



CLAIHR

Canadian Lawyers for International Human Rights
Juristes canadiens pour les droits internationaux de la personne

August 2, 2020

Via Email

To: Ambassador Leslie Norton
Permanent Representative of Canada to the United
Nations
and the Conference on Disarmament in Geneva
genev-gr@international.gc.ca

Re: The promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers

Dear Ambassador Norton,

By way of introduction, Canadian Lawyers for International Human Rights (**CLAIHR**) is a non-governmental, charitable organization comprised of lawyers, law students, and legal academics, among others, working to promote international human rights within and in connection to Canada. We are writing today to ask Canada to lend support to the Office of the High Commissioner for Human Rights (**High Commissioner**) as it carries out Resolution A/HRC/43/L.50 adopted by the Human Rights Council June 19, 2020 (the **Resolution**).

As you know, the Resolution requests that the High Commissioner:

1. prepare a report, with assistance from the relevant Special Mandate Holders, on “systemic racism, violations of international human rights law against Africans and people of African descent by law enforcement agencies, especially those incidents that resulted in the death of George Floyd and other Africans and of people of African descent” and
2. examine government responses to antiracism peaceful protests, including allegations of excessive use of force.

The Resolution makes historic strides towards addressing systemic racism and is the first adopted Human Rights Council resolution that includes a victim’s name. These are accomplishments that should not be overlooked. However, it must be noted that the final Resolution does not incorporate the actionable, results-oriented recommendations delivered by international experts at the Urgent Debate “on the current racially inspired human rights violations, systemic racism, police brutality and the violence against peaceful protest” (the **Debate**). Notably it does not call for:

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1. an independent, international commission of inquiry to investigate systemic racism in law enforcement in the United States; nor
2. a thematic international commission of inquiry to investigate systemic racism in law enforcement globally, with a focus on systemic racism rooted in legacies of colonialism and transatlantic slavery.

Canada should be concerned about the watering-down of this Resolution. The context of the United States is important, as Black people there are killed by police at alarming high rates when compared to other developed nations. Additionally, the Debate was only made possible by the Black Lives Matter movement, which seeks justice for George Floyd, Breonna Taylor, Michael Brown, Philando Castile, and the many other Black people killed by police officers in the United States often without recourse. Decontextualizing systemic racism against Black people completely inhibits meaningful change.

Australia and many European allies, including Germany, advocated to remove specific references to the United States in order to acknowledge that systemic racism in policing is a global problem. This is the wrong approach and one that favours diplomacy over accountability. It is clear from the original expert recommendations that specifically examining the United States would not absolve other countries of the need to confront their own systemic racism. Instead, a report that centres the United States would respect the victims of police killings in the United States and demonstrate that wealthy and developed nations are not above scrutiny.

The United States is attempting to distance itself from international probing by deflecting the blame to other countries and hiding behind its democratic institutions without acknowledging how these institutions, developed in the context of colonialism and slavery, contribute to ongoing racial discrimination. Canada, having a shared history and close ties with the United States, is uniquely positioned to be a model for its only neighbour and strongest ally.

However, in order to lead by example, Canada must be forthright and transparent about its own need for police reform. Canada's statement at the Debate references the Canada's 2019-2022 federal anti-racism strategy as an example of the steps it is taking towards becoming an inclusive country. This strategy is based on "What We Heard: Informing Canada's Anti-Racism Strategy," a report drafted with input from people with lived experiences of systemic racism. This report states: "the most visible and most enforceable form of racism comes from police forces across Canada." However, there is only one reference to improving police structures in the final strategy, and it is only included in the Appendix. Canada must not use its progress to divert attention away from systems that still require significant reform. If Canada is to become a leader in antiracism on the global stage and make meaningful change in the lives of Black, Indigenous, and other racialized Canadians, it must acknowledge the specific ways police contribute to unsafe conditions for racialized communities.

The High Commissioner will be providing two oral updates on the status of the report to the Human Rights Council at its forty-fifth and forty-sixth sessions before delivering the report at the forty-seventh session next June. In order to support the High Commissioner in carrying out the Resolution, CLAIHR

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encourages Canada to:

1. lend visible support to the High Commissioner and the Human Rights Council as an institution capable of bringing about international accountability;
2. speak out against instance in which the United States attempts to influence the drafting of the report by exerting influence over its allies or the High Commissioner;
3. engage in bilateral discussions with the United States to encourage their cooperation with the High Commissioner;
4. remind the High Commissioner and Member States that the Resolution's acknowledgement of George Floyd indirectly indicates a need to focus on systemic racism in United States' law enforcement;
5. contribute to the report by acknowledging Canada's policing mechanisms were developed as tools to suppress racial minorities in the context of colonialism, slavery, the industrial revolution, and various wars. Acknowledge the ways Canada's policing mechanisms continue to disproportionately harm and kill Black, Indigenous, and other racialized people. Acknowledge the need for Canadian police reform and Canada's failure to implement an antiracism strategy addressing this need; and
6. promote the possibility of the report resulting in the original calls for independent inquiries into systemic racism in law enforcement in the United States and globally, with a focus on systemic racism rooted in legacies of colonialism and transatlantic slavery.

We thank you for lending support to the global movement seeking to eradicate all forms of racism and hope that in future, Canada can become a leader in advocating for antiracism in law enforcement.

Yours Sincerely,

James Yap, President

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