en.pdf).

<sup>10</sup> A/HRC/27/68/Add.1; A/HRC/42/59/Add.2; A/HRC/45/44/Add.1–2; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25814>.

<sup>11</sup> A/HRC/38/52; A/HRC/41/54/Add.2; A/HRC/44/57/Add.2; submission by the Platform for International Cooperation on Undocumented Migrants; <https://committees.parliament.uk/publications/3376/documents/32359/default/>; [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/874022/6.5577\\_HO\\_Windrush\\_Lessons\\_Learned\\_Review\\_WEB\\_v2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/874022/6.5577_HO_Windrush_Lessons_Learned_Review_WEB_v2.pdf).

<sup>12</sup> A/HRC/39/69; A/HRC/41/54; A/HRC/45/44/Add.1–2; submission by Cristosal; <https://openknowledge.worldbank.org/handle/10986/30201>.

<sup>13</sup> CERD/C/BRA/18-20; A/HRC/15/18; A/HRC/27/68/Add.1; A/HRC/33/61/Add.2; A/HRC/36/60/Add.1; A/HRC/42/59/Add.1; submission by the National Commission on Human Rights of Mexico; <https://assembly.coe.int/LifeRay/EGA/Pdf/Press/2021/20210316-Afrophobie-prov-EN.pdf>; <https://rm.coe.int/ecri-report-on-germany-sixth-monitoring-cycle-/16809ce4be>; [www.worldbank.org/en/region/lac/brief/afro-descendants-in-latin-america](http://www.worldbank.org/en/region/lac/brief/afro-descendants-in-latin-america); [www.oas.org/en/iachr/afro-descendants/docs/pdf/afros\\_2011\\_eng.pdf](http://www.oas.org/en/iachr/afro-descendants/docs/pdf/afros_2011_eng.pdf); [www.enar-eu.org/IMG/pdf/sr\\_key\\_findings-2.pdf](http://www.enar-eu.org/IMG/pdf/sr_key_findings-2.pdf); <https://rm.coe.int/combatting-racism-and-racial-discrimination,-against-people-of-african-d/1680a1c0b6>.

<sup>14</sup> A/HRC/36/60/Add.1; A/HRC/38/33/Add.1; CERD/C/USA/CO/7-9; submissions by the Center for Reproductive Rights and the National Birth Equity Collaborative; [www.lawrencereview.co.uk/](http://www.lawrencereview.co.uk/); [www.europarl.europa.eu/doceo/document/TA-8-2019-0239\\_EN.html](http://www.europarl.europa.eu/doceo/document/TA-8-2019-0239_EN.html); [www.oas.org/en/iachr/afro-descendants/docs/pdf/afros\\_2011\\_eng.pdf](http://www.oas.org/en/iachr/afro-descendants/docs/pdf/afros_2011_eng.pdf);

of health and across the key social determinants of health have been further aggravated by the coronavirus disease (COVID-19) pandemic.<sup>15</sup>

13. With the racialization of poverty, disparate outcomes in terms of the enjoyment of economic and social rights are compounded by the insufficient meaningful participation and representation of people of African descent in decision-making processes and in public life. The level of representation in elected and other decision-making bodies in States where there are sizeable communities of people of African descent is substantially lower than the percentage of the population they represent.<sup>16</sup> In the United States, for instance, some people of African descent are disenfranchised through measures that affect them disproportionately, including measures that deny voting rights to individuals with felony convictions.<sup>17</sup>

14. The systemic racism experienced by Africans and people of African descent is shaped by intersectionality or the combination of several identities, including sex, gender, sexual orientation, gender identity, nationality, migration status, disability, religion, socioeconomic and other status. Women of African descent stand at the crossroads of intersectionality and inequality and therefore face multiple forms of discrimination arising from their racial or ethnic origin combined with gender-based discrimination and harmful gender stereotyping.<sup>18</sup>

15. The dehumanization of people of African descent – a practice rooted in false social constructions of race historically created to justify enslavement, pervasive racial stereotypes<sup>19</sup> and widely accepted harmful practices and traditions<sup>20</sup> – has sustained and cultivated a tolerance for racial discrimination, inequality and violence. Narratives that falsely associate Africans and people of African descent, including migrants, with criminal activities or that play on economic or even national security anxieties continue to be used to justify laws and practices governing criminal justice systems, migration policy and border governance.<sup>21</sup> Racially motivated violence and hatred, including hate speech, are instruments of far right and populist strategies that draw on supremacist ideologies.<sup>22</sup>

16. The above-mentioned challenges demonstrate the importance of data to unpack and understand the differentiated dynamics of systemic racism. The collection, analysis and application of data disaggregated by race or ethnic origin, including on the effect of laws, policies and practices on certain racial or ethnic groups, remains the exception rather than the

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[www.cepal.org/sites/default/files/publication/files/44387/S1800725\\_en.pdf](http://www.cepal.org/sites/default/files/publication/files/44387/S1800725_en.pdf);  
<https://iris.paho.org/handle/10665.2/51571>.

- <sup>15</sup> A/HRC/45/44; A/HRC/45/47; submission by Human Rights Watch;  
[www.ohchr.org/Documents/Issues/Racism/COVID-19\\_and\\_Racial\\_Discrimination.pdf](http://www.ohchr.org/Documents/Issues/Racism/COVID-19_and_Racial_Discrimination.pdf);  
[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25916](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25916).
- <sup>16</sup> A/HRC/44/57/Add.2; [www.oas.org/en/iachr/afro-descendants/docs/pdf/afros\\_2011\\_eng.pdf](http://www.oas.org/en/iachr/afro-descendants/docs/pdf/afros_2011_eng.pdf);  
<https://rm.coe.int/combating-racism-and-racial-discrimination,-against-people-of-african-d/1680a1c0b6>; <https://assembly.coe.int/LifeRay/EGA/Pdf/Press/2021/20210316-Afrophobie-prov-EN.pdf>.
- <sup>17</sup> A/HRC/33/61/Add.2; A/HRC/38/33/Add.1; CERD/C/USA/CO/7-9.
- <sup>18</sup> A/HRC/20/16; A/HRC/29/47; A/HRC/35/10; CERD/C/URY/CO/21-23; CERD/C/ARG/CO/21-23; submissions by the Working Group on discrimination against women and girls, Rede Nacional de Mulheres Negras no Combate à Violência (Brasil) and the Woodhull Freedom Foundation/Sex Workers Project at the Urban Justice Center;  
[www.un.org/sites/un2.un.org/files/women\\_and\\_girls\\_of\\_african\\_descent\\_web.pdf](http://www.un.org/sites/un2.un.org/files/women_and_girls_of_african_descent_web.pdf).
- <sup>19</sup> A/74/274; [www.enar-eu.org/IMG/pdf/sr\\_key\\_findings-2.pdf](http://www.enar-eu.org/IMG/pdf/sr_key_findings-2.pdf); [www.oas.org/en/iachr/afro-descendants/docs/pdf/afros\\_2011\\_eng.pdf](http://www.oas.org/en/iachr/afro-descendants/docs/pdf/afros_2011_eng.pdf).
- <sup>20</sup> A/HRC/30/56/Add.1; A/HRC/39/69/Add.2; A/HRC/44/57/Add.2.
- <sup>21</sup> A/HRC/38/52; submission by Quaker United Nations Office.
- <sup>22</sup> A/HRC/41/55; A/73/312; CERD/C/USA/CO/7-9;  
[www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf](http://www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf); <https://rm.coe.int/ecri-annual-report-2019/16809ca3e1>; [www.europarl.europa.eu/doceo/document/TA-8-2019-0239\\_EN.html](http://www.europarl.europa.eu/doceo/document/TA-8-2019-0239_EN.html);  
[www.enar-eu.org/IMG/pdf/sr\\_key\\_findings-2.pdf](http://www.enar-eu.org/IMG/pdf/sr_key_findings-2.pdf); [www.visionofhumanity.org/wp-content/uploads/2020/11/GTI-2020-web-2.pdf](http://www.visionofhumanity.org/wp-content/uploads/2020/11/GTI-2020-web-2.pdf);  
<https://assembly.coe.int/LifeRay/EGA/Pdf/Press/2021/20210316-Afrophobie-prov-EN.pdf>;  
[https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-fundamental-rights-report-2018\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-fundamental-rights-report-2018_en.pdf);  
[www.pewresearch.org/fact-tank/2017/07/25/1-in-4-black-americans-have-faced-online-harassment-because-of-their-race-or-ethnicity/](http://www.pewresearch.org/fact-tank/2017/07/25/1-in-4-black-americans-have-faced-online-harassment-because-of-their-race-or-ethnicity/); [www.fbi.gov/investigate/civil-rights/hate-crimes](http://www.fbi.gov/investigate/civil-rights/hate-crimes);  
[https://mkcentrum.se/wp-content/uploads/2014/12/Afrofobi-20140203-executive-summary.pdf](http://https://mkcentrum.se/wp-content/uploads/2014/12/Afrofobi-20140203-executive-summary.pdf).

norm. Even in States where such data is collected, it does not appear to be used consistently to inform effective policymaking.<sup>23</sup>

## Way forward

17. **The above-mentioned examples speak to the urgency of States creating conditions of life that uphold dignity and rights.<sup>24</sup> International human rights law and political commitments provide a clear framework for attaining substantive racial justice and equality, beyond a purely formal conception of equality.<sup>25</sup> They place obligations on States to eliminate all forms of racial discrimination,<sup>26</sup> including systemic racism,<sup>27</sup> regardless of legal status.<sup>28</sup> This further entails, through an intersectional analysis, reforming institutions, legislation, policies and practices that may not be discriminatory in purpose but that are discriminatory in outcome and effect.<sup>29</sup>**

18. **States should examine the extent and impact of systemic racism and adopt effective legal, policy and institutional measures that address racism beyond a summation of individualized acts. A rigorous examination is therefore essential to dismantle structures and measures that contribute to political, social and economic inequalities and to comprehensively address the manifestations, root causes and drivers of systemic racism.<sup>30</sup> Progress should be measured according to indicators grounded in impact, rather than intent. Eliminating incentives for perpetuating racism and ensuring that systems and institutions do not profit from it is key.**

19. **Systemic racism needs a systemic response. States should adopt a systemic approach to combating racial discrimination through the adoption and monitoring of whole-of-government and whole-of-society responses that are contained in comprehensive and adequately resourced national and regional action plans and that include, where necessary, special measures to secure for disadvantaged groups, notably Africans and people of African descent, the full and equal enjoyment of human rights.<sup>31</sup> Promising initiatives<sup>32</sup> in this regard include the launch in the United States, in 2021, of a “whole-of-government equity agenda that matches the scale of the opportunities and challenges that we face”.<sup>33</sup> States should also, in line with international human rights**

<sup>23</sup> [www.statewatch.org/media/documents/news/2018/mar/eu-com-data-collection-field-of-equality-study-2017.pdf](http://www.statewatch.org/media/documents/news/2018/mar/eu-com-data-collection-field-of-equality-study-2017.pdf); [www.lawrencereview.co.uk/](http://www.lawrencereview.co.uk/).

<sup>24</sup> Human Rights Committee, general comment No. 36 (2019).

<sup>25</sup> Committee on the Elimination of Racial Discrimination, general recommendations No. 32 (2009) and No. 34 (2011).

<sup>26</sup> Submissions by Algeria, Andorra, Argentina, Bolivia (Plurinational State of), Costa Rica, Cyprus, Finland, Guatemala, Mexico, Sweden and the United States, as well as the European Union, all of which provided information on anti-discrimination laws and policies.

<sup>27</sup> Universal Declaration of Human Rights, art. 2; International Convention on the Elimination of All Forms of Racial Discrimination, art. 2; International Covenant on Civil and Political Rights, art. 2; International Covenant on Economic, Social and Cultural Rights, art. 2; Durban Declaration and Programme of Action, para. 35; Committee on the Elimination of Racial Discrimination, general recommendation No. 34 (2011); A/75/561.

<sup>28</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 30 (2004), para. 3; Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009), para. 30; Human Rights Committee, general comment No. 31 (2004), para. 10.

<sup>29</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 32 (2009), para. 7; A/HRC/38/52, para. 29.

<sup>30</sup> Durban Declaration and Programme of Action; Committee on the Elimination of Racial Discrimination, general recommendation No. 34 (2011), para. 17.

<sup>31</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 32 (2009).

<sup>32</sup> See, e.g., the submission by the European Union; [https://ec.europa.eu/info/sites/info/files/a\\_union\\_of\\_equality\\_eu\\_action\\_plan\\_against\\_racism\\_2020\\_2025\\_en.pdf](https://ec.europa.eu/info/sites/info/files/a_union_of_equality_eu_action_plan_against_racism_2020_2025_en.pdf); [www.oas.org/en/sare/documents/PA\\_Afrodese\\_ENG.pdf](http://www.oas.org/en/sare/documents/PA_Afrodese_ENG.pdf); [www.canada.ca/en/privy-council/campaigns/speech-throne/2020/speech-from-the-throne.html](http://www.canada.ca/en/privy-council/campaigns/speech-throne/2020/speech-from-the-throne.html); [www.canada.ca/en/canadian-heritage/campaigns/anti-racism-engagement/anti-racism-strategy.html](http://www.canada.ca/en/canadian-heritage/campaigns/anti-racism-engagement/anti-racism-strategy.html); [www.cepal.org/sites/default/files/publication/files/44458/S1801011\\_en.pdf](http://www.cepal.org/sites/default/files/publication/files/44458/S1801011_en.pdf).

<sup>33</sup> [www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/](http://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/).

law, prevent and respond to racist behaviour, violence and hate crimes, including by groups that promote and incite racial hatred or discrimination against people of African descent.

20. States should collect and make publicly available comprehensive data disaggregated by race or ethnic origin, as well as by sex and other factors, with strict safeguards and in accordance with international human rights law.<sup>34</sup> Additionally, States should analyse the cumulative effects of laws, policies and practices on specific racial and ethnic groups. While aware of challenges raised by some States,<sup>35</sup> OHCHR recalls that such data allows empirical evidence to be used to increase understanding of the magnitude of systemic racism in local contexts and of institutional responses and to monitor the effectiveness of policy measures. The express recognition of people of African descent in national censuses and statistics is also a step towards acknowledging their identity and heritage, which is intrinsic to their right to dignity. States should also invest in educational curricula and cultural initiatives to raise awareness about the cultures, histories, heritage and contributions of Africa and people of African descent. These are essential elements for reconciliation and the creation of inclusive societies based on justice, equality and solidarity.<sup>36</sup>

21. Going forward, States should ensure the active and meaningful participation and representation of people of African descent, including women of African descent, and their organizations in State institutions, including in law enforcement and the criminal justice system, as well as in decision-making processes, through adequate funding opportunities. They should promote partnerships with civil society organizations, the private sector, the media, parliaments and trade unions. Independent national human rights institutions and equality bodies<sup>37</sup> should be established or strengthened, with adequate resources and robust mandates for dismantling systemic racism, including in law enforcement and the criminal justice system.

22. Business enterprises must meet their corporate responsibility to respect human rights, including the rights of people of African descent. They should avoid causing or contributing to adverse human rights impacts through their activities, work directly with affected communities and obtain their free, prior and informed consent where relevant, and remedy such impacts when they occur.<sup>38</sup> For example, they should take specific measures to ensure diverse, inclusive and fair employment practices and are encouraged to lend their voices to efforts to combat racial discrimination.

23. States should seize opportunities to advance the anti-racism agenda, prioritize attaining racial equity in implementing the 2030 Agenda for Sustainable Development and ensure that people of African descent are not left behind. Marking in September 2021 the twentieth anniversary of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which was held in Durban, South Africa, in 2001, is an opportunity to urgently accelerate action. The International Decade for People of African Descent presents a complementary avenue for advancing recognition, justice and development. The Permanent Forum on People of African Descent could provide movements led by people of African descent with a platform and contribute to the elaboration of a United Nations declaration on the promotion and full respect of the human rights of people of African descent. These processes should be leveraged in an integrated and forward-looking manner so as to maximize their collective impact.

<sup>34</sup> A/70/335; [www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf](http://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf).

<sup>35</sup> A/70/335.

<sup>36</sup> Durban Declaration and Programme of Action, paras. 106 and 109.

<sup>37</sup> [www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.2](http://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.2).

<sup>38</sup> [www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf](http://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf).

### III. Ending impunity for human rights violations by law enforcement officials and closing trust deficits

24. Systemic racism and enduring harmful and degrading associations of Blackness with criminality and delinquency also shape interactions of people of African descent with law enforcement officials and the criminal justice system. A detailed assessment of the impact of this link is often hampered by the lack of official disaggregated data. When it is available, the data is worrying. For example, in 2019, while African-Americans comprised 13 per cent of the United States population, they accounted for 26 per cent of total arrests.<sup>39</sup> Data from Canada shows that, “between 2013 and 2017, a Black person in Toronto was nearly 20 times more likely than a White person to be involved in a fatal shooting by the Toronto Police Service”.<sup>40</sup> In the United Kingdom of Great Britain and Northern Ireland, between April 2019 and March 2020, “there were 6 stop and searches for every 1,000 White people, compared with 54 for every 1,000 Black people”.<sup>41</sup>

25. Regional bodies, civil society organizations, media outlets, universities and think tanks have sought to fill the data gap. They highlight disproportionately adverse outcomes for people of African descent in contact with law enforcement compared to other ethnic groups. Racial profiling is reportedly practiced widely in several regions, notably as a basis for discriminatory identity checks and stops-and-searches.<sup>42</sup> Concerns have also been reported in relation to the application of algorithmic decision-making and artificial intelligence<sup>43</sup> such as the use of facial recognition and surveillance technologies to track and control specific demographic groups,<sup>44</sup> in predictive policing<sup>45</sup> and in risk assessments linked to sentencing.<sup>46</sup> Reports signal disproportionate stops, arrests and incarceration, including for drug-related crimes, and harsher sentencing, including through the disproportionate imposition of the death penalty.<sup>47</sup>

26. For example, in France, according to the results of a 2016 survey by the Defender of Rights, young men perceived as Arab/from the Maghreb or Black were 20 times more likely to be subjected to identity checks than others and reported facing significantly more insulting behaviour and physical abuse during police stops.<sup>48</sup> A 2019 survey conducted by a non-governmental organization in two neighbourhoods of Bogota found that “dark-skinned persons” were over 2.5 times more likely to encounter the police, to be arrested or to be

<sup>39</sup> <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/table-43>.

<sup>40</sup> Submission by Action Canada; [www.ohrc.on.ca/en/public-interest-inquiry-racial-profiling-and-discrimination-toronto-police-service/collective-impact-interim-report-inquiry-racial-profiling-and-racial-discrimination-black#Executive%20summary](http://www.ohrc.on.ca/en/public-interest-inquiry-racial-profiling-and-discrimination-toronto-police-service/collective-impact-interim-report-inquiry-racial-profiling-and-racial-discrimination-black#Executive%20summary).

<sup>41</sup> [www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest](http://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest).

<sup>42</sup> Submissions by the European Union, the European Commission against Racism and Intolerance, the Inter-American Commission on Human Rights, Human Rights Watch, the Association for the Prevention of Torture, Centro de Estudios Legales y Sociales, the International Decade for People of African Descent Assembly–Guyana, Red de Mujeres Afrolatinoamericanas, Afrocaribeñas y de la Diáspora (Capítulo México) and Proyecto Afrodescendencia México; [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-being-black-in-the-eu\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-being-black-in-the-eu_en.pdf); [www.amnesty.org/en/latest/news/2021/01/france-systemic-police-discrimination-requires-reforms/](http://www.amnesty.org/en/latest/news/2021/01/france-systemic-police-discrimination-requires-reforms/).

<sup>43</sup> A/HRC/44/24; A/HRC/44/57; <https://fra.europa.eu/en/publication/2018/preventing-unlawful-profiling-today-and-future-guide>.

<sup>44</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 36 (2020), para. 35; A/HRC/41/35.

<sup>45</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 36 (2020), para. 33; [www.nyulawreview.org/online-features/dirty-data-bad-predictions-how-civil-rights-violations-impact-police-data-predictive-policing-systems-and-justice/](http://www.nyulawreview.org/online-features/dirty-data-bad-predictions-how-civil-rights-violations-impact-police-data-predictive-policing-systems-and-justice/).

<sup>46</sup> [www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing](http://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing).

<sup>47</sup> A/HRC/21/60/Add.1; A/HRC/30/65; A/HRC/31/56/Add.1; A/HRC/33/61/Add.1; CCPR/C/USA/CO/4; submissions by Race Equality First, the Association for the Prevention of Torture, Harm Reduction International, Advocates for Human Rights; [www.150.statcan.gc.ca/n1/pub/89-657-x/89-657-x2019002-eng.htm](http://www.150.statcan.gc.ca/n1/pub/89-657-x/89-657-x2019002-eng.htm); [www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20182019-eng.aspx](http://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20182019-eng.aspx); [www.oas.org/en/iachr/reports/pdfs/ViolenceLGBTIPersons.pdf](http://www.oas.org/en/iachr/reports/pdfs/ViolenceLGBTIPersons.pdf).

<sup>48</sup> [www.defenseurdesdroits.fr/sites/default/files/atoms/files/rapport-enquete\\_relations\\_police\\_population-20170111\\_1.pdf](http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rapport-enquete_relations_police_population-20170111_1.pdf).

fined.<sup>49</sup> In Brazil, according to the Brazilian Forum for Public Security, “the mortality rate in 2019 due to police interventions was 183.2 per cent higher for people of African descent than for white people”.<sup>50</sup> In the United States, a non-governmental organization found that African-Americans reportedly accounted for 28 per cent of those killed by the police in 2020,<sup>51</sup> 41 per cent of death row inmates as of 1 January 2020<sup>52</sup> and 33 per cent of prisoners in 2018.<sup>53</sup>

27. A frequent concern raised during consultations was the excessive policing of Black bodies and communities, making them feel threatened rather than protected.<sup>54</sup> In some States, children of African descent are more likely to be excluded from some schools, while in others the presence in schools of police officers with the authority to detain, frisk and arrest has led to the criminalization of children.<sup>55</sup> Also disturbing is the reported militarization of law enforcement in some States, where the deployment of military personnel and equipment has in some instances facilitated a rapid escalation in the use of lethal force.<sup>56</sup>

28. Laws and practices such as civil asset forfeiture laws can create economic incentives for racial profiling and other discriminatory practices.<sup>57</sup> Additionally, alleged human rights violations in immigration and border enforcement practices – notably deaths, arbitrary detentions and deportations, or the lack of legal safeguards – affect African migrants and migrants of African descent.<sup>58</sup> Notably, OHCHR has highlighted the serious human rights violations and abuses, including enslavement, suffered by African migrants in Libya.<sup>59</sup>

29. As noted in paragraph 7 above, OHCHR has received information concerning over 190 incidents of deaths of Africans and people of African descent in contact with law enforcement officials, 98 per cent of which were reported in Europe, Latin America and North America, mostly during the past 10 years. Although most of the victims were men – particularly young men from impoverished communities and men with psychosocial disabilities – approximately 16 per cent were women, 11 per cent were children and 4 per cent were lesbian, gay, bisexual, transgender or intersex persons.

30. The analysis of these incidents carried out by OHCHR suggests that three key contexts underlie over 85 per cent of police-related fatalities: first is the policing of minor offences, traffic stops and stops-and-searches, as in the cases of George Floyd (United States), Adama Traoré (France) and Luana Barbosa dos Reis Santos (Brazil); second is the intervention of law enforcement officials as first responders in mental health crises, as in the case of Kevin Clarke (United Kingdom); and third is the conduct of special police operations, as in the cases of Breonna Taylor (United States), Janner García Palomino (Colombia) and João Pedro

<sup>49</sup> [www.ilexaccionjuridica.org/wp-content/uploads/2020/06/Abuso-Policial-Final-web.pdf](http://www.ilexaccionjuridica.org/wp-content/uploads/2020/06/Abuso-Policial-Final-web.pdf).

<sup>50</sup> <https://forumseguranca.org.br/wp-content/uploads/2020/10/anuario-14-2020-v1-interativo.pdf>.

<sup>51</sup> <https://mappingpoliceviolence.org/>.

<sup>52</sup> [www.naacpldf.org/wp-content/uploads/DRUSAWinter2020.pdf](http://www.naacpldf.org/wp-content/uploads/DRUSAWinter2020.pdf).

<sup>53</sup> [www.pewresearch.org/fact-tank/2020/05/06/share-of-black-white-hispanic-americans-in-prison-2018-vs-2006/ft\\_20-05-05\\_imprisonmentrates\\_2a/](http://www.pewresearch.org/fact-tank/2020/05/06/share-of-black-white-hispanic-americans-in-prison-2018-vs-2006/ft_20-05-05_imprisonmentrates_2a/).

<sup>54</sup> See also A/HRC/33/61/Add.2; [www.hrw.org/report/2020/06/18/they-talk-us-were-dogs/abusive-police-stops-france](http://www.hrw.org/report/2020/06/18/they-talk-us-were-dogs/abusive-police-stops-france); [www.runnymedetrust.org/uploads/Race%20and%20Policing%20v5.pdf](http://www.runnymedetrust.org/uploads/Race%20and%20Policing%20v5.pdf).

<sup>55</sup> See, e.g., the “school-to-prison pipeline” in the United States ([www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17000](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17000); [www.aclu.org/issues/juvenile-justice/school-prison-pipeline](http://www.aclu.org/issues/juvenile-justice/school-prison-pipeline)). See also the submission by United Nations Children’s Fund (UNICEF) United Kingdom.

<sup>56</sup> <https://inquirycommission.org/website/wp-content/uploads/2021/04/Commission-Report-15-April.pdf>; [www.oas.org/en/iachr/reports/pdfs/Brasil2021-en.pdf](http://www.oas.org/en/iachr/reports/pdfs/Brasil2021-en.pdf).

<sup>57</sup> A/HRC/36/37/Add.2; submission by Disability Rights Ohio; [www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy\\_part/projects/pdf/AfricanCanadianClinicIpperwashProject\\_SIUStudybyScotWortley.pdf](http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy_part/projects/pdf/AfricanCanadianClinicIpperwashProject_SIUStudybyScotWortley.pdf).

<sup>58</sup> A/HRC/29/36; submissions by Centre suisse pour la défense des droits des migrants, the Platform for International Cooperation on Undocumented Migrants, US Human Rights Network and the national human rights institution of Panama; [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25146&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25146&LangID=E); [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/874022/6.5577\\_HO\\_Windrush\\_Lessons\\_Learned\\_Review\\_WEB\\_v2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/874022/6.5577_HO_Windrush_Lessons_Learned_Review_WEB_v2.pdf); [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16270&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16270&LangID=E).

<sup>59</sup> [www.ohchr.org/Documents/Countries/LY/LibyaMigrationReport.pdf](http://www.ohchr.org/Documents/Countries/LY/LibyaMigrationReport.pdf).

Mattos Pinto (Brazil). Many such interventions have been characterized as actions taken in the context of the “war on drugs” or as gang-related operations. These illustrative incidents and the responses received from States<sup>60</sup> are reflected in the conference room paper accompanying the present report.

31. In these three contexts, racial bias, stereotypes and profiling appear to play recurrent roles. It appears that erroneous and stereotypical portrayals or perceptions of what or who is dangerous continue to drive inferences made in the context of law enforcement.<sup>61</sup> This situation is compounded and aggravated by intersectional factors. Racial stereotypes have reportedly led to use-of-force violations and to the failure to deliver appropriate care in cases where law enforcement officials have acted as first responders in situations involving people experiencing mental health crises.<sup>62</sup>

32. In many of the incidents reviewed, the available information suggests that the victims did not pose an imminent threat of death or serious injury that would be necessary to justify the level of force used. Alleged use-of-force violations were most frequently associated with fatal gunshots, the disproportionate or unnecessary use of restraining measures, the use of less-lethal weapons or a combination thereof.

33. Beyond these incidents, research indicates that many States have not put in place effective laws and policies that provide clear directives about the use of force in accordance with international human rights law. This lack of clarity increases the risk of violations and constitutes an impediment to accountability.<sup>63</sup> Law enforcement officers are rarely held accountable for human rights violations and crimes against persons of African descent, in part due to deficient investigations, a lack of independent and robust oversight, complaint and accountability mechanisms<sup>64</sup> and a widespread “presumption of guilt” against people of African descent.<sup>65</sup> Disciplinary proceedings are often inadequate, ineffective or not subject to independent oversight, and seldom lead to appropriate sanctions.<sup>66</sup>

34. Research indicates patterns of weak cultures of institutional accountability for race-related misconduct. While some States have undertaken reviews and inquiries producing clear recommendations for change, lessons-learned have not been routinely embedded in policymaking.<sup>67</sup> As a result, there is a high risk that problematic cycles and patterns repeat themselves. With rare exceptions,<sup>68</sup> investigations and judicial decisions fail to consider the role that racial discrimination and institutional bias may have played in the deaths.

35. Consultations and submissions revealed that people of African descent feel continuously betrayed by the system and that there are striking similarities across countries in terms of the challenges they face in gaining access to justice. Many expressed a profound lack of trust in law enforcement and the criminal justice system, primarily due to impunity. It often falls on victims and families to fight for accountability, without adequate support, when they have already been overpoliced and traumatized. Moreover, families report a lack

<sup>60</sup> Responses were received from Brazil, Colombia, France, the United Kingdom and the United States.

<sup>61</sup> A/74/274.

<sup>62</sup> Submissions by INQUEST and Access to Justice Knowledge Hub for Fair Participation.

<sup>63</sup> <https://chicagounbound.uchicago.edu/ihr/14/>; <https://inquirycommission.org/website/wp-content/uploads/2021/04/Commission-Report-15-April.pdf>.

<sup>64</sup> Submissions by the American Civil Liberties Union, INQUEST and the International Federation of Action by Christians for the Abolition of Torture (ACAT); [www.temblores.org/bolillo-dios-y-patria](http://www.temblores.org/bolillo-dios-y-patria); [www.washingtonpost.com/sf/investigative/2015/04/11/thousands-dead-few-prosecuted/](http://www.washingtonpost.com/sf/investigative/2015/04/11/thousands-dead-few-prosecuted/).

<sup>65</sup> <https://eji.org/issues/presumption-of-guilt>.

<sup>66</sup> Submissions by ACAT, INQUEST, the NAACP Legal Defense and Educational Fund and the American Civil Liberties Union; [www.justice.gov/opa/file/925846/download](http://www.justice.gov/opa/file/925846/download); [www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2019-num-accessopti.pdf](http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2019-num-accessopti.pdf).

<sup>67</sup> Submissions by INQUEST and the American Civil Liberties Union.

<sup>68</sup> See, e.g., [https://archive2021.parliament.scot/S5\\_HealthandSportCommittee/General%20Documents/20200521CSJtoMMSheku\\_Bayoh.pdf](https://archive2021.parliament.scot/S5_HealthandSportCommittee/General%20Documents/20200521CSJtoMMSheku_Bayoh.pdf); [www.policeconduct.gov.uk/news/iopc-announces-thematic-focus-race-discrimination-investigations](http://www.policeconduct.gov.uk/news/iopc-announces-thematic-focus-race-discrimination-investigations); [www.corteidh.or.cr/docs/casos/articulos/seriec\\_410\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_410_esp.pdf); [www.courdecassation.fr/jurisprudence\\_2/communiqués\\_lies\\_activité\\_juridictionnelle\\_8004/contr\\_identite\\_discriminatoires\\_8005/contr\\_identite\\_36034.html](http://www.courdecassation.fr/jurisprudence_2/communiqués_lies_activité_juridictionnelle_8004/contr_identite_discriminatoires_8005/contr_identite_36034.html); [www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-investigation-city-minneapolis-minnesota-and](http://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-investigation-city-minneapolis-minnesota-and).

of access to adequate legal aid and psychosocial support during often long and financially and emotionally draining processes. The enduring psychological and physical trauma often extends to communities. Some fear reprisals and harassment. Families find it particularly difficult that victims are often portrayed as “deserving” the treatment they were subjected to by law enforcement officials.

## Way forward

36. Promising developments seeking to address the conduct of law enforcement officers and impunity include the 2021 New Mexico Civil Rights Act<sup>69</sup> in the United States and a recent injunction by the Supreme Court of Brazil prohibiting operations by the military police in the favelas of Rio de Janeiro during COVID-19.<sup>70</sup> In 2020, the Premier of Nova Scotia, Canada, formally apologized for systemic racism in the justice system and committed to engaging in a restorative process to transform the approach to public safety.<sup>71</sup> The European Union, in its anti-racism action plan for 2020–2025, calls for action to prevent discriminatory attitudes within law enforcement agencies and to address racial and ethnic stereotypes.<sup>72</sup> In March 2020, Argentina apologized and recognized its responsibility for the killing of a person of African descent by law enforcement officials in 1996.<sup>73</sup>

37. Important as such steps are, a comprehensive effort is nevertheless required to ensure a human rights-based approach to policing and an institutional culture that is fully free from racism. States should undertake profound introspections and encourage the participation and engagement of affected communities in efforts to reimagine policing and reform the criminal justice system. These efforts should be seen as genuine attempts to ensure that police agencies better protect, represent and equally serve all communities. Processes of self-examination should consider the role of law enforcement agencies in society, the impact of their methods and their association with historical injustices on the functioning of modern law enforcement institutions and the criminal justice system. They should also consider the impediments to changing institutional cultures and practices and the responsibilities of leaders in promoting policies that encourage effective peer interventions to stop violations and ensure discipline for misconduct.

38. Effective policing can be best achieved through cooperation and persuasion. The conduct of individual officers must be aligned with international human rights law. Inadequate laws must be reformed so that they are linked to measurable indicators of success. Independent oversight and accountability processes must ensure that the rules embodied in codes of conduct and other policies do not have adverse effects on certain sectors of society and that unconscious biases are addressed through vigorous operational policies, effective and continuous training and education. The perpetuation of systemic racism through individual actions that may be perceived as lawful discretion but that disproportionately penalize people on the basis of their race or ethnic origin must stop.

39. To address the lack of trust between people of African descent and law enforcement agencies, States must invest in sustainable, cross-cutting programmes that

<sup>69</sup> [www.governor.state.nm.us/2021/04/07/gov-lujan-grisham-ratifies-civil-rights-act/#:~:text=%E2%80%9CThe%20New%20Mexico%20Civil%20Rights,a%20fairer%20state%20for%20everyone.%E2%80%9D](http://www.governor.state.nm.us/2021/04/07/gov-lujan-grisham-ratifies-civil-rights-act/#:~:text=%E2%80%9CThe%20New%20Mexico%20Civil%20Rights,a%20fairer%20state%20for%20everyone.%E2%80%9D).

<sup>70</sup> Submission by Conectas Direitos Humanos; [www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/ADPF635DECISaO5DEJUNHODE20202.pdf](http://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/ADPF635DECISaO5DEJUNHODE20202.pdf).

<sup>71</sup> <https://novascotia.ca/news/release/?id=20200929002>.

<sup>72</sup> [https://ec.europa.eu/info/sites/default/files/a\\_union\\_of\\_equality\\_eu\\_action\\_plan\\_against\\_racism\\_2020\\_-2025\\_en.pdf](https://ec.europa.eu/info/sites/default/files/a_union_of_equality_eu_action_plan_against_racism_2020_-2025_en.pdf).

<sup>73</sup> Submission by Argentina; [www.argentina.gob.ar/noticias/historico-reconocimiento-ante-la-corte-interamericana-de-derechos-humanos-por-casos-de](http://www.argentina.gob.ar/noticias/historico-reconocimiento-ante-la-corte-interamericana-de-derechos-humanos-por-casos-de).

reduce inequalities and end discrimination in education, employment, health care and housing, as well as in effective strategies to reduce gun violence, as these will yield more positive results than a focus primarily on arrests and prosecutions. Specific State-sponsored programmes should also address the root causes of criminality and the compounding effects of systemic racism and focus on prevention.

40. Robust measures to end impunity and ensure accountability and redress for victims and their families in line with international human rights law are critical. States should carry out effective, impartial and timely investigations of every allegation of the unlawful use of force or other violations, impose commensurate punishments and provide guarantees of non-repetition. Furthermore, States should establish independent oversight mechanisms with standardized methods for reporting on and reviewing use of force. States should also publish data, disaggregated by race or ethnic origin of the victims, on racial profiling, law enforcement-related deaths and serious injuries and related prosecutions and convictions.

41. Additionally, States should reform laws, policies, procedures and practices to restrict the use of force by law enforcement officials in compliance with international principles on the use of force and firearms, particularly the principles of legality, precaution, necessity, proportionality, accountability and non-discrimination,<sup>74</sup> and take steps to effectively protect the rights to life and security of the person. These principles apply equally in complex operations by special law enforcement units.<sup>75</sup> Special measures of protection must also be taken towards persons in vulnerable situations whose lives and physical security have been placed at particular risk because of pre-existing patterns of violence.<sup>76</sup>

42. Furthermore, alternative methods to policing and the use of force should be properly introduced, especially in educational settings, in cases of mental health crises, during assemblies and in relation to migration and border management. States should prohibit and address racial profiling in law enforcement practices, including during street policing.<sup>77</sup> Removing laws and practices that act as incentives to perpetuate racial discrimination in law enforcement and the criminal justice system is key. The discriminatory application of criminal law must be tackled at every stage, including by reforming drug-related policies, laws and practices with discriminatory outcomes, in line with international human rights standards.

43. States should establish and resource independent mechanisms to support families and communities in accessing truth and justice, including through funding for separate autopsies. They should ensure that families can benefit from victim compensation programmes, including psychosocial and bereavement assistance and support to bury victims. States should adopt measures to memorialize the lives of victims.

#### **IV. Ensuring that the voices of people of African descent and those who stand up against racism are heard and that their concerns are acted upon**

44. The year 2020 saw unprecedented protests demanding racial justice.<sup>78</sup> An estimated 7,750 protests were held across the United States alone between 26 May and 22 August 2020, of which the overwhelming majority (93 per cent) were reported as peaceful.<sup>79</sup>

<sup>74</sup> [www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx](http://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx); [www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx](http://www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx).

<sup>75</sup> Human Rights Committee, general comment No. 36 (2019), para. 13.

<sup>76</sup> *Ibid.*, para. 23.

<sup>77</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 36 (2020); A/HRC/44/24; submission by the European Union; <https://minorityrights.org/trends2020/>.

<sup>78</sup> A/HRC/47/CRP/1; [www.creosotemaps.com/blm2020/](http://www.creosotemaps.com/blm2020/); <https://blmprotests.forensic-architecture.org/>.

<sup>79</sup> <https://acleddata.com/2020/08/31/us-crisis-monitor-releases-full-data-for-summer-2020>.

45. Some of those protests triggered change. In Belgium, Switzerland and the United Kingdom, for example, reports indicate that commitments have been made to consider removing from public spaces statues and commemorations of enslavement, the transatlantic trade in enslaved Africans and colonialism.<sup>80</sup> In the United States, several municipalities banned the use of chokeholds and teargas, and some states have legislatively sought to end or reduce the use of legal doctrines of qualified immunity to shield the police from civil liability for misconduct.<sup>81</sup>

46. Peaceful assembly is a human right. Yet, credible and consistent allegations were received concerning government responses to some protests that were not in accordance with international human rights law,<sup>82</sup> including unnecessary and disproportionate use of force, notably in the United States<sup>83</sup> and, in some instances, in the United Kingdom.<sup>84</sup> Submissions and consultations highlighted specific examples in the United States of reported failures to stop confrontations between protesters and counter-protesters,<sup>85</sup> more permissive treatment towards counter-protests, and differences in how a number of anti-racism protests were policed compared to other protests in the United States<sup>86</sup> and the United Kingdom.<sup>87</sup>

47. Some militarized responses to protests were reported in the United States, leading some to compare these experiences to conditions in war zones.<sup>88</sup> Law enforcement officers were reportedly deployed without identification in some instances.<sup>89</sup> Submissions pointed to high numbers of arrests and detention of protesters,<sup>90</sup> though charges against the majority of those arrested were reportedly dropped in the United States.<sup>91</sup> The use of surveillance tools

<sup>80</sup> A/HRC/47/CRP/1.

<sup>81</sup> <https://leg.colorado.gov/bills/sb20-217>; [www.governor.state.nm.us/2021/04/07/gov-lujan-grisham-ratifies-civil-rights-act/](http://www.governor.state.nm.us/2021/04/07/gov-lujan-grisham-ratifies-civil-rights-act/).

<sup>82</sup> [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25922&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25922&LangID=E).

<sup>83</sup> Submissions by the American Civil Liberties Union, Advocates for Human Rights, the University of Southern California Gould School of Law International Human Rights Clinic/Access Now, Andy and Gwen Stern Community Lawyering Clinic/American Civil Liberties Union Pennsylvania, Forensic Architecture/Bellingcat, the NAACP Legal Defense and Educational Fund, the International Network of Civil Liberties Organisations, the Inter-American Commission on Human Rights and Human Rights Watch;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25335>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25589>;  
[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25948&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25948&LangID=E);  
[www.ohchr.org/Documents/HRBodies/CERD/earlywarning/statements/USA.PDF](http://www.ohchr.org/Documents/HRBodies/CERD/earlywarning/statements/USA.PDF);  
[www.oas.org/en/iachr/media\\_center/PReleases/2020/129.asp](http://www.oas.org/en/iachr/media_center/PReleases/2020/129.asp).

<sup>84</sup> Submissions by Black Protest Legal Support and Race Equality First; <https://netpol.org/black-lives-matter/>.

<sup>85</sup> Submission by Andy and Gwen Stern Community Lawyering Clinic/American Civil Liberties Union Pennsylvania;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25802>.

<sup>86</sup> Submissions by Andy and Gwen Stern Community Lawyering Clinic/American Civil Liberties Union Pennsylvania, Forensic Architecture/Bellingcat, University of Southern California Gould School of Law International Human Rights Clinic/Access Now, the International Network of Civil Liberties Organisations and Human Rights Watch.

<sup>87</sup> Submissions by Black Protest Legal Support and Race Equality First.

<sup>88</sup> Submissions by the American Civil Liberties Union, Forensic Architecture/Bellingcat, Human Rights First, the NAACP Legal Defense and Educational Fund, University of Southern California Gould School of Law International Human Rights Clinic/Access Now and the Committee to Protect Journalists;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25589>;

[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25946&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25946&LangID=E);

[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25933&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25933&LangID=E).

<sup>89</sup> Submission by Human Rights First; <https://news.un.org/en/story/2020/07/1068971>.

<sup>90</sup> Submissions by the American Civil Liberties Union, Forensic Architecture/Bellingcat, University of Southern California Gould School of Law International Human Rights Clinic/Access Now and the International Network of Civil Liberties Organisations;  
[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25948&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25948&LangID=E);  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25589>.

<sup>91</sup> [www.theguardian.com/us-news/2021/apr/17/george-floyd-protesters-charges-citations-analysis](http://www.theguardian.com/us-news/2021/apr/17/george-floyd-protesters-charges-citations-analysis).

and other technologies to monitor protests<sup>92</sup> and of COVID-19 measures to restrict them<sup>93</sup> were also highlighted as a concern in some instances. Furthermore, reports referred to laws and proposed legislation which would impose increased restrictions on protests in some countries.<sup>94</sup> Disparaging comments on some protesters were also made by some Government figures.<sup>95</sup> The treatment of journalists, observers and medics during protests was raised as a concern in the United States<sup>96</sup> and in some instances in the United Kingdom.<sup>97</sup>

48. The clampdown on anti-racism protests that has occurred in some countries must be seen within a broader context in which individuals who stand up against racism face reprisals, including harassment, intimidation and sometimes violence. In Europe and the United States, some civil society activists of African descent reported harassment, surveillance, threats to their safety, including online, stigmatization and other forms of pressure.<sup>98</sup> Information was received concerning the alleged killings of 70 human rights defenders of African descent in Latin America (57 men, 12 women and 1 transgender woman). In Honduras, for example, human rights defenders, including Garifuna women leaders, have allegedly faced arbitrary killings and enforced disappearances,<sup>99</sup> as well as criminal charges linked to their defence of the ancestral collective lands and cultural rights of the Garifuna people.<sup>100</sup> In Colombia, 14 human rights defenders of African descent were reportedly killed in 2020 and others reported receiving death and other threats.<sup>101</sup> In 2018, Marielle Franco, a politician and human rights defender of African descent campaigning against police violence and for the rights of people of African descent, was killed in Brazil.<sup>102</sup>

<sup>92</sup> Submission by the University of Southern California Gould School of Law International Human Rights Clinic/Access Now; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25589>.

<sup>93</sup> Submissions by the International Network of Civil Liberties Organisations and Black Legal Protest Support.

<sup>94</sup> Submissions by the University of Southern California Gould School of Law International Human Rights Clinic/Access Now and the International Network of Civil Liberties Organisations; [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27060&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27060&LangID=E); [www.justice.gov/opa/pr/over-300-people-facing-federal-charges-crimes-committed-during-nationwide-demonstrations](http://www.justice.gov/opa/pr/over-300-people-facing-federal-charges-crimes-committed-during-nationwide-demonstrations); [www.libertyhumanrights.org.uk/issue/liberty-responds-to-plans-to-fast-track-prosecutions-for-protesters/](http://www.libertyhumanrights.org.uk/issue/liberty-responds-to-plans-to-fast-track-prosecutions-for-protesters/).

<sup>95</sup> Submissions by the University of Southern California Gould School of Law International Human Rights Clinic/Access Now and the International Network of Civil Liberties Organisations; [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25922&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25922&LangID=E); <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25335>; [www.oas.org/en/iachr/media\\_center/PReleases/2020/129.asp](http://www.oas.org/en/iachr/media_center/PReleases/2020/129.asp); [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25980&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25980&LangID=E).

<sup>96</sup> Submissions by the American Civil Liberties Union, Advocates for Human Rights, the University of Southern California Gould School of Law International Human Rights Clinic/Access Now, the Committee to Protect Journalists and Witness; [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25946&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25946&LangID=E); <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25589>; [www.oas.org/en/iachr/media\\_center/PReleases/2020/129.asp](http://www.oas.org/en/iachr/media_center/PReleases/2020/129.asp); [www.osce.org/representative-on-freedom-of-media/453459](http://www.osce.org/representative-on-freedom-of-media/453459); [www.europarl.europa.eu/doceo/document/TA-9-2020-0173\\_EN.html](http://www.europarl.europa.eu/doceo/document/TA-9-2020-0173_EN.html).

<sup>97</sup> <https://netpol.org/black-lives-matter/>.

<sup>98</sup> <https://rm.coe.int/combating-racism-and-racial-discrimination-against-people-of-african-d/1680a1c0b6>; submission by the University of Minnesota Human Rights Program; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25639>.

<sup>99</sup> Submission by Cristosal; [https://www.corteidh.or.cr/docs/medidas/garifuna\\_se\\_03.pdf](https://www.corteidh.or.cr/docs/medidas/garifuna_se_03.pdf).

<sup>100</sup> A/HRC/35/23/Add.1; A/HRC/40/60/Add.2;

[www.corteidh.or.cr/docs/casos/articulos/serie\\_305\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/serie_305_esp.pdf).

<sup>101</sup> A/HRC/46/76; [www.indepaz.org.co/wp-content/uploads/2021/04/Informe-Li%CC%81deres.pdf](http://www.indepaz.org.co/wp-content/uploads/2021/04/Informe-Li%CC%81deres.pdf); <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=15518>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23169>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24100>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24886>.

<sup>102</sup> [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22901](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22901); [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22837](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22837).

## Way forward

49. The resilience of people of African descent to the challenges described in the present report is evident in the Black Lives Matter movement and associated groups, whose combined efforts offer a collective platform, characterized by integrated approaches and intersectional narratives, to respond to racism, thereby creating a wider space within which to highlight the impact of systemic racism on the health of society as a whole. The movement has provided grass-roots leadership models anchored in listening to communities, as well as the agency and empowerment needed to claim human rights.

50. The past and current contributions of individuals, including human rights defenders and journalists, many of whom are women, and of organizations must be recognized and publicly supported. Civil society has been pivotal in pressing for systemic reform, including through strategic litigation. As the families of victims have emphasized, “together we are stronger”. Denouncing racism through the exercise of the rights to freedom of expression and peaceful assembly is a constructive way of effecting change. These rights constitute the foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism.<sup>103</sup> It is critical that States honour their obligations to protect those standing up against racism, including human rights defenders, from being discredited, harassed, intimidated and subjected to increased surveillance, both within and outside the context of assemblies.<sup>104</sup> Supporting solidarity among equality movements and between States is key to amplifying these voices and forging activism, particularly among youth.

51. Peaceful assemblies and the expression of human rights claims through them should be fostered and facilitated. The rights of organizers, participants, journalists and observers should be respected and protected without discrimination.<sup>105</sup> Peaceful assemblies with a political message should enjoy heightened accommodation and protection, and particular efforts should be made to protect the rights of those who are or have been subjected to discrimination.<sup>106</sup> Any limitations, including on the basis of public health – should be only those necessary in a democratic society, non-discriminatory, prescribed by law, proportional to the purpose and necessary to achieve a legitimate aim.<sup>107</sup> Furthermore, limitations should in principle be content neutral and not be based on the identity of the participants or their relationship with the authorities. Law enforcement officers should protect participants, bystanders, observers, medical personnel and journalists from discriminatory abuse and attacks, including by non-State actors.<sup>108</sup>

52. States have an obligation to investigate effectively, impartially and in a timely manner any allegation of unlawful use of force or other violations by law enforcement officials. To enhance effective accountability, uniformed law enforcement officials should always display an easily recognizable form of identification during assemblies and plain-clothed officers should be deployed only if strictly necessary.<sup>109</sup> Military equipment should not be used for policing peaceful assemblies and, as a general rule, the military should not police assemblies.<sup>110</sup> Any arrest and any criminal or administrative sanction imposed on organizers of or participants in a peaceful assembly must be proportionate, non-discriminatory in nature and must not be based on ambiguous, vague or overbroadly defined offences.<sup>111</sup>

<sup>103</sup> Human Rights Committee, general comment No. 37 (2020), para. 1.

<sup>104</sup> A/HRC/32/20.

<sup>105</sup> A/HRC/31/66.

<sup>106</sup> Human Rights Committee, general comment No. 34 (2011), paras. 25 and 32; A/HRC/31/66.

<sup>107</sup> Human Rights Committee, general comments No. 29 (2001), No. 34 (2011) and No. 37 (2020).

<sup>108</sup> Human Rights Committee, general comment No. 37 (2020); A/HRC/31/66.

<sup>109</sup> Human Rights Committee, general comment No. 37 (2020).

<sup>110</sup> Ibid.; A/HRC/31/66; [www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx).

<sup>111</sup> Human Rights Committee, general comment No. 37 (2020); A/HRC/31/66; A/HRC/40/52.

53. **Standing up against racism requires global, regional, national and local efforts. The United Nations has a crucial role to play in providing guidance on the human rights approach and in monitoring and reporting violations. The Secretary-General has emphasized, in his call to action for human rights, that public participation and the protection of freedom of expression and assembly (civic space) are priorities for the Organization.<sup>112</sup> Hearing and centring the voices of those left behind, including people of African descent, is also crucial for achieving the Sustainable Development Goals. All stakeholders should affirm that the work of actors fighting for racial justice and equality is legitimate and should prioritize protecting spaces in which they can operate freely and safely.**

54. **The Secretary-General has made stamping out racism and racial discrimination internally a priority for the Organization and established the Task Force on Addressing Racism and Promoting Dignity for All in the United Nations<sup>113</sup> to develop a strategic action plan and formulate recommendations. OHCHR plays a key role in the Task Force and is developing its own complementary strategies to ensure diversity and inclusion.**

## V. Confronting legacies, including through accountability and redress

55. It is estimated that between 25 million and 30 million people were violently uprooted from Africa for enslavement.<sup>114</sup> For decades, people of African descent in different countries have called for accountability and redress for harms suffered due to enslavement, the transatlantic trade in enslaved Africans, colonialism and successive racially discriminatory policies and systems.

56. In the Durban Declaration and Programme of Action, the link between the past, the present and the future was established and it was recognized that people of African descent continue to be victims of the consequences of slavery, the slave trade and colonialism.<sup>115</sup> Nonetheless, States have not yet adopted comprehensive measures of redress or reconciliation, nor measures to sufficiently acknowledge, address and mitigate the contemporary legacies of the past and their ongoing manifestations.

57. Recently, local, national and regional initiatives have begun to undertake truthseeking and limited forms of reparations, including memorializations, acknowledgements, apologies and litigation. In the United States, for example, litigation was instigated against the city of Tulsa, Oklahoma, regarding the 1921 massacre;<sup>116</sup> the Maryland Lynching Truth and Reconciliation Commission has been established;<sup>117</sup> memorialization initiatives have been undertaken in Montgomery, Alabama;<sup>118</sup> reparations will seek to “address the historical wealth and opportunity gaps that AfricanAmerican/Black residents of Evanston experienced”;<sup>119</sup> and, at the federal level, a bill (HR40) has been introduced to establish a commission to study and develop reparation proposals for African-Americans.<sup>120</sup> Mappings, apologies and reparations initiatives have been launched at the state and local levels by

<sup>112</sup> [www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The\\_Highest\\_Aspiration\\_A\\_Call\\_To\\_Action\\_For\\_Human\\_Right\\_English.pdf](http://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Aspiration_A_Call_To_Action_For_Human_Right_English.pdf).

<sup>113</sup> [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26921&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26921&LangID=E); [www.un.org/sg/en/content/secretary-generals-remarks-the-general-assembly-observance-of-the-international-day-for-the-elimination-of-racial-discrimination-delivered](http://www.un.org/sg/en/content/secretary-generals-remarks-the-general-assembly-observance-of-the-international-day-for-the-elimination-of-racial-discrimination-delivered).

<sup>114</sup> [www.unesco.org/new/en/social-and-human-sciences/themes/slave-route/transatlantic-slave-trade/](http://www.unesco.org/new/en/social-and-human-sciences/themes/slave-route/transatlantic-slave-trade/).

<sup>115</sup> Durban Declaration and Programme of Action, paras. 13–14.

<sup>116</sup> Submission by Reverend Robert Turner; [www.hrw.org/news/2021/05/21/us-failed-justice-100-years-after-tulsa-race-massacre](http://www.hrw.org/news/2021/05/21/us-failed-justice-100-years-after-tulsa-race-massacre); [www.hrw.org/sites/default/files/media\\_2020/11/tulsa-reparations0520\\_web.pdf](http://www.hrw.org/sites/default/files/media_2020/11/tulsa-reparations0520_web.pdf).

<sup>117</sup> <https://msa.maryland.gov/lynching-truth-reconciliation/index.html>.

<sup>118</sup> <https://museumandmemorial.eji.org/>.

<sup>119</sup> [www.cityofevanston.org/government/city-council/reparations](http://www.cityofevanston.org/government/city-council/reparations).

<sup>120</sup> [www.congress.gov/bill/117th-congress/house-bill/40?q=%7B%22search%22%3A%5B%22reparations%22%5D%7D&s=2&r=2](http://www.congress.gov/bill/117th-congress/house-bill/40?q=%7B%22search%22%3A%5B%22reparations%22%5D%7D&s=2&r=2).

universities and religious groups, among others, regarding their historical relationship to enslavement.<sup>121</sup> The private sector has also begun issuing formal apologies and undertaking certain commitments towards reparations.<sup>122</sup>

58. In Belgium, a parliamentary commission was established in 2020 to look into the country's colonial past in the Democratic Republic of the Congo, as well as in Burundi and Rwanda, including the role of the monarchy, the church and business enterprises.<sup>123</sup> In the Caribbean area, the Reparations Commission of the Caribbean Community has developed a 10-point reparation plan outlining "the path to reconciliation, truth and justice for victims and their descendants".<sup>124</sup> In 2020, the European Parliament declared slavery a crime against humanity<sup>125</sup> – as France had done in 2001.<sup>126</sup> Other States are encouraged to consider taking similar initiatives.

59. Cities in the United States and Europe have begun dialogues, including, as noted above, on removing statues.<sup>127</sup> In 2020, Argentina launched the National Commission for the Historical Recognition of the Afro-Argentine Community, seeking the historical reparation of people of African descent in Argentina through the recovery of sites that have special meaning for this community.<sup>128</sup> In Colombia, the Truth and Reconciliation Commission held truth-telling dialogues in 2020 on the impact of the armed conflict on people of African descent, providing some acknowledgement by individuals of the harms that they had caused.<sup>129</sup> In 2019, France established a foundation to create a museum and memorials regarding the role played by France in the trade in enslaved Africans.<sup>130</sup>

60. Yet, no State has comprehensively accounted for the past or for the current impact of systemic racism. Some have argued against accountability and redress for historical legacies, citing the complexity of considering centuries-old serious human rights violations and abuses involving now-deceased perpetrators and victims and the presumption that the harms of systemic racism ended with the abolition of chattel slavery. Additionally, delineations of State responsibility and the design and financing of effective reparations programmes that address the temporal and material scope and possible beneficiaries require further definition and negotiation – including but not limited to specific concerns about financial compensation claims.<sup>131</sup> It is time to overcome these hurdles through political leadership, creative responses, empowerment measures and honest dialogue about the impact of these legacies on contemporary forms of racism.

61. Behind today's systemic racism, racial violence, dehumanization and exclusion, however, lies the lack of a formal acknowledgement of the responsibilities of States, institutions, religious groups, universities, business enterprises and individuals that engaged in or profited from, and that continue to profit from, the legacy of enslavement, the transatlantic trade in enslaved Africans and colonialism.

## Way forward

**62. Existing initiatives indicate that there is an increasing willingness and emerging practice to acknowledge the need to repair the continuing impacts of enslavement, the transatlantic trade in enslaved Africans and colonialism. Building on these initiatives, States should initiate comprehensive processes to halt, reverse and repair the lasting**

<sup>121</sup> A/HRC/47/CRP/1.

<sup>122</sup> See, e.g., [www.amnesty.org/en/latest/news/2020/06/i-cant-breathe-refrain-reignited-movement/](http://www.amnesty.org/en/latest/news/2020/06/i-cant-breathe-refrain-reignited-movement/).

<sup>123</sup> [www.dekamer.be/FLWB/PDF/55/1462/55K1462001.pdf](http://www.dekamer.be/FLWB/PDF/55/1462/55K1462001.pdf); [www.hrw.org/news/2020/06/30/belgium-moving-regrets-reparations](http://www.hrw.org/news/2020/06/30/belgium-moving-regrets-reparations).

<sup>124</sup> <https://caricomreparations.org/caricom/caricoms-10-point-reparation-plan/>.

<sup>125</sup> [www.europarl.europa.eu/doceo/document/TA-9-2020-0173\\_EN.html](http://www.europarl.europa.eu/doceo/document/TA-9-2020-0173_EN.html).

<sup>126</sup> [www.legifrance.gouv.fr/jorf/id/JORFTEXT000000405369/](http://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000405369/).

<sup>127</sup> A/HRC/47/CRP/1; [www.amnesty.org/en/latest/news/2020/06/i-cant-breathe-refrain-reignited-movement/](http://www.amnesty.org/en/latest/news/2020/06/i-cant-breathe-refrain-reignited-movement/).

<sup>128</sup> Submission by Argentina.

<sup>129</sup> <https://especiales.comisiondelaverdad.co/la-verdad-del-pueblo-negro/>.

<sup>130</sup> <https://memoire-esclavage.org/>.

<sup>131</sup> A/74/321.

consequences and ongoing manifestations of these legacies in their specific national context.<sup>132</sup> These processes should be designed to seek the truth, define the harm, pursue justice and reparations and contribute to non-recurrence and reconciliation.

63. People and communities of African descent should guide the design and implementation of these processes through effective participation, including broad and inclusive consultations.<sup>133</sup> The continued collection of information on lived experiences and history<sup>134</sup> is essential for truth-seeking and recognizing shared narratives, as a means to memorialize not only the suffering but also the resilience and dignity of victims through vigorous and respectful dialogues that provide everyone with the space needed to express themselves freely in a secure environment. Establishing the truth about the causes and impact of systemic racism and historical legacies is crucial for building support among policymakers and the public at large for reparations and transforming the discourse. Memorialization, education and awareness-raising are catalysts for bolstering demands for change and for debunking false narratives that have permitted a succession of racially discriminatory policies and systems to persist.

64. Measures taken to address the past should seek to transform the future. Structures and systems that were designed and shaped by enslavement, colonialism and successive racially discriminatory policies and systems must be transformed.<sup>135</sup> Reparations should not only be equated with financial compensation. They also comprise measures aimed at restitution, rehabilitation, satisfaction and guarantees of non-repetition, including, for example, formal acknowledgment and apologies,<sup>136</sup> memorialization<sup>137</sup> and institutional and educational reforms. Reparations are essential for transforming relationships of discrimination and inequity and for mutually committing to and investing in a stronger, more resilient future of dignity, equality and non-discrimination for all. Reparatory justice requires a multipronged approach that is grounded in international human rights law. Reparations are one element of accountability and redress. For every violation, there should be repair of the harms caused through adequate, effective and prompt reparation.<sup>138</sup> Reparations help to promote trust in institutions and the social reintegration of people whose rights may have been discounted, providing recognition to victims and survivors as rights holders.<sup>139</sup>

65. National processes should be complemented by initiatives involving inter-State, cross-boundary dialogue and cooperation, including with affected communities in former colonies. Furthermore, relevant business enterprises should consider their own links to enslavement, the transatlantic trade in enslaved Africans and colonialism in their ongoing and past operations and examine possibilities for reparation.

## VI. Conclusions

66. Together with its accompanying conference room paper, the present report is grounded in the lived experiences of families of victims and people of African descent, whose courage and determination are pushing States, the United Nations and others to take bolder steps to address long-standing human rights violations and achieve reparatory justice.

67. There is today a momentous opportunity to achieve a turning point for racial equality and justice. Africans and people of African descent, like all human beings, are born free and equal in dignity and rights. Drawing upon international obligations and

<sup>132</sup> A/HRC/27/68; A/HRC/45/47; A/74/321. See also the country-specific recommendations in, e.g., A/HRC/33/61/Add.2; A/HRC/36/60/Add.1; A/HRC/39/69/Add.2; A/HRC/42/59/Add.1.

<sup>133</sup> A/69/518, paras. 74–80.

<sup>134</sup> <https://en.unesco.org/themes/fostering-rights-inclusion/slave-route>.

<sup>135</sup> A/74/321, para. 10.

<sup>136</sup> A/74/147.

<sup>137</sup> A/HRC/45/45; [www.oas.org/es/cidh/decisiones/pdf/Resolucion-3-19-es.pdf](http://www.oas.org/es/cidh/decisiones/pdf/Resolucion-3-19-es.pdf).

<sup>138</sup> Human Rights Committee, general comment No. 31 (2004); General Assembly resolution 60/147.

<sup>139</sup> A/HRC/34/62.

commitments, States must show stronger political will to accelerate action for racial justice and equality, including by taking concrete steps to implement the recommendations made by United Nations and regional human rights mechanisms, national commissions of inquiry, national human rights institutions and equality bodies. Volumes upon volumes of recommendations have been made. Now, action needs to be taken.

68. Listening to the voices of people of African descent, the need for a global transformative agenda for racial justice and equality is clear. The four-point agenda in the annex sets out the key changes that are needed, which have also been elaborated in the present report under the subheadings on the way forward. Comprehensively implemented, the agenda would:

- (a) Reverse the cultures of denial, dismantle systemic racism and accelerate the pace of action;
- (b) End impunity for human rights violations by law enforcement officials and close trust deficits;
- (c) Ensure that the voices of people of African descent and those who stand up against racism are heard and that their concerns are acted upon;
- (d) Confront legacies, including through accountability and redress.

69. The High Commissioner calls upon all States to translate the agenda into action plans and concrete measures developed through national dialogues.

70. In particular, the High Commissioner looks forward to working with States and the Human Rights Council to implement a transformative agenda, including by strengthening assistance to States and other stakeholders, particularly Africans and people of African descent and their organizations, by documenting and following-up on specific incidents, by consulting and partnering with victims, survivors and affected communities and by providing guidance for relevant racial justice processes in States, for which additional resources are required.

71. The High Commissioner recommends that the Human Rights Council sustain its close engagement on these issues and establish a specific, time-bound mechanism, or that it strengthen an existing mechanism by providing it with additional capacity, in order to advance racial justice and equality in the context of law enforcement in all parts of the world, including by examining relevant patterns, incidents, policies and processes, such as those highlighted in the present report and in the accompanying conference room paper.

## Annex

### **Four-point Agenda Towards Transformative Change for Racial Justice and Equality**

Anchored in the lived experiences of Africans and people of African descent, the report sets forth a comprehensive set of urgently needed measures to end systemic racism and address racial discrimination and violations by law enforcement. They are further elaborated in A/HRC/47/CRP/1.<sup>1</sup> To achieve concrete results, a profound, joined up approach – a transformative agenda – is needed that will dismantle systemic racism root and branch.

We need to **STEP UP, PURSUE JUSTICE, LISTEN UP and REDRESS.**

#### **I. STEP UP: Stop denying and start dismantling**

Systemic racism needs a systemic response to rapidly reverse denial, and alter structures, institutions and behaviours leading to direct or indirect discrimination against Africans and people of African descent in every part of life.

1. Adopt comprehensive “whole-of-government” and “whole-of-society” reforms and responses to dismantle systemic racism, elaborated in comprehensive and adequately resourced national and regional action plans.
2. Make time-bound public commitments on implementation of national and regional strategies and action plans to end systemic racism, and empower independent institutions to monitor and report on how those commitments are met.
3. Use data to drive and assess responses to systemic racism and collect and make public comprehensive data disaggregated by race or ethnic origin, gender, age, and other factors, with strict safeguards and in accordance with international human rights law, aiming at analysing the effect of laws and policies on Africans and people of African descent.
4. Respond to racist behaviour, violence and hate crimes with the full force of law and the power of leadership, including by calling out and holding perpetrators accountable.
5. Accelerate implementation of recommendations by UN and regional human rights mechanisms, national commissions and inquiries, national human rights institutions and equality bodies, and monitor and report on progress.

#### **II. PURSUE JUSTICE: End impunity and build trust**

Ensure accountability of law enforcement officials for human rights violations and crimes against Africans and persons of African descent, close trust deficits, and strengthen institutional oversight.

1. Reimagine policing and the criminal justice system by supporting and implementing community-driven models for dignity and collective safety that protect and serve all members of communities without discrimination.
2. Implement reforms to restrict use of force and prohibit racial profiling; consistently and effectively bring to justice law enforcement officials for violations against Africans and people of African descent; and provide redress for victims and their families.
3. Regularly publish data, disaggregated by victims’ race or ethnic origin, on deaths and serious injury by law enforcement officials and related prosecutions and convictions, as well as any disciplinary actions.

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<sup>1</sup> Presented in A/HRC/47/53

4. Create and/or strengthen independent oversight and complaints procedures and mechanisms regarding action by law enforcement; institutionalize and standardize reporting and review of use of force leading to death or serious injury and stocktaking of lessons learned.

5. Establish and resource independent mechanisms to support families and communities affected by law enforcement violations, including through funding for separate autopsies, victim compensation programmes, psycho-social and bereavement assistance, support to bury victims, and accessing justice.

### **III. LISTEN UP: People of African descent must be heard**

Ensure that people of African descent and those who stand up against racism are protected and heard, and their concerns are acted on.

1. Ensure effective participation and/or representation of people of African descent, in particular women and youth, at every level in State institutions, including law enforcement and the criminal justice system, and policy-making processes.

2. Recognise past and current contributions by individuals and organisations that stand up to racism, and encourage and support solidarity across equality movements.

3. Ensure full respect for the rights to freedom of expression and peaceful assembly, and recognize the right to peaceful protest as a way of effecting change.

4. Protect the safety and rights of organisers, participants, observers and journalists in protests with particular attention to members of groups that are or have been subjected to racial discrimination.

5. Investigate effectively, impartially and in a timely manner, any allegation of human rights violations or abuses against individuals and organisations that stand up against racism.

### **IV. REDRESS: Confront past legacies, take special measures and deliver reparatory justice**

Recognise that behind contemporary forms of racism, dehumanisation and exclusion lies the failure to acknowledge the responsibilities for enslavement, the transatlantic trade in enslaved Africans and colonialism, and to comprehensively repair the harms.

1. Acknowledge that truth, justice and reparations with regard to enslavement, the transatlantic trade in enslaved Africans and colonialism and their legacies contribute to non-recurrence and reconciliation and benefit all of society.

2. Create, reinforce and fully fund national and other processes to construct a shared narrative on enslavement, the transatlantic trade in enslaved Africans and colonialism and their lasting consequences for Africans and people of African descent.

3. Ensure effective participation of people of African descent and their communities to guide the design and implementation of these processes including broad and inclusive consultations.

4. Make amends for centuries of violence and discrimination through wide-ranging and meaningful initiatives, within and across States, including through formal acknowledgment and apologies, truth-telling processes, and reparations in various forms.

5. Dismantle structures and systems designed and shaped by enslavement, colonialism and successive racially discriminatory policies and systems; re-envision public spaces, including by memorializing the contributions of and harms against people of African descent and ensuring that enslavement, the transatlantic trade in enslaved Africans and colonialism are not glorified.