



# Human Rights Now

## Human Rights Now

4F Suzuki Bldg., 335 Yamabukicho,  
Shinjuku-ku, Tokyo 162-0801 JAPAN

Tel : +81-3-6228-1528

Website: <http://hrn.or.jp/eng>

Email: [info@hrn.or.jp](mailto:info@hrn.or.jp)

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### **United States Authorities Must Listen to the Demands of Protestors and End Unjustified Police Violence Against Black Americans**

Human Rights Now (HRN), a Tokyo-based international human rights NGO, stands with the mass movement of peaceful protestors in the United States demonstrating against the long-established pattern of police violence against the Black American community, and we condemn the use of excessive police force against peaceful protestors. We call on relevant authorities throughout US to take measures to prevent and hold accountable police violence against Black Americans and protesters, such as reforming use of force procedures and ensuring accountability and harsh punishments for violations, as well as systemic reforms to address structural inequalities and discrimination in the US.

#### **1. The Mass Movement of Protests in the US and Excessive Police Force Against Demonstrators**

On 25 May 2020, George Floyd, a 46-year-old black man, was killed in Minneapolis, Minnesota, while being arrested by Derek Chauvin, a white police officer, for allegedly using a counterfeit bill.<sup>1</sup> Chauvin knelt on Floyd's neck for almost nine minutes while he was lying down handcuffed and begging for his life until Floyd eventually went motionless and died over the final three minutes. After witness videos of the incident were made public, he was arrested with three other officers that assisted him, and the incident was ruled a homicide; however, the initial charges were only third-degree murder and second-degree manslaughter, later adding second-degree murder. The videos of Floyd's death, which depicted a familiar pattern of racist police behavior, triggered mass protests against police brutality, racism, and lack of accountability in at least 750 cities in all 50 US states and in at least 51 countries around the world.<sup>2</sup>

In many cases, protestors in the US have been met with excessive police force including tear gas, flash-bang grenades, shields used to push people, physical violence, and rubber bullets used at point blank range or aimed at protestors heads, leaving some victims hospitalized.<sup>3</sup> Police have also blocked protests from leaving until arrests are made for violating curfew or obstructing roadways.<sup>4</sup> Numerous reports and videos of arbitrary arrests and brutal and disproportionate use of police force against protestors have been coming out, with over 12,000 complaints against police being made in Seattle, Washington, over the weekend of 30 May, including the spraying of a nine-year-old girl with mace; protestors being trapped and sprayed with pepper spray in Charlotte, North Carolina; and videos of officers in New York City beating protestors with batons, pointing a gun at them, driving an SUV into a crowd, swiping protestors with a car door, and committing other forms of violence.<sup>5</sup> Over 10,000 arrests nationwide have been made relating to the protests.<sup>6</sup> Violent tactics have been used against not only peaceful protestors but also journalists covering the protests, 200 of whom were reported being physically attacked, intimidated, or arbitrarily arrested.<sup>7</sup> The Trump Administration has encouraged and exacerbated the violence by threatening to mobilize the military to end protests and calling for harsh crackdowns by police against protestors. More than 17,000 National Guard members have been activated to restore order in at least 23 states and DC, and local leaders have imposed curfews.<sup>8</sup> The mobilization of the military and militarization of police, who are deployed without identifying insignias, badges, or name plates,

undermines justice, accountability, and the legitimacy of the government's actions and increases distrust between citizens and the government.<sup>9</sup>

## **2. A Pattern of Racial Inequality, Discrimination, and Violence against Black Americans**

The current protests follow many past protests against police killings of unarmed Black men in the US, including the 2014 uprising in Ferguson, Missouri over the death of Michael Brown and the 2017 protests in response to the killing of Anthony Lamar Smith in St. Louis, Missouri. Such protests are fueled by a long history of slavery, legalized discrimination and inequity, and pervasive and systemic racism targeting Black American communities. This discrimination is visible in violence by state officials and members of the public against these communities. Racial disparities also exist at nearly every level of US society including in education, healthcare, housing, and income. Coronavirus has disproportionately affected minority communities, with Black Americans suffering more than twice the deaths as other racial groups.<sup>10</sup> Black Americans have also lost more jobs in the economic downturn resulting from the virus.

Systemic racism is particularly rampant in the US criminal justice system. One in 1,000 Black men and boys will be killed by a police officer.<sup>11</sup> In 99% of police killings of unarmed Black men between 2014 and 2019, no officer was charged with, let alone convicted, of a crime.<sup>12</sup> Black people are twice as likely to be stopped by the police, and they more likely to be searched.<sup>13</sup> They are more likely to be arrested and almost six times as likely to be incarcerated as white people, and they are given longer prison sentences than any other racial group.<sup>14</sup>

## **3. Violations of the Rights of Black Americans and Protesters**

Unjustified and excessive force and arrests by police officers against protesters and journalists may violate their rights to freedom of expression and assembly, freedom from arbitrary arrest, freedom from inhumane treatment, and non-discrimination under both the US Constitution and the US's international obligations under the International Convention on Civil and Political Rights (ICCPR). The pattern of racism and discrimination displayed by the murder of George Floyd and others cases like his, and the excessive use of force by police against protesters, also speaks to failings by the US government to address greater structural inequalities and discrimination against Black Americans.

The excessive use of police force also appears to violate international law enforcement standards under the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement, which hold that police may only use force when strictly necessary and proportionate to a legitimate objective such as protecting life; and when using force, police must minimize injury, respect and preserve human life, and ensure prompt medical aid is provided. The UN Committee on the Elimination of Racial Discrimination has repeatedly and explicitly stated its "concern at the brutality and excessive use of force by law enforcement officials against members of racial and ethnic minorities, including against unarmed individuals, which has a disparate impact on African Americans" and "that despite the measures taken by the State party to prosecute law enforcement officials for criminal misconduct, impunity for abuses ... remains a widespread problem."<sup>15</sup>

Accountability for police use of lethal force is severely lacking in the US. A 2015 analysis found that no state law required that lethal force be used as a last resort, with non-violent means and less harmful means to be tried first, and that permissive and vague language has led to disproportionate use of force.<sup>16</sup> Investigations into police killings are handled internally, and prosecutors often avoid prosecutions to maintain good working relationships with the police, creating a cycle of impunity for violators.<sup>17</sup> These serious problems call for strict oversight of police use of force, independent monitoring and investigations, and an end to effective immunity. However, long-term solutions that address fundamental societal inequalities and discrimination are also required to fully protect the rights of Black Americans.

#### 4. Recommendations

HRN calls for the immediate end to US police killings of unarmed Black people and the use of excessive force against demonstrators. The US government must address the underlying cause of these protests or risk continued unrest. HRN recommends the following.

- Law enforcement agencies must immediately end the use of excessive force against protestors and implement reforms to prevent excessive force disproportionately affecting Black Americans;
- US police should have science-based training, policies, and practices designed to minimize harm by using only necessary and proportionate force to maintain safety, focusing on de-escalation methods over fear-based methods and through collaboration with the communities they serve;
- Other reforms to consider are prohibiting force for misdemeanor arrests, conducting strict incident reviews of use of force and psychological evaluations of law enforcement personnel, ending armed civil and traffic code policing, and other measures.
- State governments must pass and implement effective measures to address excessive force disproportionately affecting Black Americans, such as facilitating investigations, prosecutions, litigation, and convictions of excessive uses of police force and ensuring harsh penalties; establishing effective and independent investigation and monitoring mechanisms; participating in a national database and state licenses for law enforcement, reviewing the severity of punishments for non-violent crimes disproportionately targeting Black communities for possible bias; and demilitarizing police arsenals and methods.
- Effective measures must also be passed and implemented to address structural issues of inequality and discrimination of Black Americans.

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<sup>1</sup> OHCHR, "UN Human Rights Chief urges 'serious action' to halt US police killings of unarmed African Americans", OHCHR, 28 May 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25910&LangID=E>.

<sup>2</sup> Pilkington, "After 15 stunning days of anti-racist protests ... what happens next?", Guardian, 10 Jun. 2020, <https://www.theguardian.com/us-news/2020/jun/10/george-floyd-protests-what-happens-next>; Haddad "Mapping anti-racism solidarity protests around the world", Al Jazeera, 7 Jun. 2020, <https://www.aljazeera.com/indepth/interactive/2020/06/mapping-anti-racism-solidarity-protests-world-200603092149904.html>.

<sup>3</sup> Baltimore Sun, "Cops Nationwide React with Violence Toward People Protesting Police Brutality", 2 Jun. 2020, <https://www.baltimoresun.com/opinion/editorial/bs-ed-0603-police-violence-protestors-20200602-g3eebvot2bhuvhim5lggj42aee-story.html>; Szabo, "Police using rubber bullets on protestors that can blind, maim or kill", CNN, 8 Jun 2020, <https://www.cnn.com/2020/06/03/health/rubber-bullet-effects-kaiser-partner/index.html>; Sainato, "'They set us up': US police arrested over 10,000 protesters, many non-violent", Guardian, 8 Jun. 2020, <https://www.theguardian.com/us-news/2020/jun/08/george-floyd-killing-police-arrest-non-violent-protesters>.

<sup>4</sup> Sainato, *id.*

<sup>5</sup> Kindy, Jacombs, Farenthold, "In protests against police brutality, videos capture more alleged police brutality", Washington Post, 6 Jun. 2020, [https://www.washingtonpost.com/national/protests-police-brutality-video/2020/06/05/a9e66568-a768-11ea-b473-04905b1af82b\\_story.html](https://www.washingtonpost.com/national/protests-police-brutality-video/2020/06/05/a9e66568-a768-11ea-b473-04905b1af82b_story.html); Graziosi, "Seattle police accused of macing child during protests at George Floyd killing", Independent, 1 Jun. 2020, <https://www.independent.co.uk/news/world/americas/police-mace-child-george-floyd-protests-seattle-girl-a9543526.html>; Sainato, *id.*; WCNC, "CMPD facing sharp criticism after clash with protesters in uptown", 3 Jun. 2020, <https://www.wcnc.com/article/news/politics/cmpd-to-review-incident-protesters-trapped-gassed/275-39314f9a-a4af-4a69-9dc4-661a4ee57d5b>.

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<sup>6</sup> Gottbrath, “Over 10,000 arrested, protests against Floyd killing continue”, Al Jazeera, 7 Jun. 2020, <https://www.aljazeera.com/news/2020/06/floyd-protests-esper-opposes-trump-threat-send-military-200603145130628.html>.

<sup>7</sup> OHCHR, “US protests: Deep-seated grievances must be addressed – Bachelet”, 3 Jun. 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25922&LangID=E>.

<sup>8</sup> Browne, Lee, Rigdon, "There are as many National Guard members activated in the US as there are active duty troops in Iraq, Syria and Afghanistan", CNN, 2 Jun. 2020, <https://edition.cnn.com/2020/06/01/us/national-guard-protests-states-map-trnd/index.html>.

<sup>9</sup> Welna, “Democrats Call For Anonymous Policing Of Protests To End”, NPR, 4 Jun. 2020, <https://www.npr.org/2020/06/04/870048760/no-names-no-insignias-democrats-call-for-anonymous-policing-of-protests-to-end>.

<sup>10</sup> OHCHR, “Disproportionate impact of COVID-19 on racial and ethnic minorities needs to be urgently addressed – Bachelet”, OHCHR, 2 June 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25916&LangID=E>.

<sup>11</sup> Edwards, Lee, Esposito, “Risk of being killed by police use of force in the United States by age, race–ethnicity, and sex”, PNAS, 20 Aug., 2019, <https://www.pnas.org/content/pnas/116/34/16793.full.pdf>.

<sup>12</sup> US Commission on Civil Rights, “Police Use of Force: An Examination of Modern Policing Practices”, 2018, <https://www.usccr.gov/pubs/2018/11-15-Police-Force.pdf>, p. 24 (citing Mapping Police Violence, “There is no accountability,” <https://mappingpoliceviolence.org/>).

<sup>13</sup> Sentencing Project, "Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System", 19 April 2018, <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>; Sinyangwe, “Evaluating Policing in San Diego”, Campaign Zero, <https://policescorecard.org/assets/san-diego/police-scorecard-san-diego-report.pdf> (commissioned by the ACLU).

<sup>14</sup> Sentencing Project, *id.*

<sup>15</sup> CERD, "Concluding observations on the combined seventh to ninth periodic reports of United States of America", CERD/C/USA/CO/7-9, 29 Aug. 2014, [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/CERD\\_C\\_USA\\_CO\\_7-9\\_18102\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/CERD_C_USA_CO_7-9_18102_E.pdf).

<sup>16</sup> Amnesty International, "Deadly Force: Police Use of Lethal Force in the United States", 2015, [https://www.amnestyusa.org/wp-content/uploads/2015/06/aiusa\\_deadlyforcereportjune2015-1.pdf](https://www.amnestyusa.org/wp-content/uploads/2015/06/aiusa_deadlyforcereportjune2015-1.pdf), pp. 21-24.

<sup>17</sup> *Id.*, p 2.