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19 October 2022

Subject: Letter to the United States of America on two specific incidents - Mr. Patrick Lyoya and Mr. Jayland Walker

Excellency,

I am writing to you on behalf of the members of the United Nations International Independent Expert Mechanism mandated to advance racial justice and equality in the context of law enforcement, established pursuant to operative paragraph 10 of Human Rights Council resolution 47/21¹.

The Expert Mechanism writes in the spirit of dialogue, to initiate bilateral contacts with your Excellency's Government on the general situation in the United States of America related to the International Independent Mechanism mandate, and on two specific recent incidents. On this occasion, we would like to express our serious concern, and seek further clarification regarding the cases of Mr. Patrick Lyoya and Mr. Jayland Walker.

According to the information available, on 4 April 2022 in Michigan, the United States, Mr. Patrick Lyoya, a 26-year-old refugee man from the Democratic Republic of the Congo, was killed by a shot in the back of his head by Mr. Christopher Schurr, a police officer from the Grand Rapids Police Department.

Reports and videos released on 13 April 2022 during a press conference with the Grand Rapids Police Chief appear to show Mr. Lyoya's car pulled over by a police officer from the Grand Rapids Police Department for an alleged unregistered license plate. Videos appear to show Mr. Lyoya exiting his car while the police officer asked him first to remain in his car and then for his driving license. In these videos, Mr. Lyoya appears to be walking away as the police officer grabs him by the arm. Mr. Lyoya is then seen running away from the car as the police officer calls for backup and runs after him. The two men appear to struggle over the police officer's electrical gun (taser). The police officer appears to kneel on Mr. Lyoya's back, before taking his firearm, pressing it to the back of Mr. Lyoya's head, and shooting him.

According to public information, after two months of investigation, the Kent County prosecutor decided to criminally charge Mr. Schurr with one count of second-degree murder. The criminal proceedings are still ongoing and in the meantime the chief of police has decided to suspend officer Schurr without pay pending termination of proceedings.

¹ The international independent expert mechanism to advance racial justice and equality in the context of law enforcement was established in July 2021 by the Human Rights Council to make recommendations, inter alia, on the concrete steps needed to ensure access to justice, accountability and redress for excessive use of force and other human rights violations by law enforcement officials against Africans and people of African descent. **Justice Yvonne Mokgoro** (South Africa, chairperson); **Dr. Tracie Keese** (United States of America) and **Professor Juan Méndez** (Argentina) were appointed in December 2021 by the President of the Human Rights Council to serve as independent experts on the mechanism.

Other available reports further raise concerns regarding past allegations of racial profiling and police brutality against Africans and people of African descent by the Grand Rapids Police Department.

In the case of Mr. Jayland Walker, according to available information, on 27 June 2022, at approximately 12:30am, Mr. Walker, a 25-year-old American man of African descent, was killed by at least eight law enforcement officials of the Police Department of the city of Akron, state of Ohio, who shot him dozens of times, wounding him with at least 46 gunshots.

According to public reports and videos released, law enforcement officials of the Police Department of the city of Akron, state of Ohio, attempted to stop Mr. Walker's vehicle that day. Police officers stated that the reasons for the stop were traffic and equipment violations and that since the vehicle refused to stop, a pursuit was initiated. During the pursuit, law enforcement officials reported what appeared to be a gunshot inside the vehicle they were pursuing. Videos appear to show that the pursuit continued for several minutes until the car stopped and Mr. Walker exited the vehicle through the passenger front door wearing what appears to be a ski mask (balaclava) and ran away. Recordings appear to show that some law enforcement officials deployed electrical guns (tasers) against Mr. Walker without success. A few moments later, at least eight police officers discharged their firearms multiple times against Mr. Walker, which resulted in the deprivation of his life. Videos appear to show that some officers reloaded their weapons and others continued firing even after Mr. Walker had fallen to the ground. Mr. Walker was unarmed at the time of the shooting.

An autopsy on Mr. Walker's body revealed 46 gunshot entrance wounds or graze injuries, with an additional 15 exit wounds. Some reports indicate that more than 90 shots may have been fired, but the specific number remains undetermined. Police reported that a pistol and a cartridge shell were found inside Mr. Walker's vehicle. Reports stated that Mr. Walker's body was handcuffed after the shooting.

An investigation is being conducted by the Ohio Bureau of Criminal Investigations. The Mechanism has received reports expressing concern about the independence of a local investigation and conveying requests by the family representatives for a federal investigation to be opened.

After the incident was made public, the Mechanism received reports of excessive use of force by law enforcement officials in response to demonstrations that took place in the following for several days. Several curfews were put in place following the demonstrations, and reports suggest that demonstrations continue intermittently.

The Mechanism also received reports of threats against both authorities and representatives of Mr. Walker's family, including displays of hatred against both parties.

These two cases could be seen within the context of numerous allegations of excessive use of force against Africans and people of African descent by law enforcement officials in the United States of America².

Accordingly, we take this opportunity to recall that the United States is bound by several international human rights law provisions, notably those contained in the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. The Human Rights Committee and the Committee on the Elimination of Racial Discrimination – which monitor the implementation of these treaties – have made numerous recommendations regarding the use of force by law enforcement officials against people of African descent and related obligations of investigations and prosecutions. These

² A/HRC/47/53 and its accompanying conference room paper (A/HRC/47/CRP.1).

recommendations can be found in concluding observations and statements addressed to the United States³, as well as in general comments⁴ and recommendations⁵. The Human Rights Committee, *inter alia*, has clarified that States parties are expected to take all necessary measures to prevent arbitrary deprivation of life by their law enforcement officials. These measures include putting in place appropriate legislation controlling the use of lethal force by law enforcement officials, procedures designed to ensure that law enforcement actions are adequately planned in a manner consistent with the need to minimize the risk they pose to human life, as well as mandatory reporting, review and investigation of lethal incidents.⁶

Other UN human rights mechanisms – such as the Working Group of Experts on people of African descent and the Special rapporteur on contemporary forms of racism – have also issued pertinent recommendations to the United States within their respective mandates.

In light of these international human rights obligations, and in order to make further findings and recommendations regarding concrete steps to ensure racial justice and equality for Africans and people of African descent in the context of law enforcement, the Mechanism would be grateful if the Government of the United States provides it with information regarding the above recent incidents. The Mechanism would particularly welcome the following information:

- Details and circumstances of the incidents.
- Details of all ongoing investigations and related proceedings, whether internal, independent, administrative or criminal, including on the use of force, and the authorities in charge of the investigations.
- Detailed reports on the use of force by the various law enforcement agencies involved, including at least: the number of law enforcement officers deployed and involved; law enforcement agencies involved; type and manner of force used; type and amount of weapons used, including lethal and less lethal weapons and type and amount of ammunition; type and amount of protective equipment that was available to law enforcement officers; measures taken to avoid the use of force and de-escalate the situation; other measures taken to reduce the risk of injury and death.
- Local legislation and/or manuals or protocols regulating the use of force by the law enforcement authorities involved in both cases, as well as the type of lethal and less lethal weapons and protective equipment authorized for their use, including for crowd control and policing.
- Number and names of injured persons during the demonstrations, disaggregated at least by sex, age, nationality, race and ethnicity; and their medical condition.
- Number and names of persons arrested and detained (both administratively and criminally) in the context of the above-mentioned demonstrations, disaggregated at least by sex, age, nationality, race and ethnicity; exact place of detention; detaining authority; exact place where they are now being detained; authority under whose jurisdiction they are being held; current legal status; crimes or administrative offenses for which they are being prosecuted.

³ E.g. CCPR/C/USA/CO/4, para.11; CERD/C/USA/CO/7-9, para.17;
<https://www.ohchr.org/sites/default/files/Documents/HRBodies/CERD/earlywarning/statements/USA.PD.F>.

⁴ E.g. General comment No. 36 on Article 6: right to life (CCPR/C/GC/36).

⁵ E.g. General Recommendations No. 36 on Preventing and Combating Racial Profiling by Law Enforcement Officials (CERD/C/GC/36); No. 34 on Racial discrimination against people of African descent (CERD/C/GC/34); and No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

⁶ General comment No. 36 on Article 6: right to life (CCPR/C/GC/36), para. 13.

- Data, disaggregated by race or ethnic origin of the victims, on other past cases of use of force by the law enforcement authorities involved in both incidents, including deaths and serious injuries and related investigations, prosecutions, convictions and any disciplinary actions; any steps taken by both Police Departments to drive and assess responses to such incidents.
- Lessons learned from all the incidents concerned, in line with the general principles on the use of force.
- Measures being taken to ensure racial justice and equality in real terms, for Africans and people of African descent in the context of law enforcement in both affected communities, in the federal States concerned, and in the United States of America in general, and measures for non-recurrence being taken.
- Other relevant information deemed necessary for purposes of the mandate of the Mechanism.

Given the seriousness of the matter, we would appreciate a response to these points at your earliest convenience and no later than 60 days after receipt of this letter. Please note that we may decide to make our views and concerns public, and that any such public statement will reflect that we have raised our concerns with your Excellency's Government.

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

Sincerely,

Yvonne Mokgoro
Chairperson

Permanent Mission of the United States of America to the
United Nations Office and other
international organizations in Geneva