



Written Submission of the Association for the Prevention of Torture to the Office of the United Nations High Commissioner for Human Rights (OHCHR) on “Intersectional discrimination against Africans and people of African descent and advancing racial justice and equality through an intersectional approach”

16 April 2024

The Association for the Prevention of Torture ([APT](#)) is an international human rights NGO working for societies without torture or ill-treatment. We promote transparency in all places where people are deprived of their liberty, encouraging the authorities to open those doors and allow for external scrutiny. We address the situations of heightened risks in order to reduce them through the practical implementation of the most effective measures of prevention especially in the first hours of detention where the risks of torture and ill-treatment are paramount.

The APT welcomes the possibility to provide this submission in response to the [call for inputs](#) for the preparation of the 2024 report of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council [resolution 47/21](#) on the “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers through, transformative change for racial justice and equality”.

INTRODUCTION

In many countries, Africans and people of African descent face heightened situations of vulnerability when in contact with the criminal justice system including many challenges in accessing justice. When race intersects with other discriminating factors such as age, gender, disadvantage socio economic group, low level of education, sexual orientation or gender identity, ethnicity or religion, the risk of being subjected to different forms of violations ranging from torture or other forms of ill-treatment - including physical and psychological violence - unlawful detention or even death while in contact with law enforcement officials is magnified.

The legacy of colonialism and racial bias continue to play a critical role on the treatment of African and African descent individuals within the criminal justice systems across the Americas. Centuries of oppression are reflected in the institutionalization and systematization of discriminatory

practices within law enforcement including racial profiling, stop and frisk tactics, racially motivated identification checks, and the disproportionate use of excessive force against specific groups.

Systemic discrimination is deeply rooted in norms, patterns, attitudes and behavioural standards towards African and African descent in the criminal justice system, illustrated by the over-criminalization of certain conducts - such as drug possession for personal use - that perpetuates cycles of poverty, marginalization and exclusion. The systemic discrimination, racial bias and stereotypes, often exacerbated by socioeconomic factors such as poverty and limited education opportunities, contributes to a lack of awareness about their legal rights in criminal proceedings. These factors increase the likelihood of their exposure to police violence, excessive use of force, imprisonment and lengthier sentences compared to other racial groups.

APT's submission provides for contextual information on specific challenges faced by Africans and Africans descent within the criminal justice systems of the Americas, particularly in interactions with law enforcement. After reviewing the root causes of structural discrimination in the Americas, it highlights the intersection between racial discrimination and policing, elucidating how this marginalized group experiences heightened situations of vulnerability. Importantly, it explores how acts of torture can be racially motivated. Additionally, the submission highlights best practices and initiatives undertaken by different stakeholders to address the issue, while also providing recommendations aimed at shifting the paradigm and mitigating racial disparities in the treatment of individuals within criminal justice systems.

I. ROOT CAUSES OF STRUCTURAL DISCRIMINATION IN THE AMERICAS AND INTERSECTING FACTORS OF DISCRIMINATION

Africans and African descents face multiple kinds of discrimination based on other aspects of their identity beyond race. Among others, factors such as poverty, gender, gender identity, sexual orientation, beliefs and social class intertwine to compound their vulnerability. Intersectionality underscores how these categories intersect, exacerbating the challenges faced by the Afro-descendant population. Data shows that ethnic-racial inequalities persist in contexts of poverty reduction, indicating that poverty eradication strategies must be sensitive to diversity, and include targeted measures specifically tailored to address the needs of the Afro-descendant population.

Around 200 million people of African descent live in the Americas.¹ Yet despite representing a third of the region's population, Afro-descendants remain among the most vulnerable minority groups across the hemisphere. Statistics show that Afro-descendants in Latin America only are 2.5

¹ United Nations, see *The International Decade for People of African Descent 2015-2024*, accessible [here](#)

times more likely to live in conditions of chronic poverty compared to other demographic groups. Even with equivalent levels of education and professional experience, they consistently earn less than their non-Afro-descendant counterparts for the same types of employment in all countries of the region.²

Although African descent have achieved a sustained increase in income levels in Latin America in recent years, important economic disparities persist between this population and the rest of the population in the Americas. Poverty rates of people of African descent are twice as high in **Brazil** and three times higher in **Uruguay**, with disparities exceeding 10 percentage points higher in **Colombia, Ecuador** and **Peru**.³ People of African descent are therefore disproportionately represented among the poor and extremely poor in the region. In 2015, they accounted for 38% of the total population in the six Latin American countries with available data, and accounted for 47 per cent of the poor and 49 % of the extreme poor. Together with indigenous peoples, they represented around 58 % of the extreme poor and around 55 % inequalities.⁴ Data shows that in **Peru**, 34% of Afro-descendants live below the poverty line, compared to only 23% of mestizos.⁵ In **Brazil**, half of all Afro-descendants receive a monthly income of less than half the minimum wage. In **Colombia**, the infant mortality rate of the Afro-descendant population is average.⁶

In both the **Declaration of Santiago**⁷ and the **Durban declaration**⁸, the American States recognized that people of African descent face obstacles due to social discrimination and prejudice in public and private institutions. They also recognized that this is due to centuries of racism, racial discrimination, slavery and the historical denial of many of their fundamental human rights. This situation is also reflected in the lack of recognition of this group's contribution to the cultural heritage of the Americas.

The **Inter-American Commission on Human Rights** (IACHR) has found that Afro-descendants in the Americas suffer from structural discrimination, as evidenced in indicators relating to poverty

² “Freire, German; Diaz-Bonilla, Carolina; Schwartz Orellana, Steven; Soler Lopez, Jorge; Carbonari, Flavia. 2018. Afro-descendants in Latin America: Toward a Framework of Inclusion. World Bank, Washington, DC. Available [here](#), (accessed 22 March 2024).

³ “Freire, German; Diaz-Bonilla, Carolina; Schwartz Orellana, Steven; Soler Lopez, Jorge; Carbonari, Flavia. 2018. Afro-descendants in Latin America: Toward a Framework of Inclusion. World Bank, Washington, DC. Available [here](#), (accessed 22 March 2024).

⁴ Ibid.

⁵ Morrison Judith, Race and Poverty in Latin America, Addressing the development needs of African descendants.

⁶ IACHR, Report on Poverty and Human Rights in the Americas, *op. cit*

⁷ “Declaration of Santiago, Chile.” The American Journal of International Law, vol. 55, no. 2, 1961, pp. 537–39. JSTOR, <https://doi.org/10.2307/2196170> (accessed 22 March 2024).

⁸ United Nations Specialized Conferences, Durban Declaration and Plan of Action, Adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Violence, 8 September 2001, available [here](#) (accessed 22 March 2024).

rates, political participation, interactions with the criminal justice system, and access to quality health care, among others.⁹

The **Committee on the Elimination of Racial Discrimination** (CERD) has recognized that “racism and structural discrimination against people of African descent, rooted in the infamous regime of slavery, are evident in the situations of inequality affecting them”.¹⁰

In that same line, the **IACHR** further noted that the historical legacy of subjugation enslavement, terror, marginalization and exclusion has continuing repercussions for African descendants’ full enjoyment of their fundamental human rights.¹¹

The legacy of centuries of institutionalized discrimination has led to structural patterns, practices, norms, rules, routines, attitudes and standards of behaviour that perpetuate a complex of superiority towards Afro-descendants, thereby leading to systemic exclusion over generations (structural discrimination).¹²

Despite the deep historical roots of discrimination and racism against Afro-descendants in the Americas, these problems and their causes and consequences have been largely ignored or denied, in a majority of the States of the Americas.¹³ The systemic racism that goes hand-in-hand with the actions of law enforcement personnel, often police forces, is often overlooked and inadequately addressed.

Moreover, the **IACHR** has received information indicating that black LGBTQAI+ persons are at higher risk of being subjected to police abuse, due to violence motivated by both race and sexual orientation and/or gender identity.¹⁴ In this regard, a study in the **United States** found that, compared to cisgender persons, trans gender persons of color are six times more likely to experience physical violence at the hands of police.¹⁵

⁹ IACHR, Report on Poverty and Human Rights in the Americas, 2017, p. 121.

¹⁰ U.N., Comm. Elimination of Racial Discrimination, General recommendation No. 34: Racial discrimination against people of African descent, 79th session, CERD/C/GC/34, Oct. 3, 2011, § 6.

¹¹Id. (citing, *inter alia*, IACHR, Report No. 64/12, Case 12.271, Merits, *Benito Tide Méndez et al.* (Dominican Republic), Mar. 29, 2012, para. 53); see also I/A Ct. H.R., *Hacienda Brasil Verde Workers v. Brazil*. Preliminary Objections, Merits, Reparations and Costs. Judgment of Oct. 20, 2016. Series C No. 318, paras. 334-341 (discussing structural discrimination against poor and Afro-descendant workers who performed forced slave labor at a plantation in Brazil for years with the knowledge and tacit consent of the State).

¹²Ibid.

¹³ IACHR, Human Rights in the Dominican Republic (2015), § 92.

¹⁴ IACHR, Violence against LGBTI Persons, OAS/Ser.L/ V/ II. rev.1, 2015, p. 192.

¹⁵ Ibid.

II. INTERSECTION OF RACIAL DISCRIMINATION AND POLICING

Racial profiling

In November 2020, the **CERD** recognized racial profiling as it is described in paragraph 72 of the **Durban Programme of Action**; “the practice of law enforcement relying, to any degree, on race, color, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity”.¹⁶

Similarly, the **IACHR** acknowledged that Afro-descendants in the Americas are subjected to selective detention based on racial profiling, unjustified police surveillance and negative interactions with the police, and disproportionate arrest rates, leading to over-representation of Afro-descendants in the criminal justice system.¹⁷

Instances of racial profiling have been documented in various countries. For example, the **Working Group of Experts on People of African Descent** has reported that in **Panama** the use of racial profiling resulted in an over-representation of people of African-descent in places of detention, both in centres of pre-trial detention and among the convicted prison population.¹⁸ Similarly in **Ecuador**, the use of racial profiling led to the over-representation of people of African descent in detention.¹⁹ During its visit to **Ecuador**, the Working Group found that 90% of detainees in a juvenile centre were of African-descent.²⁰

In **Brazil**, the Ministry of Justice has estimated that 67.8% of the prison population is Afro-Brazilian.²¹ The **UN Special Rapporteur on Torture** (SRT) reported that Afro-Brazilians in the country were at a significant higher risk of mass incarceration, police abuse, torture and ill-treatment, medical neglect and death at the hands of the police.²² Research by IPEA into criminal proceedings for drug-related offences, comprising a total of 41,100 defendants, revealed that 51,3% of those stopped and searched by the police for "suspicious behaviour" were black, whereas 21,6% of defendants were officially registered as white. Insisting on this comparison, the study showcases that people of African descent are also most likely to be charged with drug trafficking

¹⁶ CERD, Preventing and Combating Racial Profiling by Law Enforcement Officials, CERD/C/GC/36, §18.

¹⁷ IACHR, Report No. 26/09 (Admissibility and Merits), Case 12.440, *Wallace de Almeida* (Brazil), 2009., § 61.

¹⁸ UN, Report of the Working Group of Experts on People of African Descent Mission to Panama, A/HRC/24/52/Add.2, 2013, § 63.

¹⁹ Report of the Working Group of Experts on People of African Descent Mission to Ecuador, A/HRC/45/44/Add.1, 2020, §53.

²⁰ *Ibid.*

²¹ Report of the Working Group of Experts on People of African Descent Mission to Brazil, A/HRC/27/68/Add.1, 2014, §68;

²² UN, A/HRC/ 27/68/Add. 1, Report of the Working Group of Experts on People of African Descent Mission to Brazil, 23 September 2014

(46,2% against 21,2%), arrested for flagrant offences (48,6% against 21,3%) or arrested in their homes (44,8% against 21,5%).²³

In **Argentina**, the experiences of people of Afro-descendants with law enforcement indicate the prevalence of structural discrimination. Negative stereotypes of people of Afro-descendants, including the perception that they are dangerous and violent criminals involved in drug trafficking and sex work, have contributed to excessive policing, resulting in selective and discretionary mechanisms for carrying out arbitrary detentions and investigations.²⁴

The **Inter-American Court of Human Rights** (IACtHR) in a judgment related to **Argentina** (issued in August 2020), condemned the use of racial profiling in the 1996 arrest of *José Delfín Acosta Martínez*, a black man who then died after being severely injured in police custody while detained for being intoxicated. The **IACtHR** concluded that the police were motivated more by racial profiling rather than by a genuine suspicion a crime had been committed.²⁵

In **Panama**, concerns have been raised about institutionalized stereotyping and excessive policing in areas inhabited by Afro-descendant people, including racial profiling by law enforcement officials through the use of “pele police”.²⁶ It has also been reported that profiling is a systemic practice that is widely used as a selective and discretionary mechanism for carrying out detentions and investigations.

In the **United States** the “Stop, Question and Frisk”²⁷ policy, introduced by the New York Police Department in 1990, involves the temporary detention, questioning and sometimes searching of civilians on the street for weapons. This policy has had a clear discriminatory impact on historically marginalized groups, including African Americans.²⁸ Data show that people of color are consistently stopped at higher rates. For example, from 2003-2023, 90 % of people stopped by the NYPD were people of color.²⁹

In **Colombia**, several police units have established the practice of meeting daily quotas for searches and arrests to receive benefits or to avoid punishment from their hierarchy. A former police officer interviewed by the *NGO ILEX Acción Jurídica* stated: “Many times the quota was

²³ SOARES, Milena Karla; MACIEL, Natalia Cardoso Amorim. A Questão racial nos processos criminais por tráfico de drogas dos tribunais estaduais de justiça comum: uma análise exploratória. Brasília, DF: Ipea, Oct. 2023. (Diest : Technical Note, 61), p. 18.

²⁴ Committee on the Elimination of Racial Discrimination. CERD/C/ARG/CO/21-23 of 11 January 2017.

²⁵ IACtHR, Judgement Case Acosta Martínez and Others vs. Argentina issued on 31 August 2020.

²⁶ Pele police are handheld electronic devices used by law enforcement officers to undertake verification and identification checks of individuals, usually on the streets.

²⁷ Natalie Rosenblatt, “Stop-and-Frisk” Policing in New York City, An historical evaluation of the controversial policy. April 12, 2021. Available [here](#) (accessed 20 March 2024). “*Stop and Frisk*” is a policing tactic comprised of two separate acts that involve two different levels of justification. To stop a person, a police officer must have reasonable suspicion that the person has committed, is committing, or is about to commit an unlawful act. To frisk a person, the officer must have a reason to believe that the person stopped has a weapon that poses a threat to the officer’s safety.

²⁸ Ibid.

²⁹ New York Police Department, Stop, Question and Frisk Data, 2023.

directed at people of African descent or if a crime or infraction of black person occurred, the entire community was condemned and persecuted by the police unit”.³⁰

Excessive use of force by law enforcement officials against African and Africans descent

The **IACHR** has reported on policies of institutional violence against Afro-descendent populations in various Latin America countries, especially against young and poor men. This institutional violence perpetuates existing patterns of discrimination, that are manifested in the absence or ineffectiveness of investigations and sanctions against perpetrators, violence perpetrated by state agents, including the disregard of standards regulating the use of force, particularly in the context of the “war on drugs”.³¹

In **Colombia**, psychological violence occurs through the use of insults such as “black”, “ape”, “tan”, “slave”, which are expressions often used by members of the police to refer to Afro-descendants. These terms have dehumanising connotations and are associated with intellectual inferiority and the “indelible” link between Afro-descendants and slavery.³² Young, adult black women have reported sexual harassment and verbal intimidation by police officers based on stereotypes about black women’s sexuality that perpetuate the idea that Afro-descendant women’s bodies are objects of appropriation and desire.³³

In **Brazil**, data shows that 50% of Afro-descendant men have suffered some type of abuse by police officers, like verbal insult, physical aggression, and extortion, among others. The study also reveals that 5% of Brazilians believe that police are ‘not racist’, while 52% consider police ‘very racist’.³⁴ Afro-descendant women are humiliated and beaten by security forces, who subject them to sexual violence, including sexual abuse in front of their respective partners.³⁵ In November 2020, a 40-year-old man, *Joao Alberto Silveira Freitas*, died after being repeatedly punched in the face and head by two security guards in a supermarket.³⁶

States have an obligation not to violate human rights and to act with due diligence to prevent all forms of violence. They also have an obligation to remedy underlying situations of discrimination and injustice. States in the Americas have failed to act with due diligence to prevent violence and

³⁰ ILEX, Acción Jurídica, Abuso Policial y Discriminación Racial hacia Afrodescendientes.

³¹ IACHR, IACHR Expresses Deep Concern over Growing Violence against Afro-descendants in Brazil, Press Release, September 26 2018. See: http://www.oas.org/en/iachr/media_center/PReleases/2018/209.asp

³² ILEX, Acción Jurídica, Abuso Policial, *op. cit.*

³³ ILEX, Acción Jurídica, Abuso Policial y Discriminación Racial hacia Afrodescendientes.

³⁴ See 50% dos negros no Brasil já foram constrangidos pela polícia, diz pesquisa. <<https://www.cartacapital.com.br/sociedade/50-dos-negros-no-brasil-ja-foram-constrangidos-pela-policia-diz-pesquisa/>>

³⁵ Amnesty International, Picking up the pieces: Women’s Experience of Urban Violence in Brazil (2008), p. 38.

<https://www.amnestyusa.org/wp-content/uploads/2017/04/amr190012008eng.pdf>

³⁶ BBC, Killing of black man by guards at Brazil supermarket sparks protests, 20 November 2020. See:

<https://www.bbc.com/news/world-latin-america-55020915>

excessive use of force against African-descendants, which constitutes a form of discrimination and denial of equality before the law.³⁷

Accordingly, the **IACHR** has emphasised that it is essential for States not only to adequately investigate, prosecute and punish cases of police violence, but also “to modify [...] institutionalized stereotypes towards Afro-descendant[s]”³⁸ in order to fulfil their obligations to prevent and eradicate discrimination.

In 2019, **Mexico** issued the National Law on the Use of Force,³⁹ which regulates how and when security forces, such as the police and the National Guard, can use force. Nevertheless, the law does not restrict the use of lethal force, nor does it specify how and when weapons can be used. The law provides that the training of law enforcement should include national and international standards on human rights and non-discrimination.

Examples of police killings of African and Africans descent

In the Americas, **Brazil** is the country with the highest rate of police killing of people of African descent, ahead of the **United States**.⁴⁰ An analysis published by the Brazilian Public Security Forum, shows that almost eight out of ten Brazilian police deaths are of African descent.⁴¹

On 14 July 2020 in **Brazil**, *Jefferson André da Silva*, a 23-year-old African-American motorcyclist who was part of a protest demanding better working conditions, was violently beaten and choked by four police officers, the scene of which was recorded on video.⁴² In 2019, the Brazilian police shot and killed five children under the age of 12 and 43 teenagers between the ages of 12 and 18, in the favelas of Rio de Janeiro. One of those killed was 14-year-old African-American *João Pedro Mattos*. He was hit by one of 72 shots fired by police near his home in *Complexo do Salgueiro*.⁴³

The investigation by **Brazil's** federal police into the extrajudicial killing of *Marielle Franco*, a black and homosexual councillor from Rio de Janeiro in 2018 recently revealed robust information about undue interference by civil police officers in the investigation. The investigation was conducted by

³⁷ IACHR, Report No. 80/11, *Jessica Lenahan* (2011); Report No. 28/07, *Gonzalez et al.* (2007); I/A Ct. H.R., *Cotton Field*, Series C No. 205 (2009); IACHR, Report No. 54/01, *Maria da Penha* (2001).

³⁸ IACHR, *People of African Descent in the Americas*, 2011, §162.

³⁹ Cámara de Diputados, *Ley Nacional sobre el Uso de la Fuerza*. See:

http://www.diputados.gob.mx/LeyesBiblio/pdf/LNUF_270519.pdf

⁴⁰ BBC, *Muerte de George Floyd: el país latinoamericano donde la policía mata a más negros que en Estados Unidos*, 03 Junio 2020. See: <https://www.bbc.com/mundo/noticias-america-latina-52911312>

⁴¹ *Ibid.*

⁴² IACHR, *IACHR condemns violent police actions in Brazil and urges it to adopt measures to combat social and racial discrimination*, Press Release, 2 August 2020. See: http://www.oas.org/en/iachr/media_center/PReleases/2020/187.asp

⁴³ DW, *A violencia policial contra negros como política de Estado no Brasil*, <https://www.dw.com/pt-br/a-violência-policial-contra-negros-como-pol%C3%ADtica-de-estado-no-brasil/a-53729007>

the Special Homicide Unit of the Rio de Janeiro Civil Police and a task force within the Rio de Janeiro Public Prosecutor's Office. In 2021, prior to the cooperation with the federal investigators, two prosecutors from the Rio de Janeiro Public Prosecutor's Office resigned from the task force due to "external interference".⁴⁴ The Federal police opened a parallel inquiry in 2023 and, partnering with the local prosecutor's office, concluded that former military police officers had killed Marielle Franco in a conspiracy involving two politicians and the then Chief of Rio de Janeiro's civil police.⁴⁵

In **Colombia**, at least three young Afro-Colombian men have been killed by the police. On 24 August 2020, *Harold Morales*, a 17-year-old Afro-Caribbean man died after being shot in the back by a police officer. On 21 May 2020, *Anderson Andrés Arboleda*, 19, died after being brutally beaten by police in Puerto Tejada, Cauca. On 9 September 2020, *Julian Mauricio Gonzalez*, 27, died after being shot twice in the abdomen by police during protests against police abuse in Bogotá.⁴⁶

In September 2019, the death of a young black man, *Evans Taylor Joseph*, was publicly denounced in **Nicaragua**. The police repeatedly beat Joseph who jumped into the sea while being chased by the police. The police officers mocked him and watched as he drowned.⁴⁷

In the **United States of America**, on 25 May 2020, police officers in Minneapolis arrested George Floyd, a 46-year-old black man, after a convenience store clerk called 911 and told the police that Floyd had bought cigarettes with a counterfeit \$20 bill. Seventeen minutes after the first police car arrived on the scene, *George Floyd* was unconscious and trapped under three police officers, showing no signs of life. He died of asphyxiation as a white police officer, *Dereck Chavin*, held his knee to his throat for more than 8 minutes while he was handcuffed, face to the ground, saying more than 30 times " I can't breathe". His agony was filmed and widely shared across the globe, shocking the world and provoking mass demonstrations against, neo-colonialism racism and police brutality.⁴⁸

COVID-19 restriction measures and related police violence on African and Africans descent

In the context of COVID-19, the **IACHR** has called on **Brazil** to adopt a citizen-centred security policy with a citizen focus, and to combat and eradicate the historical structural discrimination

⁴⁴ For more information, see: G1, Promotoras do MPRJ deixam força-tarefa que investiga morte de Marielle Franco e Anderson Gomes, 10 July 2021: <<https://g1.globo.com/rj/rio-de-janeiro/noticia/2021/07/10/promotoras-do-mprj-deixam-forca-tarefa-que-investiga-morte-de-marielle-franco-e-anderson-gomes.ghtml>>

⁴⁵ Federal Supreme Court, Rappourter Judge Alexandre de Moraes, Inquiry No. 4,954 Rio de Janeiro, 23 March 2024.

⁴⁶ The Guardian, Black lives shattered: outrage ad boy 14, is Brazil police's latest victim, 18 May 2020. See:

<https://www.theguardian.com/world/2020/jun/03/brazil-black-lives-police-teenager>

⁴⁷ UF, Foro: la brutalidad policial y los afrodescendientes en America Latina, 01 October 2020. See:

<http://www.latam.ufl.edu/calendar/events/2020/foro-la-brutalidad-policial-y-los-afrodescendientes-en-america-latina.php>

⁴⁸ BBC, George Floyd: What happened in the final moments of his life, July 2020, available [here](#) (accessed 22 March 2024).

that has resulted in disproportionate patterns of institutional violence against people of African descent and those exposed to poverty and extreme poverty. According to data from the Brazilian Security Forum, between January and April 2020, there was a 31% increase in police lethality in the State of Sao Paulo compared to the same period in 2019, with 381 reported deaths at the hands of security agents. In the State of Rio de Janeiro, data from the Public Safety Institute (ISP) show a nine per cent increase in the police fatality rate between January and April 2020, with 612 incidents.⁴⁹

In **Colombia**, on 19 May 2020, 19-year-old Afro-descendant *Anderson Arboleda* was beaten by local police officers outside his home for breaking the quarantine curfew. He was hit multiple times on the head with a baton and tear-gassed. He was pronounced dead the following day in Cali from brain injuries.⁵⁰

KEY RECOMMENDATIONS AND EXAMPLES OF CORRESPONDING GOOD PRACTICES

1. Addressing the link between torture and racial discrimination

Racial discrimination, especially against Africans and persons of African Descent is rampant for many decades among law enforcement institutions and constitutes a root cause of torture, excessive use of force leading to death and other forms of human rights violations. In 2013, the creation of the Black Lives Matter movement had already started to bring attention to racially motivated police brutality in the US with the death of several unarmed young African Americans killed by law enforcement. In Brazil, nearly 80% of people killed by the police are black. But it's with the murder of George Floyd, an African-American man from a poor socio economic background, became a symbol of racially motivated torture leading to death. It highlights how systemic discrimination in law enforcement translate into harmful practices that target groups who are in situations of vulnerability, marginalization and who face intersectional discrimination, putting them at higher risk of torture and ill-treatment.

According to the definition of torture Article 1 of the **United Nations Convention Against Torture (UNCAT)** ⁵¹ discrimination may be a constitutive element of torture : “the term torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as (...), or **for any reason based on discrimination of any kind**, when such pain or suffering is inflicted by or at the instigation of or with the consent or

⁴⁹ IACHR, IACHR condemns violent police actions in Brazil and urges it to adopt measures to combat social and racial discrimination, Press Release, 2 August 2020. See: http://www.oas.org/en/iachr/media_center/PReleases/2020/187.asp

⁵⁰ The Bogota Post, Black Lives Matter comes to Colombia, 23 June 2020. See: https://thebogotapost.com/black-lives-matter-comes-to-colombia/46928/?fbclid=IwAR3SbSZ0r5eJk_0kHDcFhujiFwt2Gj9q6KtNiZY4GEPqMiCn7psYXFfxXac

⁵¹ 3 United Nations, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), A/39/46, 1984, Article 1.

acquiescence of a public official or other person acting in an official capacity". The **United Nations Committee against Torture** (CAT), in its General Comment 2, emphasized that "the discriminatory use of mental or physical violence or abuse is an important factor in determining whether an act constitutes torture".⁵²

Even if the Inter-American Commission on Human Rights has admitted 'that excessive use of force by police may amount to cruel, inhuman or degrading treatment or torture under certain circumstances, particularly where it is committed for any reason based on discrimination of any kind'.⁵³ The nexus between systemic racism in law enforcement, excessive use of force and the prohibition of torture and other ill-treatment needs to be further explored in the Americas.

In 2022, the **Inter-American Court of Human Rights** (IACtHR) has however already ruled on discriminatory torture in a landmark judgment, *Azul Rojas Marín and Another v. Peru*⁵⁴ dealing with discrimination on the basis of sexual orientation. The Court developed its understanding of discriminatory torture and set new standards to protect vulnerable groups targeted and tortured by law enforcement officials on discriminatory grounds. Through this case, the **IACHR** developed the concept of "violence motivated by prejudice" and ordered Peru to provide reparations to *Azul Rojas Marín*, including the implementation of important guarantees of non-recurrence.

The Committee Against Torture has noted in its interpretation of Article 2 that the protection of vulnerable, discriminated or marginalised groups from risk of torture and ill-treatment is part of the obligation of states in regard to the convention".⁵⁵ Indeed, the Committee notes that the "protection of certain minority of marginalized individuals or populations especially at risk of torture is a part of the obligation to prevent torture or ill-treatment".⁵⁶ Subsequently, States must implement effective measures of prevention and protection to protect persons facing intersectional discrimination such as African and African descent, who are higher risk of torture and ill-treatment when in contact with states officials.⁵⁷

Racism constitutes one of the root causes of torture as it is based on the same psychological logic of constructing the other as less than human. The same process of 'dehumanisation' and classification between 'us' and 'them' underpins both torture and racism. It negates the

⁵² United Nations Committee against Torture (CAT), General Comment No. 2: Implementation of article 2 by States parties, CAT/C/GC/2, 24 January 2008, at para. 20. Accessible [here](#).

⁵³ IACHR African Americans, Polices Use of Force and Human Rights in the United States. OEA/Ser.L/V/II.Doc156. 26 November 2018, paras 8, 183, 312.

⁵⁴ CORTE INTERAMERICANA DE DERECHOS HUMANOS* CASO AZUL ROJAS MARÍN Y OTRA VS. PERÚ, SENTENCIA DE 12 DE MARZO DE 2020, available [here](#) (accessed 22 March 2024).

⁵⁵ Committee against Torture, general comment No. 2 (2007) on the implementation of article 2, para. 20.

⁵⁶ CAT, General Comment 2, 2008, at para. 21.

⁵⁷ Association for the Prevention of Torture, *Systemic Racism in Law Enforcement (2021)* available [here](#), (accessed 22 March 2024).

individuality of the person and the victim as someone construed as ‘them’ (member of the out-group), whom ‘we’ (members of the in-group) will dismiss, discriminate against and violate their rights, even without a specific reason linked with the person. Studies in psychology have confirmed the existence of this phenomenon of dehumanisation and have linked it to both racism, and torture⁵⁸. In its 2023 report on “Reimagining policing”⁵⁹, the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement referred to APT submission and “notes that a disturbing congruence between incidents of excessive use of force and acts of torture has also been highlighted”.

The APT recommends that United Nations human rights treaty bodies, special procedures and human rights mechanisms, especially those whose mandate relates to the prevention of torture analyses further the link between torture and discrimination and torture.

2. National implementation of the Principles on Effective Interviewing for Investigation and Information Gathering (Méndez Principles)

Studies show that black people in the US are about 7.5 times more likely to be wrongly convicted of murder than white people, and about 80% more likely to be innocent than other people convicted of murder. The data also show that the already disproportionate risk of wrongful conviction of black people in the US is even higher when the murder victim in is a white person. The report, *Race and Wrongful Convictions in the United States 2022*⁶⁰, examined the cases of 3,200 innocent defendants exonerated in the US since 1989. Researchers found that black people were 7 times more likely to be wrongly convicted, and more likely to be the target of police misconduct and more likely to be imprisoned for longer before being exonerated.⁶¹

Coercive and intimidating police investigative practices such as deception during interrogation, physical or psychological threats against the interviewee are factors in racial disparities in wrongful convictions. Interrogation is a very sensitive practice in criminal justice proceedings and plays a key role in the investigation process. It is the moment where the power imbalance between the detainee and the authority is at its peak and when the risk of using force (physical or psychological) to obtain force confessions is greatest. In this context, stereotypes and prejudices can also affect an interview and hinder the relationship-based approach and open-mindedness required to gather accurate information. The interviewers must be extremely vigilant to avoid any conscious

⁵⁸ Association for the Prevention of Torture, *Systemic Racism in Law Enforcement (2021)* available [here](#), (accessed 22 March 2024).

⁵⁹ Report of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement (2023), A/HRC/54/69, para 20.

⁶⁰ National Registry of Exonerations, *Race and Wrongful Convictions in the United States 2022*, September 2022 available [here](#) (accessed 22 March 2024).

⁶¹ Ibid.

and unconscious biases regarding the identity, characteristics or background of the interviewee and make sure those do not affect their questions and their interpretation of the information gathered.⁶² In some situations, the vulnerability of the profile (i.e race) intersects with a risky moment (i.e the first hours of police custody) and a risky practice (i.e interrogation). This triple intersection could place Africans and people of African descent at a higher risk of various forms of abuse and serious human rights violations, but also expose them to racial bias within the criminal justice systems leading to wrongful convictions and miscarriages of justice.

Discrimination in law enforcement translate into harmful practices that disproportionately target Black men.⁶³ Specific groups who are in situations of vulnerability and marginalisation such as Africans and people of African are systematically targeted by discriminatory police practices such as stop and search “routine checks”, traffics stops or ID checks.⁶⁴ Evidence shows that the effective implementation of legal and procedural safeguards, respected in practice by the authorities, is essential to ensure transparency and respect for human rights when in contact with law enforcement and specifically during the investigation phase.⁶⁵ These safeguards are particularly important during the first few hours of police custody and detention, when detainees are in a heightened situation of vulnerability.⁶⁶

The Principles on Effective Interviewing for Investigation and Information Gathering⁶⁷ are a powerful tool to address the use of force to obtain a confession and provide an effective protection framework from the first hours of detention. Rooted in ethics, law and science, they propose to replace interrogations, and move away from a culture of forced confessions that lead to miscarriage of justice, with interviews based on a relationship of trust associated with the effective implementation of strong legal and procedural safeguards. They are a practical tool to improve the effectiveness and outcomes investigations and information gathering processes, uphold the rule of law and address discriminatory practices within law enforcement mitigating racial disparities in the treatment of individuals within criminal justice systems.

⁶² See Principles on Effective Interviewing for Investigations and Information Gathering, 2021. Para. 65 Accessible at: <https://interviewingprinciples.com/>

⁶³ European Network against racism, *Policing racialized groups – Briefing : Disproportionate police brutality, violence & racial profiling*, 2020, p.1, Accessible [here](#)

⁶⁴ Plümecke, T., Wilopo, C. S., & Naguib, T. (2023). Effects of racial profiling: the subjectivation of discriminatory police practices. *Ethnic and Racial Studies*, 46(5), 811–831. Available [here](#)

⁶⁵ Richard Carver & Lisa Handley, *Does Torture Prevention Work?*, Liverpool: Liverpool University Press, 2017.

⁶⁶ See for e.g. CPT, 28th General Report, 2019, at paras. 64-5. Accessible at: <https://rm.coe.int/16809420e3>.

⁶⁷ See Principles on Effective Interviewing for Investigations and Information Gathering, 2021. Accessible at: <https://interviewingprinciples.com/>

3. Establishment of independent investigative mechanisms on serious human rights abuses by law enforcement officials

Police and criminal justice systems should ensure effective, prompt, credible, transparent, impartial and independent investigations, setting higher operational standards for cases involving patterns of serious human rights violations by State agents, in particular cases of death, serious injury, allegations of sexual assault, torture and enforced disappearances. Special investigation and indictment units should be separate from policing legislation and bodies. The special units' mandate should provide the professionals involved with the necessary stability, strong legislative framework and powers, protection, adequate budget and structural capacity to fulfil their role, limit undue interference in such investigations and promote a rapport-based approach with those involved. The production of and/or access to independent and technically oriented forensic services and reports should be considered indispensable aspects of a proper special unit mandate. Staff should be competent, committed and regularly trained in the best practices and protocols, such as the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)⁶⁸ and the Minnesota Protocol on the Investigation of Potentially Unlawful Deaths.⁶⁹

In Rio de Janeiro, **Brazil**, a department within the Attorney General's office called '*Grupo de Atuação Especializada em Segurança Pública*' (GAESP for its Portuguese acronym) has showcased both the effectiveness and the risks of such special units⁷⁰. The group of prosecutors was set up to conduct investigations and bring charges against law enforcement officials, including alleged crimes committed by civil police, military police and prison officers, as well as broader actions and lawsuits on public security matters, such as the installation of body-worn cameras by police officers. GAESP worked from 2015 until 2021 when a new Attorney General dismantled it. From 2012 to 2022, at least 49,947 persons⁷¹ were killed during police operations in Brazil, of whom 83,1% were of African descent⁷².

⁶⁸ Istanbul protocol: manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment (2022), UN Office of the High Commissioner for Human Rights, New York and Geneva, 2022, p. 46 and Annex I, Principle 5(a)(b).

⁶⁹ The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), Office of the United Nations High Commissioner for Human Rights, New York/Geneva, 2017, para. 38.

⁷⁰ Open Society Justice Initiative, Who Polices the Police? - The role of independent agencies in criminal investigations of state agents. New York: 2021, p. 21.

⁷¹ Estado de Minas Gerais, Polícia brasileira matou quase 50 mil pessoas de 2012 a 2022, 03 March 2023, available at <HYPERLINK "https://www.em.com.br/app/noticia/gerais/2023/09/03/interna_gerais,1556121/policia-brasileira-matou-quase-50-mil-pessoas-de-2012-a-2022.shtml"https://www.em.com.br/app/noticia/gerais/2023/09/03/interna_gerais,1556121/policia-brasileira-matou-quase-50-mil-pessoas-de-2012-a-2022.shtml>

⁷² Fórum Brasileiro de Segurança Pública, 17º Anuário Brasileiro de Segurança Pública. São Paulo, 2023, p. 65. Available at <<https://publicacoes.forumseguranca.org.br/items/721e3396-1a66-4ff6-8ceb-ea319684a57a>>

4. Include racial discrimination as aggravating sentencing factor

Criminal legislation should prohibit racial discrimination in its various manifestations, by all individuals and groups, and include it as a separate criminal classification and as an aggravating circumstance to other relevant criminal offences such as homicide and injuries. State authorities should be subject to greater penalties when they commit such acts in the exercise of their official duties.

Article 2(1)(d) of the **International Convention on the Elimination of All Forms of Racial Discrimination** states that "each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization". Furthermore, Article 6 of the Conventions states that "States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination".

In **Mexico**, the General Law against Torture provides that the penalties for the crime of torture are increased by up to one half if the victim is of African descent.⁷³ In some states, such as Sinaloa⁷⁴ and Ciudad de México⁷⁵, criminal legislation includes racial discrimination as an autonomous offence or as an aggravating circumstance in crimes such as homicide and injuries, with sanctions of two to three years' probation for civilians and of two to four years for public officials, as well as a life-time ban from holding public office.

In **Ecuador**, articles 176 and 177 of the Comprehensive Organic Criminal Code, which has been in force since 2014, criminalise acts of racial discrimination and hate crimes. These offences are punishable by one to three years imprisonment.

In **Brazil**, Law 14,532/2023 equated racial insult with the crime of racism, amending Law 7,716, of 1986, which defines crimes resulting from discrimination or prejudice based on race, color, ethnicity, religion or national origin. In Brazil, these are non-bailable crimes, with no statute of limitations and punishable by imprisonment, according to Article 5(XLII) of the Federal Constitution. As law enforcement officials usually classified various forms of racism as racial insult

⁷³ Ley General para Prevenir, Investigar y Sancionar la Tortura, article 27. See:

<https://www.diputados.gob.mx/LeyesBiblio/pdf/LGPIST.pdf>

⁷⁴ See <https://www.congresosinaloa.gob.mx/comunicados/congreso-del-estado-aprueba-sancionar-con-prision-los-discursos-de-odio/>

⁷⁵ See <https://www.congresocdmx.gob.mx/comsoc-aprueba-congreso-local-sancionar-conductas-odio-y-discriminacion-3396-1.html>

due to the lesser criminalization, Law 14,532/2023 introduced stricter penalties for racial insult, with prison sentences ranging from two to five years, in addition to a fine, and no longer allowing for bail.

5. Ensuring prompt access to a judge as a safeguard to curb police violence and illegalities that disproportionately affect people of color and African descent

Ensure that every person is been brought in person in front a judge within 24 hours after the arrest is a key safeguard to assess the lawfulness of a person's detention, to prevent arbitrary or incommunicado detention, and to identify signs or allegations of torture or ill-treatment. Such hearings are a critical tool to allow anyone to report any physical or psychological violence suffered during the arrest or while in custody.

These hearings comply with international human rights obligations, such as those provided for in Article 9(3) of the **International Covenant on Civil and Political Rights**, and recommendations made by, for example, the **Inter-American Commission of Human Rights (IACHR)**⁷⁶, the **UN Committee against Torture**⁷⁷, the **UN Human Rights Committee**⁷⁸ and the **UN Special Rapporteur on Torture**⁷⁹. When conducted in accordance with the principles of *audi alteram partem*, procedural immediacy, the right to a public and expeditious proceedings, the absolute prohibition of torture and non-discrimination, prompt access to a judge can constitute an effective procedure to prevent racial profiling, police abuse, pre-trial detention and over-incarceration.⁸⁰

Within a holistic criminal justice framework, preliminary hearings⁸¹ must be a measure to respond to structural racism, to address the heightened vulnerability and prevent systematic discrimination against this group by law enforcement officers, mainly occurred during "flagrante delicto" arrests, and by criminal justice system authorities.

⁷⁶ IACHR. Report on the Use of Pretrial Detention in the Americas, EA/Ser.L/V/II., Doc. 46/13, 30 December 2013, Recommendation C(9); IACHR. Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas, EA/Ser.L/V/II.163, Doc. 105, 3 July 2017, paras.182-193.

⁷⁷ UN Committee against Torture, Concluding observations on the second periodic report of Brazil, 12 June 2023, CAT/C/BRA/CO/2, §§ 11 and 12(c).

⁷⁸ Human Rights Committee, Concluding observations on the third periodic report of Brazil, 6 September 2023, CCPR/C/BRA/CO/3, §47.

⁷⁹ See Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Brazil, UN Doc. A/HRC/31/57/Add.4 (29 January 2016), § 147(h).

⁸⁰ Considering that pretrial detention disproportionately affects certain persons belonging to groups at special risk, the States should adopt special measures with a differentiated approach with respect to persons of African descent, indigenous persons, LGBTI and older persons, and persons with disabilities. A differentiated approach means considering particular conditions of vulnerability and the factors that may increase the risk of exposure to acts of violence and discrimination in contexts of pretrial detention, such as sex, race, ethnicity age, sexual orientation, gender identity and expression, and disability. (IACHR. Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas. OEA/Ser.L/V/II.163 Doc. 105, 3 July 2017, para 17)

⁸¹ Depending on the country and context, the type of hearing referred to above is also called custody hearing, detention control hearing, pre-trial hearing or initial hearing.

In **Brazil**, the introduction of hearings by judges called custody hearings (*audiências de custódia*) has been a milestone in the reduction of pre-trial detention. In 2014, 40,13% (or 244,668 persons) of the country's prison population consisted of pre-trial detainees, the highest rate ever. In 2015, when preliminary hearings became mandatory in all criminal procedures following a provisional ruling by the Federal Supreme Court, the number of pre-trial detainees decreased to 37,37% of the total prisoners. Since then, there has been a consistent decrease in the pre-trial detainees percentage and population, which reached 25,48% (or 213,986 persons) of the total prison population in 2023. According to the National Secretariat of Criminal Policies, in 2023 Afro Descendant (brown and black) women in Brazil represented 65,14% (or 16,273 persons) of the total female prison population and Afro Descent men represented 67,9% (or 380,872 persons) of the male prison population⁸². These figures underscore the over-representation of people of African-descent within the prison population, as this group represents 56,1% of the population in Brazil according to the most recent census.

Preliminary hearings were established as a practice in all States in **Brazil** in 2015, and in 2019, they were formally incorporated into national legislation by Law 13.964/2019 (which amended the Brazilian Code of Criminal Procedure).

6. Adopt a transitional justice agenda on the root causes and transformative change with regard to racism against people of African descent and law enforcement

The enduring challenges of structural racism and related human rights violations by law enforcement officials and institutions against people of African descent in the Americas should be addressed by States through to a transitional justice approach, that formally identifies, acknowledges and responds to the impact of slavery, segregation policies and other root causes of racism in the region. These measures should aim to end the historical manifestations of racism in criminal justice policies, policing, sentencing, prison conditions, the harmful dynamics of illegal markets/organizations in communities and other cycles of poverty, oppression, stigmatisation and serious human rights violations. States should establish holistic and integrated initiatives and programs that foster recognition, truth-seeking, truth-telling, memorialisation, public participation, restorative justice, individual and collective reparations, and guarantees of non-repetition, such as institutional reforms and accountability.

The **International Independent Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement** (EMLER) referred to the implementation of a transitional justice

⁸² On this subject, see: National Secretariat on Criminal Policies, Government of Brazil, "Mulheres e Grupos Específicos", "População por Cor/Raça no Sistema Prisional" - Data de referência 30/06/2023: <https://app.powerbi.com/view?r=eyJrIjoiYzZlNWQ2OGUtYmMyNi00ZGVkLTgwODgtYjVhMmU0ODhmOGUwliwidCI6ImVlMDkwNDIwLTQONGMtNDNmNy05MwYyLTRiOGRhNmJmZThlMSJ9&pageName=ReportSection>

approach when encouraging the United States to address the enduring challenges of racism in the country. According to the EMLER, "such an approach can shed light on the root causes of systemic racism and related injustice and violence, to dismantle this legacy of slavery and move forward".⁸³ From the experts' view, initiatives like that could tackle "the profound lack of trust of people of African descent in law enforcement and the criminal justice systems, mainly due to the historical and continuous police violence suffered, and the sense of systemic oppression and impunity for these violations".⁸⁴

Countries throughout Latin America have experienced and implemented transitional justice initiatives in relation to serious human rights violations committed under military dictatorships (**Argentina, Bolivia, Chile, Brazil, Panama, Paraguay, Peru** and **Uruguay**, for instance) and internal conflicts (**Colombia, El Salvador, Guatemala**) that were triggered amid the Cold War era geopolitics. In a period of consolidation of democracy and increasing interaction with Inter-American and United Nations human rights bodies, all these countries have established truth commissions, to identify and investigate serious violations such as torture, killings, enforced disappearances, massacres and others. In **Brazil**, the National Truth Commission's final report provides an intersectional assessment of human rights violations against peasants, indigenous peoples, children and LGBTI+ persons, and documents the regime's methods of sexual and gender violence⁸⁵. Amnesties enacted by the regimes or in their aftermath have been suspended (except in Brazil), opening the way for perpetrators to be brought to justice. In **Colombia**, a Peace Accord between the State and the guerrilla group allowed the current implementation of a holistic transitional justice platform, linking a variety of programmes on truth, memory, justice, reparation and non-repetition measures. To monitor the implementation of a gender perspective and respect the rights of women and LGBTI+ people, as described in the Peace Accord, the State has created a Special Women's Unit for Gender Perspective and different modalities to promote intersectional approaches within transitional justice bodies, such as the Truth Commission and the Investigation Unit of the Special Jurisdiction for Peace (SJP).⁸⁶ Of note, the SJP prioritizes a restorative approach in trials of armed actors involved in the conflict.

⁸³ EMLER. Visit to the United States of America, Human Rights Council, Fifty-fourth session, A/HRC/54/CRP.7, 26 September 2023, para. 25.

⁸⁴ Ibid., para 27.

⁸⁵ For more information on this topic see: Brazil, National Truth Commission, December 2014, Volumes I and II <http://cnv.memoriasreveladas.gov.br/images/pdf/relatorio/volume_1_digital.pdf> and <http://cnv.memoriasreveladas.gov.br/images/pdf/relatorio/volume_2_digital.pdf>

⁸⁶ Kroc Institute for International Peace Studies. Hacia la paz sostenible por el camino de la igualdad de género: II informe de seguimiento al enfoque de género en la implementación del Acuerdo de Paz en Colombia, December 2019, p. 24.

7. Disaggregated data collection

In order to identify, assess and understand the extent and principal modalities of police violence, patterns and practices against certain groups, and to ensure accountability, it is recommended to:

- Collect official statistics on police violence in a systematic, rigorous, transparent and disaggregated manner.
- Develop a registration system that allows for the identification of specific cases of discrimination by law enforcement officials against Afro-descendant populations and a specific description of the facts of such cases.
- Disaggregate information to distinguish between the context of use of force incidents (e.g. at public demonstrations, regular policing activities, and states of emergency), the actors involved, the weapons used, the rights violated, and the circumstances of time and place.

In **Argentina**, since 2018, the Public Defender's Office programme to counter institutional violence has been strengthened, by monitoring and documenting the repeated arrests of street vendors (mostly of Senegalese origin) in Buenos Aires. The data showed that the nature of these arrests could suggest that the police were arbitrarily arresting street vendors. Such arrests were often accompanied by violence resulting in injuries. In some cases, the injuries were serious, such as broken bones or deep cuts.

In the **United States of America**, the Baltimore County Police Department in Maryland is establishing a public dashboard of all complaints⁸⁷ made against officers, use of force incidents and traffic stops. It will also include demographic data. In New Orleans, a Resolution⁸⁸ was passed directing the city's Independent Police Monitor to create a public database to provide "comprehensive data on the use of force and disciplinary action for law enforcement officers".

A study in the **United States of America** found that trans persons of color were six times more likely to experience physical violence at the hands of police than their cisgender counterparts.⁸⁹

In **Brazil**, the Federal Institute on Applied Economic Research (IPEA for its Portuguese acronyms) conducted extensive research about 'Profile of Defendants and the Production of Evidence in Criminal Proceedings on Drug Trafficking'. The research, published in 2023, provided the basis for

⁸⁷ Fox news, Police reform initiatives unveiled in Baltimore County, 12 June 2020. See:

<https://foxbaltimore.com/news/local/baltimore-county-executive-police-chief-announce-new-police-reform-initiatives>

⁸⁸ New Orleans City Council, New Orleans City Council calls for new public database on police misconduct, 18 June 2020. See:

<https://council.nola.gov/news/june-2020/new-orleans-city-council-calls-for-new-public-data/>

⁸⁹ IACHR, Violence against LGBTI Persons, OAS/Ser.L/ V/ II. rev.1, 2015, p. 192.

the technical note 'The Racial Issue in Criminal Proceeding on Drug Trafficking in State-Level Courts: an exploratory analysis', which presents findings on the police and judicial procedures according to the racial profile of defendants.⁹⁰

8. Training, recruitment and awareness-raising programmes for law enforcement agencies and officers

Design and implement rigorous and transparent procedures for the selection of police personnel, together with the provision of fair and competitive salaries and labour and social benefits, which make it possible to identify and recruit officers who possess the appropriate moral, psychological and physical qualities for the effective exercise of their functions is also essential.

These policies should go hand in hand with awareness-raising programmes and ongoing training within the police and, more broadly, the various criminal justice system stakeholders like the judges, prosecutors, public defenders and parliamentarians, reviewing the best anti-racist practices, legal standards and the causes and consequences of racial profiling and other racially motivated discriminatory treatment or practices by law enforcement officials or agencies towards Afro-descendant people and other communities. This includes the causes and effects of disproportionate arrests, prosecutions, sentencing, and imprisonment.

The **CERD** has stated that law enforcement officials should be trained "to ensure that in the performance of their duties they respect as well as protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, color, or national or ethnic origin".⁹¹

The **IACHR** reiterates the need to move forward with the adoption of radical public policies that promote cultural change in society aimed at eliminating structural and systemic racism, as well as promoting equality and ethnic and racial diversity. Also, to review its justice system in order to eliminate structural racism, pursuant to inter-American standards on citizen security.⁹²

In the **United States of America**, the 2015 Final Report of the President's Task Force on 21st Century Policing bears that law enforcement agencies should hire officers who reflect the communities they serve, creating a workforce that contains a broad range of diversity, including

⁹⁰ For information on this, see: <[⁹¹ U.N., Comm. Elimination of Racial Discrimination, General recommendation No. 34: Racial discrimination against people of African descent, 79th session, CERD/C/GC/34, Oct. 3, 2011, § 6.](https://www.ipea.gov.br/portal/categorias/45-todas-as-noticias/noticias/14107-numero-de-reus-negros-em-crimes-por-trafico-de-drogas-no-brasil-e-duas-vezes-superior-ao-de-brancos#:~:text=%C3%80%20medida%20que%20a%20popula%C3%A7%C3%A3o,processados%20por%20crimes%20envolvendo%20drogas.></p></div><div data-bbox=)

⁹² See: The IACHR expresses strong condemnation for George Floyd's murder, repudiates structural racism, systemic violence against Afro-Americans, impunity and the disproportionate use of police force, and urges measures to guarantee equality and non-discriminatory (oas.org): <https://www.oas.org/en/iachr/media_center/PReleases/2020/129.asp>

racial diversity, in order to building trust and legitimacy. The Final Report also recommends the enforcement of policies prohibiting profiling and discrimination based on race and that training on the use of force should emphasise the use of less lethal technologies, de-escalation and alternatives to arrest or summons in appropriate situations.⁹³

In **Brazil**, the Ministry of Justice and Public Security provided in 2023 the workshop 'Training Multipliers - Antiracist Police', approaching 37 military and civil police officers on matters concerning professional capacity, detrimental social impacts and legal implications of discriminatory practices against people of African descent.⁹⁴ Also in 2023, the *Polícia Rodoviária Federal* (PRF for its Portuguese acronym) issued new guidelines on policing, including topics on racism and torture. Both the workshop and the guidelines follow the death of Genivaldo de Jesus in 2022, a black man of 38 years of age in Sergipe, as a consequence of the indiscriminate use of tear gas after his detention by three road federal police officers who tortured Genivaldo in their vehicle's trunk - a method known as the 'gas chamber'.⁹⁵ Bill 5,245/2020 in the National Congress aims to establish human rights and the combat of racism and other forms of discrimination as mandatory content in the training of all private and public security agents in Brazil.⁹⁶

Contact Information :

- Luce Ahouangnimon, lahouangnimon@apt.ch

⁹³ COPS, Final Report of the President's Task Force on 21 st Century Policing, May 2015, Recommendations 1.8, 2.13 2.2.1, 3.6.

See: https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf

⁹⁴ See 'MJSP dá início a curso voltado à atuação policial antirracista':

<<https://www.gov.br/mj/pt-br/assuntos/noticias/mjsp-da-inicio-a-curso-voltado-a-atuacao-policia-antirracista>>

⁹⁵ See 'PRF lança nova formação de policiais com aulas contra tortura, racismo e LGBTfobia':

<<https://www.cnnbrasil.com.br/nacional/prf-lanca-nova-formacao-de-policiais-com-aulas-sobre-tortura-racismo-e-lgbtqia/>>

⁹⁶ See 'Combate ao racismo poderá estar no treinamento de agentes de segurança':

<<https://www12.senado.leg.br/radio/1/noticia/2023/07/04/combate-ao-racismo-podera-estar-no-treinamento-de-agentes-de-seguranca>>