

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Working Group of Experts on People of African Descent; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL USA 25/2020

16 October 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Working Group of Experts on People of African Descent; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 41/12, 36/23, 42/22, 44/5, 43/4, 36/15, 42/16, 43/36 and 43/20.

In this context, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of excessive use of force by law enforcement officials against peaceful demonstrators over the past three months across the United States. Protesters were advocating for reforms to combat police brutality and systemic racism as part of the "Black Lives Matter" movement.

We previously raised similar concerns about the United States' response to peaceful protests in a communication sent in June 2020 (AL USA 13/2020). We thank you for the response received from your Excellency's Government acknowledging receipt of the aforementioned on 4 August 2020, however we are still awaiting a substantive reply as stated in the letter. Moreover, a statement was issued by several UN experts on 10 June 2020 urging your Excellency's Government, "to respect the right to peaceful assembly during future protests and to refrain from resorting to the use of force."

According to the information received:

Demonstrations began on 29 May 2020 in response to the arbitrary killing of George Floyd by a police officer in Minneapolis, Minnesota, on 25 May 2020. Between 29 May and 5 June 2020 there was an estimate of 125 separate incidents of police's excessive use of force against peaceful protesters in at

least 40 states, including the District of Columbia. Reports received indicate that, on numerous cases, police used tear gas and pepper spray, as well as batons, rubber bullets, percussion grenades and sponge rounds to disperse peaceful protesters. The reports we received detail 89 cases of misuse of tear gas in cities in 34 states, and 21 incidents of allegedly unlawful use of pepper spray in at least 15 states, including the District of Columbia. For instance, on 1 June 2020, law enforcement officials in Washington, D.C. began dispersing various demonstrations taking place across the city through the use of tear gas, particularly in Lafayette Square.

By 6 June 2020, the number of protests significantly increased in the whole country. However, it is reported that numerous peaceful protesters, demonstrating in various states, were subjected to disproportionate use of force, unlawful arrests, alleged arbitrary detention and ill-treatment by militarized police forces and federal agents that intervened at both State and local levels without having received official authorization to do so. It is further reported that these forces arbitrarily detained protesters in unarmed vehicles.

A worrying pattern of excessive use of force by law enforcement is said to be exemplified by some recent cases of alleged arbitrary killings against people of African descent that occurred in August and September 2020. These events have triggered more demonstrations across the country.

### **Situation in Portland**

On 3 September 2020, the protests marked their 100th day in Portland, Oregon. It is reported that over 60 individuals were arrested on that day, and subsequently charged with federal criminal offenses. It is reported that for over 60 nights prior to that demonstration, protesters were subjected to indiscriminate tear gas by federal officers. The mayor of Portland, who had denounced the deployment of federal police as “an abuse of authority”, was reportedly also subjected to tear gas by federal law enforcement officials during one of these protests.

A few months before, on 15 July 2020, a protestor was arrested in a white van by armed men dressed in camouflage after he had participated in a demonstration. He was reportedly never informed of the reason for his arrest.

Because of police’s violence against health care workers, some of them initiated a legal action against the Department of Homeland Security, United States Marshals Service, and the City of Portland for having been subject to indiscriminate use of force, including rubber bullets, pepper spray, tear gas, and batons, while they were attending to injured protesters.

On 29 July 2020, the Government withdrew federal agents from Portland. Despite the decision to withdraw federal agents some federal police forces were reportedly seen in the city on 7 August 2020.

In the context of a protest that had taken place a few days prior, Portland police confirmed, on 19 August 2020, that they had “fired crowd control munitions and tear gas” into a crowd of 200 people.

## **Situation in Kenosha**

After two police officers reportedly shot an African-American man on 23 August 2020 protesters gathered at the Kenosha courthouse. Protesters were met by an armored vehicle and police in riot gear, which threw tear gas into the crowd. During the night of 24 August 2020, as tensions rose, some violent protestors threw water bottles at police officers who, in response, used chemical irritants and rubber bullets into the crowd.

On 26 August 2020, a 17 year-old civilian opened fire on multiple protestors. On 28 August 2020, two Kenosha residents and college students who participated in demonstrations were pushed into unmarked vehicles and transported to holding cells without being charged. One of them was not allowed to make a phone call for over 24 hours, while fellow detainees were denied medical care and bathroom access in the jail. A group of volunteers that served food to protestors was also arrested at a Kenosha gas station. Reportedly, officers did not identify themselves, and the volunteers were put in holding cells.

## **Situation in New York City**

In New York, an eighteen-year-old transgender woman was forcibly detained by police officers and placed in an unmarked vehicle during a demonstration denouncing police brutality. She was later charged with criminal mischief for damaging police cameras and making graffiti. Similarly, in late September, it is reported that a squad of police on bicycles in Greenwich Village assaulted and arrested peaceful protestors that had gathered on a Saturday evening.

## **Use of military weapons and techniques against peaceful protestors**

Federal law enforcement's response to peaceful protests has featured military style weaponry such as armored vehicles, combat gear, and rifles. On repeated occasions, federal agents operated without the proper badge identification or body cameras usually required at the local level. Military grade equipment such as flash grenades, chemical irritants, and Air Force drones were allegedly utilized to monitor and disperse protests in various cities. It is reported that this security approach to the protests has contributed to escalate the tensions between protestors and the police.

On 26 June 2020, an executive order for the protection of federal monuments and buildings was issued. Under this order, the Government sent federal officers, including those from the Customs and Border Protection and the Federal Protective Service, to Portland, Seattle, and Washington, D.C. to protect federal buildings.

## **Use of technology and social media during protests**

It is reported that the local police and federal officers used surveillance tools to monitor those participating in protests. According to the information received:

- the Department of Homeland Security used drones, airplanes, and helicopters, purchased for its customs and border enforcement, to monitor Black Lives Matter protests in more than 15 cities;
- video footage captured by “smart streetlights” in San Diego, installed to monitor traffic and environmental conditions, were used to identify, protesters;
- social media were closely monitored, including to identify the location data of demonstrators.

On 7 August 2020, dozens of officers from the New York Police Department arrested a Black Lives Matter activist at his home for allegedly yelling in an officer’s ear with a bullhorn. Officers arrived at the activist’s home equipped with riot gear and were reportedly seen holding a report titled “Facial Identification Section Informational Lead Report” that included a picture of the activist from one of his social media accounts. While the New York Police Department later confirmed the use of facial recognition software, they reportedly noted that the technology used compared surveillance videos with arrest photos but did not comment on the use of social media images. It is reported that the Department of Homeland Security accessed protesters’ electronic messages and compiled them in an “intelligence report.”

In August 2020, President Trump decided to expand “Operation Legend”, a coordinated initiative across law enforcement to address a surge in violent crime, to Chicago, Illinois and Albuquerque, New Mexico, which reportedly contributed to escalate tensions between protesters and law enforcement officials.

### **Journalists and healthcare workers targeted during protests**

Some journalists reporting from peaceful demonstrations have also been subjected to law enforcement officials’ excessive use of force during the recent demonstrations. Assaults, equipment damage and direct rubber bullet shots as well as impact projectiles affected numerous journalists covering the protests. In some instances, physical attacks left them with irreversible physical injuries.

Some reports indicate over three hundred instances of various forms of attacks on journalists during 2020, more than three quarters of which occurred while journalists were covering the Black Lives Matter protests. These incidents happened in 33 states throughout the country, with the majority happening in California, Minnesota, Kentucky, Florida, Nevada, and New York. The attacks mainly relate to arrests on charges of “disorderly conduct”, “disturbing the peace” “failure to disperse during a riot” and “delaying or obstructing a public officer”. On 3 June 2020, a non-governmental organization filed a class action lawsuit in Minnesota for police’s unconstitutional conduct targeting journalists.

It is reported that healthcare workers have also been subjected to unjustified use of force in New York, North Carolina, and Texas when providing first aid to injured protesters.

### **Instances of violence committed by some protesters during peaceful assemblies**

While the majority of protesters have been peaceful, we note that according to reports we received some individuals in Portland set local offices on fire, participated in looting, and threw rocks, water bottles, and fireworks at federal officers. Some individuals also resorted to have shined lasers into the eyes of federal agents to blind them from the crowd. 28 federal law enforcement officers have reportedly been injured in the context of the Portland protests. During the month of August, there were clashes between demonstrators and right-wing counter-protesters, who came into Portland to confront Black Lives Matter supporters and host rallies supporting the police. On 29 August 2020, a caravan of President Trump supporters came into the downtown area, some of which shot paintballs and sprayed bear repellent at protestors attempting to block the street. Fights broke out, and as a result, one man affiliated with a right-wing group was killed. In Kenosha, the clashes resulted in at least \$2 million worth of city damage. It is reported that nearly 100 buildings have been damaged and 40 destroyed in the city. In Seattle, some individuals featured fires and smashed windows of businesses. Approximately fifty-nine Seattle police officers were reportedly injured by explosive devices set off by violent protesters

While we do not wish to prejudge the accuracy of the information received, and noting the complexities dealing with isolated occurrence of violence during peaceful protests, we would like to raise our utmost concern at the above-mentioned allegations of repeated excessive use of force by law enforcement officials during peaceful protests. We are seriously concerned by allegations received that indicate that some of the officers sent to manage the recent assemblies had received trainings to address drug trafficking rings, not peaceful protests.

If confirmed, the allegations brought to our attention would be in contravention of numerous international human rights norms and standards. In this regard, we wish to highlight the duty of all levels of the State to respect and ensure the right to life, the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, the right to liberty and security of the person, the right not to be subjected to arbitrary detention, the right to equality and non-discrimination, the right to peacefully assemble and associate, the right to freedom of expression, including the ability of the press to report on events without intimidation or harassment, the right of the public to receive such information, and the right to access necessary medical care. The right to effective remedies, including the duty to conduct effective investigations into alleged human rights violations with a view to prosecuting and punishing those responsible, shall also be respected. In this regard, we particularly emphasise the duty on the part of the State not to conduct any arbitrary detention, nor to engage in any forms of violence against peaceful protesters. We also highlight the obligation of the State to conduct prompt, effective, impartial and independent comprehensive investigations into all alleged human rights violations

committed by law enforcement authorities in policing protests in accordance with international human rights law; the State must ensure that these investigations are implemented with a view of prosecuting and punishing those responsible for such violations.

We would like to express further concern at the attacks against journalists covering the demonstrations. We should emphasise that the right to freedom of expression and the right to peaceful assembly are preconditions for democratic societies. We are concerned at information received indicating that such attacks may have been deliberate to limit the coverage of demonstrations by journalists. If proven to be correct, such actions would constitute a serious interference not only with the freedom of journalists to expression and liberty, but also the right of the public to receive information.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. What measures has the State taken to guarantee the right to freedom of peaceful assembly. In particular, please provide information on the measures taken to ensure that federal, state, and local law enforcement officials receive appropriate trainings for the policing of public demonstrations.
3. Please provide the details, and where available the results of any investigation, judicial or other inquiries carried out in relation to the recurrent allegations of excessive use of force and ill-treatment of protesters by the military, police and other law enforcement agents of the state. If no investigation has been initiated, please explain why and how this is compatible with the international human rights obligations of the United States.
4. Please provide information on measures adopted by your Excellency's Government to ensure the right of persons to effective remedy for human rights violations. If no such measures have been taken, please explain how this is compatible with the international human rights obligations of the United States.
5. Please provide information on what measures your Excellency's Government will take to facilitate visits from UN human rights experts to critically assess the human rights situation therein.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the repression of peaceful protesters and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. This communication in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the allegations procedure and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the rights to freedom of peaceful assembly and of association

Dominique Day  
Chair-Rapporteur of the Working Group of Experts on People of African Descent

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punishment

## **Annex**

### **Reference to international human rights law**

In connection with above, and without prejudging the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

Under Article 2 (1) of the International Covenant on Civil and Political Rights ("ICCPR"), ratified by the United States in 1992, the State has a duty to respect and ensure the rights enshrined in the Covenant to everyone within its jurisdiction without distinction of any kind. This obligation applies to all branches and levels of the State (see General Comment no 31). In this regard, we also refer to Article 50 of the ICCPR, which provides, that the Covenant "shall extend to all parts of federal States without any limitations or exceptions", and to Article 27 of the Vienna Convention on the Law of Treaties, according to which a State Party "may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

Article 2 (3) of the Covenant enshrines the obligation of the State to provide effective remedies to victims of human rights violations. This entails a general duty to provide reparations, including restitution, compensation and just satisfaction for human rights violations. In addition, it provides a general duty to conduct effective investigations of alleged human rights violations with a view to prosecute and punish those responsible (General Comment no 31).

The right to life, as set forth in Article 3 of the Universal Declaration of Human Rights ("UDHR"), as well as in Article 6 of the ICCPR, is guaranteed for all human beings, without distinction of any kind, including for persons detained or otherwise held in situations of deprivation of liberty. Consequently, everyone has the right to be free from acts or omissions that are intended or may be expected to cause their unnatural or premature death, including access without delay to necessary medical care and to effective emergency health services.<sup>1</sup>

Furthermore, Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) also enshrines the right to the highest attainable standard of physical and mental health. The right to a standard of living adequate for the health and well-being is also guaranteed under 25 of the UDHR, with regard to individual's social and environmental conditions, including concerning medical care and necessary social services, and the right to security in the event of circumstances beyond his control. In addition, we would like to recall the duty of all States to prevent exposure to toxics and otherwise hazardous substances and wastes, as detailed in the 2019 report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes to the UN General Assembly (A/74/480). The existence of the State's duty to prevent exposure is reinforced by the right of everyone to physical integrity of their body (see A/HRC/39/48).

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<sup>1</sup> Human Rights Committee, General comment No. 36 (CCPR/C/GC/36): [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/CCPR\\_C\\_GC\\_36\\_8785\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf)

In addition, under international law, States are to assume responsibility to care for the life and bodily integrity of individuals deprived of their liberty. The duty to ensure the right to life entails a positive duty on the part of the State to take reasonable measures to prevent the deprivation of life by criminal acts, and to take all measures necessary prevent the arbitrary deprivation of life by their State agents. We also refer to the UN Code of Conduct for Law Enforcement Officials which provides, “Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty” (Article 3). Reference is also made to the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

The right to liberty and security of the person and to not be subjected to arbitrary detention is enshrined in articles 3 and 9 of the Universal Declaration, as well as article 9 of the ICCPR. We would like to remind Your Excellency’s Government that, under article 9(1) of the Covenant “No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” After its official visit to the United States in 2016, the Working Group on Arbitrary Detention noted the existence of racial disparities at all stages of the criminal justice system: “African Americans are more likely to be stopped and searched by law enforcement officers” and was concerned about the overrepresentation of African Americans detainees in the prisons it visited.<sup>2</sup>

Procedural guarantees protecting liberty and dignity of person may never be made subject to measures of derogation. In this context, under article 9 of the Covenant, all arrest must follow the procedures prescribed by the law. Any force used during arrests must be strictly proportionate and necessary to the circumstances. No person shall be subjected to secret detention; this implies that arresting officials must be identified, as well as their vehicles and any means of transportation of the detainee, while information about his or her fate must be provided. Moreover, anyone detained have the right to know the reasons for the detention, the right to be brought promptly before a judicial authority and the right to challenge the legality of the detention. Arrest and detention because of the peaceful exercise of rights protected by the Covenant may be arbitrary (CCPR/C/GC/35).

In addition, under article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by the United States in 1994, States parties have the obligation to condemn and eliminate racial discrimination in all its forms. To this end, States parties undertake to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions act in conformity with this obligation. According to article 5 of ICERD, States parties should guarantee the right to everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably the enjoyment of the right to security of person and protection by the State.

We also refer to CERD General recommendation No. 31 which focuses on the prevention of racial discrimination in the administration and functioning of the

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<sup>2</sup> A/HRC/36/37/Add.2, paras. 58 and 59.

criminal justice system; CERD General recommendation No. 34 on racial discrimination against people of African descent; and CERD General recommendation No. 13 on the training of law enforcement officials in the protection of human rights. Each of these general recommendations is relevant to the issues surrounding the incidents alleged therein.

We would also like to refer to the recommendations contained in the report of the Working Group of Experts on people of African descent to the United Nations Human Rights Council following its country visit to the United States in 2016 (A/HRC/33/61/Add.2).<sup>3</sup> In particular the Working Group recommended urgent action to ensure accountability for police violence against African Americans: by improving the reporting of violations involving the excessive use of force and extrajudicial killings by the police, and ensuring that reported cases of excessive use of force are independently investigated; by ensuring that alleged perpetrators are prosecuted and, if convicted, are punished with appropriate sanctions; by ensuring that investigations are re-opened when new evidence becomes available; and by ensuring that victims or their families are provided with remedies. The Working Group also called for implementation of the recommendations contained in the final report of the President's Task Force on 21st Century Policing. The Working Group recommended that the Government step up its efforts to prevent excessive use of force by law enforcement officials by ensuring compliance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, of 1990.

We would also like to refer to the right to freedom of peaceful assembly as set forth in Article 20 of the Universal Declaration of Human Rights and in article 21 of the ICCPR.

We should like to refer to General Comment No. 37 on article 21 of the ICCPR, in which the Human Rights Committee stated that “Only law enforcement officials trained in the policing of assemblies, including on the relevant human rights standards, should be deployed for that purpose.<sup>4</sup> Training should sensitize officials to the specific needs of individuals or groups in situations of vulnerability, which may in some cases include women, children and persons with disabilities, when participating in peaceful assemblies. The military should not be used to police assemblies,<sup>5</sup> but if in exceptional circumstances and on a temporary basis they are deployed in support, they must have received appropriate human rights training and must comply with the same international rules and standards as law enforcement officials.” (CCPR/C/GC/37, para.80).

We would also like to recall the Joint compilation of practical recommendations for the proper management of assemblies of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), in which was stated that: “The use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force.

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<sup>3</sup> See [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/33/61/Add.2](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/33/61/Add.2)

<sup>4</sup> CCPR/C/KHM/CO/2, para. 12; CCPR/C/GRC/CO/2, para. 42; and CCPR/C/BGR/CO/4, para. 38.

<sup>5</sup> CCPR/C/VEN/CO/4, para. 14; and African Commission on Human and Peoples' Rights, *Guidelines on Policing Assemblies in Africa*, para. 3.2.

Any use of force must comply with the principles of necessity and proportionality. The necessity requirement restricts the kind and degree of force used to the minimum necessary in the circumstances (the least 5 harmful means available), which is a factual cause and effect assessment. Any force used should be targeted at individuals using violence or to avert an imminent threat”.

“The proportionality requirement sets a ceiling on the use of force based on the threat posed by the person targeted. This is a value judgement that balances harm and benefit, demanding that the harm that might result from the use of force is proportionate and justifiable in relation to the expected benefit” (paras. 57 and 58). Firearms may be used only against an imminent threat either to protect life or to prevent life-threatening injuries (making the use of force proportionate). In addition, there must be no other feasible option, such as capture or the use of non-lethal force to address the threat to life (making the force necessary) (para. 59). Firearms should never be used simply to disperse an assembly; indiscriminate firing into a crowd is always unlawful (para 60). We would also like to appeal to your Excellency’s Government to ensure that prompt, effective and thorough investigations are conducted into the alleged attacks on protestors following excessive use of force by police and that there is accountability for any violations including through the prosecution of perpetrators. Effective remedy (including compensation) should be guaranteed to the injured individuals. (A/HRC/31/66 Paras. 57, 58, 59 and 60).

We would also like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms”. Any extra-custodial use of force that does not pursue a lawful purpose (legality), or that is unnecessary for the achievement of a lawful purpose (necessity), or that inflicts excessive harm compared to the purpose pursued (proportionality) contradicts established international legal principles governing the use of force by law enforcement officials and amounts to cruel, inhuman or degrading treatment or punishment, or even to torture (A/172/78, para. 62).

In his country visit report to the United States in 2016, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, called upon the competent authorities to “...(d) Review tactics for the management of assemblies, including the use of military-style weapons and equipment by the police, the use of force and arbitrary arrests, to ensure their compatibility with international human rights norms and standards, including the joint report of the Special Rapporteur and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66). In particular, ensure that management tactics are directed at facilitating rather than preventing the exercise of assembly rights and do not result in the escalation of tensions; e) Implement a more facilitative and collaborative approach to policing assemblies to encourage cooperation with and respect for organizers and non-discriminatory policing of protests by communities of colour; (f) Investigate and hold accountable police officers who use excessive force or display discriminatory behaviour when policing assemblies; (g) Recognize in law and in practice that the right to freedom of peaceful assembly is an individual right and that the violent actions of one person at a protest do not strip others of this right. When violence occurs, police should identify, isolate

and deal with the individuals engaged in those acts, in accordance with the rule of law, and not indiscriminately arrest, detain or otherwise interfere with the rights of others; (h) Eliminate all federal programmes, such as the Department of Defence 1033 programme, which facilitate the transfer of military equipment to state and local law enforcement departments for use in policing peaceful assemblies; (k) Abandon the “broken windows” policing tactics that encourage racial discrimination and the systematic harassment of African Americans and other marginalized communities in the context of peaceful assemblies or otherwise.” (A/HRC/35/28/Add.2 para 86 (d),(e),(f),(g),(h) and (k)).

Furthermore, we would like to refer to the right to freedom of opinion and expression contained in Article 19 of the ICCPR. In particular, we highlight that a “free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society” (General Comment 34). As expressed by the Human Rights Committee, “[j]ournalists are frequently subjected to [...] threats, intimidation and attacks because of their activities. [...] All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress” (General Comment no 34). Further, the Human Rights Council’s resolution 25/38, called upon States “...to pay particular attention to the safety of journalists and media workers covering peaceful protests, taking into account their specific role, exposure and vulnerability”.

In addition, the Human Rights Committee highlighted in its General Comment 37 that “the role of journalists and others involved in monitoring or reporting on assemblies is of particular importance for the full enjoyment of the right of peaceful assembly. They must not face reprisals or other harassment [...] and they are entitled to full protection under the Covenant” (para. 30) Furthermore, paragraph 74 stresses that law enforcement officials involved in policing assemblies must respect and ensure the exercise of fundamental rights of organizers and participants, while also protecting journalists.

With regard to the allegations of surveillance against protesters, we recall that in his report A/HRC/41/35, the Special Rapporteur on freedom of opinion and expression called for an immediate moratorium on the export, sale, transfer, use or servicing of privately developed surveillance tools until a human rights-compliant safeguards regime is in place.

Finally, we highlight that health professionals should be able to provide impartial care and services to all those affected or involved in situations of violence at any time. Therefore, doctors and other health-care workers must not be arrested, charged or sentenced for acting within their professional duty of ensuring medical impartiality. States have a responsibility to provide healthcare workers with adequate protection, as they are essential for ensuring availability of healthcare services. Arrests and other forms of attacks against healthcare workers not only go against the duty of State to ensure access to necessary medical care and effective emergency health services, but may also cripple the healthcare system as a whole (A/68/297).