

Countering discrimination against Afro-descendant people in the criminal justice system in the Americas

Written submission to the International Independent Expert Mechanism to advance racial justice and equality in the context of law enforcement

July 2022



Introduction

1. This document by the Association for the Prevention of Torture (APT) aims to contribute to the first report of the International Independent Expert Mechanism to advance racial justice and equality in the context of law enforcement, 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'. The APT welcomes the opportunity to contribute to this important and necessary report.
2. The submission focuses on African descent and police brutality and other violations of human rights in the Americas. Specifically, it provides an overview of the persistent situation of structural discrimination against people of African descent in the Americas, in particular, on the disparities in policing and criminal justice systems in some countries of the region where the Afro-descendant population is higher.¹

Key Issues

A. Structural discrimination

3. The Afro-descendent population in the Americas exceeds 150 million people - approximately 30% of the total population - and is among the continent's poorest groups.²
4. The Inter-American Commission on Human Rights (IACHR) has found that Afro-descendants in the Americas suffer from structural discrimination, evidenced in indicators relating to poverty, political participation, contact with the criminal justice system and access to quality health care, among others.³
5. Although the Latin American region has achieved a sustained increase in income levels, there are still gaps between the Afro-descendant population and the rest of the population in the Americas.⁴ For example:
 - In **Peru**, 34% of Afro-descendants live below the poverty line, compared to only 23% of mestizos.
 - In **Brazil**, one 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 nearly twice the national average.⁵

1 USA, Argentina, Brazil, Colombia, Ecuador, Panama, Nicaragua.

2 IACHR, The Situation of People of African Descent in the Americas, OEA/Ser.L/II. Doc 62 (2011), § 42, 43.

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

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

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

Countering discrimination against Afro-descendant people in the criminal justice system in the Americas

6. Even in Uruguay, the country with the lowest poverty rate in Latin America, the percentage of the Afro-descendant population living in poverty was about three times that of the non-Afro-descendant population. The data makes clear that ethnic-racial inequalities can persist in contexts of poverty reduction, indicating that poverty eradication strategies must be sensitive to difference, and must include special actions for the Afro-descendant population.
7. Based on the Durban Declaration and Programme of Action, the Office of the High Commissioner for Human Rights (OHCHR) has recognised that people of African-descent are among the most marginalised groups as a consequence of the historical legacy of the transatlantic slave trade and persistent forms of contemporary discrimination.⁶
8. The Committee on the Elimination of Racial Discrimination (CERD) has recognised 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”.⁷ In that same sense, the IACHR considers that the historical legacy of subjugation enslavement, terror, marginalisation and exclusion has continuing repercussions for African descendants’ full enjoyment of human rights.
9. This has led to structural patterns or practices, norms, rules, routines, attitudes and standards of behaviour that give rise to a situation of inferiority and exclusion of Afro-descendants in a generalised sense, situations that are perpetuated over time and even for generations (structural discrimination).⁸
10. 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, and even denied, in a majority of the States of the Americas,⁹ what is often overlooked is the systemic racism that goes hand-in-hand with the actions of law enforcement personnel (specifically in regard to police).
11. Intersectionality. It is worth noting that Afro-descendants may face multiple kinds of discrimination based on other aspects of their identity - beyond race -, bearing in mind the close links between poverty, race, gender, gender identity, sexual orientation, believes and social class, among others and how these categories are intertwined, exacerbating the Afro-descendant population’s vulnerability.

6 United Nations, Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, September 8, 2001.

7 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.

8 Id. (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).

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

12. In this regard, the IACHR has received information indicating that black LGBT persons are at higher risk of being subjected to police abuse, due to violence motivated by race and by sexual orientation and/or gender identity.¹⁰ For example:
- A study in the United States found that, compared to with cisgender persons, trans persons of colour are six times more likely to experience physical violence at the hands of police.¹¹
 - At a 2013 thematic hearing on the rights of Afro-descendant trans women in Brazil, the IACHR received troubling information regarding the high level of violence and excessive use of force against Brazilian trans people of African descent, as well as numerous cases of arbitrary detention and torture.¹²

B. Over-policing and racial profiling

13. In November 2020, the CERD stated that racial profiling is understood in the way it has been referred to in paragraph 72 of the Durban Programme of Action; that is, “the practice of law enforcement relying, to any degree, on race, colour, 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”.¹³
14. In addition, the IACHR has affirmed that Afro-descendants in the Americas are subjected to selective detention based on racial profiling,¹⁴ 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. For example, the Working Group of Experts on People of African Descent¹⁵ 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
 - In **Ecuador**, the use of racial profiling led to the over-representation of people of African descent in detention. During its visit to Ecuador, the Working Group identified that 90% of detainees in a juvenile centre were of African-descent
 - In **Brazil**, the Ministry of Justice has estimated that 75% of the prison population is Afro-Brazilian.

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

11 *Ibidem*

12 Global Rights and Rede Negra LGBT de Brazil, Human Rights situation of trans people decent in Brazil, 149^o Period of Sessions of the IACHR, October 29, 2013.

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

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

15 UN:

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

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

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

Countering discrimination against Afro-descendant people in the criminal justice system in the Americas

15. The UN Special Rapporteur on torture (SRT) reported that, in 2014, about 67% of Brazil's total prison population was classified as "black" or "mulatto". In addition, the SRT noted that Afro-Brazilians were at a significant higher risk of mass incarceration, police abuse, torture and ill-treatment, medical neglect and being killed by the police.¹⁶
16. 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 - to the effect that they are dangerous, 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.¹⁷
17. Also, in Argentina in 2017, a trend was identified whereby the Buenos Aires Metropolitan Police and Argentina Federal Police enforced profiling in identity checks on the streets, which disproportionately affected migrants and Afro-descendants people.¹⁸
18. The Inter-American Court on 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 badly injured in police custody (he was criminalised for being intoxicated). The IACtHR concluded that the police had been motivated more by racial profiling than by a genuine suspicion a crime had been committed.¹⁹
19. In Panama, concerns have been raised about institutionalised stereotypes and excessive policing in areas inhabited by Afro-descendant people, including racial profiling by law enforcement officials through the use of "pele police".²⁰ It has also been reported that profiling is a systemic practice, widely used as a selective and discretionary mechanism for carrying out detentions and investigations.
20. In the United States the "Stop, Question and Frisk" policy, introduced by the New York Police Department in 1990, involves temporarily detaining, questioning and, at times, searching civilians on the street for weapons. This policy has had a clear discriminatory impact on historically marginalised groups, including African Americans.²¹ For example, during the first quarter of 2017, 57% of those stopped were African American.
21. These patterns reveal a clear racial filter: skin colour proves to be a major determinant of intervention by security forces. For instance, in 2013, a service order was issued in the city of Campinas, Brazil, with police ordered to target "black" and "pardo" people when conducting searches in a wealthy neighbourhood.²²

16 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.

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

18 Text 7. Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Argentina. A/HRC/RES/41/Add.1, 18 April 2017.

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

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

21 Civil Rights Bureau of the New York State Attorney General's Office, Stop and Frisk Report of November 2013, Nov. 2013. "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.

22 Do UOL em Americana, Ordem da PM determina revista em pessoas "da cor parda e negra" em bairro nobre de Campinas (SP). See: <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2013/01/23/ordem-da-pm-determina-revista-em-pessoas-da-cor-parda-e-negra-em-bairro-nobre-de-campinas-sp.htm?cmpid=copiaecola>

22. In Colombia, some police units have the non-institutionalised practice of reaching a certain number of searches and arrests per day to have benefits or not to be punished (quotas). A former police officer interviewed by the NGO ILEX Acción Jurídica stated: “Many times the quota was directed at people of African descent or if a crime or infraction of black person occurred, the entire community was sentenced and persecuted by the police unit”.²³

C. Use of Excessive force and police killings

23. The IACHR has reported on policies of institutional violence targeting Afro-descendent populations in various countries in Latin America, especially in relation to men who are young and poor. This institutional violence perpetuates existing patterns of discrimination, which can be generated by the absence or inefficiency of investigations and sanctions on perpetrators, or by violence undertaken by agents of the State, or by lacking knowledge of standards of proportionality, exceptionality and necessity in the use of force²⁴, and in the context of the “war on drugs”. As shown below, this demonstration of discrimination and racism goes beyond the disproportionate use of force.

Use of Excessive Force

24. The information gathered by the IACHR shows that Afro-descendant populations have been affected by “double victimization”, as they have been excluded from the protection of the State’s security forces.
25. For example, in Panama, people have been detained without a court order and without being informed of the reasons for their arrest. There have been allegations of excessive use of force during arrest and detention. In October 2012, in response to protests against the government’s plans to sell State-owned land in the province of Colón, police used tear gas and fired live rounds to disperse protesters. Three Afro-descendant persons, including a nine-year-old child and a woman, died.
26. In Colombia, symbolic violence occurs in the use of insults such as “black”, “ape”, “tan”, “slave”, which are expressions often used by members of the police to refer to Afro-descendant people. These expressions have dehumanising connotations, as they are associated with intellectual inferiority and the “indelible” connection between being of Afro-descendants and slavery.²⁵
27. With regards to gender, experts note that when security forces’ treatment of Afro-descendant men is physically and verbally aggressive; they insult them and hit them. In Brazil, Afro-descendants men are 1.1% times more likely than a white individual to experience verbal aggression by the police.²⁶

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

24 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

25 ILEX, Acción Jurídica, Abuso Policial, op. cit.

26 Inter-American Development Bank, Race Differences in Police Violence and Crime Victimization in Brazil, pp. 16. Available here: https://publications.iadb.org/publications/english/document/Race_Differences_in_Police_Violence_and_Crime_Victimization_in_Brazil_en_en.pdf

28. On the other hand, in the case of Afro-descendant women, security forces humiliate them, hit them and subject them to sexual violence, including sexual abuse in front of their respective partners.²⁷ In Colombia, 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 women's bodies are objects of appropriation and desire.²⁸
29. Use of excessive force by private actors. In Brazil, in November 2020, a 40-year-old man, Joao Alberto Silveira Freitas, was repeatedly punched in the face and head by two security guards in a supermarket. This excessive use of force resulted in his death.²⁹
30. On the use of force excessive by both State and private actors, it is worth highlighting that there is a strong link between discrimination, violence and due diligence.³⁰ Not only is the State obliged to abstain from violating rights and to act with due diligence to prevent particular acts of violence, it is also required to remedy an underlying situation of discrimination and injustice. In the case of the excessive use of force committed by public and private actors, States in the Americas have failed to act with due diligence to prevent violence against African-descendants, constituting a form of discrimination and denial of equality before law.
31. Accordingly, the IACHR has emphasised that it is essential to not only appropriately investigate, prosecute and punish cases of police violence, but also "to modify [...] institutionalized stereotypes towards Afro-descendant[s]"³¹ in order to fulfil its duties to prevent and eradicate discrimination.

Police killings

32. In the region, Brazil has been noted as the country where the police kill more people of African descent than the United States.³² According to an analysis published by the Brazilian Public Security Forum, almost eight out of ten Brazilian police fatalities are of African descent.³³
33. In the Brazilian context, the IACHR has received information on various acts of violence committed by State police forces; like the case of a 51-year-old woman of African descent who was seriously assaulted by a police officer on 12 July 2020. The act was recorded on video and shows the police officer stepping on her neck with the intention of immobilising her. The same practice was noted in a video recorded on 14 July 2020, which shows four police officers violently beating and choking Jefferson André da Silva, a 23-year-old African -American motorcycle rider who was part of a protest for better working conditions.³⁴

27 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>

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

29 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>

30 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 (2909); IACHR, Report No. 54/01, *Maria da Penha* (2001).

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

32 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>

33 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>

34 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

34. In Brazil in 2018, the use of police force led to 6,220 deaths, 75.4% of which were Afro-descendant people. Incidents of police violence against the Afro-Brazilian population have led to widespread protests in recent years, particularly in reaction to the murders of Rio de Janeiro councillor Marielle Franco in 2018 and 14-year-old João Pedro in 2020.
35. In Brazil, the government's current operating logic sees the Afro-descendant population, in general, as dangerous or in opposition to it. In 2019, 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.³⁵
36. 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 amid protests against police abuse in Bogotá.³⁶
37. In Ecuador, on 23 August 2018, in the rural Afro-Ecuadorian community of Mascarilla, 180 kilometers north of Quito, Ecuador, 24-year-old Afro-Ecuadorian Andres Padilla Delgado was shot in the back of the head by an Ecuadorian national police officer.
38. In September 2019, in Nicaragua, the death of a young black man, Evans Taylor Joseph, was publicly denounced. The police beat Joseph and later, while he was being chased, he jumped into the sea and drowned. The police officers did not rescue Joseph and only mocked him.³⁷
39. *COVID-19*. In the context of COVID-19, the IACHR has called on Brazil to adopt a security policy with a citizen focus, and to combat and eradicate the historical structural discrimination 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, there was a 31% increase in police lethality in the State of Sao Paulo between January and April 2020, compared to the same period in 2019, with 381 deaths reported at the hands of security agents. In the State of Rio de Janeiro, data from the Public Safety Institute (ISP) shows a nine per cent increase in the police fatality rate between January and April 2020, with 612 events.³⁸
40. In Colombia, on 19 May 2020, 19-year-old Afro-descendant Anderson Arboleda was beaten outside his home by local police officers for breaking the quarantine curfew. He was hit multiple times on the head with a baton and tear-gassed. He was pronounced dead from brain injuries the following day in Cali.³⁹

35 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>

36 UF, Foro: la brutalidad policial y los afrodescendientes en America Latina, 01 October 2020. See: <http://www.latam.ufi.edu/calendar/events/2020/foro-la-brutalidad-policial-y-los-afrodescendientes-en-america-latina.php>

37 La Vanguardia, Denuncian a Policía de Nicaragua por ahogamiento joven que les pidió auxilio, 29 September 2019. See: <https://www.lavanguardia.com/vida/20190924/47622075637/denuncian-a-policia-de-nicaragua-por-ahogamiento-joven-que-les-pidio-auxilio.html>

38 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

39 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_0kHDcFhujiFwt2Gj9q6KtNiZY4GEPqMiCn-7psYXFfxXac

Measures taken to address the problem by States in the Americas

41. Some States in the region have developed the following measures to address the excessive use of force related to discriminatory patterns:

- In some states of **Mexico**, criminal legislation includes racial discrimination as an aggravating circumstance in crimes such as homicide and injuries, with sanctioned conduct carrying a suspended sentence of two to three years for civilians and of two to four years for public servants, as well as life-time ban on serving in public office.
- In **Mexico**, the General Law against Torture includes that the penalties for the crime of torture shall be increased by up to one half when the victim is of African descent.⁴⁰
- In 2019, **Mexico** issued the National Law on the Use of Force⁴¹ that sets out how and when security forces, such as police and the National Guard, can use force. However, the law does not restrict the use of lethal force, nor does it specify how and when weapons can be used. Further, the law does not require that minimum force is used. The law does provide that the training of agents will consider the national and international standards related to human rights and non-discrimination, among others.
- 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 imprisonment of one to three years.
- In Rio de Janeiro, **Brazil**, a temporary measure issued by the Federal Supreme Court banned police operations in favelas during the COVID-19 pandemic, resulting in a 72% reduction in deaths occurring in the context of police operations in these communities.⁴²
- In **Argentina**, starting 2018, the programme of the Office of the Public Defender to counter institutional violence was intensified, through monitoring and documenting the repeated arrests of street vendors (mostly of Senegalese origin) in Buenos Aires. The data identified that the manner of those arrests could imply that police are carrying out arbitrary arrests of street vendors. Such arrests often involved violence resulting in injuries. In some cases, the injuries were severe, such as broken bones or deep cuts.⁴³
- In the **United States**, the Baltimore County Police Department in Maryland is establishing a public dashboard of all complaints⁴⁴ made against officers, use of force incidents and traffic stops. It will also include demographic data. In New Orleans, a Resolution⁴⁵ was passed to task 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".

40 Ley General para Prevenir, Investigar y Sancionar la Tortura, article 27. See: <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGPIST.pdf>

41 Cámara de Diputados, Ley Nacional sobre el Uso de la Fuerza. See: http://www.diputados.gob.mx/LeyesBiblio/pdf/LNUF_270519.pdf

42 Supremo Tribunal Federal, Tutela Provisória Incidental na Medida Cautelar na argüição de descumprimento de preceito fundamental 635 Rio Janeiro. See: <http://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/ADPF635DECISaO5DEJUN-HODE20202.pdf>

43 Ministerio Público de la Defensa República Argentina, Informe Anual 2019. See: <https://www.mpd.gov.ar/index.php/publicaciones-violencia-institucional/5201-informe-anual-2019>

44 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>

45 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/>

Countering discrimination against Afro-descendant people in the criminal justice system in the Americas

- In the **United States**, the President Obama Task Force recommendation regarding the use of force included creating agency use of force policies for training that emphasise the use of less lethal technologies, de-escalation and alternatives to arrest or summons in situations where appropriate.⁴⁶

Recommendations

a. Raising awareness

Implement awareness-raising programmes among the judiciary, parliamentarians, as well as the general population, including students, on the causes and consequences of racial profiling and other racially discriminatory treatments or practices by law enforcement officials or agencies on Afro- descendant people and other communities. Including, on the causes and impacts of disproportionate arrests, prosecutions, sentencing, and incarceration.

b. Data collection

In order to establish, evaluate and understand the magnitude and principal modalities of police violence, patterns and practices against certain groups, and for ensuring accountability, it is recommended to:

- Collect official statistics on police violence in a systematic, rigorous, transparent and disaggregated manner.
- Elaborate 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), actors involved, weapons used, rights violated, and circumstances of time and place.

c. Training and hiring processes

- Design and implement rigorous and transparent processes for selecting police personnel, together with offering fair and competitive salaries and labor and social benefits, that make it possible to identify and hire officers who have appropriate moral, psychological and physical qualities for the effective exercise of their functions.
- Periodically review police training programmes and operational procedures. The CERD has additionally 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”.⁴⁷

46 COPS, Final Report of the President's Task Force on 21st Century Policing, May 2015, Recommendations 2.2.1, 3.6. See: https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf

47 CERD, General Recommendation XIII on the training of law enforcement officials in the protection of human rights. U.N. Doc A/48/18, 1993, para. 2.



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