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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Written statement* submitted by International Lesbian and Gay Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[04 June 2020]

* Issued as received, in the language(s) of submission only.

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Racial injustice and police brutality against black and brown LGBTI populations

This joint statement is submitted by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-World) on behalf of the International Institute for Race, Equality and Human Rights (Race and Equality) and ILGA-World. It seeks to draw the attention of the Human Rights Council, its members and observers, to the situation of racial injustice and police brutality that affects Black and Brown persons including those with diverse sexual orientations, gender identities, gender expressions and sex characteristics (SOGIESC) worldwide.

The murder of George Floyd¹ on May 25, 2020 in Minneapolis (United States of America) is the catalyst for the national protests, riots and calls for justice in the United States which has reverberated and been taken up by other communities around the world. Three days later, a black transman, Tony McDade, was murdered by the police in Tallahassee Florida, making him the 12th transgender or gender non-confirming person to die violently this year in the United States.² McDade's death is just another example of police brutality against black citizens with diverse gender identities and expressions.

Around the world, black lesbian, gay, bisexual, transgender and intersex (LGBTI) people are killed daily and their deaths are ignored because they are people of African Descent and have diverse sexual orientations, gender identities and expressions and/or sex characteristics. Even in the midst of COVID-19 in Brazil, transsexual women and travesties continue to die violently, a majority of these deaths are Afro-Brazilian trans people.³ TGEU's TransMurderMonitoring⁴ project has revealed in their 2019 update, that "in the United States, the majority of the trans people reported murdered are trans women of colour and/or Native American trans women (90%), and in France, Italy, Portugal, and Spain, which are the countries to which most trans and gender-diverse people from Africa and Central and South America migrate, 65% of the reported murder victims were migrant trans women".

State actors such as the police are among the perpetrators of violence and even murder black and brown persons of colour including LGBTI persons of colour. These actors therefore fail in their duty to protect human rights. And in cases in which state actors are not among the perpetrators of such violence, such crimes are often not properly investigated, persecuted and punished. This leads to impunity of the perpetrators. States as well systematically fail to collect data on LGBTI murders and do not count with disaggregated data on race and ethnicity that could shed light on how gender and race intersect with these violent murders. Disaggregated data could also help States to better address the issues these populations struggle with.

The most recent cases of police brutality in the United States have sparked an outcry that has highlighted the structural and systemic racism that permeates the United States. The militarized-like response of this country's security forces to these protests curtails its citizens right to freedom of assembly and freedom of expression and should be condemned by the international community and not be replicated in other States.

Protests have taken place in different parts of the world as a reaction of solidarity to the racism and police brutality in the United States and to bring attention to systematic issues of racism in their countries. The rights to peaceful assembly and freedom of speech and expression are enshrined in international human rights law and a cornerstone of democratic societies. States have an international responsibility to protect and guarantee the rights of their citizens to peacefully assemble and express themselves.

¹ New York Times. 8 Minutes and 46 seconds: How George Floyd was Killed in Police Custody. Available at: <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

² NBC News. Black transgender man fatally shot by Florida police <<https://www.nbcnews.com/feature/nbc-out/black-transgender-man-fatally-shot-florida-police-n1218156>>.

³ <https://antrabrazil.files.wordpress.com/2020/05/boletim-2-2020-assassinatos-antra-1.pdf>.

⁴ <https://transrespect.org/en/tmm-update-trans-day-of-remembrance-2019/>.

While we acknowledge that these protests take place in the midst of COVID-19, States must ensure that the right to protest is guaranteed and protected. We also urge States and stakeholders to ensure an investigation into these deaths and include an intersectional approach that accounts for race, ethnicity, sexual orientation, and gender identity. States and stakeholders must also ensure to include, have, and uphold anti-discrimination policies and commit to ensuring security forces respect the principles of due diligence and non-discrimination.

Intersectionality is a key concept that has been recognized by different United Nations' human rights bodies.⁵ States must recognize such intersecting forms of discrimination and their compounded negative impact.⁶ The intersection between race, sexual orientation, gender identity and expression and sex characteristics creates a continuum of violence and a dynamic of disempowerment for black and brown LGBTI persons that must be combated by States in order to fulfill with their international human rights obligations.

We call upon States and stakeholders alike to address the root causes of racial violence, discrimination and stigma including against persons of diverse SOGIESC. There is no grounds for complacency in this but there is an imminent need to address those systemic, globally prevalent issues holistically.

International Institute for Race, Equality and Human Rights (Race and Equality), NGO without consultative status, also shares the views expressed in this statement.

⁵ CCPR/C/GC/36, para. 61; CEDAW/C/GC/28, para. 18; CRPD/C/GC/6 para. 33, A/HRC/38/43, para. 23.

⁶ CEDAW/C/GC/28, para. 18.