

Input Office of the High Commissioner for Human Rights

30 August 2024

A. Introduction

1. This input from the Office of the Human Commissioner for Human Rights is in response to a request from UNODC based on resolution 78/227 entitled, “Equal access to justice for all” adopted by the General Assembly on 19 December 2023.

2. Pursuant to this resolution, UNODC will be holding an expert meeting “with a view to sharing information on challenges, lessons learned, best practices and enabling factors needed to enhance the functioning of criminal justice systems to ensure equal access to justice for all”. OHCHR was requested to provide substantive information for the purpose of preparing for this event.

B. Impact of digital technologies and AI on access to justice

3. The General Assembly requested the Secretary General, pursuant to [A/RES/77/219](#), to highlight the human rights challenges and good practices of the application of some digital technologies and Artificial Intelligence in the administration of justice. This report will be presented to the 79th session of the General Assembly (A/79/29)¹ and describes how digital technologies and AI impact access to justice. This is the first UN report on this issue. The following are some of the issues highlighted in the report.

- Such technologies **can both improve and exacerbate access to justice** if the development, deployment and use of digital technologies and Artificial Intelligence (AI) is not anchored in human rights.
- **Digital technologies and AI systems are increasingly being used throughout the administration of justice**, by law enforcement and investigation, judges and lawyers, in case file management, to conduct online hearings, in the prison context and as an alternative to detention in the form of electronic monitoring. The pace of growth of these technologies requires serious analysis and assessment of the possible human rights consequences and requires the regulation of their use to keep apace.
- **Digital technologies have the potential to contribute to improving access to justice** and the different entities in the UN are working with States to explore how to do so. By way of example, access to justice may be improved through: digital case management systems to streamline administrative processes within the justice system; through easier access to legal information through chatbots; in investigations including into child sexual exploitation and abuse; and digital rehabilitative programmes and security solutions in prisons with the use of AI.
- **The application of digital technologies and Artificial Intelligence (AI) systems in the administration of justice also has the potential to negatively impact numerous human rights**, notably in criminal justice. The unregulated, inappropriate and/or misuse of such technologies can exacerbate inequality and discrimination, disproportionately affect marginalized individuals and groups. They can also impact

¹ To be issued on 4 September

numerous other rights associated with access to justice, notably the rights to liberty and security, to a fair trial by an independent judiciary, to freedom from torture and ill-treatment, ² access to a legal remedy, non-discrimination and privacy.

- **AI systems have an impact on access to justice, as they are used in law enforcement** such as in the use of predictive policing and surveillance tools **and in the judiciary** to assess the degree of risk posed by a person at different stages, including in sentencing and assisting in rendering court decisions. Lawyers also use AI to expedite the drafting of legal documents and written court submissions.
- **A common challenge of using AI systems from a human rights perspective relates to how they are developed, work, and are monitored and whether sufficient safeguards and oversight are in place.** They have the potential to deepen racial, gender, and other types of multiple and intersecting forms of discrimination and exclusion, including against persons with disabilities.
- **The use of AI in justice systems may also undermine other rights such as the right to liberty and security and equality and fair trial rights** if defendants are unaware that AI systems were used in making a decision that affected them, were unable to understand how decisions by AI systems were made (opacity), or to challenge or appeal the decision-making process and the decision itself. Lack of access to information can compromise the accused's **right to an effective remedy** both during and after the completion of criminal proceedings against them.
- In addition, influence exercised by the executive or the legislative, for instance, over the selection of the training data used to teach an AI system how to respond to questions, or the design of the algorithm used in the courtroom could **raise questions over the court's independence.** The use of AI in judicial decision making may also impact access to justice as such systems **lack equitable principles**, responding to complex problems in a formalistic legal way, **without empathy, and discretion.**
- On the use of **electronic monitoring**, the Human Rights Committee and the Committee against Torture support the use of electronic monitoring as an alternative to detention, as well as parole, community service and release³. However, detention pending trial should be the exception rather than the rule to protect the presumption of innocence.⁴ Thus, **the use of electronic monitoring as an alternative to detention pending trial should only be used when grounds for detention exist.**
- The Committee against Torture has **regretted the requirement to pay for electronic monitoring devices, noting that this may have a discriminatory impact** on indigent persons.⁵ Research also suggests that in some countries certain groups may be disproportionately subject to electronic monitoring, that some forms of electronic monitoring can impede access to education, work and the delivery of care-giving responsibilities as well as result in deprivations of liberty where the device fails, is defective or cannot be charged due to homelessness. When used in situations where there are no grounds for detention, electronic monitoring would risk constituting an

² [A/HRC/48/31](#), [A/HRC/51/17](#), [A/HRC/44/24](#), [A/78/184](#)

³ [CAT/OP/MKD/1 \(SPT 2019\)](#); [CCPR/C/BEL/CO/5 \(CCPR 2010\)](#); [CCPR/C/KAZ/CO/1 \(CCPR 2011\)](#); [CCPR/C/TUR/CO/1 \(CCPR 2012\)](#). [CCPR/C/GC/35](#).

⁴ [CCPR/C/GC/35](#)

⁵ [CAT/C/GTM/CO/7](#)

unlawful and arbitrary interference with the right to privacy of the wearer and the people with whom they live and interact. The design and implementation may also fail to take into account women and persons with disabilities.

- On the use of technologies in court administration States and UN entities **attest to the potential of digital technologies in court administration to increase access to justice**, transparency, accessibility, auditability, expeditiousness and efficiency for all parties. However, efficiency should not be conflated with quality of outcomes. An efficient system that reduces costs to the user but results in unenforceable decisions, exacerbates the gender digital divide, or fails to protect rights is not system improvement.
- **Where implementation of technological reform in court administration is solely the responsibility of the executive, this may pose risks to the independence of the judiciary.** Data tools that develop performance indicators for judicial case management, through the imposition of efficiency-based targets, could be contrary to autonomy in judicial decision-making. The same is true if oversight of technology used by the judiciary were to be carried out by the executive or a regulatory body, rather than by a body within the judiciary itself.
- On access to a court and/or hearing, **many Member States and UN entities attest to the benefits of online hearings** which can allow participation by some or all parties with the potential to increase access to justice, efficiency and cost-savings, logistical barriers in accessing court facilities, reducing the demand for physical space; flexibility for the legal profession, reduced travel and CO2 emissions, and accessibility.
- There is evidence that videoconferencing **is beneficial for vulnerable complainants such as those affected by gender-based violence**, prosecution witnesses and as recommended by the Human Rights Committee in all cases necessary to safeguard the rights of both the accused persons and the victims and/or victims' relatives, particularly in cases where the physical presence of any of the parties would endanger their lives.⁶
- However, **online hearings should only be implemented when regulations are in place to ensure the protection of human rights, fair trial guarantees and the need for safeguards.**⁷
- Human rights treaty bodies have expressed the view that **custody hearings should be heard in the physical presence of the detainee to prevent and ensure accountability for torture or ill-treatment.**⁸ The Human Rights Committee refers to the right to be brought promptly to appear “physically” before a judge once a person has been arrested or detained to ensure judicial control of detention.⁹This is a right without exception.
- Subsequently, if continued detention is ordered, detainees have the right to appear “in person” before the court to challenge the legality of the detention under the habeas corpus principle.¹⁰ In both instances, **with respect to judicial control of detention**

⁶[CCPR/C/COL/CO/8 -](#)

⁷ [A/HRC/47/35, UNODC submission, India NHRI, Colombia Submission](#)

⁸ [CAT/C/BRA/CO/2, CCPR/C/BRA/CO/3](#)

⁹[CCPR/C/GC/35](#)

¹⁰ [CCPR/C/GC/35](#)

and habeas corpus applications, in principle, the physical presence of the detainee is essential, as any signs of torture and ill-treatment cannot be properly observed on a screen and the person's ability to complain of ill-treatment may be compromised if they are heard online from a place of detention.

- As to other criminal hearings, **the accused has the right to be tried in their “presence” and trials must be conducted orally and publicly.**¹¹ Thus, **trials of criminal cases should only be held online with the explicit free and informed consent of the accused and subject to respect for due process guarantees.**¹² OHCHR developed a Briefer on Online Hearings.¹³
- If technology is used in criminal proceedings, **persons with disabilities who need them, must have supported decision-making measures** to enable them to exercise their legal capacity and access to justice in line with international law, including the Convention on the Rights of Persons with Disabilities.
- Many agree that some of the **benefits of online hearings for children can reinforce their rights**, such as improving access to justice and release from detention following minor charges, protecting them from harm/re-victimization, increasing participation of family members and witnesses, allowing access by legal aid organizations to remote areas, and potentially reducing anxiety online.
- **Online hearings also pose significant risks to children's rights.** Beyond the exacerbation of inequality and discrimination due to the digital divide, and the privacy issues around unauthorized people listening in and the storage of personal information, the child's right to participate effectively in the hearing may be affected by the lack of human contact in an online hearing. Such hearings may also undermine lawyer-client communication, affecting the trust and capacity to provide adequate support and assistance. Other concerns include the difficulty for the judiciary to fully assess the physical appearance and demeanour of the child and confirm the safety and confidentiality of the setting from where the child is calling in from. For these reasons, several civil society organizations express the view **that in-person court proceedings should be the norm for proceedings involving children, supported by remote technologies.**

Recommendations in the report of the Secretary General to the General Assembly

States should

- Systematically conduct human rights due diligence, in particular comprehensive human rights impact assessments throughout the life cycle of AI systems.
- Refrain from or cease the use of AI applications that are impossible to operate in compliance with international human rights law, unless and until the responsible authorities can demonstrate compliance with human rights. Such AI applications include:
 - predictive policing applications
 - profiling and surveillance models such as biometric identification systems,

¹¹ [CCPR/C/GC/32](#)

¹² [CCPR/C/111/D/2041/2011](#); ; [CCPR/C/GC/35](#)

¹³ <https://www.ohchr.org/sites/default/files/documents/issues/ruleoflaw/Briefer-Online-hearings-justice-systems.pdf>

- judicial decisions in criminal cases such as recidivism risk assessments for bail and parole decisions
- Regulate the development, deployment and use of digital technologies and AI in the administration of justice by law enforcement, courts, and the legal profession, based on a human rights framework.
- Enact laws to regulate AI systems used in law enforcement and by judicial operators, in legal proceedings, with clear guidelines, standards and safeguards that comply with international human rights law
- Ensure that the judiciary has an oversight role and responsibility in the development, deployment and use of digital technologies and regulation to protect their independence.
- Regulate the development of such technologies by businesses.
- Ensure robust data protection laws aligned with the right to privacy when digital technologies and AI are employed in the administration of justice.
- Ensure that public-private partnerships in the provision and use of digital technologies and AI in the administration of justice are transparent and subject to human rights oversight carried out by independent bodies.
- Ensure that AI systems should be designed and deployed to produce explainable, non-discriminatory results.
- Ensure accessibility for persons with disabilities
- Include vulnerable groups such as women and persons with disabilities in their development, deployment, use and oversight.
- Include in reports to the United Nations human rights treaty bodies and the Universal Periodic Review information on the design, use and deployment of digital technology and AI in their justice systems. This should encourage greater transparency, oversight and guidance from these human rights mechanisms on the compatibility of such technology with human rights.
- Ensure the provision of training and education to police, judges, lawyers, and other legal professionals to ensure that technology, including AI and biometric technologies, is only used in the administration of justice in compliance with human rights.
- Conduct public awareness campaigns on the human rights and legal implications of technology in the justice system, including through fostering dialogue and consultation with affected communities and stakeholders.
- Increase the transparency of the States, Courts and Business use of AI, including by adequately informing the public and affected individuals and enabling independent and external auditing of automated systems. The more likely and serious the potential or actual human rights impacts linked to the use of AI are, the more transparency is needed.
- Undertake further independent research on the impact of online hearings on human rights, in particular on vulnerable groups such as women, persons with disabilities, and children, and on the practical measures needed to ensure that such hearings comply with human rights notably the right to a fair trial, and to be free from arbitrary detention, torture and ill-treatment.
- Ensure that the use of digital technologies and AI conforms with the right to a fair trial, judicial independence and impartiality, the right to liberty and security of person

and not reproduce or aggravate discrimination and that parties to legal proceedings are made aware of any use of AI in those proceedings, understand its impact and have the opportunity to challenge such use.

- Ensure that electronic monitoring should only be used as an alternative to detention pending trial when grounds for detention exist and any use of such monitoring must respect human rights.
- Ensure that digital evidence must be collected in a transparent and regulated manner with appropriate safeguards before being introduced in judicial proceedings and that the judiciary and legal representatives involved in criminal proceedings should be trained and equipped appropriately to interrogate and weigh digital evidence.
- Ensure that Courts and the legal profession store and manage all data in a secure technological environment that protects the right to privacy of all parties to the proceedings and that preserves confidentiality, as appropriate.

Businesses should

- Systematically conduct human rights due diligence throughout the life cycle of AI systems, particularly comprehensive human rights impact assessments
- Operationalize the Guiding Principles on Business and Human Rights.

C. Detention and access to justice

- [Around 30 percent of the prison population](#) worldwide is made up of pre-trial detainees not yet convicted of a crime. Many are held due to lack of alternatives or because they cannot afford to pay a bail fee; or/and pay for a lawyer. Many countries do not have an adequate legal aid system. A prolonged pre-trial detention undermines the chance of a fair trial and the rule of law.
- The right to challenge detention is a judicial remedy designed to protect personal freedom and physical integrity and that it is a non-derogable right. (A/HRC/30/37). The right to challenge detention is an important tool for addressing the problem of overcrowding given accounts of individuals being detained illegally, or when the pre-trial detention limits are not respected or indeed prisoners are not promptly released after serving their sentence. In order to make this right effective, every detainee must be able to take proceedings before an independent court, without substantial delay, and to appear before the court in person. (See A/HRC/30/16)

D. Racial Discrimination

Findings by OHCHR and UN human rights mechanisms

- Systemic racism and enduring harmful and degrading associations of Blackness with criminality and delinquency shape interactions of people of African descent with law enforcement and the criminal justice system.¹⁴ Reports highlight that racial stereotyping and bias including within the judiciary “mirror the prejudices of the society they serve”.¹⁵

¹⁴ See HC reports on racial justice and equality, available [here](#), and in particular [A/HRC/47/CRP.1](#), which provide the background information in this note. See also A/74/274; CERD/C/GC/34; A/HRC/45/44.

¹⁵ A/HRC/27/68, paras. 54-55.

- Available data, coupled with reports and recommendations by UN human rights mechanisms and other bodies, paint an **alarming picture of system-wide, disproportionate and discriminatory impacts on people of African descent in their encounters with law enforcement and the criminal justice system** in some States.
 - In several States, Africans and people of African descent are particularly vulnerable to racial profiling, notably as a basis for discriminatory identity checks, stops-and-searches, arrests and related abuses and violence, including serious injury and deaths.
 - Reports also point to the disproportionate presence of Africans and people of African descent in prison populations, in some countries receive higher sentences for the same crime, and are more likely to suffer discrimination in prison, without the possibility of accessing alternatives to incarceration.
 - The overrepresentation of women of African descent within the criminal justice system is due to a combination of underlying factors, including structural racism and racial profiling, poverty and lack of educational and employment opportunities.¹⁶
 - People of African descent are disproportionately affected by excessively punitive drug policies and are more likely to be apprehended, searched, arrested, convicted, and sentenced to death for drug-related crimes.
 - Reports indicate that the death penalty disproportionately affects the poor, while poverty also compounds obstacles that vulnerable and disadvantaged groups, including people of African descent are already facing in many countries. Due to limited or inadequate legal aid services, poor or less privileged individuals often do not have access to effective legal representation and run a higher risk of being subject to the death penalty, leading to inherent bias in their experience of the criminal justice system.

- Available data and reports also indicate **low rates of accountability for violations by law enforcement officials against Africans and people of African descent**.
- The challenges to accountability include: a lack of independent and robust oversight, complaint and accountability mechanisms; delays in and deficient investigations without access to information; a reported lack of cooperation by police officers in investigations and attempts in some instances to proactively undermine accountability processes; the discretion vested in prosecutors and, at times, their reported reluctance to file charges against police officers, the difficulty in proving criminal intent or knowledge of police officers to the high standard necessary to secure a conviction in criminal proceedings, as well as the racial composition of the jury and potential bias of jurors in relevant jurisdictions.
- In particular, **families of people of African descent who have died after an encounter with law enforcement officials face considerable challenges in their demands for truth and justice**. Many people of African descent feel continuously “betrayed by the system” and there are **striking similarities across countries in terms of the challenges they face in gaining access to justice**. Many families expressed a profound lack of trust in law enforcement and the criminal justice system, primarily due to impunity. It often

¹⁶ A/72/323, para.38

falls on victims and families to fight for accountability without adequate support, when they have already been overpoliced and traumatized.

- There is an inequality of arms resulting from the State providing police officers with legal assistance, while not doing so routinely for families; who also reported a lack of access to adequate legal aid.
- While in some jurisdictions, families have an official role or involvement in parts of accountability processes, most families report a profound lack of information available about possible or ongoing processes. Failure to provide relatives with information on the circumstances of the death of an individual may violate the prohibition of torture/other cruel, inhuman or degrading treatment or punishment.
- Families face difficulties in obtaining an official autopsy report or to conduct their own autopsies due to lack of financial support; as well as difficulties and delays in some instances in receiving their family member's body for burial.
- Some families also fear reprisals and harassment. Families find it particularly difficult that victims are often portrayed as "deserving" of the treatment they were subjected to by law enforcement officials.
- Moreover, families reported a lack of access to psychosocial support during often long and financially and emotionally draining processes. The enduring psychological and physical trauma often extends to communities. Each new killing is a reminder of those who came before, resurfacing the pain and trauma related to past killings. It reinforces communities' experiences of systemic racism, over policing and criminalization, and deepens mistrust in law enforcement institutions.

Recommendations, as detailed in the High Commissioner's Agenda towards transformative change for racial justice and equality¹⁷

- States should undertake profound introspections and encourage the participation and engagement of people of African descent and affected communities to reimagine policing and reform the criminal justice system. The 2023 Guidance Note on How to effectively implement the right to participate in public affairs: A spotlight on people of African descent can be a useful tool in this regard.
- States should strengthen public trust and foster strong relationships between law enforcement and communities, to reduce crime and increase safety, including through the recruitment, retention and promotion of people of African descent in law enforcement and criminal justice institutions (including among judges, prosecutors and lawyers), as anti-bias and human rights training in isolation has proved to have limited impact.
- States should examine to what extent racial biases and stereotypes are a part of the institutional culture of law enforcement and criminal justice system agencies, and address them. Potential discriminatory application of criminal law must be tackled at every stage, in line with international human rights standards.
- As a starting point, States may initiate a human rights audit exercise that would focus on the systemic nature of how racism and racial discrimination may manifest itself in law enforcement institutions and more broadly in the criminal justice system. Such a human rights audit should examine whether there is disparate impact on certain communities, such as people of African descent, of legislation, policies, guidelines and practices, as

¹⁷ [A/HRC/47/CRP.1](#)

well as the personal element and contribution that individual officers may bring. It would also critically examine safeguards so that institutions can identify and mitigate the risks of stereotypes and biases. Such an assessment could be undertaken by law enforcement experts, human rights experts with expertise in addressing racial discrimination, and civil society representatives, including people of African descent. Transparency about the outcomes of these procedures is strongly recommended, to strengthen law enforcement accountability and affected individuals' and communities' trust in related institutions.

- States should address the reasons for low rates of criminal accountability - robust measures to end impunity and ensure accountability and redress for victims and their families are critical, in line with international human rights law.
 - o This requires effective, impartial and timely investigations of allegations of unlawful use of force or other violations by law enforcement officials – with a specific focus on the possible role that racial discrimination may have played in the violation; imposing commensurate punishments; and providing guarantees of non-repetition.
 - o States should also envisage disciplinary measures in cases of misconduct.
 - o Further, fair and adequate compensation should be paid to the families and dependents of the victim(s)
- State should ensure that the central element of race is taken into consideration during investigations and prosecutions. This will enable States to ensure the prosecution of all persons who commit crimes against people of African descent where race is an element, and guarantee the provision of adequate compensation for victims of such crimes. Further, considering the role that race may have played is an essential component of understanding the reasons and circumstances of deaths, identifying clear patterns, and acting to prevent similar acts from occurring in the future through broad learning.

Recommendations relating to the right of families to know the truth and achieve justice

- States must respect the right of families affected by law enforcement violations to know the truth, achieve justice and advocate for guarantees of non-repetition for what happened to their loved ones, including demanding the prosecution and sanction of those responsible.
- States should establish and resource independent mechanisms to support families and communities in accessing truth and justice. This entails adopting a victim-centered approach in providing them with legal aid and assistance with specialized information and advice on sources of support, the process of investigating deaths during or following contact with law enforcement, as well as regular information throughout investigation processes.
- States should ensure that families are afforded legal standing in the investigation, and take steps to protect witnesses, victims and their relatives and persons conducting the investigation from threats, attacks and any act of retaliation.
- The investigation into deaths at the hands of law enforcement should include an autopsy of the victim's body, whenever possible in the presence of a representative of the victim's relatives. In this regard, State should also ensure that families are provided the financial means and other support to commission separate autopsies, if desired, and to recover the bodies of, and bury, their loved ones.

- They should ensure that families can benefit from victim compensation programmes in cases of deaths at the hands of law enforcement, as well as psychosocial and bereavement assistance and support to bury victims, and social assistance and support.
- States should adopt measures to memorialize the lives of victims. Such measures should be established in consultation with and participation of the families.

Issues raised in relation to country situations

- Systemic racism has contributed to the overrepresentation of indigenous and racialized people in the criminal justice system.¹⁸
- Persons belonging to racial and ethnic minorities, in particular people of African descent, members of Indigenous Peoples and persons of Hispanic/Latino origin, are overrepresented in the criminal justice system, are disproportionately placed and held in pretrial detention and affected by parole and probation sentences and are more often subjected to prison labour and harsher sentences.¹⁹
- In some countries women are more likely than men to be incarcerated for non-violent offences and black and minority ethnic women are overrepresented among the female prison population.²⁰
- Civil asset forfeiture laws applicable in some states allow police departments to confiscate and keep cash or property tied to drugs, resulting in economic incentives for law enforcement agencies to engage in racial profiling.²¹ States should abolish civil asset forfeiture.
- Disaggregated data should be required throughout the criminal justice system and publicly reported annually, as a measure to enforce bans on racial profiling.²²
- States should include in their legislation an absolute prohibition of racial profiling; ensure that the police and other law enforcement officials are provided with clear guidelines aimed at preventing racial profiling during police checks, identity checks and other police measures; establish an effective mechanism to regularly collect and monitor disaggregated data on the number of police checks, including identity checks, and complaints relating to racial profiling, racial discrimination and instances of racist violence by law enforcement officials, including in the context of identity checks, traffic stops and border searches; establish an independent complaint mechanism to carry out investigations into crimes involving law enforcement officers, in particular to effectively investigate, in a timely manner, all complaints of racial profiling, racist abuse, ill - treatment and excessive use of force and ensure that those responsible are prosecuted and, if convicted, punished; ensure that members of groups targeted by racism and racial discrimination who are victims of excessive use of force or racial profiling have access to effective remedies and do not face retaliation for reporting such acts; promote ethnic diversity within the police and ensure that police officers belonging to targeted minority groups are working at relevant levels in order to help reduce racism and discriminatory practices, including racial profiling.²³
- States should facilitate the reporting by victims of racial profiling, investigate, in an effective and timely manner, all incidents of racial profiling by law enforcement and

¹⁸ [A/HRC/45/12/ADD.1](#) para.48

¹⁹ CCPR/C/USA/CO/5, para.14

²⁰ CEDAW/C/GBR/CO/7, para. 54

²¹ A/HRC/36/37/ADD.2, para. 58

²² A/HRC/13/23/Add.2, para.102

²³ CERD/C/DEU/CO/23-26, para. 18

other public officials and ensure that perpetrators are prosecuted and punished with appropriate penalties and that victims of racial profiling have access to effective remedies and adequate reparation and do not face reprisals for reporting such acts; adopt the measures necessary, including legislative, policy, regulatory and standard-setting measures, to ensure that the design, development, deployment and use of artificial intelligence systems comply with international human rights standards.²⁴

- States should prevent, identify and sanction discriminatory attitudes in the judicial system, ensure that victims of racial discrimination, including migrant workers, have effective access to interpretation services and free legal aid services and allocate sufficient human and financial resources to such services; improve the training of law enforcement officials to enable them to deal effectively with cases of racial discrimination; adopt legislation that places the burden of proof on those accused of racial or other forms of discrimination.²⁵
- States should enhance efforts to prevent excessive use of force by law enforcement officials by organizing, in consultation with groups exposed to racism and racial discrimination, information campaigns on combating racism and promoting human rights, as well as on de-escalation techniques and relevant international standards such as the Code of Conduct for Law Enforcement Officials, the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.²⁶
- States should ensure that specialized training on racial discrimination is available for law enforcement officials, prosecutors, judges and other public officials, at all levels.²⁷
- States should take the measures necessary to guarantee the independence and impartiality of the judiciary, including by bringing the procedures for the selection, appointment, promotion and removal of judges into full compliance with the Basic Principles on the Independence of the Judiciary, and ensure that it is in a position to protect victims of racial discrimination.²⁸
- In some countries law enforcement officers do not wear visible identification badges or warrant numbers, which makes it difficult for individuals, both citizens and non-citizens, to effectively report misconduct and file complaints, as they are unable to identify the officer(s) involved. States should ensure that law enforcement officers wear visible identification badges or warrant numbers. These badges may provide for anonymity, but should enable for the officer to be easily identifiable, in order to promote transparency and accountability.²⁹
- Law enforcement institutions should adopt effective internal policies and standard operating procedures for law enforcement officers that clearly define and prohibit racial and bias-based profiling. These should include clear guidelines for stops, identity checks and searches that include a reasonable suspicion standard; monitoring mechanisms to regularly assess profiling practices, including requirements for the recording and systematic review of stop-and-search data; and human rights-compliant collection of disaggregated data on identity checks, searches, complaints, investigations, prosecutions and convictions. They should also express commitment at a high level within law enforcement agencies to tackle racial discrimination. These

²⁴ CERD/C/QAT/CO/22-23, para. 25

²⁵ CERD/C/QAT/CO/22-23, para. 45

²⁶ CERD/C/MAR/CO/19-21, para.32

²⁷ CERD/C/TKM/CO/12-13, para. 14

²⁸ CERD/C/TKM/CO/12-13, para.16

²⁹ <https://www.ohchr.org/sites/default/files/Documents/Countries/IT/ItalyMissionReport.pdf>, page 25

should include a commitment to investigate all allegations of racist acts with a view to determining responsibilities, and a clear policy statement to address discriminatory practices, including racial profiling and other forms of bias-based profiling.³⁰

- Preventing at-risk people with mental health conditions or psychosocial disabilities from entering the criminal justice system requires long-term systemic change, grounded in intersectional analysis of the impact of racially discriminatory policies and systems on Africans and people of African descent. Behaviours arising from and perpetuating poverty and homelessness, including begging, sleeping in public spaces or loitering, should not be treated as criminal activity. Instead, holistic responses should be provided, which address the root causes of such behaviours and take into account the well-recognized relationship between poverty, homelessness and mental health.³¹
- Accountability indicators should be implemented to record, inter alia, statistics on crimes with racist motives, the racial disparities of people of African descent in the criminal justice system, and relevant accountability and remedial measures. Such guidelines should be based on international human rights law and on the methodology of OHCHR on human rights indicators.³²

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³⁰ *Ibid*

³¹ A/HRC/54/69, para.77

³² A/HRC/51/55, para.91