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Racism, racial discrimination, xenophobia and related forms of intolerance: follow-up to and implementation of the Durban Declaration and Programme of Action

Systemic racism against Africans and people of African descent in the criminal justice system**Report of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement****Summary*

In the present report, the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement examines how racial discrimination against Africans and people of African descent permeates all the layers of the criminal justice system, including before, during and after trial. The Mechanism sheds light on procedural shortcomings in criminal proceedings against African defendants and those of African descent due to, inter alia, racial profiling, arbitrary deprivation of liberty, lack of legal representation and unfair convictions. The Mechanism highlights some intersecting factors, such as gender, age, mental health condition, and migration status, as aggravating factors of discrimination. Furthermore, the Mechanism investigates the nexus between racial discrimination and the overrepresentation of Africans and people of African descent in criminal detention. Taking into account promising practices in some States, the Mechanism sets out the 12 key elements of a criminal justice system free from racial discrimination. The present report also includes information on the activities of the Mechanism over the past year.

* The present document was submitted to the conference services for processing after the deadline so as to include the most recent information.

I. Introduction

1. The present report is submitted to the Human Rights Council in accordance with its resolutions 47/21 and 56/13. In it, the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement sets out an overview of its activities since its previous annual report.¹ It also provides reflections and recommendations on how to address systemic racism against Africans and people of African descent in the criminal justice system, relying on paragraph 11 (b), (d), (e) and (f) of Council resolution 47/21. In January 2025, the Mechanism issued a call for input, in response to which it received around 40 written submissions, which have informed the present report.²

2. On 26 August 2024, following the resignation of Juan E. Méndez, effective 31 July 2024, the President of the Human Rights Council appointed Víctor Manuel Rodríguez Rescia of Costa Rica to serve as an expert of the Mechanism.³

II. Activities

3. The financial liquidity crisis currently affecting the Secretariat has severely affected all mandated activities of the Mechanism in 2024 and 2025. The greatest impact has been reflected in staffing, the impossibility of carrying out all mandated consultations, and the impossibility of carrying out more than one country visit per year. In addition, the Mechanism has had to implement various cost-saving measures to minimize the impact of this crisis on its activities.

A. Country visit to Belgium

4. At the invitation of the Government, the Mechanism undertook a country visit to Belgium from 2 to 11 June 2025, as part of which it visited Brussels, Namur, Charleroi, Antwerp and Mechelen. The Mechanism held meetings with government officials and other stakeholders, including representatives of law enforcement agencies, oversight bodies, human rights institutions and civil society organizations, and heard direct testimony from detainees, other affected individuals and communities. It also visited a centre for the administrative detention of migrants and a prison. The full report on the country visit to Belgium is contained in document A/HRC/60/75/Add.1.

B. Follow-up on recommendations from the country visit to Sweden

5. On 20 June 2025, the Mechanism sent a letter to Sweden,⁴ requesting an update on all the issues identified during the visit to the country carried out from 31 October to 4 November 2022, and on the implementation of all the recommendations made in the visit report.⁵ In the letter, the Mechanism also highlighted specific positive developments and areas of concern that had been brought to the Mechanism's attention after the visit, and requested additional information related to them.⁶

¹ A/HRC/57/71.

² See <https://www.ohchr.org/en/calls-for-input/2025/call-input-systemic-racism-against-africans-and-people-african-descent>.

³ See <https://www.ohchr.org/en/press-releases/2024/08/human-rights-council-president-names-new-member-racial-justice-panel>.

⁴ Pursuant to paragraph 27 of the methods of work of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement.

⁵ See the Mechanism's conference room paper containing its report on its visit to Sweden, available from <https://www.ohchr.org/en/hrc-subsiaries/expert-mechanism-racial-justice-law-enforcement/country-visits>.

⁶ See <https://www.ohchr.org/en/hrc-subsiaries/expert-mechanism-racial-justice-law-enforcement/country-visits>.

C. Annual sessions

1. Third annual session

6. The Mechanism held its third session from 9 to 13 September 2024 at the Palais des Nations in Geneva.⁷ On 11 September, the Mechanism held a meeting open to all stakeholders, with the purpose of seeking information and their views on risks, promising practices and lessons learned in relation to the impacts of new technologies, including artificial intelligence systems, on the human rights of Africans and people of African descent in the context of law enforcement and the criminal justice system. The meeting was attended by representatives of States Members of the United Nations and members of civil society. In addition to holding internal meetings on its activities and mandate, the Mechanism also held bilateral meetings with other special procedures, representatives of permanent missions, United Nations staff, representatives of regional organizations, civil society actors and directly affected individuals and communities.

2. Fourth annual session

7. The Mechanism held its fourth session from 5 to 9 May 2025 at the Palais des Nations in Geneva.⁸ On 7 and 8 May, the Mechanism held public consultations on systematic racism against Africans and people of African descent in the criminal justice system, as part of which 20 speakers,⁹ including directly affected individuals and representatives of directly affected communities, shared their lived experiences and exchanged views about the topic with representatives of permanent missions, United Nations staff, representatives of regional organizations, and civil society actors.¹⁰ The content of the discussions has informed the thematic part of the present report. In addition to these consultations, the Mechanism held internal meetings on its activities and mandate, and bilateral meetings with members of the Committee on the Elimination of Racial Discrimination, officials of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), representatives of civil society organizations and other directly affected individuals and communities.

D. Written engagement on specific incidents and situations

8. Since its inception, the Mechanism has transmitted 15 letters to eight Member States regarding specific incidents and situations (see annex).

E. Statements and other activities

9. On 29 August 2024, the Chair of the Mechanism, Akua Kuenyehia, along with other United Nations experts, issued a joint statement on the occasion of the International Day for People of African Descent, encouraging Member States to contribute to collective efforts to advance the elaboration of the draft United Nations declaration on the promotion, protection and full respect of the human rights of people of African descent, and ensure that it includes recognition and addresses systemic and structural racism, reparatory justice, environmental justice and digital equity.¹¹

10. On 4 to 6 November 2024, in Brasilia, at the invitation of the Institute on Race, Equality and Human Rights, Tracie Keese, member of the Mechanism, participated in a

⁷ See <https://www.ohchr.org/en/events/events/2024/3rd-annual-session-international-independent-expert-mechanism-advance-racial>.

⁸ See <https://www.ohchr.org/en/events/events/2025/4th-annual-session-international-independent-expert-mechanism-advance-racial>.

⁹ See <https://ohchr4thannualsessionofthei.sched.com/directory/speakers>.

¹⁰ See <https://www.ohchr.org/en/stories/2025/06/tackling-racism-criminal-justice-systems-worldwide>.

¹¹ See <https://www.ohchr.org/en/statements-and-speeches/2024/08/time-decisive-action-against-racism-and-racial-discrimination-un>.

series of events and meetings with Brazilian authorities with the aim of presenting the recommendations of the Mechanism as contained in its report on its visit to Brazil.¹²

11. On 6 November 2024, the Mechanism, together with other special procedures, issued a press release on the case of Marielle Franco and Anderson Gomes in Brazil.¹³

12. On 7 November 2024, the Chair of the Mechanism participated in the coordination meeting of the United Nations anti-racism human rights mechanisms, held at United Nations Headquarters in New York.

13. On 11 March 2025, Mr. Rodríguez Rescia, member of the Mechanism, participated remotely in a side event at the sixty-eighth session of the Commission on Narcotic Drugs in Vienna, on the topic of addressing structural inequalities aggravated by drug policies and opportunities for positive change, organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Development Programme and Brazil.

14. On 20 March 2025, ahead of the International Day for the Elimination of Racial Discrimination, the Mechanism, along with other expert bodies, issued a joint statement calling upon States to renew their commitment to justice and equality by implementing the International Convention on the Elimination of All Forms of Racial Discrimination on the sixtieth anniversary of its adoption, among other measures, calling for decisive, collective action to safeguard decades of hard-won human rights advances against racial discrimination.¹⁴

15. On 29 and 30 May 2025, Ms. Keesee participated in the regional consultation for Latin America on a world of sports free from racism, racial discrimination, xenophobia and related intolerance, organized by OHCHR in Mexico City, pursuant to Human Rights Council resolution 54/25.

16. On 11 June 2025, in the margins of the Mechanism's visit to Belgium, Ms. Keesee and Mr. Rodríguez Rescia met in Brussels with the European Commission's coordinators for combating racism, antisemitism and anti-Muslim hatred and with representatives of its Roma coordination unit.

17. On 25 June 2025, Ms. Keesee participated in the fifth coordination meeting of the United Nations anti-racism human rights mechanisms.

18. On 25 July 2025, Ms. Keesee participated in an online event entitled "We belong here: a celebration of the lives and reflections on the resilience of Black migrant women in Latin America, the Caribbean and the diaspora", organized by the UN Anti-Racism Coalition, an international coalition of national, regional and international non-governmental organizations, in the context of the International Day for Women and Girls of African Descent.

III. Systemic racism against Africans and people of African descent in the criminal justice system

A. Experiences of Africans and people of African descent with the criminal justice system

1. Understanding the notion of "criminal justice system"

19. The Mechanism understands the criminal justice system as the machinery of institutions, functions and processes involved in the arrest, detention, investigation, prosecution, conviction and rehabilitation of individuals suspected, accused or convicted of

¹² A/HRC/57/71/Add.1.

¹³ See <https://www.ohchr.org/en/press-releases/2024/11/brazil-franco-and-gomes-murder-convictions-milestone-fight-full-justice-not>.

¹⁴ See <https://www.ohchr.org/en/statements-and-speeches/2025/03/sixty-years-progress-risk-time-stop-instrumentalising-racism-and>.

criminal offences. The institutions involved in the criminal justice system include the law enforcement agencies, the courts or the judiciary and agencies of the carceral or correctional system.

20. The Mechanism acknowledges the diversity of criminal justice systems worldwide. However, it believes that all these systems must respect the right to a fair trial of everyone without discrimination. The Mechanism recalls that Africans and people of African descent are entitled to the fair trial guarantees enshrined in article 14 of the International Covenant on Civil and Political Rights, including the right to have adequate time and facilities for the preparation of their defence, to be tried without undue delay, to legal assistance, to have, if necessary, the assistance of an interpreter free of charge and to the presumption of innocence. Article 5 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination also guarantees the “right to equal treatment before the tribunals and all other organs administering justice”.

21. The representation of people of African descent in the justice system, including as judges and jurors, and in other areas of law enforcement,¹⁵ is an essential element of the right to a fair trial for this group. However, in several countries, even in areas with a large population of people of African descent, there is a significant lack of representation of this group in the criminal justice system. This reality may also be perceived as a consequence of the colonial era, when justice and order were the supreme prerogative of the white colonists. According to the National Council of Justice of Brazil, in 2024, only 14 per cent of members of the judiciary were Black,¹⁶ compared with 56 per cent of the general population.¹⁷

2. Experiences of specific groups of Africans and people of African descent with the criminal justice system

22. Factors such as gender, sexual orientation, migratory status, socioeconomic condition, and age increase the risk of discrimination against ethnically marginalized communities,¹⁸ including women of African descent. The latter are disproportionately likely to be incarcerated, as compared with white women, due to structural racial discrimination, racial profiling and racially biased policing, and lack of access to education and employment opportunities. Moreover, women are subjected to further abuse and discrimination in the criminal justice system when deprived of adequate infrastructure for family visits and access to sanitary products and mental health services.

23. When race intersects with sexual orientation and gender identity, the risk increases disproportionately. LGBTQ+ individuals, specifically transgender persons of colour, face a higher risk of experiencing physical violence at the hands of the police than cisgender people.

24. In addition, migrants and individuals living with undocumented status also face higher risks of discrimination when detained and going through immigration proceedings. Language barriers and lack of access to legal counselling and services increase their vulnerability throughout judicial proceedings and affect their ability to defend their cases.

25. African children and children of African descent also suffer from higher risks of discrimination by criminal justice actors. Young men, in particular, are affected by stereotypes associating them with violence and crimes or labelling them as “fatherless”. They are victims of “adulthoodification”, whereby discrimination and bias result in them being

¹⁵ Committee on the Elimination of Racial Discrimination, general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, para. 1 (g).

¹⁶ See <https://www.cnj.jus.br/wp-content/uploads/2025/04/justice-in-numbers-2024.pdf>.

¹⁷ See <https://censo2022.ibge.gov.br/panorama/>. See also A/HRC/57/71/Add.1, para. 12; and joint submission by Instituto de Defesa do Direito de Defesa and others.

¹⁸ A/HRC/59/62, para. 23. See also submission by Association for the Prevention of Torture.

perceived as older.¹⁹ As a result, they are disproportionately subjected to racial profiling,²⁰ stop-and-search checks, and arrests.²¹

B. Assessing the rights of Africans and people of African descent at different stages of the criminal justice process

1. Before trial

26. Discrimination against Africans and people of African descent starts at the early stage of the criminal justice process, through racial profiling, surveillance, overpolicing, unjust targeting, use of less-lethal weapons and firearms, misconduct and excessive use of force by law enforcement, and pretrial detention.

27. The interactions of Africans and people of African descent with law enforcement are characterized by implicit biases leading to unnecessary checks based on a presumption of criminality,²² particularly in the case of young people.²³ Consequently, they are targeted based not on their acts, but for who they are perceived to be.²⁴

28. The Mechanism received reports that, in the United States of America, African Americans are stopped, searched and imprisoned at higher rates than white citizens.²⁵ A study of almost 100 million traffic stops revealed that police in the United States are 43 per cent more likely to stop Black drivers than white drivers.²⁶ Reports indicate that pedestrian stop-and-search checks reveal similar racial disparities.²⁷ Targeted and unfair surveillance of Black communities also impedes freedom of speech and association.²⁸

29. Research shows that, in Canada, Africans and people of African descent experience disproportionate levels of police stop-and-search checks and are overrepresented in arrests related to minor offences that involve a high level of police discretion.²⁹ A recent public inquiry into racial profiling and discrimination by the Toronto Police Service revealed findings of systemic racial discrimination, racial profiling, the gross overrepresentation of Africans and people of African descent as victims of excessive use of force, and anti-Black racism across interactions with the police.³⁰

30. The Mechanism was informed that, in the United Kingdom of Great Britain and Northern Ireland, Black people are 2.2 times more likely to be arrested than white people,³¹ and 4.1 times more likely to be stopped and searched than white people,³² and that police in England and Wales are 3.4 times more likely to use lethal force against Black people than white people.³³ In France, Africans and people of African descent are 20 times more likely

¹⁹ A/HRC/57/67, para. 33.

²⁰ See submission by the European Commission against Racism and Intolerance of the Council of Europe.

²¹ A/HRC/57/71/Add.1, para. 37; and A/HRC/60/75/Add.1, paras. 43 and 44. See also the Mechanism's conference room papers containing its report on its visit to Sweden, paras. 30 and 31, and its report on its visit to the United States of America, para. 35, available from <https://www.ohchr.org/en/hrc-subsidiaries/expert-mechanism-racial-justice-law-enforcement/country-visits>.

²² Submission by the University of Minnesota Human Rights Program, p. 2.

²³ Submission by Ilex Acción Jurídica, p. 2.

²⁴ Submission by the University of Minnesota Human Rights Program, p. 2.

²⁵ Submission by Partners for Transparency.

²⁶ See <https://5harad.com/papers/100M-stops.pdf>, to which reference is made in the submission by the Southern Poverty Law Center.

²⁷ Joint submission by Advocates for Human Rights, Witness to Innocence and World Coalition against the Death Penalty.

²⁸ Submission by NAACP Legal Defense and Educational Fund.

²⁹ Submission by the Ontario Human Rights Commission.

³⁰ See also A/HRC/57/67, para. 33.

³¹ See <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/number-of-arrests/latest/> (accessed on 8 September 2025).

³² See <https://yjlc.uk/resources/legal-updates/racial-disparity-stop-and-search-new-report-calls-greater-scrutiny-self>.

³³ Submission by Partners for Transparency, p. 2.

to be stopped for identity checks by the police than the rest of the population.³⁴ In Sweden, 51 per cent of citizens of African descent had been stopped by the police in the previous five years because of their ethnic or immigration background.³⁵ The overall use of profiling against Africans and people of African descent led to mistrust towards this group in the criminal justice system.³⁶

31. The Mechanism was informed that, in Colombia, people of African descent are often associated with crime, which leads to differentiated and discriminatory practices by law enforcement agencies. In addition, they are more likely to be arrested and held in police custody, even in cases of minor offences. In the same way, pretrial detention is disproportionately used for this population.³⁷

32. The disproportionate rates of stop-and-search checks lead to arbitrary arrests, excessive pretrial detention and discriminatory prosecutorial practices against Africans and people of African descent.³⁸ The burden of unjust pretrial detention is exacerbated by the high bail amounts that they face, which, in the United States, are higher than those for white people, for instance.³⁹ In addition, the structural economic and social inequalities that Africans and people of African descent encounter make it difficult for them to afford appropriate legal representation, and they are therefore more likely to remain in pretrial detention.

33. The Mechanism is of the view that the use of artificial intelligence, including predictive tools in policing and the criminal legal system, may further hinder the principle of the presumption of innocence in favour of Africans and people of African descent. The categorization of Africans and people of African descent as being prone to crimes and violence by artificial intelligence and algorithms⁴⁰ is an unacceptable form of racial profiling, which can have adverse consequences for their right to a fair trial. By extrapolating on the basis of existing data sets, predictive algorithms create a dangerous feedback loop whereby bias from the past leads to bias in the future.⁴¹

2. During trial

34. The Mechanism received reports of several breaches of fair trial guarantees in cases where Africans and people of African descent were defendants.

35. In some countries, jury composition is characterized by a lack of diversity. Reports indicate that, in the United States, despite the Sixth Amendment to the Constitution, African Americans are less likely to serve as jurors, given that they are six times more likely to be incarcerated for a felony, and people convicted of these offences cannot serve on a jury.⁴² Unbalanced juries reproduce the pervasive racial stereotypes ingrained in the mentality of the traditionally dominant elites, according to which people of African descent are prone to commit crimes.⁴³ According to reports, juries are inclined to give harsh sentences, including death sentences, to convicts of African descent, and white juries tend to sentence people of African descent to death compared with more diverse juries.⁴⁴ The Mechanism recalls the

³⁴ Lara Bullens, “Police violence: how can France tackle racial profiling without first addressing race?”, France 24, 9 July 2023.

³⁵ Submission by Partners for Transparency.

³⁶ Submission by the Canadian Human Rights Commission.

³⁷ Submission by Ilex Acción Jurídica.

³⁸ Submission by Maat for Peace, Development and Human Rights Association.

³⁹ See the Mechanism’s conference room paper containing its report on its visit to the United States, para. 87; and Connor Concannon and Chongmin Na, “Examining racial and ethnic disparity in prosecutor’s bail requests and downstream decision-making”, *Race and Social Problems*, vol. 16, No. 1 (2023).

⁴⁰ Submission by NAACP Legal Defense and Educational Fund, p. 3.

⁴¹ A/HRC/56/68, para. 32.

⁴² Joint submission by Robert F. Kennedy Human Rights, the American Civil Liberties Union, the American Civil Liberties Union of Louisiana and the Juror Project, p. 3.

⁴³ See <https://www.conjur.com.br/2024-mar-16/jurados-negros-a-identificacao-racial-pode-modificar-o-resultado-do-julgamento/>.

⁴⁴ See Death Penalty Information Center, “Equal justice initiative releases report on racial discrimination in jury selection”, 3 August 2021, updated on 14 March 2025.

need for all States to ensure that there is no racial or xenophobic prejudice on the part of judges and jury members.⁴⁵

36. The Mechanism received information according to which, during criminal proceedings, Africans and people of African descent are victims of mismanagement and suppression of evidence favourable to them, leading to major consequences for the outcome of the court rulings. Those errors are due in particular to discriminatory behaviours on the part of law enforcement during the early stage of the criminal proceedings. The Mechanism also received information about biased interpretation of evidence, including in specific cultural contexts.⁴⁶ Those behaviours reinforce mistrust in the criminal justice system.⁴⁷ For instance, in Manchester, United Kingdom, the conviction of Ademola Adediji,⁴⁸ a young Black man, was overturned after he had spent more than three years in prison following his conviction based on an unjust interpretation of cultural evidence and racial stereotypes.⁴⁹

37. People of African descent may also be disadvantaged in criminal proceedings due to the way in which testimonies are collected. In some cases, courts cut deals with offenders incentivized to act as informants, implicating people of African descent. Information received from one victim indicates that such deals are sometimes overturned by those who enter them, who afterwards reveal having been exposed to coercion and procedural misconduct. Reports also revealed cases of coerced confessions in cases involving people of African descent, who are often afraid of further prosecutions by law enforcement officials. In addition, they often lack legal representation,⁵⁰ and proper understanding of the criminal justice system.

38. Because of shortcomings in trials, Africans and people of African descent are more affected by wrongful convictions and judicial errors than others. In Brazil, according to one participant in the Expert Mechanism's fourth session, in more than 80 per cent of cases of mistakes committed, the defendants were Black. The case of Carlos Edmilson da Silva, who unjustly served 12 years in prison in Barueri, is symptomatic of recurring mistakes in trials of people of African descent in Brazil.⁵¹ In the United States, data show that 72 per cent of all murder prosecutions leading to exoneration include official misconduct,⁵² and it has been noted that, in capital cases, official misconduct is significantly higher for exonerations of African Americans sentenced to death (85 per cent) compared with those for their white counterparts (70 per cent).⁵³ The cases of John Thompson⁵⁴ and Kwame Ajamu,⁵⁵ who were wrongfully convicted and sentenced to death, and spent, respectively, 18 years and 28 years in prison, are symptomatic of this reality.⁵⁶

39. Given their socioeconomic situation, most people of African descent do not have sufficient resources to pay lawyers when they are facing criminal charges. In addition, public defender offices are often underfunded, lack proper expertise,⁵⁷ and are not available in remote areas. The fact that Governments do not invest adequate resources in high-quality

⁴⁵ Committee on the Elimination of Racial Discrimination, general recommendation No. 31 (2005), para. 31.

⁴⁶ For more information on the importance of cultural context, see, among other sources, Jüri Saar, "A 'suitable amount' of crime and a cultural-civilisational approach", *Juridica International*, No. 25/2017 (2017).

⁴⁷ Submission by Maat for Peace, Development and Human Rights Association, sect. III.

⁴⁸ See <https://www.theguardian.com/world/2025/feb/07/youth-culture-experts-could-help-avoid-stereotyping-of-young-black-men-say-lawyers>.

⁴⁹ Submission by Maat for Peace, Development and Human Rights Association, sect. III.

⁵⁰ Joint submission by Advocates for Human Rights, Witness to Innocence and World Coalition against the Death Penalty, para. 14.

⁵¹ See <https://www.theguardian.com/world/article/2024/may/25/brazil-man-freed-prison-accused-rape>.

⁵² Samuel R. Gross and others, *Race and Wrongful Convictions in the United States 2022* (2022), p. 6; and joint submission by Advocates for Human Rights, Witness to Innocence and World Coalition against the Death Penalty, para. 9.

⁵³ Gross and others, *Race and Wrongful Convictions*, p. 6.

⁵⁴ See <https://www.witnesstoinnocence.org/single-post/john-thompson>.

⁵⁵ See <https://www.witnesstoinnocence.org/single-post/Kwame-Ajamu>.

⁵⁶ Joint submission by Advocates for Human Rights, Witness to Innocence, and the World Coalition against the Death Penalty, para. 11.

⁵⁷ Submission by Ilex Acción Jurídica.

legal assistance for people of African descent may constitute indirect racial discrimination. Given the lack of legal expertise and assistance, people accused of crimes cannot present factual evidence of the same quality as that presented by the police, which is better preserved. In addition, in the absence of legal representation, people of African descent are not aware of the various options to negotiate and reduce the charges against them. They are not aware of the possibility of applying for bail. Sometimes, they are obliged to plead guilty even in cases that lack evidence submitted by the police.⁵⁸ The Mechanism notes that the lack of legal representation and interpretation services compromises the principle of equality of arms in adversarial proceedings.

3. After conviction

40. Discrimination against people of African descent in the criminal justice system goes beyond trial and continues through sentencing, deprivation of liberty and conditions of incarceration, access to rehabilitation, parole and alternatives to detention, and access to appeal.

41. The death penalty, which in some countries is rooted in enslavement,⁵⁹ is imposed and carried out disproportionately against people of African descent. In some cases, human errors, procedural flaws and racial discrimination have led to its unjust imposition on people of African descent, mostly by non-diverse juries.⁶⁰

42. The Mechanism received reports of racist language used by correctional staff against prisoners of African descent, who, should they react, are submitted to disciplinary sanctions, including solitary confinement.⁶¹ The Mechanism received information about excessive disciplinary measures taken by correctional staff against people of African descent based on stereotypes.⁶² The Mechanism is of the view that disciplinary sanctions cannot be handled by correctional staff in the absence of a legal framework. Moreover, inmates of African descent are subjected to solitary confinement, including prolonged solitary confinement,⁶³ more often than inmates of other ethnic groups, generating serious psychosocial consequences.⁶⁴

43. The Mechanism notes that people of African descent are more likely to be subjected to excessive use of force, which may sometimes amount to torture. Because they are generally classified as being at high risk during their confinement, they are victims of the over-securization of their areas of detention.⁶⁵ The discriminatory labelling of inmates of African descent as being dangerous in some prisons also compromises their chance of obtaining sentencing adjustment or conditional release. Some of them have also been transferred to remote prison facilities, where they have no family or community support.⁶⁶ The Mechanism believes that such unjust labelling of inmates of African descent may significantly hamper their chance of rehabilitation and reintegration.

44. In prisons, forced labour mostly affects people of African descent. The Mechanism continues to receive testimonies according to which, in several prisons in the United States, inmates are forced or coerced to work on very low salaries and sometimes do not receive any salary.⁶⁷ The Mechanism reiterates that this practice represents the worst version of a racist

⁵⁸ See Elayne E. Greenberg, “Unshackling plea bargaining from racial bias”, *Journal of Criminal Law and Criminology*, vol. 111, No. 1 (2021).

⁵⁹ Submission by NAACP Legal Defense and Educational Fund, p. 8.

⁶⁰ See <https://ejl.org/report/unreliable-verdicts/>.

⁶¹ Joint submission by Pivot Legal Society and PASAN, p. 7.

⁶² A/HRC/36/60/Add.1, para. 46; and A/HRC/57/71, para. 22.

⁶³ According to rule 44 of the Nelson Mandela Rules, “prolonged solitary confinement” refers to solitary confinement for a time period in excess of 15 consecutive days.

⁶⁴ Submission by Craig Haney, Professor at the University of California, Santa Cruz.

⁶⁵ Submission by the Canadian Human Rights Commission. See also Public Safety Canada, Structured Intervention Units Implementation Advisory Panel, “Solitary confinement and the structured intervention units in Canada’s penitentiaries”, 5 December 2024.

⁶⁶ Submission by Prisoners’ Legal Services, pp. 2 and 3.

⁶⁷ Submission by the Southern Poverty Law Center.

criminal legal system and that slavery, servitude, and torture and ill-treatment have no room in the modern world, even for persons convicted of the most serious crimes.⁶⁸

45. The Mechanism received information on the specific impact of discriminatory policies and practices against women of African descent in prison. In Brazil, an Afro-Brazilian woman gave birth in solitary confinement after being denied medical care.⁶⁹ The Mechanism recalls that, in women's prisons, there should be special accommodation for all necessary prenatal and postnatal care and treatment and that arrangements must be made wherever practicable for children to be born in a hospital outside the prison.⁷⁰ The mechanism was also informed of the situation of women of African descent incarcerated in Colombia, who are detained far from their communities, with limited access to family visits, in breach of the principle of family unity.⁷¹ The Mechanism has already highlighted the very difficult situation of African American women prisoners in the United States, following its visit to that country in 2023.⁷²

46. The Mechanism received information on longer prison terms applied to children of African descent compared with white children in the United States.⁷³ It also received information according to which, in the United Kingdom, children of African descent are four times more likely to be arrested, and three times more likely to be stopped and searched, than white children. They are also more likely to be excluded from school.⁷⁴ The Mechanism is of the view that States should prioritize alternative measures to the criminal justice system to deal with children accused of an offence,⁷⁵ and recalls that depriving children of liberty should be a last resort.⁷⁶

47. In addition to being confronted with significant barriers to rehabilitation and reintegration because of their alleged dangerousness, prisoners of African descent benefit less from alternative sentencing. The Mechanism believes that alternatives to detention, such as electronic monitoring,⁷⁷ if applied equitably, can address the issue of mass incarceration of Africans and people of African descent.

48. The Mechanism received information on the discriminatory application of bail and parole. For instance, in Canada, it is reported that a longer period of parole ineligibility is more likely to be applied to people of African descent.⁷⁸ They are also disproportionately denied bail.⁷⁹ Moreover, the lack of data on the success of appeals prevents the Mechanism from having a clear understanding of the role played by race in remedies for Africans and people of African descent. However, given the fact that appeals require significant resources, people of African descent are less likely to appeal court decisions against them. The Mechanism is of the view that the lack of resources should not undermine the legitimate right to remedy of people of African descent.

⁶⁸ See the Mechanism's conference room paper containing its report on its visit to the United States, para. 114.

⁶⁹ Submission by Women in Prison Network, p. 4.

⁷⁰ Nelson Mandela Rules, rule 28.

⁷¹ Submission by Women in Prison Network, p. 4.

⁷² See the Mechanism's conference room paper containing its report on its visit to the United States, para. 82.

⁷³ Joint submission by Human Rights for Kids and others.

⁷⁴ See <https://howardleague.org/reducing-racial-disparities-in-youth-justice/>. See also A/HRC/47/53, para. 27.

⁷⁵ See the Guidelines for Action on Children in the Criminal Justice System.

⁷⁶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), rules 13.1 and 13.2; and United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), rule 1.

⁷⁷ A/HRC/36/37/Add.2, para. 53.

⁷⁸ See <https://cbr.cba.org/index.php/cbr/article/view/4735/4518>.

⁷⁹ See <https://johnhoward.on.ca/wp-content/uploads/2023/05/Spotlight-on-anti-black-racism-in-the-CJS-Feb9.pdf>.

C. Nexus between racial discrimination and the overrepresentation of Africans and people of African descent in criminal detention and prison

49. Colonialism, enslavement, and the transatlantic trade in enslaved Africans had devastating, long-lasting effects that continue to affect millions of people of African descent. This enduring legacy of colonialism and enslavement has evolved into the systemic discrimination of modern times, characterized by deeply ingrained racial bias and entrenched racism, which manifests itself in systemic issues, including disproportionately low rates of access to education, healthcare, housing, and employment for people of African descent.⁸⁰

50. The enduring legacies of colonialism and enslavement continue to manifest themselves in negative stereotypes that influence the daily interactions of people of African descent with law enforcement agencies, and do so across the different stages of the criminal justice system. In many countries that experienced colonial rule, the foundations of the criminal justice system were established during colonial times and are deeply rooted in institutions that were inherently unequal, dehumanizing and discriminatory. These systems often prioritized control and repression over equality and justice, embedding racial biases and hierarchies that continue to influence legal frameworks, law enforcement practices, and judicial outcomes today.⁸¹

51. In the United States, the origins of modern-day policing can be traced back to the “slave patrol” system, which was designed to suppress slave uprisings, pursue and apprehend runaway slaves, and produce “desired” slave behaviour through excessive force. Similarly, the “Black Codes” criminalized and restricted most aspects of the lives of people of African descent, supported by federal law enforcement mechanisms.⁸² These historical foundations have evolved into contemporary systems in which communities of African descent continue to be disproportionately subjected to overpolicing and searches. These racialized patterns of criminalization, policing and sentencing, rooted in colonial and enslavement contexts,⁸³ continue to produce discriminatory outcomes that are perpetuated in the prison system today.⁸⁴ They are further exacerbated by policies that criminalize poverty, such as imposing fines or arresting people for loitering or sleeping in public spaces. These practices often target marginalized and racialized communities and perpetuate discrimination, undermining human rights and social justice.⁸⁵

52. In recent years, punitive policies associated with the so-called war on drugs have disproportionately affected racial minorities and other vulnerable groups, including women.⁸⁶ Because they target marginalized groups and individuals, punitive drug policies further exacerbate racial disparity within the criminal justice system.⁸⁷

53. Discriminatory laws, policies and practices stemming from historical biases and inequalities result in high rates of arrests, mass incarceration, and an overwhelming overrepresentation of Africans and people of African descent in criminal detention systems in many countries around the world.⁸⁸ This is exacerbated by dangerous and false stereotypes labelling Africans and people of African descent as more violent and more likely to commit

⁸⁰ See <https://www.ohchr.org/en/meeting-summaries/2023/10/halting-and-reversing-lasting-consequences-slavery-colonialism-genocide>.

⁸¹ Submission by Cubalex and joint submission by Geledés – Instituto da Mulher Negra and Instituto Juristas Negras.

⁸² See <https://naacp.org/find-resources/history-explained/origins-modern-day-policing>; and submission by the Southern Poverty Law Center, p. 6.

⁸³ A/HRC/56/61/Add.3 and A/HRC/56/61/Add.3/Corr.1, para. 24.

⁸⁴ Joint submission by Pivot Legal Society and PASAN.

⁸⁵ See <https://www.amnesty.org/en/wp-content/uploads/2023/09/IOR4072042023ENGLISH.pdf>. On the criminalization of homelessness and its impact of people of African descent in the United States, see CERD/C/USA/CO/10-12, para. 39.

⁸⁶ See https://cdn.penalreform.org/wp-content/uploads/2025/03/PRI_WBW_Gender-decrim_WEB-2_MR.pdf; and joint submission by Geledés – Instituto da Mulher Negra and Instituto Juristas Negras.

⁸⁷ A/HRC/54/69, para. 33.

⁸⁸ A/HRC/57/71/Add.1, para. 60; and A/HRC/57/71/Add.2, para. 76. See also the Mechanism’s report on its visit to the United States, para. 78.

criminal offences.⁸⁹ As emphasized by the Mechanism in its report on its country visit to Brazil: “Systemic racism creates harmful and spurious associations of Blackness with criminality and delinquency.”⁹⁰ These damaging stereotypes actively perpetuate systemic racism, legitimizing arbitrary arrests, and enabling excessive use of force.⁹¹ Consequently, Africans and people of African descent are likely to be held in pretrial detention at much higher rates than their white counterparts.⁹²

54. Given the fact that defendants of African descent are more likely to receive a prison sentence, they are incarcerated in higher numbers than other groups. Data on several countries show a large discrepancy between Africans and people of African descent and other ethnic groups in prison. In the United Kingdom, they represent about 4 per cent of the general population but over 12 per cent of the prison population.⁹³ In Brazil, the Afrodescendent population comprises 68.2 per cent of the prison population,⁹⁴ compared with 55 per cent of the total population.⁹⁵ In Canada, they are only 2.9 per cent of the general population but constitute 8.1 per cent of the federally incarcerated population.⁹⁶ In the United States, while the percentage of people of African descent in the population is 12.4 per cent,⁹⁷ the percentage of this category among those detained is about 33 per cent.⁹⁸ The Mechanism recalls that the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) forbid any forms of discrimination based on race or any other status in the carceral system.⁹⁹

D. Reimagining the criminal justice system

1. Promising practices

55. The Mechanism received information on promising initiatives regarding the treatment of defendants of African descent in the criminal justice system in several countries. Such initiatives can pave the way for developing policies and practices in States where this group faces systemic racism.

56. In Canada, as a follow-up to the recommendation made by the Working Group of Experts on People of African Descent in its 2017 report on its mission to Canada,¹⁰⁰ the federal Government developed the Black Justice Strategy, aimed at addressing the overrepresentation of Black people in the criminal justice system, including as victims of crimes. The Government recently released the 10-year implementation plan, which includes specific pillars on the social determinants of justice, policing, court legislation, corrections,

⁸⁹ Charles W. Davis III, “Our founders’ fears: the roots of the criminalization of African Americans”, *Journal of African American Studies*, vol. 28 (2024). See also submission by NAACP Legal Defense and Educational Fund and joint submission by Geledés – Instituto da Mulher Negra and Instituto Juristas Negras.

⁹⁰ A/HRC/57/71/Add.1, para. 37.

⁹¹ Submissions by Cubalex and Ilex Acción Jurídica.

⁹² See <https://www.humanrightsresearch.org/post/mass-incarceration-in-the-united-states-a-historical-context>.

⁹³ See <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022/statistics-on-ethnicity-and-the-criminal-justice-system-2022-html>.

⁹⁴ Fórum Brasileiro de Segurança Pública, *Anuário Brasileiro de Segurança Pública 2023* (São Paulo, 2023).

⁹⁵ According to the 2022 census, as cited in the joint submission by Instituto de Defesa do Direito de Defesa and others, p. 1.

⁹⁶ Public Safety Canada, “2022 corrections and conditional release statistical overview”, March 2024; and submission by the Canadian Human Rights Commission.

⁹⁷ See <https://www.census.gov/library/visualizations/interactive/race-and-ethnicity-in-the-united-state-2010-and-2020-census.html>.

⁹⁸ See the Department of Justice of the United States, Office of Justice Programs, Bureau of Justice Statistics, “Correctional populations in the United States, 2022 – statistical tables”, May 2024.

⁹⁹ Nelson Mandela Rules, rule 2.

¹⁰⁰ A/HRC/36/60/Add.1.

parole, and re-entry and reintegration.¹⁰¹ Impact of race and culture assessments¹⁰² were developed as a tool to inform sentencing decisions for Black individuals. These assessments provide the court with expert-written reports that detail the systemic and background factors, such as anti-Black racism, poverty, barriers in education or employment, overpolicing, and intergenerational trauma, that may have contributed to a person's involvement in the criminal justice system.¹⁰³ In the United Kingdom, in 2024, the Sentencing Council of England and Wales issued guidelines recommending that judges consider the backgrounds of offenders from ethnic minorities to promote fairer sentencing.¹⁰⁴ In Brazil, the National Council of Justice approved in 2024 a protocol on adjudication with a racial perspective,¹⁰⁵ which is aimed, inter alia, at expanding the normative parameters of judicial decisions, using domestic and international legislation promoting racial equity.

57. In the United States, the Mechanism notes several key initiatives, including the no-cash bail system in Washington, D.C., the risk-based system for pretrial release in Kentucky, and the use of alternatives to pretrial detention, such as electronic monitoring, in California and Illinois.¹⁰⁶ The school-based restorative justice initiative run for Black youth by the Center for Court Innovation in Brooklyn, New York, United States, has dramatically reduced suspensions and disciplinary incidents. These efforts not only disrupt the school-to-prison pipeline but also promote community healing and agency, particularly for youth of colour.¹⁰⁷

58. In Mexico, the Supreme Court of Justice issued in 2022 a protocol for adjudicating from an intercultural perspective. This protocol sets out criteria and standards for ensuring that judicial proceedings involving Afrodescendent and Afro-Mexican persons, peoples, and communities take into account their cultural characteristics and specific needs, with the aim of identifying the obstacles preventing them from accessing justice. In March 2025, for the first time, a self-managed course on racism and access to justice for Indigenous and Afrodescendent populations was organized. Its aim is to provide justice officials, human rights defenders, and the public with the tools necessary to identify manifestations of racism and racial discrimination within the Mexican legal system and formulate actions to dismantle them.¹⁰⁸

59. In Ecuador, the Council of the Judiciary issued a public policy aimed at eradicating the systemic violence that can be triggered by the vulnerability of individuals related to their origin, ethnicity and culture. On 28 March 2023, the Council also adopted a "protocol for the application of intercultural dialogue in the judiciary and a guide to the mechanisms for coordination and cooperation between Indigenous justice authorities and the ordinary justice system in inter-jurisdictional proceedings."¹⁰⁹ These policies are aimed at guaranteeing the collective rights of people of African descent and combating all forms of racial discrimination within the judicial system.¹¹⁰

¹⁰¹ See <https://www.justice.gc.ca/eng/cj-jp/cbjs-scjn/ttc-ect/index.html>; and submission by the Canadian Human Rights Commission.

¹⁰² See <https://www.justice.gc.ca/eng/fund-fina/gov-gouv/aid-aide/supporting-soutien.html>; and www.canada.ca/en/departement-justice/news/2021/08/pre-sentencing-impact-of-race-and-culture-assessments-receive-government-of-canada-funding.html.

¹⁰³ See <https://www.journalcswb.ca/index.php/cswb/article/view/361>; and <https://www.courthouselibrary.ca/how-we-can-help/our-legal-knowledge-base/impact-race-and-culture-assessments-ircas>.

¹⁰⁴ See, e.g., https://theconversation.com/new-sentencing-guidelines-will-make-the-uks-justice-system-more-fair-not-less-expert-view-251756?utm_source=clipboard&utm_medium=bylinecopy_url_button; and submission by Maat for Peace, Development and Human Rights Association, sect. III.

¹⁰⁵ See <https://www.cnj.jus.br/wp-content/uploads/2024/11/protocolo-para-julgamento-com-perspectiva-racial-1.pdf>.

¹⁰⁶ A/HRC/36/37/Add.2, para. 53.

¹⁰⁷ See <https://www.innovatingjustice.org/resources/restorative-justice-is-racial-justice/>.

¹⁰⁸ Submission by Mexico.

¹⁰⁹ Plenary Council of the Judiciary, resolution No. 053-2023.

¹¹⁰ Submission by Ecuador.

60. The Mechanism notes, in Guatemala, the creation of the National Network of Interpreters and Translators of Indigenous Languages, which provides interpretation and translation of the languages of Indigenous Peoples, including the Garifuna language, to support victims and during criminal investigation proceedings and criminal prosecutions carried out by the public prosecution service at the national level; and the adoption of a protocol for culturally and linguistically relevant care for Indigenous women using the public prosecution service.¹¹¹

2. Twelve key elements for a system free from racial discrimination

61. To reimagine a criminal justice system free from racism and discrimination, at a minimum, the 12 elements set out below should be considered.

(a) Elimination of racial profiling

62. To address the issue of racial profiling, States must adopt a legal framework that explicitly prohibits racial profiling and establish accountability for its use. Clear and objective criteria should be established for stop-and-search checks in order to prevent racial discrimination. States should also ensure that disciplinary measures are adopted against law enforcement officials who apply racial profiling in their official functions.

(b) Use of disaggregated data

63. In order to identify patterns of systemic discrimination and inform targeted policy responses, mandatory collection of data, disaggregated by race or ethnic origin, at all stages of the criminal justice process is essential.¹¹² States should ensure that criminal justice policies and programmes are informed by all available and relevant quantitative and qualitative data¹¹³ in relation to the race or ethnic origin of those facing criminal charges.

(c) Establishment of accountability and oversight mechanisms

64. A major barrier to justice for victims of racism and racial discrimination in the criminal justice system is the lack of independent oversight and effective redress mechanisms. Establishing and reinforcing independent civilian oversight bodies, national human rights institutions and equality bodies, national preventive mechanisms, and internal police and judiciary accountability units – empowered with investigative authority – is crucial to ensuring transparency, justice and institutional reform.¹¹⁴

(d) Mandatory comprehensive training and cultural competency

65. Many professionals of the criminal justice system operate without an adequate understanding of the cultural and historical backgrounds of the communities that they serve. Comprehensive and ongoing training on racism, the history of colonialism, enslavement, the transatlantic trade, implicit racial biases, and cultural competence for law enforcement, the judiciary, penitentiary staff, and all legal practitioners is necessary to counteract prejudice and ensure justice outcomes free from racism and racial discrimination.

(e) Community participation, including participatory defence

66. Marginalized communities often lack meaningful participation in the justice processes that affect them. Participatory defence is a community-centred legal model and best practice that empowers people facing criminal charges, along with their families and communities, to actively engage in their legal defence and reshape the outcomes of their cases.¹¹⁵ Rather than

¹¹¹ Submission by Guatemala.

¹¹² See [A/HRC/51/55](#).

¹¹³ General Assembly resolution 78/227, para. 6.

¹¹⁴ See [A/HRC/57/71](#).

¹¹⁵ See <https://www.participatorydefense.org/>. See also <https://journals.law.harvard.edu/crcl/participatory-defense-what-it-is-and-why-it-deserves-our-attention/>; and <https://www.law.berkeley.edu/article/a-new-way-forward-participatory-defense-symposium-illuminates-and-inspires/>.

relying solely on lawyers, it involves community members in gathering mitigating evidence, crafting personal narratives, and supporting courtroom advocacy to humanize the accused and influence fairer outcomes. It promotes transparency and has shown success in reducing pretrial detention and harsh sentencing. Participatory defence models can empower communities of African descent to play an active role in shaping legal defence strategies.

(f) Laws and policies without biases and with racial impact assessments

67. Reviewing and repealing the criminalization of behaviours associated with poverty, such as loitering or sleeping in public spaces, which often affect Africans and people of African descent, is necessary to dismantle the structural racism embedded within legal systems. Reform of these laws and policies must be guided by data and community consultation to ensure their equity and effectiveness. In addition, racial impact statements,¹¹⁶ or racial and cultural impact analyses, are crucial tools for ensuring that proposed sentencing laws and criminal justice policies do not inadvertently reinforce or exacerbate existing racial disparities. They require lawmakers and policymakers to assess the potential racial and ethnic effects of proposed legislation before it is enacted. These tools enable lawmakers to ground reforms in data, consult affected communities meaningfully and ensure that justice policies advance substantive equality rather than entrenching systemic bias. Their integration into lawmaking processes is an emerging good practice.¹¹⁷

(g) Sentencing reviews

68. Sentencing reviews, particularly those informed by cultural impact assessments, allow courts to consider how a person's race, ethnicity and cultural background may have shaped his or her experiences, interactions with the legal system, and pathways to offending. This more holistic, contextualized approach helps judges to move away from one-size-fits-all sentencing and towards more just and equitable outcomes. For instance, the use of impact of race and culture assessments can offer judges the opportunity to impose alternative or less punitive sentences when appropriate, based on an understanding of the broader societal context.

(h) Diversity and representation across the justice chain

69. The lack of representation of Africans and people of African descent in law enforcement and the criminal justice system undermines public trust and may perpetuate systemic bias and racism. Governments should adopt inclusive recruitment and promotion policies, implement mentorship programmes, and set measurable targets to ensure that justice institutions reflect the diversity of the communities that they serve.

(i) Alternatives to incarceration and restorative justice

70. Expanding access to alternatives to incarceration, such as diversion programmes, restorative justice and community courts can reduce the disparities in incarceration rates between Africans and people of African descent and the general population. These approaches emphasize rehabilitation, accountability and healing, in particular for youth and non-violent offenders, while addressing the root causes of crime and fostering accountability beyond imprisonment. Restorative justice and alternative sentencing models offer context-sensitive, reparative approaches that can significantly reduce the incarceration of people of African descent.

(j) Equal access to justice

71. In accordance with the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law, States should ensure "equal access to justice and application of

¹¹⁶ See http://www.antonioacasella.eu/nume/Mauer_racial_impact_2007.pdf; and https://digitalcommons.law.uw.edu/cgi/viewcontent.cgi?params=/context/wlr/article/4824/&path_info=raci.pdf.

¹¹⁷ The practice was institutionalized in several states in the United States of America. See, e.g., <https://www.sentencingproject.org/testimony/testimony-in-support-of-nebraskaos-racial-impact-statement-legislation/>.

the law to all ... regardless of their status, including by taking appropriate measures to ensure treatment with respect and without discrimination or bias of any kind by criminal justice institutions".¹¹⁸ Discrimination impedes access to justice for many racialized individuals, especially where legal systems are underresourced or inaccessible. Ensuring free access to timely, effective, adequately resourced and affordable legal aid¹¹⁹ and interpretation services¹²⁰ is crucial for the representation of defendants of African descent before courts.

(k) Just and adequate reparations

72. Defendants of African descent should have access to remedies and redress through courts and other State institutions for any wrongful convictions or decisions taken against them as a consequence of discriminatory policies and practices.¹²¹ This process must include financial compensation, public apologies, systemic reforms, and prosecutions and sanctions against those responsible for such acts.

(l) Equal access to bail and parole

73. The persistent discrimination faced by Africans and people of African descent when requesting bail and parole is deeply rooted in false assumptions.¹²² States should establish objective criteria when granting bail and parole. The mere fact of being African or of African descent is not a sufficient reason, *de jure* or *de facto*, for an inmate to be refused bail and parole. Any refusal in this regard can be justified only on objective grounds stipulated in the law.¹²³ Independent and efficient supervisory bodies should regularly assess the way in which bail and parole are granted by ensuring that these opportunities are not granted on racial or ethnic grounds.

IV. Conclusions

74. Systemic racism against Africans and people of African descent in the criminal justice system is pervasive, deeply entrenched and reinforced at every stage, from initial police contact to post-conviction procedures. The Mechanism received information on widespread racial profiling, discriminatory prosecutorial practices, unequal access to fair trial guarantees, and harsher sentencing outcomes for people of African descent, compounded by a lack of legal representation and structural socioeconomic disadvantages. These disparities are part of a pattern of institutional racism rooted in the enduring legacies of colonialism, enslavement and segregation.

75. The historical origins of many legal and law enforcement institutions – established during colonial rule or rooted in racially oppressive systems – continue to shape contemporary practices. Racial stereotypes portraying Africans and people of African descent as inherently criminal not only influence individual decisions by police, judges and prosecutors but also distort entire justice systems. The overrepresentation of people of African descent in prisons and detention facilities across multiple countries is both a consequence and a symptom of systemic biases in criminal legal systems and among justice actors. These racially discriminatory policing and sentencing practices undermine judicial guarantees for people of African descent.

76. Addressing this injustice demands bold, systemic transformation. The evidence clearly shows that reforms must go beyond superficial policy adjustments and instead dismantle the structural foundations that allow racial disparities to persist. This should take into account a human rights-based approach to justice that centres dignity, equity,

¹¹⁸ See the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: Towards the Achievement of the 2030 Agenda for Sustainable Development, para. 48.

¹¹⁹ *Ibid.*, para. 49.

¹²⁰ Committee on the Elimination of Racial Discrimination, general recommendation No. 31 (2005), para. 17 (b).

¹²¹ International Convention on the Elimination of All Forms of Racial Discrimination, art. 6.

¹²² See para. 48 above.

¹²³ *Mutatis mutandis*, Committee on the Elimination of Racial Discrimination, general recommendation No. 31 (2005), para. 26.

fairness, participation and structural accountability as part of the key elements for any credible reform of the criminal justice system to make it free from racial discrimination. Only a holistic, rights-based and anti-racist approach will create a criminal justice system that serves all communities, including Africans and people of African descent.

V. Recommendations

77. To overcome the issue of systemic racial discrimination against Africans and people of African descent in the criminal justice system, the Mechanism recommends that States:

- (a) Implement the 12 key elements for a criminal justice system free from racial discrimination against Africans and people of African descent, as set out above;
- (b) Shift away from a “war on drugs” approach and adopt instead a human rights-based approach to drug policies by reducing the impacts of the “war on drugs” on Africans and people of African descent;
- (c) Enforce the effective implementation of international standards related to the treatment of prisoners, in particular the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), without discrimination;
- (d) Strengthen the external oversight of detention centres, correctional centres and prisons by national preventive mechanisms established under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other monitoring bodies;
- (e) Ensure that the use of artificial intelligence in policing and in the criminal justice system, including facial recognition and predictive algorithms, does not reinforce stereotypes and discrimination against Africans and people of African descent in the criminal justice system;
- (f) Ensure that the particular situation of women and girls of African descent is taken into account at all stages of the criminal justice process, including during incarceration, with due consideration to alternative detention and conditions specific to this category;
- (g) Avoid, to the extent possible, the use of the criminal justice system for children, who should be diverted to alternative initiatives, including educational measures, in order to prevent recidivism and facilitate their reintegration and reinsertion.

Annex

Letters sent by the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement regarding specific incidents and situations

<i>Letter sent</i>	<i>Member State</i>	<i>Summary of issues</i>	<i>Replies received</i>
20 June 2022	United Kingdom of Great Britain and Northern Ireland	Permanent removal of restrictions under section 60 of the Criminal Justice and Public Order Act of 1994 on stop-and-search checks by police officers	None
12 July 2022	Spain	Events in Melilla leading to the death of 23 African migrants and the injury of law enforcement officials	4 August 2022 21 February 2023
12 July 2022	Morocco	Events in Melilla leading to the death of 23 African migrants and the injury of law enforcement officials	None
12 July 2022 19 October 2022	Brazil	Killing of 23 people of African descent in Vila Cruzeiro	5 September 2022
19 October 2022	United States of America	Killing of Patrick Lyoya and Jayland Walker	None
2 February 2023	United States	Killing of Keenan Anderson	30 March 2023
8 February 2023	United States	Killing of Tyre Nichols	13 February 2023
3 August 2023	Germany	Killing of Mouhamed Lamine Dramé	24 October 2023
3 August 2023	United States	Detention and solitary confinement of Keith Clay	28 December 2023
3 November 2023	Sweden	Police protection and response following threats against Momodou Malcolm Jallow	29 December 2023
20 December 2024	Brazil	Killing of Johnnatha de Oliveira Lima	18 February 2025
23 December 2024	Brazil	Killing of Gregory Ribeiro Vasconcelos	25 February 2025
24 December 2024	Switzerland	Racial profiling and excessive use of force against Chukwebuka Boniface Chukwu	21 February 2025
26 June 2025	Switzerland	Killing of Roger Michael Wilhelm “Nzoy”	21 August 2025

Note: More information on the letters sent by the Mechanism is available on its web page (<https://www.ohchr.org/en/hrc-subsidaries/expert-mechanism-racial-justice-law-enforcement/communications>).