

PROTEST AND POLICE FORCE: EXAMINING RACIAL DISCRIMINATION AND THE LEGALITY OF POLICE FORCE IN THE UNITED STATES

This panel was convened at 11:15 a.m., Wednesday, March 24, 2021 by its moderator, Justin Hansford of Howard University School of Law, who introduced the panelists: Agnès Callamard, United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; Claudia M. Flores of the University of Chicago School of Law; Gay McDougall of Fordham University School of Law; Charles Ramsey, former Police Commissioner of Philadelphia; and Clément Nyaletsossi Voule, United Nations Special Rapporteur on Rights to Freedom of Peaceful Assembly and of Association.

INTRODUCTORY REMARKS BY JUSTIN HANSFORD*

Good morning. My name is Justin Hansford. I am the Executive Director of the Thurgood Marshall Civil Rights Center at Howard University School of Law, and I would like to welcome everybody to the Protest and Police Force panel on examining racial discrimination and the legality of police force in the United States here this morning.

The tragic killings of Mike Brown and George Floyd and the ongoing disproportionate killings of Black and Brown people by law enforcement in the United States has sparked demonstrations in all fifty states and around the world. In response, police have unleashed tear gas, rubber bullets, and other weapons against protestors in ways that arguably violate international law.

Today we are going to have a conversation with experts from around the world, including professors, special rapporteurs from the United Nations, a former police chief, and other experts who can talk directly about the implications of these things that have happened to our nation and our world in recent months and what some solutions might be going forward.

In lieu of giving lengthy introductions, what we are going to do today is start with our urgent question, and in responding, the panelists will also provide introductions of themselves. Without further ado, I want to begin and ask the question: What do you see as the advantages to taking a human rights approach to addressing issues of racial discrimination and excessive use of force and police violence, particularly in the United States? What are the advantages of a human rights approach to addressing these issues? I want to begin with Gay McDougall. Please feel free to answer the question.

REMARKS BY GAY MCDUGALL**

Thank you, Justin, and thank you to the organizers of this panel and to my co-panelists. I am currently an adjunct at Fordham Law School and in the International Center for Race Policy and Law and the Leitner Center there, but I spent much of my career as an independent expert

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—eight years on the UN Committee on the Elimination of Racial Discrimination, and six years as special rapporteur on Minorities for around the world.

I think that there are many advantages to using international law in the U.S. context. First of all, it is an additional authoritative voice and one that I think speaks well to the American population. Secondly, there are standards that the United States has agreed to in voluntarily ratified treaties and other documents, like the Universal Declaration of Human Rights.

However, there is another document that I think is rarely accorded in the United States, especially in this context, which is the International Convention on the Elimination of Racial Discrimination. The standards in that Convention are much broader than U.S. law, and in this context particularly. U.S. law has many problems with finding a disparate impact of racially harmful laws as being actionable under law. Under the Racism Convention, it is quite clear. For example, in one provision, it says as a factual indicator of racism, that is actionable in the administration and functioning of the criminal justice systems around the world, the number and percentage of persons belonging to the racial group who are victims of aggression and other offenses or held in detention—especially when they are committed by police, et cetera—is quite probative. The proportionality is higher in terms of crime rates, particularly with respect to persons belonging to those groups, with regard to petty street offenses related to drugs and prostitution, and this is an indicator of exclusion and non-integration when considering the larger economic advantages of the society. I could go on, but you see these kinds of comparative figures and they are clear and have probative value and under the UN Convention.

The other point I want to make is that it matters what the history of policing has been in this country, starting with runaway slave codes and the role that played with what eventually became law enforcement, particularly in the South. We can talk about the way in which that developed after the Civil War and how the Confederate soldier played the same role against recently freed slaves, and so on. The regime was one of lynching, and there were like a hundred lynchings or more each year, and there never were any arrests or accountability in those cases. Or as another example, the massacre in Tulsa, Oklahoma, in which no one was ever held accountable.

Again, I could go on, but I do not want to take time, except to say I want to frame our discussion about policing tactics in what is the overall very critical context here, which is racial discrimination.

JUSTIN HANSFORD

Thank you. Thank you so much for that attribution. Next, Special Rapporteur Callamard.

REMARKS BY AGNÉS CALLAMARD*

Thank you very much. I am a special rapporteur, and it is a pleasure to be here. Justin, I am a Howard University alumni, so I am very pleased to be joining you and your students.

I would like to make two points. At one level, the human rights international framework has much to contribute, not only on the issue that Gay just stressed but also on the question of the use of force, where under international law the standards used for the use of force by the police are far better and more equipped to the societies we live in than those that are currently in use in the United States. Under international law, the use of force must be necessary and proportionate. Under the American system, largely, it must just be reasonable, and it is on the basis of the personal judgment by the police officer as to whether it was reasonable to shoot that the courts are going to

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assess the act and in the vast majority of cases are going to determine that there was nothing unlawful being done. The first, in my view, priority for the United States is to review the legal framework for the use of force and adopt what is in place in the international legal system.

The second point I want to make is that the principle of necessity and proportionality will not be sufficient. These principles are in place in many other countries, and yet you have a large number of police killings, including those with a strong racism component.

Personally, over the last year, I have found the international human rights system profoundly challenged by what we have witnessed, and I have found the American streets far more inspiring in terms of thinking of what to do next rather than the international human rights legal framework. How do we reform institutions whose normal and historical functioning is inherently unjust? That to me is a question, and the international human rights system may not be geared to answer it very well.

It does not mean that the answers cannot be found from within that system, but so far, I do not think it has. Personally, I have found far more responses over the last six months listening to the street and the Black Lives Matter movement, trying to unpack the notion of defining and rethinking of policing in a modern society than I have found looking back at forty years of international human rights work. Thank you.

JUSTIN HANSFORD

Thank you so much for that. Professor Flores.

REMARKS BY CLAUDIA M. FLORES*

Thank you, Justin, and thank you to the organizers, and to my very esteemed co-panelists. My name is Claudia Flores. I am the director of the Global Human Rights Clinic at the University of Chicago Law School.

The clinic has actually conducted three pieces of research now related to our panel. The one that I will discuss most today is “Deadly Discretion,” which was an analysis of the twenty largest cities in the United States and their lethal use of force policies. In that research, we found that none of the cities we reviewed were compliant with basic international human rights standards.

We also are about to release another report that was covered in the *Guardian* a couple weeks ago, which is a global review of the twenty-nine wealthiest countries regarding their laws and policies on lethal use of force. I will say that we found that none of them complied with international human rights standards. I say that because I do think that one of the very important contributions of human rights to this issue of abuse of force and discrimination is that the human rights framework provides the proper framing. It prioritizes human life and all of the rights that we need to be thinking about when we are thinking about how the police should be acting toward citizens, because in the end, this is a government service that is accountable to its citizens and can be rethought and reconceived and eliminated in a certain way. The human rights framework allows us to have the conversation in the right way, which is that this is for the benefit of the public and for the benefit of the citizens.

I take Special Rapporteur Callamard’s point very well, which is that the human rights system is not necessarily doing that terribly effectively. But, within each country, when we are rethinking how the police should be using force, especially in the context of protests, which is really about facilitating freedom of speech, the ability to object to your government and for the population to

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hold the government accountable, when we can hold those human rights as the basic standards that we should be using, then we can have the conversation in the correct framework.

JUSTIN HANSFORD

Thank you so much for that. Commissioner Ramsey?

REMARKS BY CHARLES RAMSEY*

Thank you. I have spent my entire adult life in policing, fifty-plus years. I started my policing career in my hometown of Chicago, where I joined the Chicago Police Department as an eighteen-year-old police cadet back in 1968. I served thirty years as a member of the Chicago Police Department. I left in 1998 to become police chief in Washington, D.C., where I had the honor of serving for nine years, from 1998 to the beginning of 2007. I did retire briefly but then got back into policing in 2008 when I took over as police commissioner in Philadelphia, where I served for eight years. In 2015, I had the honor of serving as co-chair of President Obama's Task Force on 21st Century Policing. Currently, I am a member of the court-appointed monitoring team in two cities, Baltimore and Cleveland. I serve as an advisor to the U.S. Conference of Mayors and also chair of the Pennsylvania Commission on Crime and Delinquency for Governor Tom Wolf.

As far as the question goes, I think it would be a move in the right direction here in the United States. It may not be an exact fit, but it certainly puts us in a position to move forward. One thing it would force us to do is create national standards in the areas of policy and training, which is sorely lacking right now. There are almost 18,000 police departments in the United States of America, about 800,000 police officers. About 80 to 85 percent of those departments have twenty-five or fewer officers. There is no standardization at all, and so, in order to do that, you have to start somewhere. I think that would give us a blueprint to be able to start that process because I think it is very important that there be some minimal standards, particularly in the areas of policy and training—having a national database of police officers who are terminated for misconduct, for an example, so that they cannot go from one jurisdiction to another. There are a host of things that could be done if there were some national standards. Education, training, leadership, leadership development, and so forth all need to be looked at, and I do believe would be of benefit, not just to police but society in general. Thank you.

JUSTIN HANSFORD

Thank you so much. And, finally, Special Rapporteur Voule.

REMARKS BY CLÉMENT NYALETSOSI VOULE**

Thank you very much, Justin, and I want also to say hello to my fellow panelists. Thank you for inviting me on this discussion. The first thing that needs to be made clear is that the human rights approach to ending discrimination is not an option, it is an obligation. Every state has an obligation to put in place measures to end racial discrimination, to protect those who are victims, and to ensure and to protect the right to life of every citizen. The same thing in terms of the police, the use of force, it is not an option. It is an obligation of the states to put these in place, and the United States

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also as part of these international norms. All of those standards that exist oblige states to put in place measures to be able to end racial discrimination but also the use of force by the police.

It is an obligation, but also, it is a choice of good policy. It is a choice of good policy because it has a lot of advantage. If we think about the United States, it is important that using this international framework will help the United States to create the national framework that you are talking about in order to denounce and to end this longstanding battle to end racism in the United States.

It also offers racial discrimination activists another platform and avenue to be able to explain themselves in a concrete way. The discrimination structure does not allow minorities to be able to access remedies. The international platform offers them the voice, to be able to talk and bring their issues, but also to be able to engage with the states.

I would like also to mention that with the United States' commitment now to come back to the Human Rights Council, it can open up the country for international assistance in terms of drafting the national framework in a way that is consistent with the international framework. It also gives legitimacy for the United States to be able to end racial discrimination in its own foreign policy.

After the George Floyd issue, we know with the protests that happened that there is a lot of concern around the commitment of the United States to really end racial discrimination. Coming back to the Human Rights Council and taking action at the national level would legitimize the United States by speaking to other countries on how they can also make efforts on their side to end this.

The human rights approach is not just an option, it is an obligation, and ending the use of force by police is also an obligation, and the United States also is bound by this obligation.

JUSTIN HANSFORD

Thank you so much for that contribution. I want to take the moderator privilege and ask this question to everybody. What can the international community do and what role should the international community play in these issues around race and policing in the United States? We have a number of special rapporteurs. Gay has worked for years in leadership at CERD and on other levels. I am curious as to what role should the international community play. Is it seen as meddling in domestic affairs? Is it primarily an intellectual ideas generation role, giving recommendations that could be good ideas? Is there an enforcement role? What have you seen in your experience? I think we probably should start with the people who have been specializing in that, so the special rapporteurs and Gay McDougall. What have you seen to be effective in terms of your role in getting the international community to be part of this solution, and what should the international community's role be in this crisis? Gay, do you want to start?

GAY MCDUGALL

Yes. I was part of the effort to put the George Floyd matter before the Human Rights Council, and I did this in the one-year break when I was a civil society leader. And, you know, it is a test.

Now, the other thing is that, of course, we had a different administration when we did that, when we put it before the Human Rights Council, which made a lot of difference.

JUSTIN HANSFORD

Gay, could you please clarify for the audience what you are referring to? I think you are referring to the creation of a special commission last year.

GAY MCDUGALL

We asked the Human Rights Council to hold a special debate to create a commission of inquiry that would have special investigative powers. There would be independent investigators named and it would have a budget and be able to hit the ground in the United States and talk to a range of relevant actors, do a proper investigation, and come up with some recommendations that would be far more specific and to the issues here than other mechanisms. They have to speak, generally, to global conditions.

For a lot of reasons, that may or may not be useful to describe here at this time; the whole thing was watered down. We got a special debate, not a special session, and the resolution was not quite as pointed. Instead of a special mechanism with investigative powers and budgetary powers—which is important—what we got was a request that the high commissioner of human rights do a report that included a global look at relevant problems around the world. Of course, the United States would be a specific focus, also Brazil and France, where a number of similar events were going on.

One of the reasons why it was watered down is that U.S. foreign policy agents have an aversion to allowing the United States to be named specifically as the target of a special investigation in the UN, and that was particularly important to the last administration.

We will have a report. It will not be something that will have a special investigative budget or authorities. It also will cover other countries, not just the specific and troubling events in the United States.

To get to your point directly, I think the United States needs to step back in its foreign policy and say, “We are going to be honest. We are going to be transparent, and we are going to subject ourselves to international scrutiny and be held accountable. And we are not going to block efforts at accountability,” because it is the only way that we can call other countries to be accountable with integrity and credibility.

There are a lot of other things we need to do. We on the international side need to step up. I think the statements that have come out from the rapporteur speaking as directly as possible to the issues as they see them here are important. I think it is very important that we at the international level think about ourselves as also in the business of empowering national civil society activists to play their best role in holding their own governments to account and seeing that changes are made.

JUSTIN HANSFORD

Thank you, Gay. That was a great contribution and I think it really frames this discussion. Commissioner Ramsey, I wanted to see if you had any reactions before we speak to the special rapporteurs or the professor. Do you think that in your lengthy experience in analyzing police departments and working for reform that there is openness to that type of transparency, or do you think that they can be influenced by international human rights recommendations? Because, as you said, there is a great deal of independence when it comes to policing on the local level, and oftentimes we do not have national standards. Thus, it is in the hands of these 18,000 police chiefs to be responsive at the moment. Do you think this is a workable plan?

CHARLES RAMSEY

I think you would find a lot of police chiefs and commissioners that would be open to that approach. Of course, there would always be some that would be resistant, like anything else. I think holding policing accountable is important, but not just policing—I know we are here to focus on that, but when you start talking about human rights abuses, it certainly goes beyond

just policing in the United States. We need to take a more comprehensive approach and a comprehensive look. Just like the United States is quick to hold other countries accountable for human rights abuses that occur in their countries, we should be open to having that same level of scrutiny here, but there is a certain amount of arrogance in America where we feel comfortable telling other folks what to do, but we are not too comfortable having people take a look at us and tell us what we ought to be doing. We must find a way to overcome that. If we do not, we are going to be having this panel discussion over and over again because nothing is going to really change.

There are countries that can do things better than we do in the United States. They have different approaches. You could be talking about policing or any variety of things, but we should be open to learning. In policing, we need to be open to different ideas. We need to be open to listening to our own communities and see policing through the eyes of those being policed. If we are able to do that, then that by itself would go a long way toward correcting many of the things that plague us today.

I think it is that reluctance to be open, which is not just a policing problem. It is an American problem, to a large extent. We all need to think differently, and we need to be open to new ideas. We may or may not agree. It may or may not fit perfectly in as it is, but we need to be open.

I will close with just one idea, regarding the use of force. I traveled to Scotland with the Police Executive Research Forum a few years ago to look at the UK and how they handle use of force situations. They do not have gun violence like we do, but they do have problems with edge weapons. Rarely do you hear about them using deadly force in situations like this. What is it that they do tactically? How do they train differently to be able to de-escalate and resolve the situation short of deadly force? We actually traveled. We learned, came back, put a program in place in the United States that dealt with that specific type of issue. We learned from them. That is what needs to happen on a much larger scale, in my opinion.

JUSTIN HANSFORD

Great. Thank you. Any comments from any of the special rapporteurs?

CLÉMENT NYALETSOSI VOULE

Yes. I agree. Many things have been already mentioned. Let me reiterate that the international community can play an important role by supporting the local processes in the United States. In particular, there is a lot of practice where you have country offices of the high commissioner that support the government to move some critical issue forward. It is important to mention that if the UN establishes an office in a country it is not necessarily an indication that the country completely violates human rights. It also may be that a certain country has specific human rights challenges wherein it needs the expertise of the international community to support it. I think the United States opening up to the international community, to the UN, or to the high commissioner for support would provide a platform for the discussion around ending racial discrimination and police use of force to not be politicized. It is not about the issue of Republican or Democrat, but it is about the issue of human rights. Having an independent outside body coming to monitor would help move this agenda forward and would also make sure that the agenda is outside of the political discourse.

JUSTIN HANSFORD

Thank you. Professor Flores?

CLAUDIA M. FLORES

To add one thing, the question you asked at the beginning, Justin, can be used for any human rights issue, right? There is always the issue of national sovereignty and countries wanting not to be held accountable, but the international community has such an important role on all human rights issues because once you do this long enough, you realize that humans are remarkably consistent in the way that we violate each other's rights.

This issue of police abuse of power in a discriminatory context is a global issue, and so that comparative perspective is incredibly important.

Like I mentioned, the clinic did a review of the wealthiest countries with the most resources. Sweden allows for deadly force against an individual that is suspected of a serious crime, even if that individual does not pose a threat at the moment. Japan's use of force law is more than seventy years old. There are certain patterns that you notice of governments not restricting and cabining police discretion in the right way, and that leads to discrimination and other human rights violations.

As Mr. Ramsey mentioned at the beginning, looking at how other countries do it is important. Northern Ireland, for example, has a very human rights-compliant law around protest and policing because of their history, and they have completely changed the way that they approach protests and think of it as facilitation rather than control and stop. If that is taken seriously by the higher levels in a police force, it does make a difference. The international community has an important role to play because this is a U.S. problem, but it is also a global problem.

JUSTIN HANSFORD

There is one thing I wanted to say. It was mentioned you have Japan's seventy-year-old law. You have Ireland. The global lens, in theory, at least could go to either country, good ideas or bad ideas, but ensuring that they import those ideas that tend more toward the human rights framework is perhaps the role of the advocates.

We do know that there has been exchange that has tended to go into the other direction in terms of surveillance and even use of tear gas. I was at a protest during Ferguson, and there were some tear gas canisters used in Ferguson, and they were also used in the situation in Israel, and we had the exchange there. We have seen that work on both sides. I just wanted to mention that.

Gay, I know your hand was up.

GAY MCDUGALL

I wanted to point out, especially following on Clément's first point, that all of the established offices for technical assistance and monitoring by the UN are specifically not in what are considered to be the developed countries. Basically, it is about monitoring and controlling the Global South, and that has its own problems. We are not here today to critique that, but it means that getting that kind of specific assistance in a country like the United States is not a part of the overall game plan of the UN.

But I will say I think it might be very useful for civil society and a coalition of law school clinics to invite a panel of relevant international actors or cross-fertilize. Bring the chief of police from Northern Ireland. I have been in contact with the chief of police from Northern Ireland who was there during the Troubles and who had to reconstitute the police force after the agreement to end the Troubles. He had some very useful comments about policing in badly divided societies, how you handle that, how you move that out of police forces and policing, the attitudes, et cetera. That is something that we can do. We can move it around our country to various cities where we get the kind of openness that Chief Ramsey is talking about. We could even have Chief Ramsey as our ambassador to head up the team.

JUSTIN HANSFORD

Yes. On that note, the special rapporteurs on our panel released a joint statement last month condemning systemic racism and policing in the United States, and that seems like a classic example of an attempt to make impacts beyond a formal mechanism. I would ask both special rapporteurs, what has happened as a result of your joint statement? Have you found that there has been a response from advocates, the U.S. government, or local governments? Has that been an effective method of creating change to put that statement out, and have you found there to be some sort of response, or has the response been somewhat sluggish after your joint statement?

AGNÉS CALLAMARD

First and foremost, we do not do that for ourselves. The fact that we may not hear about what people are doing with our statement is not a problem to me. I am not doing it in order to get validation of any kind. I am doing it because I know it could be helpful, because I know from my own work and from what I have been told that this kind of statement can be part of a strategy of action or advocacy. I do not expect a response, at least not from civil society. If they want to interact, that is great. If they do not, it does not matter to me as long as I have been in touch with them beforehand to make sure that whatever I recommend is meaningful for the local context. It is not just about hammering international principles. It is about making sure that they are meaningful for the people on the ground who will be responsible for working with those principles. That, we did. We took a very long time to produce this report because I was keen to ensure that all the recommendations resonate with the advocates on the ground.

When it comes to the official response, so far, we have not received any. They have about two months officially to respond to our inquiries. In this particular case, inquiries were less at the federal level, and more at the city level. I think it is a little bit more complex.

It is important to insist on the fact that we are not the actors of change ultimately. It is not me who is going to bring changes to the practice of policing in the United States. What I can do is support this trend, validate, amplify, and denounce. I can use my platform to say, "Hey, United States, it is not because you are the United States of America that you can avoid being scrutinized." That, I can do. The actors of change are the ones fighting. They are the ones who are going to translate those principles so that it is meaningful.

I believe that President Obama instrument was fantastic. The report was very important. I am glad that we have one of the persons behind it in there, and I think that example is why it is so difficult to reform institutions that have a history. I am all for changing tactics, but frankly, given how important that initiative was, given the recommendations that Mr. Ramsey and others made, the fact that it was a legitimate initiative and yet it is eight years later and it appears as if only one city has endorsed some or all of those recommendations demonstrates that it is very complex. It is far more complex than a couple of good tactics. I mean that with all due respect. We need to add those avenues of learning, and they will be a way in which change is going to take place, but it is so much more complex. Coming from a country, France, which at the moment is completely denying that there is racism within the police, I can tell you, it is more complex than a tactical issue.

JUSTIN HANSFORD

I would like to give Commissioner Ramsey some space to respond to that. Commissioner, you put together this wonderful report under the Obama administration, and it has been difficult to get adoption. What are we to make of that? If we are trying to advocate for human rights standards to be adopted, which are even more of a dramatic, progressive shift in local police departments, they are

not listening to the United States government's own reports, should we be throwing our hands up? What does that say for us in terms of getting the actual adoption of our ideas and recommendations?

CHARLES RAMSEY

I had this discussion with the president at the time. The only way to get departments to really pay attention to the recommendations is to have it somehow tied to funding or something like that, because there is no way of being able to make agencies come into compliance. There is nothing there, and so you have to find a way. Money is not the answer to everything, but it is the answer to a few things when it comes to trying to get governments to do something, and that is doing it through the funding process or the denial of funding if they do not demonstrate that they are moving in the direction of reform.

The other thing I would like to comment on that Agnés just mentioned is the complexity. She is absolutely right. Not everything, when we talk about use of force, is due to systemic racism. There are a lot of factors that need to be taken into consideration when we are talking about officers who engage in acts of misconduct. Maybe it is in terms of force. Maybe it is in terms of other types of misconduct, and we need to pay attention to that, take them all equally seriously, but not everything is tied to race. That is not to deny that some things are, but that is not the only thing.

The other thing, by just narrowly looking at it that way, who do you think police recruit from? They recruit from society in general. There is a problem in our society, period, and that is who we recruit from. We need to do a better job. I think January 6 showed the extremist views. There were policemen there. We have better background checks, but we are drawing from the larger society. You are not going to fix it until we fix all of it. Do not think you can fix one and not the other. I think we all know that, but I think it is also important to always make that part of the conversation.

The last pillar that we used in our work with the task force was officer safety and wellness. We have to look at the mental health of police officers. They are exposed to trauma on a regular basis in many of these cities. I mean, we talk about soldiers coming back from Iraq and Afghanistan after a year or two. Try thirty or forty years of going to homicide scenes, dealing with child rape victims, and other types of things. It has an impact, and there needs to be regular mental health checkups with officers to make sure that they are continuing to have the kind of balance and objectivity they need to be able to perform. It is not like a rubber band is wound so tightly that the least little thing happens and boom, it is gone. Some of that happens simply because we do not do enough to really deal with the mental health of our officers. It is a complex problem with a lot of moving parts, and we need to look at all of them if we are really going to have a real impact.

GAY MCDUGALL

If I can mention one more thing that we have not mentioned in terms of complexity, the police unions and the role that they play in almost guaranteeing impunity. It seems to me that so many of the problems that we face in terms of reforms are blocked by the unions. The question is, is there any way around that? And if there is, what kind of a coalition do we have to put together in order to find that way and employ it?

JUSTIN HANSFORD

That is a great point. Our work also focuses on that, and we need to have that international lens on our discussion of policing unions.

I want to come to Professor Flores because I know you released a report analyzing twenty cities in particular on this issue. What is the scholarship saying on what we need, how we could improve

the way that these police departments are performing specifically in relation to human rights standards?

CLAUDIA M. FLORES

The report that we wrote focused specifically on lethal use of force policies, and I emphasize that because the two pieces of research that we have done are about what is in the written word—what laws are, what policies are. How things are implemented in a police department is a completely different matter that really requires an area of expertise that is internal.

The reason we did this research is because that is the beginning. If the law does not say that things should be done a certain way, if institutional police department policies do not say that things should be done a certain way, then how can you expect police forces to be reacting and organized in a human rights-compliant manner? What we found in this research is that none of the twenty largest cities in the United States had even these basic standards in their written documents.

This does not tell you how well police departments are performing. You could have really excellent management and terrible policies. The flip side is you could have really excellent policies and terrible management. It is no surprise that Los Angeles and some of the larger cities that have been under a magnifying glass because of the way that their police forces act actually had pretty good policies.

But in the second piece of research that I mentioned, titled “Global Impunity,” which is coming out in a month, we actually did a lot of background research on policies and their relationship to police behavior in terms of lethal use of force. As Commissioner Ramsey was saying, there are so many factors that go into whether or not police use lethal force, including trauma, their particular identity, their identity of the person that they are relating with. There are so many factors that really do need to be looked at if we want to really reform police departments.

One of the things I have been very struck by in the research we have done around protests and policing is how much the institutional messaging matters, how police think of themselves in relation to the population that they are serving. And, if they think of themselves as in an antagonistic relationship to the population that they are serving, that seems to be a game changer. That is why we looked at lethal use of force policies, because the proportionality and necessity of these two principles are supposed to guide the police officer in the moment as to how they should be thinking about lethal force, and then the legality and accountability prongs are really about what happens when things go off the rails and then also what commitment the government has to abiding by these principles in the first place.

It is so complex, and I think that many times media will reach out, and they want us to say how can you make police departments act in a certain way. I think it involves the cooperation of many people.

The one thing that I can say is that globally and in the United States, we do not see the basic standards we would expect in laws and policies, and that already seems like a huge problem.

JUSTIN HANSFORD

Thank you. Panelists, final words for us to take as we seek to create change? We will start with Special Rapporteur Callamard. Do you have any parting words?

AGNÉS CALLAMARD

I think the points made by Mr. Ramsey were absolutely spot on in my view. We need to integrate police reform within a broader context, hence, education and so on. We need to use funding as a stick and as a carrot.

I know the Defund the Police slogan was not always well taken. I think if you move beyond the rhetoric, there is a lot of meaningful proposals behind it, and that to me represents the very important steps that we have to take to reestablish a balance between some of the overpolicing of menial actions by vulnerable communities and putting more investment somewhere else.

JUSTIN HANSFORD

Yes. Thank you. Professor Flores

CLAUDIA M. FLORES

I think I will use the time to cede to my co-panelists.

JUSTIN HANSFORD

Great. Commissioner Ramsey?

CHARLES RAMSEY

First of all, it was an interesting conversation, and I appreciate it. But like all panels that I have been on, they rarely result in any kind of concrete action, and at some point in time, the conversation has to stop and action has to start. That has to come from the highest levels of our government here in the United States to really put in place those mechanisms, despite the political blowback, to start actually instituting real change and demanding that it happen, not making it optional but actually making sure that it takes place. It is going to take a lot of courage, but it has to be done. We have such short attention spans in America about so many different issues. Gun violence and mass shootings right now is on the front burner. Why? Because of Atlanta and because of Boulder, Colorado. I guarantee you, this time next week, that will not be the conversation. It will be something else. We will move on from any kind of meaningful discussion followed by action around guns and violence in our community to something else, which is the next hot topic. We have got to stop that and settle down and figure out what these problems are, what are these issues, what are the solutions, and really start taking concrete steps to deal with it, or else we will all be in the business of sitting on panels in the foreseeable future.

JUSTIN HANSFORD

Special Rapporteur Voule?

CLÉMENT NYALETSOSI VOULE

I think it is important to mention that there is an important opportunity to move this agenda forward with the Biden administration. I am saying this because of the contacts that I keep having since we released our joint statement, and yes, we are still waiting for the U.S. formal response. But I keep contact with the Permanent Mission here, and you can see that there is commitment to move this agenda forward. We know that the national processes are very complicated, but I think that the fact that today the government has committed to recognize that police use of force is a

problem and a systemic issue in the United States is an important tool. That is why my mandate requests to visit the United States, and I am in discussion with the government to see when it would be an appropriate time.

Of course, I think this is what we can add to that, to be able to analyze, to assess the situation, and provide an independent view to the government on how to move this agenda forward and remove it from the political discussion. For me, it is important because we are talking about human rights, and we tend to miss it sometimes with Democratic and Republican policies. We need to move this as a human rights issue. Thank you.

JUSTIN HANSFORD

Gay, we will let you go last.

GAY MCDUGALL

It is hard to sum up anything after all that has been said so far, but I will say that we have a lot of work to do at both the international and domestic levels, but ultimately, we are about creating change on the ground in all of the countries that we speak to. While the UN has a limited mandate, we do need to figure out a way to make things move forward.

As to our specific domestic situation here, I think that yes, things have to happen from the White House, but civil society has to give the White House the political backing that it needs, and that means we continue to make loud demands on the government to move forward on this. We have to keep those demands up, even if we do have a good government in place, and we have to make sure that all of these international pronouncements filter down somehow to all of the stakeholders in our community. I think that we on the domestic human rights side do not do that as much as we should

JUSTIN HANSFORD

Thank you all. This is a wonderful panel. I have a notebook full of notes. Thank you.