

4 June 2020

STATEMENT

USA: Policing response to peaceful protests indiscriminate and excessive

BHRC expresses condemnation at the excessive use of force deployed by State law enforcement officers in the United States in response to mass protests taking place across the country following the death of George Floyd at the hands of Minneapolis police officers on 25 May 2020. We call on the US and State governments and local law enforcement agencies to protect the right of peaceful protest, and to ensure proportionate and lawful responses to the continuing demonstrations against systemic racism, in accordance with international law.

On 25 May 2020, in an act of extraordinary abuse of police power, white police officers arrested and pinned to the ground African American man George Floyd who died from the restriction of his airway by the detaining officer. Those actions were filmed and widely shared on social media by outraged bystanders, leading to the dismissal of four officers and a charge of murder against the detaining officer.

Protests ensued across US cities, reflecting the dismay and outrage at yet another unlawful killing of a black individual by white police officers using excessive force, alongside a multiplicity of violent stops, arrests and detentions.

The law enforcement response, widely covered by reporters on the ground and across social media, has deployed excessive and indiscriminate force against peaceful civilians as well as widespread attacks on journalists. There have been thousands of arrests, including of legal observers, medics, bystanders and journalists whilst live reporting. At least five people are reported as having died following the disturbing use of batons, horses, vehicles, tear gas, pepper spray, rubber bullets and flash-bang grenades. Multiple injuries are reported as having been sustained. After many nights of protests, the US President has suggested that the US military will be deployed to quell the protests and State authorities have engaged National Guard, riot police and curfews.

According to the US Press Freedom Tracker, there have been well-over 100 press freedom violations, mainly instigated by law enforcement authorities during the protests, including arrests and assaults on journalists. The UN Special Rapporteur on Freedom of Expression has described the attacks on journalists as “a repudiation of fundamental rights enjoyed by all Americans, under the constitution and human rights law’.

The US is a party to the International Covenant on Civil and Political Rights (ICCPR) which guarantees rights to life, liberty and security of person, freedom from arbitrary detention, freedom of expression, and the right of peaceful assembly. All these rights are, of course, also protected by the US Constitution. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (‘the Basic Principles’) require that officers, in carrying out their duty to maintain public order and safety, shall, as far as possible, apply non-violent means before resorting to the use of force. They must exercise restraint in the use of force and where such use is unavoidable to maintain peace, they must use only “the minimum extent necessary”, acting in proportion to the seriousness of the offence. Instead, there have been multiple and credible reports that the force used by State law enforcement officers since the 25 May 2020 has been excessive, disproportionate, unnecessary and directly endangered the lives and safety of protestors. Freedom of expression, through press freedom, and freedom of association, through the right of peaceful protest, are cornerstone rights in a democracy.

The ICCPR requires States to investigate alleged violations of these rights. Further, the Basic Principles require nations to ensure that arbitrary or abusive use of force by law enforcement officials is punished as a criminal offence under their law. Moreover, in light of a well-reported pattern of police brutality involving the African-American community, there is an urgent need to institute effective and transparent inquiries into systemic race discrimination by law enforcement officers and to ensure an end to practices which result in impunity.

We call upon the United States Government, State Governors and local law enforcement agencies:

- To exercise restraint in the policing of peaceful protest and to take all proportionate and lawful measures to guarantee the safety of protestors - particularly in light of the Covid-19 pandemic - and to ensure the rights to freedom of assembly and expression are protected in a meaningful, safe and proportionate manner;
- To ensure a fair, transparent and independent prosecutorial investigation into the death of George Floyd;
- To investigate all incidents of excessive use of force and wrongful arrest in policing the protest;

- To ensure a meaningful and independent inquiry or review on systemic or structural race discrimination practices by and within law enforcement agencies in order to recommend reform and to ensure accountability for targeted force and discriminatory treatment; and
- To bring to justice all officers engaged in unlawful and excessive use of force, both in relation to the death of George Floyd and each act causing injury, death and wrongful arrest in the protests that followed.

ENDS.

NOTES FOR EDITORS

1. For an interview with our spokesperson, please contact Josie Fathers, Project Coordinator on coordination@barhumanrights.org.uk or +44 (0)7854 197862
2. For more information on the Bar Human Rights Committee (BHRC), visit our website at <http://www.barhumanrights.org.uk>
3. The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales, working to protect the rights of advocates, judges and human rights defenders around the world. BHRC is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. It is independent of the Bar Council.