

Summary:

Report of the United Nations High Commissioner for Human Rights - A/HRC/51/53 4 August 2022

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

The report is based on the resolution 47/21 and contains information on developments and initiatives undertaken by States and others to address manifestations of systemic racism and to advance accountability and redress for victims.

The High Commissioner (HC) reiterates the call for States to step up the implementation of the 20 actions contained in the agenda towards transformative change for racial justice and equality, expressing that “noting that greater political will” is needed to accelerate action and consequential results.

II. Action towards transformative change for racial justice and equality

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

Developments:

- Even with the impediment of the scarcity of official data, the OHCHR together with the mobilization and activism led by people of African descent continued to highlight disproportionate outcomes for people of African descent in many countries regarding access to social goods and the multiple and intersecting forms of discrimination in various countries, including women, children and LGBTQI+ person in Canada, Peru and Brazil.
- Collected information in countries such as France and the United States of America mentioned the enforce laws that exacerbate discrimination in the labor market, based on race and nationality, as well as discrimination in the schools and books. Also, it evident that violent hate crimes that draw on supremacist ideologies had a particularly devastating impact on families and communities of African descent, especially where weaker legal frameworks over the acquisition and use of firearms were in place.

Promising initiatives:

- In 2021, the General Assembly formally operationalized the Permanent Forum on People of African Descent and requested the Working Group of the Durban Declaration to advance the elaboration of a draft United Nations declaration on the promotion and full respect of the human rights of people of African descent.
- States and others have taken measures to fight racial discrimination: the national census of 2022 in Argentina included questions to self-identify as a person of African descent, Brazil enactment into law the Inter-American Convention against Racism and while, in March 2022, the Emmett Till

Antilynching Act made lynching a federal hate crime in the United States. In July 2021, Portugal adopted a multisectoral national action plan to combat racism and discrimination for 2021–2025 and the European Commission issued a guidance note on the collection and use of equality data based on racial or ethnic origin.

B. Ending impunity for human rights violations by law enforcement officials, closing trust deficits and strengthening institutional oversight

Developments:

- Recent data continue to point to disproportionately high rates of deaths of people of African descent by law enforcement in different countries. OHCHR and others expressed concern about deaths in large-scale law enforcement operations, included the deaths of 23 people in a single incident in May 2022 in Vila Cruzeiro (Brazil) and in Colombia, “some police officers, had engaged in ill-treatment or unnecessary or disproportionate use of force” (Atlantico Bolivar)¹.
- Independent oversight and complaints procedures and mechanisms regarding action by law enforcement against Africans and people of African descent continued to be key to strengthening accountability, some families also reported instances of harassment, living in constant fear of violence.
- The HC provides updates on the incidents in the previous report. Three of those incidents exemplified deaths in the context of policing of minor offenses, traffic stops and stops-and-searches: The first incident relates to the death of George Floyd on 25 May 2020, the second incident was the death of Adama Traoré on 19 July in France. The third incident was the death of Luana Barbosa dos Reis Santos on 8 April 2016 in Brazil.
- The death of Kevin Clarke on 9 March 2018 in the United Kingdom illustrated the second common context in which police-related fatalities of people of African descent repeatedly occur, namely, law enforcement acting as first responders in mental health crises.
- Three incidents were considered illustrative of the third common context in which police-related fatalities of people of African descent repeatedly occur, namely, larger scale police operations, often as part of the “war on drugs” and gang-related interventions: the death of Breonna Taylor on 13 March 2020 in the United States, the death of João Pedro Matos Pinto on 18 May 2020 in Brazil and the death of Janner (Hanner) García Palomino on 20 April 2020 in Colombia. Submissions indicated that racial profiling of people of African descent, including for stops-and-searches, continued to be practiced in numerous countries
- Submissions highlighted recent allegations of discriminatory treatment, unlawful deportations, excessive use of force and deaths of African including those engaged in migration and border governance, in different countries e.g. UN attention to human right regarding African national fleeing Ukraine.
- Reports also pointed to the disproportionate impact of the death penalty, punitive drug policies, arrests, overrepresentation in prisons and other aspects of the criminal justice system on people of African descent in different countries e.g. Canada, US, UK.
- Reports signaled that policing methods and practices with disproportionate outcomes risked undermining legitimacy and trust in police forces e.g. misogynistic and disrespectful language.

¹ 42 A/HRC/49/19.

Promising initiatives:

States in different regions adopted laws, policies and other measures seeking to address racism in law enforcement and the criminal justice system. Courts in several jurisdictions also rendered relevant decisions:

- Canada Prime Minister tasked the Minister of Justice and Attorney-General to “address systemic discrimination and the overrepresentation of Black and racialized Canadians and Indigenous Peoples in the criminal justice system”.
- In Brazil, the Supreme Federal Tribunal instructed the State of Rio de Janeiro to prepare a plan to reduce use of lethal force by State agents to specific extreme situations
- In January 2022, the Swedish Police Authority reportedly commissioned the Swedish National Council for Crime Prevention to evaluate the use of ethnic profiling by police.
- In the UK, the Independent Office for Police Conduct identified race discrimination as a focus area “seeking to expose and challenge race discrimination and racial disparities where they exist in policing ... and hold forces to account for changing policing practice”.

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

Developments

- OHCHR has highlighted the situation of human rights defenders of African descent, e.g. in Colombia, nine human rights defenders of African descent were killed in 2021, according to findings of OHCHR. In Honduras, from January 2021 to May 2022, 76 Afro-Honduran human rights defenders and journalists were victims of attacks, ranging from threats, harassment and criminal charges to assassinations. In Brazil, political and electoral violence against Afro-Brazilian women, particularly transgender Afro-Brazilian women, were reported.
- HRD of African descent in Europe and Latin America highlighted contextual factors of systemic racism, exclusion, marginalization and inadequate representation; and racial stereotyping rooted in centuries of structural discrimination, racism, misogyny and supremacist ideologies together with the lack of visibility of people of African descent due to the lack of data disaggregated by race or ethnic origin, resulting women intersections faced heightened difficulties.
- Consultations highlighted the barriers to participation of people of African descent on the implementation and evaluation of laws, policies, programmes and processes, including those that affected them, and the impact of their underrepresentation in State institutions and other sector, e.g. difficulties in penetrating political parties and insufficient financial support for campaigns, limited access to information and relevant authorities; limited spaces for consultation on public policies and decision-making and insufficient use of special measure.
- There were reports of restrictions to peaceful assembly, and particularly vulnerable to unlawful police force in the context of protests e.g. In Colombia, numerous instances of unnecessary or disproportionate use of force by police officers including those leading to deaths of people of African descent, the IACHR, highlighting racial and structural discrimination rooted in historical patterns of violence.

Promising initiatives

- People of African descent and their organizations continued to play a leading role in the fight against racism: in the US, the group Mothers Against Police Brutality established a legacy fellowship programme to train mothers who have lost a child at the hands of law enforcement to engage effectively with policymakers. In October 2021, in Brazil, the municipality of Nova Iguaçu, published a human rights plan with actions on data collection, including on police violence; the creation of a psychosocial and legal support group and a municipal fund for families of victims.
- Some institutions have engaged in consultative processes with communities of African descent. In Argentina, authorities had convened the national meeting of the Afro-Argentine community in November 2021, for a framework to elaborate public policies. In Canada, online public surveys inform the development of an anti-racism data act. In Mexico, the Indigenous Peoples National Program, includes Afro-Mexican peoples. In Switzerland, in consultation with people of African descent inform its anti-racism activities. In the US, the Minnesota Department of Human Rights announced its intention to develop a consent decree to address racial with various stakeholders, including community members.

D. Confronting legacies, including through accountability and redress

Developments and promising initiatives

- State, regional and local measures to advance truth-seeking and various forms of reparations for harms suffered due to enslavement, the transatlantic trade in enslaved Africans, colonialism and successive racially discriminatory policies and systems: In June 2022, the King of Belgium reiterated his regret for the “wounds of the past” caused by the colonization in DRC. In Colombia, the Commission of Truth, raised awareness of the experiences of Afro-Colombians, held recognition forums and hearings. In Denmark, a government-appointed reference group submitted its report to the Ministry of Culture on steps to strengthen dissemination of knowledge about Danish colonial history. Mauritius provided information on responses to recommendations by the Truth and Justice Commission from 2011. In July 2021, in the Netherlands, the government-appointed advisory board dialogue group on the history of slavery advised the State to proceed with recognition, apologies, memorialization and restoration, and research.
- The Mayor of Amsterdam apologized for the involvement of the city’s authorities in the trade in enslaved Africans and enslavement. Sweden initiated a process to increase knowledge about its role in the transatlantic trade and enslavement of Africans. In the United States, reparations measures were advanced in some cases.
- Some business enterprises took steps to assess their links to enslavement and colonialism. For example, further to a study identifying De Nederlandsche Bank’s involvement in the “slavery-based production chain” expressed regret and disclosed and acknowledged its links to address its past.
- Universities and religious establishments also undertook initiatives and The Human Rights Council decided to convene a panel discussion at its fifty-first session to identify challenges and ways forward to address the negative impact of the legacies of colonialism on human rights.

III. Implementation of other aspects of Human Rights Council resolution 47/21

- In July 2021, the report and agenda towards transformative change for racial justice and equality were disseminated, along with feature stories and videos of family members of individuals who had died during or after interactions with law enforcement officials.
- OHCHR held eight virtual consultations to inform families and others consulted during the preparation of the 2021 report of follow-up action and to seek their views, including about the way forward.
- During the fifty-third session of the Statistical Commission, OHCHR supported the participation of activists using advanced data analysis techniques and working with communities to analyse raw data on police complaints, and national statisticians and activists.
- In January 2022, the Secretary-General launched the strategic action plan on addressing racism and promoting dignity for all in the United Nations Secretariat.
- OHCHR organized a high-level event on the margins of the thirty-first session of the Commission on Crime Prevention and Criminal Justice in partnership with the UNODC.
- In 2022, OHCHR helped networks of women human rights defenders in Brazil, especially those whose family members had died at the hands of law enforcement.
- The OHCHR fellowship programme for people of African descent continued to strengthen the capacities of people of African descent to engage with the United Nations system and to advance human rights in their countries.
- OHCHR supported the Commission of Truth, to gather information from communities, including of African descent, and supported women of African descent to present their cases to the Commission in Colombia.

IV. Conclusions and recommendations

- Despite some initiatives, the need for comprehensive evidence-based approaches to address historic injustices and their contemporary manifestations is clearer than ever including holistic approaches in intersectional and intergenerational analyses that address structural and institutional factors, in State institutions, the private sector and societal structures across multiple interconnected areas.
- The HC also describes progress towards accountability and redress in some of the seven illustrative cases described in depth in the 2021 report. However, not a single case has yet been brought to a full conclusion, with families still seeking truth, justice and guarantees of non-repetition.
- States must therefore listen to people of African descent and their organizations, meaningfully involve them and act upon their concerns and should step up implementation of the 20 actions contained in the agenda towards transformative change for racial justice and equality and demonstrate greater political will to accelerate action.
- States and all actors stand united and accelerate action in the fight against systemic racism against Africans and people of African descent and respond to demands for the realization of their rights.