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**Preliminary observations on violence disproportionately affecting Africans and
people of African descent in some regions of the world**

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Note: The opinions expressed in this paper are those of the author.

INTRODUCTION

National Laws in member countries of the United Nations provide for non-discrimination and equality before and protection of the law for every person regardless of race, ethnicity, religion, sex and/or other criteria. International human rights instruments exist protecting human rights and fundamental freedoms. The United Nations General Assembly adopted in December 1979 a Code of Conduct for Law Enforcement Officials. This is a way by which to regulate lawful and ethical behaviour on the part of law enforcement agents, fostering high standards and professionalism within police agencies. However, in spite of these instruments violence and police brutality in particular against minorities persists throughout the world.

Causes and/or reasons for this violence are many and varied. In the case of Africans and people of African Descent, centuries of racial prejudice against them ranks as the most important. Violence against Africans began with four centuries of slavery through colonization and into contemporary forms of racism, discrimination and xenophobia. The violence is indeed the result of gross violations of human rights of minority peoples by government establishments through the instrument of police and prison agencies through their exercise of state power and through judicial and legislative exercise of power.

People of African descent due to policies of the state have been assigned a low social and economic status. This makes them vulnerable and amenable to exploitation of all kinds.

Stereotyping is another factor working against minority groups: In the United Kingdom, France and Germany people are stopped and searched; Africans are assumed to be illegal immigrants and are asked for papers. Others of African and/or Caribbean descent are assumed to be drug dealers and are searched for that reason and without their consent. Elsewhere in Europe e.g. Switzerland Africans are targeted and treated with suspicion because of their race; they are over-represented in the prison system. The Roma are another minority group in Europe, which is abused by state agencies based on their stereotype, which has it, that Romas are born thieves.

Racial profiling is yet another factor which encourages violence against people of African descent. This phenomenon is the use of race, ethnicity or national origin to target people likely to participate in criminal behaviour. Actions by police and other state agents lead to violence against people who are targeted. In the United States African-Americans and to a lesser extent Latinos are perceived as criminally inclined. Thus race is criminalized and crime is racialised. Thus African-Americans are more likely to be subjected to searches and prosecutions and people of African descent are more likely to receive the death penalty disproportionate to their numbers.

FORMS OF VIOLENCE INCLUDING POLICE VIOLENCE AND THEIR EFFECTS

There are many categories of violence including police brutality against Africans and people of African descent. They concern the rights protected in the Universal Declaration of Human Rights and in all human rights treaty bodies such as the right to life and the right to liberty of person. Police use of force and the state power to arrest and detain affect these rights.

Racism and discrimination in themselves constitute violence against those at whom racial discrimination is directed. This is the case where structural and de facto discriminatory practices exist.

Human Rights instruments prohibit arbitrary deprivation of life such as deaths arising out of torture from which no derogation is allowed under any circumstances. They prohibit arbitrary arrest and detention. Other forms of violence relate to other violations of human rights such as the rights of suspects and detainees to presumption of innocence until proven guilty; the unlawful application of duress including torture, for the purpose of obtaining “confessions”; violations relating to the right to legal representation and right to communicate with family members and friends.

Studies on violence including police violence against minority groups such as people of African descent have shown and continue to demonstrate that human rights violations are counter-productive to the objectives of policing, major among these, being prevention and detection of crime and preservation of social order.

Racial profiling and stereotyping merely serve to divide the community from the law enforcement agencies. These practices alienate the community making the people distrustful of the police. People feel less protected by the law than other groups. They therefore, feel less inclined to cooperate with the police. An unnecessary environment of “them” versus “us” develops and a state of “siege” makes people stop reporting crimes. And the long-term effect is the undermining of confidence and credibility in the criminal justice system.

The other consequences of human rights violations through state violence are miscarriages of justice. For example unlawful methods of interrogation such as use of torture and or other duress may result in confessions for crimes not committed by the person “confessing” thereby ending in convicting innocent people while the actual perpetrators of the crime go unpunished.

CONCLUSIONS

The necessary first step in reducing and finally eliminating violence including police violence is a recognition that the protection and respect for human rights is a police function alongside the traditional policing duties. Police power must be exercised in the knowledge that human rights are inherent entitlements and not privileges granted by the state of government. It is very important for a human rights culture to be developed within the ranks of all stake-holders which exercise power over individuals such police agencies, prison services and in the criminal justice systems. In this way a human rights approach in the activities of these organizations becomes the norm. Thus human rights would not be viewed, as often is the case, as obstacles, which should somehow be overcome or circumvented in order to reach the desired objectives e.g. successful prosecution.

The Code of Conduct for Law Enforcement Officials adopted by the UN General Assembly in 1979 contains the following important principle. “That like all agencies of the criminal justice system, every law enforcement agency should be representative of and responsive and accountable to the community as a whole”. Therefore members of such an Agency or Service must be representative of the community according to such criteria as race, colour, sex, religion etc. People of African descent must accordingly take their quota of representation and they should be able to pursue their careers free from discrimination. In practice however, this does not happen. Only the

adoption of a rights based approach to police duties would come anywhere near realizing the principles contained in the Code of Conduct. In rights-based policing the police would need to retain public support and cooperation in their duties of crime prevention detection and investigation and in the maintenance of law and order.

However for this stage to be reached fundamental changes in attitude and perception need to be made. In agencies of the criminal justice system, the first step towards change is the recognition of the existence of police violence against ethnic minorities, in this case Africans and people of African origin; There should be an acknowledgement that such violence is among others, the result of discriminatory practices such as racial profiling and/or stereotyping; There should further be an acknowledgement that discrimination itself undermines the rule of law and that it breaches the constitutional right of everyone to equality before and protection of the law as contained in human rights instruments. Indeed in law enforcement it is the non-respect for human rights that cause minority groups to feel less protected by the law for human rights that cause minority groups to feel less protected by the law than other groups particularly the dominant groups.

Recognition and acknowledgement of all these and other factors should be accompanied with a deliberate willingness to change on the part of all stake-holders whether these be government or the private sector. Political will to change on part of the stake-holders entails also the willingness to make human, financial and other resources available to programmes that will advance the promotion and respect for human rights in the political economic, social and cultural establishments in society. Guarantee of will to observe, promote and protect human rights and guarantee of adequate financial and human recourses would ensure that human rights will thrive in an environment free from racial discrimination and free from discrimination based on any other social status.

SOURCE DOCUMENTS

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