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

Report of the Ad Hoc Committee on the elaboration of complementary standards on its second session*

Chairperson-Rapporteur: Idriss **Jazäiry** (Algeria)

* Late submission.

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I. Introduction

1. The Ad Hoc Committee on the elaboration of complementary standards (Ad Hoc Committee) submits the present report pursuant to Human Rights Council decision 3/103 and resolutions 6/21 and 10/30.
2. In order to conform with the note by the secretariat on control and limitation of documentation (A/58/CRP.7), the thematic section of this report only contains text proposals formulated during the session, as well as amendments and proposals submitted to the Secretariat up to two weeks following the session, provided the proposals were articulated during the session.
3. Summaries of views and full position papers are contained in A/HRC/13/CRP.1, available online, unedited and in English only, at <http://www2.ohchr.org/english/issues/racism/2ndAdHocCommittee.htm>.

II. Organization of the session

4. The Ad Hoc Committee held its second session from 19 to 30 October 2009, holding 14 meetings in total.

A. Attendance

5. The session was attended by representatives of Member States and non-Member States represented by observers, United Nations entities, intergovernmental organizations, and non-governmental organizations (NGOs) in consultative status with the Economic and Social Council.

B. Opening of the session

6. Mona Rishmawi, Chief of the Rule of Law, Equality and Non-Discrimination Branch of the Office of the High Commissioner for Human Rights (OHCHR) welcomed delegates to the second session of the Ad Hoc Committee, which provided an opportunity to build on the momentum of the Durban Review Conference. She indicated that the wide range of ideas contained in the outcome referred to in paragraph 2 (d) of the road map offered an opportunity for constructive engagement, and gave an overview of the historical process leading up to the establishment of the mandate of the Ad Hoc Committee.

C. Election of the Chairperson-Rapporteur

7. Idriss Jazaïry, Permanent Representative of Algeria, was re-elected Chairperson-Rapporteur of the Ad Hoc Committee by acclamation. He thanked delegates for their confidence and emphasized that the specific focus of the second session would be on the outcome referred to in paragraph 2 (d) of the road map on the elaboration of complementary standards, contained in document A/HRC/AC.1/2/2 (further referred to as the outcome document under the road map).
8. The Chairperson explained that the following parameters were used for the elaboration of this document:
 - Paragraph 199 of the Durban Declaration and Programme of Action

- Human Rights Council decision 3/103 establishing the mandate of the Ad Hoc Committee
- Human Rights Council resolution 10/30 which endorsed the road map
- Core international human rights treaties

9. The Chairperson underlined that he had taken the comments formulated during the informal meeting of 10 July 2009 into account in the elaboration of the outcome document under the road map. He noted, however, that some contributions received did not fall under the mandate of the Ad Hoc Committee, interfered with mandates of other mechanisms, or pertained to process, thematic issues or principled positions. In order to enhance transparency, a section summarizing the views and comments of Member States had nevertheless also been included in the outcome document. The Chairperson requested that discussions focus on the main sections of the outcome document under the road map. Given the nature of the substantive issues included in the outcome document, a victim-oriented approach was imperative. He welcomed the opportunity for the Ad Hoc Committee to advance its endeavours and expressed his wishes for a fruitful, effective and substantive session.

D. Adoption of the agenda and organization of work

10. The Chairperson invited comments on the agenda contained in document A/HRC/AC.1/2/1. In the course of discussion, statements on the agenda were frequently intertwined with statements on the organization and draft programme of work contained in document A/HRC/AC.1/2/CRP.1. Both items are therefore addressed under the same heading.

11. Nigeria, on behalf of the African Group, indicated it could not accept the agenda and programme of work as structured and requested that the Chairperson elaborate a new agenda and a new programme of work that would allow the Committee to start the process of developing a new international instrument.

12. Sweden, on behalf of the European Union (EU), stated that, while the EU was not against the principle of adopting complementary standards, it felt the decision to do so should be consensual. Sweden also underlined that any identification of gaps needed to be based on empirical data and not simply views, and stressed that the need to adopt standards was to be rationally justifiable and evidence-based. Any complementary standards should not undermine or duplicate existing standards, and all relevant stakeholders should be associated to the process, including members of the Committee on the Elimination of Racial Discrimination. Sweden also stated that agreement on these principles was necessary before it could endorse the proposed agenda. Azerbaijan supported the elaboration of complementary standards since some challenges are not covered by the Committee on the Elimination of Racial Discrimination and emphasized that consensus should not be a precondition for the work of the Ad Hoc Committee.

13. On behalf of Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, the Republic of Korea, Switzerland and Uruguay, Argentina stated that due consideration was to be given to the study of the Committee on the Elimination of Racial Discrimination, contained in document A/HRC/4/WG.3/7, and the study by the five experts, contained in document A/HRC/4/WG.3/6. Argentina added that a discussion on the identification of procedural and substantive gaps should precede any discussion on themes and should be conducted in a spirit of consensus, a view supported by Norway.

14. The United States of America did not believe new norms were necessary or useful. The problem was not one of gaps in the existing international legal framework, but rather

one of gaps in the implementation of existing norms. Understanding why some approaches did or did not work would be more useful than elaborating new norms. Self-examination and scrutiny were important for all States.

15. The Russian Federation stressed that complementary standards should not undermine existing standards. In particular, the work of the Ad Hoc Committee should take into account the Outcome Document of the Durban Review Conference.

16. Sweden, on behalf of the EU, felt that the outcome document under the road map and the draft programme of work did not accurately reflect the contributions submitted by the EU. Key principles of the EU had not been included in the principles section of the outcome document under the road map. Sweden requested that the outcome document under the road map and the programme of work be revised. It stated that the outcome document under the road map had a strong religious bias which did not accurately reflect the contributions received. On the other hand, double and multiple forms of discrimination, including discrimination based on gender and sexual orientation, as well as the need for universal ratification and better implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, were insufficiently visible in the outcome document under the road map and the draft programme of work.

17. Canada stressed the importance of proceeding by consensus, a view also emphasized by other delegations of the Western Europe and Other States Group. Cuba indicated that this was an artificial debate as the principle of consensus constituted a de facto veto right. Pakistan, on behalf of the Organisation of the Islamic Conference (OIC), stated that only United Nations rules of procedure were to guide the work of the Ad Hoc Committee and that while consensus remained desirable, it was not the only way forward. The OIC also commented on the allegation that the outcome document of the road map was biased in favour of religious intolerance. The view was expressed that maybe this was the case because it was also a burning reality.

18. Nigeria, on behalf of the African Group, warned against the insinuation that some issues might be more important than others. Nigeria also alleged that consensus was being used as a pretext by those States who preferred not to genuinely engage in the discussion. Nigeria also noted that, while the idea of consensus was inherent to negotiations, it was not forced on any meeting as a condition, as doing so would make it a constraining factor in applying the rules of procedure of the General Assembly guiding all United Nations meetings. Hence, amendments to the rules should be made at the General Assembly and not in a subsidiary body.

19. Ireland expressed its resentment over the fact that legitimate positions by western countries were being interpreted by some as a reluctance to deal thoroughly, honestly and seriously with the problem of racism, while in fact exactly the opposite was the case. The delegate cited the example of his country which recently hosted a visit by experts from the Committee on the Elimination of Racial Discrimination. Denmark added that any outcome of the Ad Hoc Committee would not have the same weight or impact if not decided by consensus, a position supported by Greece. Portugal inquired about the applicable rules of procedure. Mexico stated that consensus was not the only way forward, but a minimum level of agreement on the topics to be addressed was necessary.

20. The Syrian Arab Republic, supported by the Islamic Republic of Iran, noted that the issue of complementary standards had sprung from the constant evolution of international human rights law and that consensus and unanimity were not identical. The Syrian delegate also inquired why the outcome document under the road map was not available in Arabic. The Chairperson, after having been informed by the secretariat that the document would be available in Arabic soon, expressed his dissatisfaction over the late availability of the translation.

21. The Chairperson cited the rules of procedure of the General Assembly contained in document A/520/Rev.17 and deduced that, as a subsidiary body of the Human Rights Council, the Ad Hoc Committee had to apply the rules of procedure of the Human Rights Council which, in turn, applied the rules of procedure of the General Assembly. There was no legal ambiguity in this respect. As the Chairperson, however, he obviously preferred consensus. This did not mean, however, that a document which was not adopted by consensus was not a valid document. Indeed, such an approach would contradict the very essence of multilateralism. He also clarified that the outcome document under the road map presented substance and procedure separately, and that it was obvious that the document could have been structured in a myriad other ways. As for the issue of sexual orientation, the Chair stated that some States had requested in prior sessions that the discussion focus on racial discrimination only, while others favoured a focus on all forms of discrimination. Hours had already been devoted to this issue, inconclusively, and it had become clear that the matter was not conducive to consensus. The Chair then proposed that informal consultations take place on a draft programme of work which would enable the Ad Hoc Committee to elaborate complementary standards, indicating that the nature of the instruments was not predetermined.

23. An indigenous representative, speaking on behalf of the Indigenous Peoples and Nations Coalition and the Indian Council of South America, stated that the rights of peoples under foreign occupation had to be addressed directly.

24. At the opening of the second meeting, the Chairperson presented the revised agenda contained in document A/HRC/AC.1/2/1/Rev.1. The Ad Hoc Committee adopted this agenda for its second session.

25. Discussions on the draft programme of work were pursued during the second and third meetings. At the opening of the fourth meeting, pending final approval of the draft programme of work, it was agreed that discussions would be pursued in alphabetical order on the basis of themes submitted by States or groups for inclusion in the draft programme of work.

1. Advocacy and incitement to racial, ethnic, national and religious hatred

25. Statements and/or text proposals were made by Nigeria (on behalf of the African Group), Switzerland (on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, the Republic of Korea and Uruguay), Pakistan (on behalf of States members of the OIC), Liechtenstein, Sweden (on behalf of States members of the EU), Ireland, Norway, Denmark, Netherlands, United States of America, Belgium, United Kingdom of Great Britain and Northern Ireland, France, Canada, Germany, Syria, South Africa, Algeria, Argentina (see A/HRC/13/CRP.1).

26. Nigeria, on behalf of the African Group, made the following proposals:

1. *States parties shall condemn any propaganda, practice, or organization aimed at justifying or encouraging any form of racial hatred or discrimination targeting people of particular groups, such as racial, ethnic or religious groups, refugees, asylum-seekers, internally displaced persons, stateless individuals, migrants and migrant workers, communities based on descent, such as people of African descent, indigenous people, minorities and people under foreign occupation;*
2. *States parties shall immediately undertake to adopt positive measures designed to eliminate all incitement to racial, ethnic or religious hatred or discrimination and, to this end, shall commit themselves, inter alia:*

(a) *To declare an offence punishable by law all dissemination of ideas aimed at discrimination or hatred, as well as all acts of violence or incitement to such acts against any particular group of persons;*

(b) *To declare illegal and prohibit organizations, and also organized and all other propaganda activities, which encourage and incite racial, ethnic or religious hatred or discrimination, and shall declare participation in such organizations or activities as an offence punishable by law;*

(c) *Not to permit national or local public authorities to incite racial hatred or discrimination;*

(d) *Not to permit political parties to incite racial hatred or discrimination.*

27. Switzerland, on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, the Republic of Korea and Uruguay, suggested that:

The Human Rights Committee and the Committee on the Elimination of Racial Discrimination could consult with States and stakeholders and possibly consider elaborating a joint general comment on the issue of advocacy and incitement to hatred, as enshrined in the above-mentioned articles, in the framework of their respective competencies and bearing in mind article 19 of the International Covenant on Civil and Political Rights.

28. Pakistan, on behalf of the OIC, expressed support for the proposal formulated by Nigeria on behalf of the African Group, while proposing the following amendments and additions:

1. *Replace the word “condemn” in the first line of the first proposal by the word “prohibit” and add “ethnic, national, and religious” between the words “racial” and “hatred” in the second line.*

2. *Add “ethnic, national, and religious” between the words “racial” and “hatred” in the second line of the second proposal.*

(a) *Add “racial, ethnic, national, and religious” after “aimed at” in the first line.*

(b) *Add “ethnic, national, and religious” after “racial” in the first line.*

(c) *Add “ethnic, national, and religious” after “racial” in the first line.*

(d) *To strengthen their legislation or adopt necessary legal provisions to prohibit and suppress racist and xenophobic platforms and to discourage the integration of political parties who promote such platforms in government alliances in order to legitimize the implementation of these platforms.*

29. In addition, Pakistan, on behalf of the OIC, added the following two proposals:

1. *States parties shall, in accordance with human rights standards, declare illegal and prohibit all organizations based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote national, racial and religious hatred and discrimination in any form.*

2. *States parties shall promulgate, where they do not exist, specific legislation prohibiting any propaganda for war and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.*
30. The EU submitted the following proposals:
1. *States should condemn any advocacy of racial or religious hatred that constitutes incitement to discrimination, hostility or violence;*
 2. *States should implement existing standards regarding incitement to racial or religious hatred and violence.*
31. The United States of America made the following proposals:
- Member States are called upon to:*
1. *Speak out against intolerance, including advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility, or violence;*
 2. *Adopt measures to criminalize the incitement to imminent violence based on race or religion;*
 3. *Censure, as appropriate, government officials who in their official capacity advocate for racial, ethnic, and religious hatred that constitutes incitement to discrimination, hostility, or violence; and*
 4. *Present in their periodic reports to the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, and include in their universal periodic review report to the Human Rights Council, a full account of the measures that they have taken consistent with their obligations under international law, including equal protection of the law, to address and combat advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility, or violence.*

2. Comprehensive anti-discrimination legislation

32. During the 5th meeting of the Ad Hoc Committee, statements and/or text proposals were made by Sweden (in its national capacity and on behalf of the EU), Italy, the United Kingdom, Ireland, Indonesia, Brazil, Canada, Slovakia, the United States, France, Slovakia, Pakistan (on behalf of the OIC), Mexico, Ecuador, Argentina, Denmark, Norway, the Syrian Arab Republic. The following observers took the floor: Cercle de Recherche sur les Droits et les Devoirs de la Personne Humaine (CRED); Association of World Citizens; Indigenous Peoples and Nations Coalition and the Indian Council of South America (joint statement) (see A/HRC/13/CRP.1).

33. The United States of America submitted the following proposals:
- Member States are called upon to:*
1. *Compile a comprehensive list of current laws prohibiting racial and religious discrimination;*
 2. *Review existing national laws to ensure that protections against racial and religious discrimination comply with their obligations under international human rights law;*
 3. *Facilitate an international meeting of national experts to assess this legislation and evaluate its effectiveness in practice;*

4. *Assess whether their current domestic institutions robustly enforce anti-discrimination laws, and determine actions necessary to fill any gaps in enforcement;*
5. *Assess whether domestic institutions appropriately enforce such anti-discrimination laws equally among members of all racial and religious groups within the State;*
6. *Establish, if one does not already exist, a national body or bodies responsible for ensuring the implementation of anti-discrimination laws, investigation of cases, maintenance of relevant statistics, reviewing allegations of failed or improper enforcement, and for bringing cases against individuals who violate the law;*
7. *Take effective measures to ensure equal access to governmental programmes or activities, irrespective of an individual's race or religion;*
8. *Take effective measures to ensure that government officials in the conduct of their public duties do not discriminate based on an individual's race or religion;*
9. *Take effective measures to ensure that members of racial or religious minority groups have equal access to housing, education, and employment;*
10. *Foster religious freedom and pluralism by promoting the ability of members of all religious communities to manifest their religion, and to contribute openly and on an equal footing to the public realm;*
11. *Encourage representation and meaningful participation of individuals, irrespective of their race or religion, in all sectors of society, especially in government; and*
12. *Undertake strong efforts to counter racial or religious profiling which is understood to be the invidious use of race, religion or ethnicity as a criterion in conducting stops, searches, and other law enforcement investigative procedures.*

The proposal was supported by the United Kingdom, Ireland, France, Canada and Slovakia.

34. Nigeria, speaking for the African Group, contributed the following proposal, supported by the OIC:

1. *States parties shall review and, as and where required, modify their laws, policies, and practices relating to migration, asylum, and citizenship, on the basis of relevant international human rights instruments, and not solely on the basis of security considerations; they shall notably avoid any criminalization or ethnic approach to such issues, thus making the said laws, policies and practices free from racial, religious and ethnic discrimination and compatible with State obligations as enshrined in international human rights instruments;*
2. *States parties shall take all other necessary actions to combat racism, racial discrimination, xenophobia and related intolerance, in particular the new contemporary forms of racism, through specific measures and programmes, including in the areas of legislation, judiciary and administrative systems, education and information.*

The proposal was supported by Mexico and Ecuador. Argentina also expressed interest in the proposal.

35. The United Kingdom made the following proposal, building on the United States proposal:

That experts be invited to brief the Ad Hoc Committee on the implementation of national anti-discrimination legislation.

The proposal was supported by Argentina, Ireland, Mexico, Norway, Denmark, the United States and Canada.

36. The Chairperson opened the 6th meeting, explaining that further consultations were necessary before the programme of work could be adopted. The agreement to continue the discussion of issues put forward in alphabetical order, as recorded in the draft programme of work not yet adopted, was therefore extended.

3. Discrimination based on religion or belief

37. Statements and/or text proposals were made by Pakistan (on behalf of the OIC), Iran (Islamic Republic of), South Africa, Saudi Arabia, the Syrian Arab Republic, Mexico (on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, the Republic of Korea, Switzerland and Uruguay), Denmark, United States of America, Sweden (on behalf of the EU), Azerbaijan, Norway, Poland, France, Germany, Nigeria (on behalf of the African Group). The following observer made a statement: Becket Fund for Religious Liberty (see A/HRC/13/CRP.1).

38. Pakistan, on behalf of the OIC, made the following proposals:

1. *States parties shall prohibit by law the uttering of matters that are grossly abusive or insulting in relation to matters held sacred by any religion thereby causing outrage among a substantial number of the adherents to that religion;*
2. *States parties must enact legal prohibitions on publication of material that negatively stereotypes, insults, or uses offensive language on matters regarded by followers of any religion or belief as sacred or inherent to their dignity as human beings, with the aim of protecting their fundamental human rights;*
3. *States parties shall prohibit public insults and defamation of religions, public incitement to violence, threats against a person or a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin;*
4. *States parties shall provide, within their respective legal and constitutional systems, adequate protection against acts of hatred, discrimination, intimidation, and coercion resulting from defamation of religions, and incitement to religious hatred in general, and take all possible measures to promote tolerance and respect for all religions and beliefs;*
5. *States parties shall penalize public expressions with racist aims, or of an ideology which claims the superiority of, or which deprecates or denigrates, a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin, and enact legal prohibitions on offences in which religious motives are aggravating factors;*
6. *States parties shall apply and reinforce existing laws in order to combat and deny impunity for all manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against national or ethnic, religious and linguistic minorities and migrants and the stereotypes applied to them, including on the basis of religion or belief.*

39. Mexico, on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, the Republic of Korea, Switzerland and Uruguay, made the following suggestion:

Publish a digest of case studies, in which regionally developed jurisprudence could also be included, in order to shed light on existing practices in this field.

40. Nigeria, on behalf of the African Group, made the following proposal:

States are to include in their criminal legislation offences in which religious motives are an aggravating factor.

41. At the opening of the 7th meeting, the Chairperson explained that consultations were ongoing as to how the issue of refugees, returnees and internally displaced persons (IDPs) could be added to the programme of work and how, in more general terms, the programme of work could be reformulated so as to be acceptable to all delegations for adoption. The meeting was adjourned until the following day.

42. At the opening of the 8th meeting, on the proposal of the Chairperson, the consideration of issues as recorded in the draft programme of work continued in alphabetical order, pending adoption of the draft programme of work.

4. Establishment, designation or maintaining of national mechanisms with competences to protect and prevent against discrimination

43. Statements and/or text proposals were made by the United Kingdom, Sweden (on behalf of the EU), Ireland, Belgium, Canada, the United States of America, the Netherlands, Brazil, France, Poland, Liechtenstein, Nigeria (on behalf of the African Group), Pakistan (on behalf of the OIC) and Norway. The following observers took the floor: Association for World Education and World Union for Progressive Judaism (joint statement); Indigenous Peoples and Nations Coalition and the Indian Council of South America (joint statement); CRED; Association of World Citizens (see A/HRC/13/CRP.1).

44. The United Kingdom considered that complementary standards could take the form of guidelines or best practices.

45. The OIC presented the following proposal:

Establish an independent specialized body to monitor the whole process related to racio-religious discrimination and intolerance: collect, compile, analyse, publish and disseminate statistical data on racism and racial discrimination; assist victims, investigate cases, monitor legislation, and provide training to police, prosecutors and judges on legislation, planning and execution of relevant provisions of the instrument as well as raise awareness on promoting tolerance and preventing defamation of religions.

46. Sweden, on behalf of the EU, submitted the following proposal:

Considering the importance of national mechanisms to protect against discrimination, States should adopt national action plans for human rights.

47. Considering that gaps existed only in the implementation of existing international obligations, the United States, supported by France and Norway, presented the following proposals:

1. *All Member States to submit reports on their national mechanisms by March 2010 and non-governmental organizations to submit their input on this topic as well;*

2. *States that currently lack anti-discrimination mechanisms should establish or designate new mechanisms by December 2010. States that already have mechanisms established should identify concrete steps to improve these mechanisms with the ultimate goal of providing a truly comprehensive anti-discrimination framework within their national government. All Member States should report on their progress by February 2011.*

48. The Netherlands noted that guidelines or a compilation of best practices on national mechanisms to prevent and protect against discrimination could be useful.

5. Genocide

49. Statements and/or text proposals were made by South Africa (on behalf of the African Group), Pakistan (on behalf of the OIC), Switzerland, Argentina, Sweden (on behalf of the EU), the United States of America, Rwanda, Armenia, Nigeria (on behalf of the African Group), Turkey, Norway and Canada. The following observers took the floor: Association of World Citizens; Association for World Education and World Union for Progressive Judaism (joint statement); CRED (see A/HRC/13/CRP.1).

50. Considering that the mandate of the Ad Hoc Committee is to elaborate complementary standards to the International Convention on the Elimination of all Forms of Racial Discrimination, South Africa, on behalf of the African Group, supported by Pakistan on behalf of the OIC, proposed that a different forum be established to address this issue. Supporting the fact that this forum was not appropriate for this issue, Turkey recalled that the subject was already covered by existing international instruments.

51. Argentina and Switzerland formulated the following proposals:

1. *Allocate appropriate attention and resources to early warning mechanisms and prevention strategies on the international and regional levels;*
2. *Develop regional ownership of genocide prevention strategies, developing approaches in full respect of social and cultural contexts, in order to complement work and progress made at the international level.*

52. Rwanda proposed the following measures:

1. *Creation of a monitoring body of the Convention on Genocide, to be called the Committee on Genocide to follow up upon the implementation of the Convention;*
2. *Creation of a new mandate and appointment of a Special Rapporteur or Independent Expert to examine new trends and all relevant issues related to genocide in coordination with the United Nations special representative of the Secretary-General on genocide;*
3. *Preparation of an additional protocol to the Convention on Genocide;*
4. *Preparation of resolutions or recommendations of the General Assembly or the Human Rights Council on this issue.*

53. The Armenian delegation proposed the following measures:

1. *To initiate a compilation report scrutinizing the various national and supra national legislation which address the issue of combating denial of the crime of genocide and crimes against humanity;*
2. *To request the Office of the Special Adviser to the Secretary-General on the Prevention of Genocide to comment on the ongoing evolution of the concept of the responsibility to protect.*

6. Hate crimes

54. Statements and/or text proposals were made by South Africa (on behalf of the African Group), Sweden (on behalf of the EU), the United States of America, Argentina (on behalf of Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, the Republic of Korea, Switzerland and Uruguay), Algeria, Nigeria, Pakistan (on behalf of the OIC), Denmark, Norway, the Syrian Arab Republic. The following observers took the floor: CRED; Association for World Education and World Union for Progressive Judaism (joint statement) (see A/HRC/13/CRP.1).

55. South Africa, on behalf of the African Group, made the following proposal:

1. *A definition of hate crimes should be incorporated in the additional protocol that the Ad Hoc Committee has been mandated to elaborate;*
2. *Furthermore, this definition should be cognizant of and provide for the fact that individuals and groups of individuals, including their property may be targeted on the basis of one or more of the following factors: race, religion, ethnicity and national origin in order to cover the widest scope possible in addressing hate crimes;*
3. *It is also important to emphasize here, that provision should be made for the criminalization of offences in which religious motives are an aggravating factor.*

56. Sweden, on behalf of the EU, submitted the following proposal:

States should collect and publish data information on hate crimes in order to strengthen their efforts to combat racism, racial discrimination, xenophobia and related intolerance.

57. The United States of America made the following proposals:

Member States are called upon to strengthen their legislative frameworks against acts of violence or intimidation motivated in whole or in part by an offender's bias against, inter alia, race or religion, i.e. hate crimes by:

1. *Enacting, where they do not already exist, laws that expressly address such hate crimes;*
2. *Effectively tracking relevant crime statistics to determine whether new laws are needed in this regard; and*
3. *Undertaking legislative, inter-agency or other special inquiries into the problem of hate crimes.*

Member States are called upon to enhance enforcement of such hate crimes laws and policies by:

4. *Monitoring hate crimes incidents to determine whether hate crimes laws are being implemented;*
5. *Taking effective measures to ensuring that institutions created to counter hate crimes have adequate resources;*
6. *Taking effective measures to ensure robust enforcement of hate crimes laws; and*
7. *Providing proper hate crimes training to prosecutors, judges and law enforcement officials.*

Member States are called upon to pursue proactive outreach to relevant communities and concerned groups to:

8. *Acknowledge and condemn hate crimes based on race or religion and speak out against official racial or religious intolerance and bigotry;*
9. *Educate the public about hate crimes, including legal redress mechanisms; and*
10. *Create forums for working on confidence-building measures after instances of hate crimes.*

58. Argentina, on behalf of Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, the Republic of Korea, Switzerland and Uruguay, suggested that a compilation should be made of national legislation to combat hate crimes as well as guidelines on the issue.

7. Human rights education

59. Statements and/or text proposals were made by Italy (on behalf of the cross-regional Platform on Human Rights Education and Training), Morocco, Japan (on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Mexico, the Republic of Korea, Switzerland and Uruguay), Sweden (on behalf of the EU), Canada, the United States of America, Slovenia, Nigeria (on behalf of the African Group), Indonesia, Argentina (on behalf of Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, the Republic of Korea, Switzerland and Uruguay). The following observers made statements: Association for World Education and World Union for Progressive Judaism (joint statement) (see A/HRC/13/CRP.1).

60. The EU made the following proposals:

1. *States should implement existing commitments regarding human rights education, including human rights education for children and youth and human rights education for public officials and professionals, which are included in the International Convention on the Elimination of All Forms of Racial Discrimination, the Durban Declaration and Programme of Action and other relevant instruments, and States should support ongoing efforts to promote human rights education, in particular the process of elaboration of a United Nations declaration on human rights education and training, and the implementation of the World Programme for Human Rights Education;*
2. *Call on States to consider formulating and implementing national action plans and ensuring human rights education, as an important means to promote tolerance and respect for diversity.*

61. The United States made the following proposals:

Member States are called upon to engage in a multi-faceted approach to human rights training:

1. *Institute and expand training programmes to inform and sensitize governmental authorities about actions, perceptions and biases that may contribute to racial and religious discrimination and intolerance;*
2. *Make widely accessible information about victims' rights and remedies in situations of racial and religious discrimination and violence; and*
3. *Conduct a public awareness campaign and widely disseminate relevant international human rights instruments, such as the Universal Declaration of Human Rights, the Declaration on Religious Minorities, the International*

Convention on the Elimination of All Forms of Racial Discrimination, and the International Covenant on Civil and Political Rights; create forums to bring together leaders from different religious and racial communities, the media, and educators to discuss these instruments and the causes and consequences of discrimination and intolerance and to develop strategies to counter these phenomena;

Member States are called upon to engage in the following outreach to youth:

4. *Provide systematic support for grass-roots organizations working actively with youth to promote tolerance, diversity and non-discrimination;*
5. *Create networks for youth NGOs and education experts dealing with intolerance and discrimination; and*
6. *Build public-private partnerships to support and fund public education efforts, arts performances, film festivals, educational tours, and academic conferences that disseminate information on the richness of diverse cultures and on the importance of cultural interaction.*

62. Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, the Republic of Korea, Switzerland and Uruguay proposed the following:

States should support the ongoing efforts of the World Programme of Human Rights Education and the drafting of the United Nations declaration on education and training.

8. Implementation of existing norms and standards

63. Statements and/or text proposals were made by Sweden (in its national capacity and on behalf of the EU), the Republic of Korea (on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, Switzerland and Uruguay), the United States of America, Canada, Poland, France, Denmark, Liechtenstein, Brazil, Ireland, South Africa, Nigeria (on behalf of the African Group), Algeria, the United Kingdom, Italy, and Zimbabwe. The following observers made statements: Freedom House; Indigenous Peoples and Nations Coalition, International Council for Human Rights, and the Indian Council of South America (joint statement); Association of World Citizens; CRED (see A/HRC/13/CRP.1).

64. Sweden, on behalf of the EU, made the following proposals:

1. *States should ratify or accede to the International Convention on the Elimination of All Forms of Racial Discrimination as a matter of high priority, recognizing that this Convention remains the legal basis of the international community to fight racial discrimination;*
2. *States should fully comply with their obligations under the Convention, including with their reporting obligations;*
3. *In order to protect all individuals against racial discrimination, States should also ratify and fully implement the International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights;*
4. *The Ad Hoc Committee encourages the secretariat, in conjunction with the relevant treaty bodies, to produce a comprehensive report on the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and*

clear figures on the reporting status of States parties to these instruments, within existing resources. This report should be completed in time for the Ad Hoc Committee to include it in a discussion on implementation under the same item in next year's programme of work.

65. The United Kingdom made the following proposal:

States should collaborate more and discuss what each one is doing at the national level to ensure that the International Convention on the Elimination of All Forms of Racial Discrimination and other international norms and standards are implemented.

9. Impunity for acts of racism, racial discrimination, xenophobia and related intolerance, including its contemporary manifestations; provision of free legal aid to victims; interim measures in the interest of victims

66. Statements and/or text proposals were made by Sweden (on behalf of the EU), Mexico and the United Kingdom (see A/HRC/13/CRP.1).

67. Sweden, on behalf of the European Union, made the following proposal:

States should encourage national specialized monitoring bodies to:

(a) Monitor the content and effect of national legislation and policies intended to combat racial discrimination and making proposals for possible modifications;

(b) Raise public awareness of these issues;

(c) Provide aid and assistance to victims, including legal aid;

(d) Promote and contribute to the training of certain key groups;

(e) Provide advice and information to national authorities.

10. Intercultural and interreligious dialogue

68. Statements and/or text proposals were made by the United States of America, Indonesia, Sweden (on behalf of the EU), Italy, Saudi Arabia, Brazil (on behalf of Argentina, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, Republic of Korea, Switzerland and Uruguay), Canada, Nigeria (on behalf of the African Group). The following observers took the floor: Becket Fund for Religious Liberty (see A/HRC/13/CRP.1).

69. Sweden suggested that the experts of the United Nations Educational, Scientific and Cultural Organization (UNESCO) be called upon to assist the Committee on this issue.

70. Brazil, on behalf of Argentina, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, Republic of Korea, Switzerland and Uruguay, submitted the following proposal:

States should support initiatives that aim at promoting mutual understanding among different cultures and religions such as the Alliance of Civilizations.

71. The United States of America made the following proposal:

Member States are called upon to:

1. Encourage the creation of collaborative networks of faith leaders, civil society leaders, and policymakers to build mutual understanding, promote dialogue, and inspire constructive action towards shared policy goals;

2. *Help facilitate domestic interfaith meetings including representatives of all religious communities within their societies to pursue tangible outcomes, such as service projects in the fields of education, health, conflict resolution, employment, integration, and media education;*
3. *Create a faith-based Advisory Council within the Government to, inter alia, identify and address potential areas of tension between different racial and religious communities and assist with conflict resolution and mediation;*
4. *Encourage training of government officials on effective outreach strategies; and*
5. *Encourage efforts of community leaders to discuss within their communities causes of discrimination and practices to counter them.*

72. At the opening of the 10th meeting, the Chairperson introduced the revised draft programme of work (A/HRC/AC.1/2/CRP.1/Rev.5). Shortly thereafter, a revised draft programme of work (A/HRC/AC.1/2/CRP.1/Rev.6) was circulated. The Chair stated that it included a list of issues to be considered by the Ad Hoc Committee without prejudice to the position of Member States. The programme of work was adopted. The Ad Hoc Committee accordingly pursued consideration of issues listed in what had now become the adopted programme of work.

11. Monitoring procedures of the Committee on the Elimination of Racial Discrimination and other mechanisms

73. Statements and/or text proposals were made by the United States of America, Sweden (on behalf of the EU), Canada, Norway, Japan (on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Mexico, Republic of Korea, Switzerland and Uruguay), Nigeria (on behalf of the African Group), Cuba, the Syrian Arab Republic, Liechtenstein, Denmark, Ireland, Greece, Azerbaijan, Argentina, Mexico, Brazil. The following observers made statements: Indigenous Peoples and Nations Coalition, International Council for Human Rights, and the Indian Council of South America (joint statement); Media Institute of Southern Africa (see A/HRC/13/CRP.1).

74. Sweden, on behalf of the EU, supported by Canada and Norway, expressed the view that ratification and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant international treaties was the way to address all types of racial discrimination, including contemporary forms of racism and made the following proposals:

1. *States should take seriously their reporting to the United Nations treaty bodies and submit their reports in time;*
2. *States should enhance follow-up to the implementation of the recommendations of the Committee on the Elimination of Racial Discrimination.*

75. Japan, on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Mexico, Republic of Korea, Switzerland and Uruguay, added that the adoption of a procedural instrument could be envisaged, provided that experts of the Committee on the Elimination of Racial Discrimination found this meaningful. It made the following suggestion:

That the Ad Hoc Committee invite the members of the Committee on the Elimination of Racial Discrimination to exchange views on its concrete proposals.

76. Greece called for a multi-stakeholder dialogue which would include parliamentarians.

12. Multiple forms of discrimination

77. Statements and/or text proposals were made by Colombia (on behalf of Argentina, Brazil, Chile, the Dominican Republic, Guatemala, Japan, Mexico, Republic of Korea, Switzerland and Uruguay), Costa Rica, Panama, Nicaragua, Ecuador, Sweden (on behalf of States members of the EU), Nigeria (on behalf of the African Group), the United States of America, Switzerland (on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, Republic of Korea and Uruguay), the United Kingdom and Pakistan (on behalf of States members of the OIC). The following observer made a statement: Action internationale pour la paix et le développement dans la région des Grands Lacs (AIPD) (see A/HRC/13/CRP.1).

78. Argentina, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Mexico, Nicaragua, Panama and Uruguay made the following proposal:

To request that OHCHR elaborate a compilation of general comments of the human rights treaty bodies related to the interpretation and implementation of the expressions “multiple forms of discrimination” and discrimination by “other status”, and to include in such compilation the accepted recommendations and voluntary commitments of States under the universal periodic review process, and the recommendations of the special procedures regarding the fight against “multiple forms of discrimination” and discrimination by “other status”. Such compilation could be an important source of information to the national human rights institutions in order to help them to implement national policies in the fight against “multiple forms of discrimination” and discrimination by “other status”. Also, this information could be useful to develop a set of guidelines that can contribute to strengthen the efforts of States in this area.

79. The EU requested States to make the following commitments:

1. *To promote and protect the human rights of all persons, regardless of sexual orientation and gender identity;*
2. *To take all necessary measures, in particular legislative or administrative, to ensure that sexual orientation or gender identity may under no circumstances be the basis for criminal penalties, in particular executions, arrests or detention;*
3. *To ensure that human rights violations based on sexual orientation or gender identity are investigated and perpetrators held accountable and brought to justice.*

80. The EU proposed that every individual should have the right to have their sexual orientation protected and to be free from violence, harassment, discrimination, exclusion, stigmatization and prejudice.

81. The United States called on States to collect data on the incidence of multiple forms of discrimination within their jurisdiction and to analyse whether the implementation of existing laws against discrimination was adequate.

82. Switzerland, on behalf of Argentina, Brazil, Chile, Colombia, the Dominican Republic, Ecuador, Guatemala, Mexico, Nicaragua and Uruguay stated that it favoured an inclusive approach to multiple and aggravated forms of discrimination and that there was no justification for restricting the discussion on the grounds of discrimination explicitly mentioned in the Durban Declaration and Programme of Action. It suggested the issue be studied further, in consultation with the Committee on the Elimination of Racial Discrimination and made the following proposal:

That the Committee on the Elimination of Racial Discrimination might consider elaborating a general comment on the issue.

83. Recalling the footnote on page 11 of the Durban Declaration and Programme of Action, Pakistan, on behalf of the OIC made the following proposals, which were also made by Nigeria, on behalf of the African Group:

1. *The States parties shall condemn, combat and prohibit by law, any form of double or multiple discrimination on the grounds of race, ethnicity, gender and religion;*
2. *The States parties shall give new and urgent attention to the rights of women facing multiple forms of discrimination, exclusion, violence and that due consideration is given to the most disadvantaged and vulnerable women, including from minority communities who face problems compounded by their uniquely disadvantaged positions in society;*
3. *That States shall prosecute civil and criminal cases of violations of the human rights of women, both on the basis of gender and on the basis of belonging to certain racial and religious communities, and bring such offenders to justice.*

13. Non-discrimination in the provision of aid to victims of natural catastrophes

84. Statements and/or text proposals were made by Colombia (on behalf of the Group of Latin American and Caribbean States (GRULAC)), Liechtenstein, Panama, Sweden (on behalf of the EU), and Nigeria (on behalf of the African Group) (see A/HRC/13/CRP.1).

85. Colombia, on behalf of GRULAC suggested the following language:

1. *To propose to the Ad Hoc Committee to request the United Nations High Commissioner for Human Rights, to conduct, in collaboration with the Institute for Sustainable Development and Research, Inter-Agency Standing Committee and the humanitarian agencies (the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross), a study regarding the need to elaborate principles and guidelines for States and their authorities for the elimination of discrimination against people affected by natural disasters in all phases of the response to natural disaster (before, during and after the disaster).*
2. *An international legal rule on non-discrimination (without distinction as to race, colour, or national or ethnic origin) in the assistance and protection of persons affected by natural disasters in relation to the immediate response, reconstruction and prevention, through measures of risk reduction made regarding the needs, especially of the most vulnerable, would be a clear advance in the elimination of discrimination on an increasing portion of humanity.*

86. The Chair opened the 11th meeting with a discussion on the following issue:

14. Protection of migrants against racist, discriminatory and xenophobic practices

87. Statements and/or text proposals were made by Colombia (on behalf of GRULAC), Liechtenstein, Ecuador, Nigeria (on behalf of the African Group), Sweden (on behalf of States members of the EU), Azerbaijan, Pakistan (on behalf of the OIC), Mexico, Argentina, Algeria, and Canada. The following observer made a statement: AIPD (see A/HRC/13/CRP.1).

88. GRULAC made the following proposal:

This issue should be taken into consideration by the Ad Hoc Committee due to the lack of application of principles and the lack of incorporation of these principles by States, especially the lack of typification in the national legislation of actions, public declarations and propaganda oriented to discrimination or promote against migrants and their families.

89. Ecuador associated itself with the statement made by GRULAC and suggested that the proposal be supplemented with the inclusion of IDPs.

90. Liechtenstein made the following proposal:

To request OHCHR to prepare a study on the existing international legal framework for the protection of the human rights of international migrants with a view to assessing whether that framework adequately addresses the full enjoyment of their human rights by international migrants in vulnerable situations, in particular with regard to the protection against discrimination based on race, colour, descent or ethnic origin.

91. Nigeria, on behalf of the African Group, presented the following proposal:

1. *States parties shall review and, where necessary, revise any immigration policies which are inconsistent with international human rights instruments, with a view to eliminating all racist, discriminatory and xenophobic policies and practices against migrants;*
2. *States parties shall combat, prevent and prohibit by law any racist, discriminatory and xenophobic practices against migrants in relation to issues such as employment, social services, including education and health, as well as access to justice, and ensure that their treatment must be in accordance with international human rights instruments, free from racism, racial discrimination, xenophobia and related intolerance;*
3. *States parties shall combat manifestations of a generalized rejection of migrants and actively discourage and protect against all racist demonstrations, acts and practices that generate xenophobic behaviour and negative sentiments towards, or rejection of, migrants;*
4. *States parties shall recognize the same economic opportunities and responsibilities to documented long-term migrants as to other members of society.*

15. Protection of people under foreign occupation from racist and discriminatory practices

92. Statements and/or text proposals were made by the Syrian Arab Republic, the United States of America, Denmark, Switzerland, Portugal, Canada, Sweden (on behalf of the EU), Pakistan, Algeria and Azerbaijan. The following observer made a statement: Indigenous Peoples and Nations Coalition, International Council for Human Rights, and the Indian Council of South America (joint statement) (see A/HRC/13/CRP.1).

93. Pakistan and Syria made the following proposals, supported by Algeria and the Islamic Republic of Iran:

1. *States parties should ensure that all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance targeted against people living under foreign occupation, colonial or alien domination and under these jurisdictions are addressed and combated in accordance with international human rights law and international humanitarian law with a view to provide effective protection and future prevention of such acts;*

2. *States parties should criminalize acts and crimes where racism, racial discrimination, xenophobia and related intolerance are aggravating motives, targeting people living under foreign occupation, colonial or alien domination, and take all measures to prosecute individuals or groups who commit these crimes including those agents affiliated, directly or indirectly, with States.*

16. Protection of refugees, returnees and internally displaced persons against racism and discriminatory practices

94. Statements and/or text proposals were made by Sweden (on behalf of the EU), Nigeria (on behalf of the African Group), Azerbaijan, Liechtenstein and Morocco. The following observer made a statement: UNHCR (see A/HRC/13/CRP.1).

95. Sweden on behalf of the EU, submitted the following proposal:

States should guarantee fundamental rights, provide protection in accordance with the Geneva Convention relating to the Status of Refugees and migration and asylum policies must comply with international law.

96. The African Group made the following proposals:

1. *States parties shall bear the primary duty and responsibility with the support of the international community for providing protection of and humanitarian assistance to refugees, returnees and IDPs within their territory or jurisdiction without any form of racial discrimination;*
2. *States parties shall endeavour to protect communities with special attachment to and dependency on land due to their particular culture and spiritual values from being displaced from such lands and where such exist take necessary action and measures not to prevent them, including refugees, returnees and IDPs, from returning to such land.*

97. Liechtenstein made the following proposal:

To invite the Special Representative of the Secretary-General on Internally Displaced Persons to consider elaborating in one of his future reports to the Human Rights Council on the effectiveness of existing international standards with regard to the protection of internally displaced persons against discrimination based on race, colour, descent or ethnic origin.

98. Morocco made the following proposal:

Calls on States that have the primary responsibility on this subject to put into practice all possible measures that aim to protect refugees against all discriminatory or degrading practices against their dignity and to take the necessary measures to closely monitor their situation.

17. Racial, ethnic and religious profiling and measures to combat terrorism

99. Statements and/or text proposals were made by the United States of America, South Africa (on behalf of the African Group), Chile (on behalf of Argentina, Brazil, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, Republic of Korea, Switzerland and Uruguay), Norway, Sweden (on behalf of the EU), Pakistan (on behalf of States members of the OIC), Algeria, Nigeria, France (see A/HRC/13/CRP.1).

100. South Africa, on behalf of the African Group, made the following proposal:

1. *That a definition of profiling which would prioritize human rights protection be elaborated and agreed upon;*

2. *States must ensure that measures to combat terrorism do not discriminate, in purpose and effect, on the grounds of race, colour, descent, national or ethnic origin, as well as on religious grounds, bearing in mind in this context the intersectionality between racial and religious discrimination;*
3. *States must prohibit by law profiling based on stereotypes founded on grounds of discrimination prohibited by international law, including on racial, ethnic and/or religious grounds.*

101. Chile, on behalf of Argentina, Brazil, Colombia, the Dominican Republic, Guatemala, Mexico, Japan, the Republic of Korea, Switzerland and Uruguay, submitted the following proposal:

Effective law enforcement of existing legislation is needed. Furthermore, improvements in police officers and other relevant training programmes for State agents as well as human rights education should be carried out.

102. Sweden, on behalf of the EU, submitted the following proposal:

The sharing of best practices of comprehensive anti-discrimination legislation among States.

103. The OIC submitted the following proposal:

The new instrument should provide for mandatory prohibition by law, in order to eliminate racio-religious profiling or profiling based on any grounds of discrimination recognized under international human rights law, with provisions for legal action against perpetrators, as well as legal guarantees to remedy and reparation for victims.

18. Racism in modern information and communication technologies (racial cybercrime)

104. Statements and/or text proposals were made by Nigeria (on behalf of the African Group), Sweden (on behalf of the EU), Brazil, the United States of America, and Pakistan (on behalf of the OIC). The following observer made a statement: Freedom House (see A/HRC/13/CRP.1).

105. Nigeria, recognizing that the European Council had done a lot of work on this issue, including a protocol on racial cybercrime, suggested *that an additional protocol would be a good idea and could be modelled on the European protocol.*

106. Sweden, on behalf of the EU, flagged the need to use the potential of the Internet to preserve an open environment instead of restricting the free flow of information by means of excessive legislation or technical measures.

107. The EU submitted the following proposals:

1. *States should ensure that any restrictions to the right to freedom of expression are only on grounds outlined in articles 19 (3) and 20; States should reassert that the right to freedom of expression constitutes one of the essential foundations of a democratic society, as it ensures individual self-fulfilment and a pluralistic, tolerant society with access to multitudes of ideas and philosophies;*
2. *States should promote the positive role that new media, including the Internet, can play in the fight against racism.*

108. The African Group submitted the following proposal:

1. *Each party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when*

committed intentionally and without right, the following conduct: distributing, or otherwise making available, racist and xenophobic material to the public through a computer system;

2. *Each party shall adopt such legislative and other measures as may be necessary to establish as criminal offence under its domestic law, the following acts or conduct:*

(a) Threatening, through a computer system, with the commission of a serious criminal offence as defined under its domestic law, (i) persons for the reason that they belong to a group, distinguished by race, colour, descent or national or ethnic origin, as well as religion, if used as a pretext for any of these factors, or (ii) a group of persons which is distinguished by any of these characteristics.

(b) Insulting publicly, through a computer system, (i) persons for the reason that they belong to a group, distinguished by race, colour, descent or national or ethnic origin, as well as religion, if used as a pretext for any of these factors, or (ii) a group of persons which is distinguished by any of these characteristics.

109. The Chair opened the 12th meeting with a discussion on the issue of reparation and remedies for victims of racism, racial discrimination, xenophobia and related intolerance.

19. Reparation and remedies for victims of racism, racial discrimination, xenophobia and related intolerance

110. Statements and/or text proposals were made by Nigeria (on behalf of the African Group), Sweden (on behalf of the EU), Liechtenstein, and Algeria (see A/HRC/13/CRP.1).

111. The African Group submitted the following proposal:

1. *States parties shall assure to every victim of racial discrimination within their jurisdiction adequate legal protection, through recourse to the competent national courts/tribunals and/or other State institutions, as well as the right to seek from such tribunals and/or State institutions just and adequate reparation for any damage suffered as a result of such discrimination;*
2. *States parties shall guarantee the right of every victim of racial discrimination to just and adequate reparation for any material or moral damage suffered as a result of such discrimination;*
3. *States parties shall provide free legal aid and assistance to victims of racism, racial discrimination, xenophobia and related intolerance in accordance with the victims' needs and requirements;*
4. *The provisions of paragraph (1) are without prejudice to other prosecutions, including criminal prosecutions against the perpetrator(s) of such acts of racial discrimination.*

112. Sweden, on behalf of the EU, submitted the following proposals:

1. *States should investigate and prosecute those responsible for gross violations of international human rights law;*
2. *States should adopt appropriate and effective national legislative and administrative measures to provide fair, effective and prompt access to justice.*

20. Xenophobia

113. Statements and/or text proposals were made by Nigeria (on behalf of the African Group), Liechtenstein, Poland, Algeria, and Sweden (on behalf of the EU) (see A/HRC/13/CRP.1).

114. The African Group submitted the following proposals:

1. *To elaborate a definition of xenophobia, as it has not been integrated in the International Covenant on the Elimination of All Forms of Racial Discrimination;*
2. *Each Party shall adopt such legislative and other measures as may be necessary to establish the following acts or conduct as criminal offence under its domestic law:*
 - (a) *Threatening, with the commission of a serious criminal offence as defined under its domestic law, (i) persons for the reason that they belong to a group, distinguished by race, colour, descent or national or ethnic origin, as well as religion, if used as a pretext for any of these factors, or (ii) a group of persons which is distinguished by any of these characteristics.*
 - (b) *Insulting publicly, (i) persons for the reason that they belong to a group, distinguished by race, colour, descent or national or ethnic origin, as well as religion, if used as a pretext for any of these factors, or (ii) a group of persons which is distinguished by any of these characteristics.*

115. The Chairperson then concluded the substantive portion of the programme of work (see A/HRC/13/CRP.1).

E. Discussion on the way forward for future sessions

116. The Chairperson opened the 13th meeting with a discussion on the way forward. Pakistan, on behalf of the OIC, stated that the way forward had to mean tangible action, adding that the Committee was obliged to implement its mandate. The delegate stated that the Chairperson needed to formulate the proposals made during the session in the form of draft complementary standards and that, in doing so, he could consult relevant experts.

117. Argentina, on behalf of Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, the Republic of Korea, Switzerland and Uruguay, noted that consensus should be the working method and remained unconvinced of the need to elaborate complementary standards in the form of an additional protocol.

118. The United States, supported by Australia, stressed that there was consensus on the need to address the grave problems of racism, racial and religious discrimination, racial profiling, hate crimes and xenophobia. The United States, Canada, Liechtenstein and Norway stated their position that there was no need for complementary standards.

119. Sweden, on behalf of the EU, emphasized that empirical or fact-based evidence demonstrating the need for an additional international legal norm was lacking. It added that possible complementary standards did not necessarily have to be binding; that the scope, form and nature of complementary standards could vary depending on the gap to be filled and could include guidelines, best practices, general comments of treaty bodies, etc.

120. Nigeria, on behalf of the African Group, stated that the report needed to contain all specific proposals and that it expected the next session to draft complementary standards.

121. Liechtenstein stated that any additional protocol to the International Convention on the Elimination of All Forms of Racial Discrimination would weaken this instrument if the

issues elaborated in such a protocol were already in the Convention. Syria stated that a new road map was needed which would reflect the proposals made on the issues. South Africa stated that the way forward was a structured document as referred to in the road map.

122. The United States, Sweden, on behalf of the EU, and Argentina, on behalf of Brazil, Chile, Colombia, the Dominican Republic, Guatemala, Japan, Mexico, the Republic of Korea, Switzerland and Uruguay, distributed structured documents recapitulating their positions and asked for verbatim reproduction of these documents in the report (see A/HRC/13/CRP.1). In the absence of consensus, the Chairperson decided to adhere to the traditional form of reporting whereby proposals are included in the report in accordance with the sequence and structure of the programme of work. He then closed the meeting.

F. Adoption of the report

123. At the opening of the 14th meeting, the Chairperson made his concluding remarks and thanked States for their constructive engagement throughout the session. He informed States that he had received a letter from Pakistan on behalf of the OIC in which it explained its position on defamation of religions (see A/HRC/13/CRP.1). The letter had been forwarded electronically to all States.

124. The Chairperson then presented the report of the second session of the Ad Hoc Committee and gave States two weeks to send any factual amendments to the report to the secretariat. Subsequently, the report was adopted ad referendum.

125. The Chief of the Rule of Law, Equality and Non-Discrimination Branch of OHCHR made a closing statement on behalf of the High Commissioner, following which the Chairperson closed the session.

Annex I

Attendance

Member States

Algeria, Angola, Argentina, Armenia, Austria, Australia, Azerbaijan, Bahrain, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Côte d'Ivoire, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of Congo, Denmark, Ecuador, Egypt, Finland, France, Germany, Greece, Guatemala, Haiti, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Ireland, Japan, Latvia, Lithuania, Kenya, Lao People's Democratic Republic, Liechtenstein, Mexico, Morocco, Netherlands, Nigeria, Norway, Oman, Pakistan, Panama, Philippines, Poland, Portugal, Qatar, Republic of Korea, Russian Federation, Rwanda, Saudi Arabia, Senegal, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Turkey, Viet Nam, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Zambia, Zimbabwe.

Non-Member States represented by observers

Holy See.

Intergovernmental organizations

African Union, European Commission, Council of the European Union.

Non-governmental organizations in consultative status with the Economic and Social Council

Action internationale pour la paix et le développement dans la région des Grands Lacs, Association of World Citizens, Association for World Education (AWE), Becket Fund for Religious Liberty, Cercle de Recherche sur les Droits et les Devoirs de la Personne Humaine (CRED), Indian Council of South America (CISA), Indigenous Peoples and Nations Coalition, International Youth and Student Movement for the United Nations, Vivat International, World Union for Progressive Judaism (WUPJ).

Non-governmental organizations not in consultative status with the Economic and Social Council

Media Institute of Southern Africa, Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP).

United Nations agencies

Office of the United Nations High Commissioner for Refugees.

Annex II

Revised Draft Agenda

1. Opening of the session
 2. Adoption of the agenda
 3. Organization of work
 4. Discussion on the way forward for future sessions
 5. Adoption of the report
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