

Racial justice | Long-overdue need to confront legacies of slavery, the transatlantic trade in enslaved Africans and colonialism and to seek reparatory justice

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ISHR, as part of a broad civil society coalition from the United States, Latin America and the Caribbean, Europe, Africa, and international human rights organisations, is calling on the UN Human Rights Council, during its 47th session, to adopt a resolution that ensures effective accountability and follow-up to [HRC Resolution 43/1](#) on systemic racism and police violence against Africans and people of African descent in the United States and globally.



On 28 June 2021, the UN High Commissioner [issued a 100+ page report](#) detailing the “compounding inequalities” and “stark socioeconomic and political marginalization” that afflict Africans and people of African descent in many countries. In examining hundreds of police killings in different countries with varying legal systems, the report found “striking similarities” and patterns — including in the hurdles families face in accessing justice. The High Commissioner issued an urgent call for States to adopt a “transformative agenda” to uproot systemic racism, and called on the UN Human Rights Council to either establish a specific, time-bound mechanism, or strengthen an existing mechanism to advance racial justice and equality in the context of law enforcement in all parts of the world.

The report reinforced various proposals presented by our Coalition including on centering victims and their families, accountability and reparations for contemporary and historical racial injustices, on the urgent need to collect and publish disaggregated data by ethnicity/race, on the repression of anti-racism protests, racialized policing including through algorithms, reforming drug laws, reimagining policing, the necessity of national human rights institutions, the essential role the UN can play in pushing this agenda forward, the lack of political will of States to implement the vast UN recommendations issued previously, and the urgency of States taking action now! The High Commissioner’s report found that “no State has comprehensively accounted for the past or for the current impact of systemic racism”. The report called upon all countries to adopt “whole-of-government” and “whole-of-society” reforms and responses, through adequately resourced national and regional action plans and concrete measures developed through national dialogues, with the meaningful participation and representation of people of African descent.

How can the HRC ensure effective accountability and follow-up to HRC Resolution 43/1 at its 47th session?

Our Coalition’s proposals have been developed through a series of consultations with a broad civil society from the United States, Latin America and the Caribbean, Europe, Africa, and international human rights organisations. Our Coalition is calling on the UN Human Rights Council, during its current 47th session, to adopt a resolution that ensures effective accountability and follow-up to HRC Resolution 43/1 on systemic racism and police violence against Africans and people of African descent^u. The follow up resolution must acknowledge the importance of and align with the Durban Declaration and Programme of Action, the International Decade of People of African Descent and the UN Permanent Forum on People of African Descent. The resolution must include the following:

1. Key issues the HRC 43/1 follow up resolution’s text must address

CENTER VICTIMS, THEIR FAMILIES AND IMPACTED COMMUNITIES^u

- Ensure that the experiences of Africans, people of African descent, particularly victims and their families, remain at the centre and create spaces for their voices to be heard
- Expand the [United Nations Voluntary Fund for Victims of Torture](#) to include victims of racist police violence
- Victims of racism are everyone affected, directly or indirectly by racist actions perpetrated by State and non-State actors such as white vigilante and supremacist paramilitary groups

- Acknowledge the intersecting forms of racial discrimination with other forms of discrimination which exacerbates individuals' experiences with police violence and increased vulnerability^[a]

ACCOUNTABILITY AND REPARATIONS^[a]

- Acknowledge that police violence (State violence) is a manifestation of institutional and structural racism (State racism). Lack of acknowledgement of police violence and the "bad apples" argument promotes impunity^[a]
- Reiterate that the Transatlantic Trade in Enslaved Africans and colonialism were grave violations of international law that require States to make reparations proportionate to the harms committed and to ensure that structures in the society that are perpetuating the injustices of the past are transformed^[a]
- Guarantee reparations to victims of State violence, ensure independent, prompt and effective investigations into State violence, end the use of military jurisdictions for investigations of violations by law enforcement against civilians

REPRESSION OF PEACEFUL PROTESTS^[a]

- Recall [General Comment No. 37 \(2020\)](#) of the Human Rights Committee on the right of peaceful assembly, and condemn the increasing militarization by States^[a], the criminalization of peaceful protests, and include recommendations for improving community safety and proper management of assemblies, preventing the abuse of force by law enforcement, and the recognition of the responsibility of States to train law enforcement accordingly.

DISAGGREGATED DATA

- Call on States to collect and provide access to data on people of African Descent including for violence against protestors, and incidents of racist police violence. Failure to keep disaggregated data conceals violations and the impact of the COVID-19 pandemic: *'If you don't count us, we don't count'*.^[a]

RACIALIZED POLICING^[a]

- Recognize the existence racism in police procedures, the systematic use of racial profiling techniques against Afro-descendant and its direct relationship with State violence and institutional racism^[a]
- Recognize that drug laws are one of the tools to implement social control and discriminate against Afro and Brown populations, that racial profiling by the police targets Black populations in particular for drug-related crimes and fines, which leads to massive incarceration, and that digital identification by algorithms is connected with racial profiling^[a]
- Call on States to end the criminalization of poverty and police enforcement of low-level offences^[a]
- Acknowledge that State racism is exacerbated under COVID-19 where there is an increase of police violence in the name of public health and safety^[a]
- Urge States to conduct policy reforms on policing including divestment and defunding initiatives aiming to reduce the presence of police and investing in guaranteeing economic, social and cultural rights especially for marginalized communities^[a]

FOLLOW UP AND IMPLEMENTATION

- Acknowledge the vast recommendations already issued by a broad range of UN mechanisms and yet States have failed to ensure their implementation^[a], and urge States to report on implementation and consult with victims and their families and impacted communities in the process^[a]
- Call on States to adopt national plans of action to eliminate systemic racism and racial discrimination and to double their efforts and allocation of resources to achieve racial equity including through the adoption of reparations schemes to remedy historic racial injustices.^[a]
- Reiterate calls on States to implement the Durban Declaration and Programme of Action, embrace the International Decade of People of African Descent and operationalise the UN Permanent Forum on People of African Descent^[a]
- Urge States to establish, strengthen, review and reinforce the effectiveness of independent national human rights institutions, particularly on issues of racism, racial discrimination, xenophobia and related intolerance, in conformity with the Paris Principles^[a]

2. Follow up mechanism^[11]

The Council must establish a **multi-year** mechanism of independent **experts and individuals from impacted communities** that takes into account **intersectionality** and centers in its work consultations with impacted communities including **victims and their families**. This mechanism's mandate should be to:

1. Investigate **structural and systemic racism in law enforcement in the United States and globally against Africans and people of African Descent**, especially where it is related to legacies of **colonialism and the Transatlantic Trade in Enslaved Africans**, and investigate and document human rights violations and excessive use of force by law enforcement agencies including **root causes of racialized policing**
2. Investigate governments' responses to **peaceful protests** and all other violations of international human rights law
3. Contribute to **accountability and redress for victims** by identifying patterns of violations over time by analysing the similarities in findings and recommendations with and of relevant previous United Nations mechanisms and the mechanisms or gaps in domestic laws, policies or implementation that serve as barriers to accountability, with a view to ensuring that perpetrators of violations are held accountable
4. Have a strong **implementation** mandate including monitoring the vast recommendations already issued by the UN, most recently the High Commissioner's report and examine the reasons behind the lack of implementation

The mechanism should make **recommendations** on structural and systemic reforms needed to halt and prevent such violations, on the collection of disaggregated data of ethnicity/race, and on ensuring justice, accountability and reparations for both contemporary and historical racial injustices including supporting accountability processes at national, regional and international levels.

The mechanism should **coordinate and work with** all United Nations relevant mechanisms, regional human rights mechanisms in particular the Inter-American Commission on Human Rights, and national human rights institutions.

The mechanism should **report annually to the Human Rights Council and General Assembly** during debates with the participation of directly affected individuals, their families and communities.

3. Follow up by other UN actors^[12]

- The **OHCHR** should continue its monitoring and reporting on the issue, including through its **field presences**, and organize **inter-sessional meetings** to discuss **implementation** at the national level
- The Assistant Secretary-General for Human Rights should present to the Council on an annual basis a report on the activities of the **UN Inter-agency network on racial discrimination and protection of minorities**
- All relevant **UN agencies should mainstream** racial discrimination and police violence across their work and consult broadly with impacted communities, in particular the youth, in developing and implementing their activities and programs, including development assistance programs to law-enforcement and on legal reforms.

Photo: ILEX -Acción Jurídica

[1] Background: In June 2020, the UN Human Rights Council (HRC) convened a historic urgent debate on "current racially inspired human rights violations, systemic racism, police violence and violence against peaceful protests". George Floyd's brother, Philonise Floyd, made a [historic address](#) to the HRC to establish an [independent international commission of inquiry](#) focused on the situation in the United States. However, the HRC [adopted](#) a watered-down resolution due to diplomatic pressure from the United States under the Trump Administration and other allied countries. It [mandated](#) the High Commissioner to prepare a report on systemic racism, human rights violations against Africans and people of African descent by law enforcement globally including in the United States, and governments' responses to anti-racism protests. The High Commissioner's

report will be presented at the 47th session of the HRC. In May 2021, 171 families of victims of police violence in the United States and over 270 civil society organisations from more than 40 countries called on the [UN High Commissioner](#) and the [Africa Group](#) to ensure the HRC's role in effective accountability and follow-up to [HRC Resolution 43/1](#) on systemic racism and police violence against Africans and people of African descent in the United States and globally.

[2] [Report](#), para 67

[3] [Report](#), para 14.

[4] [Report](#), 15, 38, 41

[5] [CRP, para](#) 13, 63

[6] [Report](#), para 10.

[7] [Report](#), para 51-52.

[8] [CRP, para](#) 92

[9] [Report](#), para 16

[10] [Report](#), paras 11, 13, 18, 71.

[11] [CRP, para 84-94](#)

[12] These situations were recognized by the [Working Group on Arbitrary Detention in its latest report](#) Arbitrary Detentions relating to Drug Policies, where the Group established that “criminalization of drug use facilitates the deployment of the criminal justice system... with law enforcement officers often targeting members of vulnerable and marginalized groups, such as minorities, people of African descent...”.The Working Group of Experts on People of African Descent had [stated](#) that people of African descent are affected by excessively punitive laws and racial profiling, which has made them a targeted group. See also [CRP, para](#) 98-99

[13] [CRP, para](#) 32

[14] [CRP, para](#) 87

[15] [CRP, para](#) 167

[16] [CRP, para](#) 82.

[17] [Report](#), paras 60, 67.

[\[18\] Report](#), para 18.

[\[19\] CRP, para 79](#)

[\[20\] Report](#), para 21.

[\[21\] Report](#), para 71.

[\[22\] Report](#), para 70, 53-54.

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