



The Killing of Anastasio Hernández Rojas: Exposing the Mechanics of Impunity and State Violence in the United States

Summary of Shadow Report Submitted by Maria Puga, Anastasio's Widow

For 30 years, the United Nations' Human Rights Committee (HRC) has repeatedly expressed concerns about excessive use of force by U.S. law enforcement and urged the United States to bring its law on use of force in line with the International Covenant on Civil and Political Rights (ICCPR). For 30 years, the United States has either disregarded or disputed the HRC's recommendations, arguing that its use of force law, specifically the "objective reasonableness" standard, complies with international standards. Maria Puga, the widow of Anastasio Hernández Rojas, is one of many people directly impacted by the United States' deficient use of force standards and weak system of accountability. Her experiences, detailed in her [Shadow Report](#), underscore why the HRC should issue a finding that U.S. law on use of force, specifically the objective reasonableness standard, violates the ICCPR, and should direct the United States to enact specific reforms that adhere to the principles of necessity and proportionality.

Excessive use of force by U.S. law enforcement is on the rise.

"I am now submitting this report to the United Nations Human Rights Committee to share my family's story with you. What happened to my husband continues to happen to others and will keep happening until something changes. My hope in telling you this is that you can urge the United States to make the necessary changes so that no other family has to suffer what we have suffered at the hands of law enforcement in the U.S." –Maria Puga

- ❖ Every year, over 1 million people are threatened with or subjected to use of force by U.S. law enforcement. More than 250,000 people are injured as a result, and over 1,000 people are killed. These figures are increasing, with 2022 marking the deadliest year in the past decade. Most unarmed people killed by U.S. law enforcement are people of color.

The U.S. "objective reasonableness" use of force standard violates international law.

"The video showed the surrounding agents beating [Anastasio], yelling at him, and then electrocuting him with a Taser gun. They tortured my husband in public. If government agents could do this in front of dozens of witnesses, I can't help but think: what are they doing to people behind closed doors?" –Maria Puga

- ❖ In the United States, law enforcement may legally use force that is "objectively reasonable" which is judged from the perspective of a reasonable officer on the scene.

- ❖ In contrast, international law is guided by the imperative of protecting the right to life—a supreme, nonderogable right—from arbitrary deprivation and permits only force that is necessary and proportionate.
- ❖ In contravention with international standards, the United States’ “objective reasonableness” standard does not require state agents to use the minimum amount of force necessary; to use force proportionate to the threat posed; to exhaust available, less-harmful force alternatives; or to deploy de-escalation tactics.

The majority of excessive force incidents by law enforcement are shrouded in impunity.

“During the investigations of Anastasio’s death, it appeared as if government agencies were only investigating what they wanted to find and hid what was not in their favor to protect the agents from accountability. The video was clear: Anastasio lay defenseless on the ground while agents brutally beat him. They ignored the evidence. After this experience, I lost complete faith in the U.S. legal and justice system.” –Maria Puga

- ❖ Impunity for killings by U.S. law enforcement is the norm. Fewer than 3% of police killings result in officers being charged with a crime.
- ❖ Customs and Border Protection (CBP) is the largest U.S. law enforcement agency with over 60,000 employees. Since 2010, more than 270 migrants and U.S. citizens have died from encounters with a CBP agent in border communities around the country.
- ❖ For 30 years, U.S. Border Patrol has deployed teams to investigate, without legal authority, use-of-force incidents involving border agents with the aim of mitigating and concealing agent responsibility. No border agent has ever been prosecuted and convicted for killing while on duty.

QUESTIONS & RECOMMENDATIONS

Ending Excessive Force (Art. 6, 7):

- ◆ Question: How will the United States change its use of force standard to limit force to that which is necessary and proportional rather than “objectively reasonable” in order to protect life and prevent inhumane treatment pursuant to the ICCPR, the U.N. Code of Conduct for Law Enforcement Officials, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials?
- ◆ Recommendations:
 - (1) Incorporate international law on use of force into domestic jurisprudence in the courts.
 - (2) Adopt federal and state legislation that limits use of force to ‘necessary and proportional’ in compliance with U.N. standards.
 - (3) Issue an Executive Order directing all federal agencies to amend their use of force policies to conform with the U.N. Code of Conduct and Basic Principles.

Ending Impunity and Ensuring Non-Repetition (Art. 2, 50):

- ◆ Question: How will the U.S. change its laws and policies to ensure that criminal investigations of use of force by CBP are independent and impartial and do not involve any CBP or Border Patrol agents or management?
- ◆ Recommendations:
 - (1) Issue an Executive Order directing all federal agencies to amend their policies and prohibit involvement in criminal use of force investigations of their own officers.
 - (2) Adopt legislation to protect the integrity of criminal investigations and end the concurrent jurisdiction of agencies to investigate their own officers in 6 U.S.C. 211(j)(3).



[Full report available at startwithdignity.org/reports](https://startwithdignity.org/reports)

September 2023

START WITH
DIGNITY