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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 Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action on its seventh session* **

Chairman-Rapporteur: Mohamed Siad **Douale** (Djibouti)

Summary

The seventh session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action was held from 5 to 16 October 2009. The present report contains a summary of the deliberations of the session and annexes.

* Late submission.

** The annexes are reproduced in the language of submission only.

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I. Introduction

1. The present report is submitted by the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action in accordance with resolution 11/12 and decision 3/103 of the Human Rights Council.

II. Organization of the session

2. The Intergovernmental Working Group held its seventh session from 5 to 16 October 2009. The participants discussed issues pertaining to the implementation of the previous decisions of the Working Group and the effectiveness of the Working Group in the framework of resolution 11/12 of the Human Rights Council. Furthermore, presentations by experts on the themes of migration, protection of children and employment were followed by interactive discussions. The Working Group adopted conclusions and recommendations on the aforementioned themes.¹

A. Attendance

3. The session was attended by representatives of Member States, an observer from a non-Member State of the United Nations as well as observers from intergovernmental and non-governmental organizations (see annex I).

4. During the session, presentations on the theme of migration were made by the following panellists: Ana Elizabeth Cubias Medina, a member of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families; Ibrahim Wani, Chief of the Development and Economic and Social Issues Branch, Office of the United Nations High Commissioner for Human Rights (OHCHR); Anja Klug, senior legal officer in the Protection Policy and Legal Advice Section, Office of the United Nations High Commissioner for Refugees (UNHCR); John K. Bingham, Head of Policy, International Catholic Migration Commission; and Patrick Taran, senior migration specialist, International Labour Organization (ILO).

5. Presentations on the theme of protection of children were made by the following panellists: Jane Connors, Chief of the Special Procedures Division, OHCHR; Karolina Lindholm-Billing, senior liaison officer, UNHCR; and Nicolette Moodie, human rights and gender officer, United Nations Children's Fund (UNICEF).

6. Presentations on the theme of employment were made by the following panellists: Frederick Muia, senior adviser, International Organization of Employers (IOE) and Esther Busser, deputy representative, International Trade Union Confederation (ITUC).

B. Opening of the session

7. The Chief of the Rule of Law, Equality and Non-Discrimination Branch, OHCHR, Mona Rishmawi opened the first meeting of the seventh session on 5 October 2009. She noted that the meeting took place six months after the successful conclusion of the Durban Review Conference. A tribute was paid to the former Chairperson-Rapporteur Dayan Jayatiloka, Permanent Representative of Sri Lanka, who guided the sixth session of the

¹ For the positions of Italy and the Netherlands, see section III.

Working Group. Ms. Rishmawi pointed out that the outcome document of the Durban Review Conference contained important action points that open new horizons for States to act at the national, regional and international levels. The need for international cooperation was highlighted. The importance of a victim-oriented approach was also noted. Ms. Rishmawi noted that the commitments made needed to be translated into concrete actions and that effective policies and programmes must be implemented in order to accelerate equal access to human rights by all, especially individuals who had been marginalized as a consequence of discrimination.

8. Ms. Rishmawi stated that the High Commissioner for Human Rights and her Office were determined to build on the momentum gained from the Durban Review Conference and, in this regard, strengthen the anti-racism programme of the Office. Ms. Rishmawi noted that in May 2009, an in-house task force on Durban follow-up was established. The task force recommended a programme that included the following components: supporting Durban follow-up mechanisms; building national capacity to combat racism, discrimination and intolerance; strengthening awareness-raising, including by carrying out expert seminars; enhancing research, analysis and the collection of good practices; and facilitating the integration of the anti-racism agenda in United Nations activities. The need for additional resources for the Office, in order to implement such a comprehensive programme, was highlighted.

9. In her concluding remarks, Ms. Rishmawi pointed out that the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference constituted a comprehensive agenda for advancing the fight against racism, racial discrimination, xenophobia and related intolerance.

C. Election of the Chairperson-Rapporteur

10. At the 8th meeting, on 8 October 2009, Mohamed Siad Douale, Permanent Representative of Djibouti to the United Nations, was elected Chairman-Rapporteur by acclamation. Following his election, Mr. Douale emphasized his strong commitment to the fight against racism, racial discrimination, xenophobia and related intolerance.

D. Adoption of the agenda

11. During its 8th meeting, the Working Group adopted the agenda for its seventh session (A/HRC/13/WG.3/1, see annex II).

E. Organization of work

12. At its 14th meeting, on 13 October, the Working Group adopted its programme of work (A/HRC/13/WG.3/CRP.1/Rev.4, see annex III), which was slightly modified during the following days to accommodate changes in the timing of the meetings. The Working Group held its last meeting on Friday afternoon, 16 October 2009.

III. Statements

13. The representatives of Italy and the Netherlands stated that the adoption of the agenda and the programme of work did not imply that Italy and the Netherlands endorsed the outcome document of the Durban Review Conference in its entirety. Italy also recalled that during the eleventh session of the Human Rights Council it did not join the consensus

on resolution 11/12 and that the adoption of the programme of work of the Working Group did not entail an endorsement of that resolution.

14. With regard to the conclusions and recommendations, at the seventh session of the Working Group, the representative of the Netherlands stated that in order not to hold up the work of the mechanism, the Netherlands could go along with the adoption of the conclusions and recommendations as long as it was clear that that in no way implied the endorsement by the Netherlands of the outcome document of the Durban Review Conference in its entirety.

15. With regard to the conclusions and recommendations, at the seventh session of the Working Group, the representative of Italy stated that it disassociated from the parts of the conclusions and recommendations containing references to the outcome document of the Durban Review Conference.

16. On behalf of the European Union, the representative of Sweden stated that it was the understanding of the European Union that any additional appropriations related to the conclusions and recommendations would be met from within existing resources.

IV. Thematic discussions

17. Delegates speaking on behalf of regional groups and as representatives of their own countries reiterated their commitments to combat racism, racial discrimination, xenophobia and related intolerance.

18. A delegate speaking on behalf of a regional group noted that effective cooperation between Governments, national human rights institutions (NHRIs), non-governmental organizations (NGOs) and civil society-based organizations in the identification of good practices could help curtail both the incitement and dissemination of hatred. The delegate suggested that the identification of focal points by the Committee on the Elimination of Racial Discrimination and national institutions and close liaison between the two would facilitate the implementation of the Durban Declaration and Programme of Action and follow-up to the recommendations of the Committee.

19. Another delegate speaking on behalf of a regional group pointed out the importance of implementing the International Convention on the Elimination of All Forms of Racial Discrimination and expressed concerns with regard to trafficking and smuggling of persons.

A. Implementation of previous decisions and effectiveness of the Working Group in the framework of resolution 11/12 of the Human Rights Council

20. Several delegates indicated the need to continue to ensure that the recommendations of the Working Group were in line with the provisions of the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference. It was noted that the effective implementation of the Working Group's recommendations had to be enhanced. In this vein, it was pointed out that increased awareness on the Working Group's recommendations and other relevant reports and studies of human rights mechanisms was needed. Furthermore, the necessity for follow-up activities was also highlighted. Delegates also emphasized that the recommendations of the Working Group should be action-oriented and formulated in a clear manner, in order to facilitate their reflection in the respective resolutions of the Human Rights Council.

21. A number of delegates noted that during the sessions of the Working Group, stakeholders should share national experiences, including good practices, achievements and

difficulties related to implementation of human rights norms and also of previous decisions of the Working Group. It was pointed out that such discussions could enable stakeholders to perform better. The need to continue to collect information, including through questionnaires, and to post updated information on the website of OHCHR were also emphasized.

22. Several delegates underlined the importance of elaborating and implementing national action plans, adopting anti-discrimination legislation and establishing national human rights institutions. It was emphasized that participation of all relevant stakeholders and consultations with civil society should be ensured.

23. A number of members indicated that the active participation of representatives of treaty monitoring bodies, in particular the Committee on the Elimination of Racial Discrimination and Special Rapporteurs, especially the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, in the sessions of the Working Group was essential. It was stated that efforts to complement the work of other Durban follow-up mechanisms and to avoid the overlapping of initiatives needed to be increased and that steps to achieve better coordination and synergy with other human rights mechanisms, in particular the Working Group of Experts on People of African Descent, should be undertaken progressively.

24. Several delegates noted that in order to enhance the effectiveness of the Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, it was important to address procedural issues in advance, before the beginning of the sessions. They emphasized that it was essential that documentation be circulated at least six weeks before the beginning of the respective session.

25. With regard to the selection of themes for the sessions of the Working Group, a number of members pointed out that proposed themes for future discussions should be based on the Durban Declaration and Programme of Action. It was stated that the selection of the themes for each section should be made well in advance and preferably also in consultation with the Chairperson of the Working Group of Experts on People of African Descent.

B. Migration

26. Ana Elizabeth Cubias Medina, a member of the Committee on Migrant Workers, noted that the rights of migrants were often violated. She pointed out that migrants were increasingly isolated. The speaker also noted that migrants were also vulnerable to trafficking. Moreover, she stated that migrants often became scapegoats of existing domestic problems such as unemployment, terrorism, crimes and drugs.

27. The panellist noted that any difference could trigger a process of discrimination, for example nationality, culture, physical appearance, economic status, gender, among other things. In that regard, it was important to understand why differences led to discrimination and how to reverse the flow of that phenomenon.

28. The feminization of migration and the high vulnerability of migrant women were highlighted by the panellist. Ms. Cubias Medina also stressed that undocumented migrants were highly vulnerable to arbitrary detention, mistreatment, physical violence and torture, among others.

29. The speaker highlighted the importance of combating negative stereotypes against migrants. Migration could improve the human development of the family of the migrant, the host community and the country of destination. She noted the importance of increasing

awareness on the rights of the migrants and undertaking initiatives to overcome xenophobic attitudes of the local population.

30. The Chief of Development, Economic and Social Issues Branch at OHCHR, Ibrahim Wani, pointed out that States have an obligation to protect the human rights of all individuals within their jurisdiction, including all migrants, irrespective of their status. In the Durban Declaration and Programme of Action, States, among other things, highlighted the importance of creating conditions conducive to greater harmony, tolerance and respect between migrants and the rest of society in host countries, recognized that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constituted one of the main sources of contemporary racism and, crucially, emphasized that human rights violations against members of such groups were widely perpetrated as a result of discriminatory, xenophobic and racist practices.

31. The panellist noted that in host societies, migrants often faced multiple forms of discrimination. Specific laws, policies and programmes failing to acknowledge the specific needs and vulnerability of migrants might preclude access to adequate housing, health or education. The lack of official status exposed migrants to unfair labour practices and harsh abuse related to the workplace.

32. Mr. Wani stated that failure to protect specifically migrant women fostered an environment where exploitation and violence could go unreported and unpunished.

33. With regard to the link between migration and development, the panellist noted that migrants contributed to economic growth and human development both in home and host countries and enriched societies through cultural diversity, fostering understanding and respect. It was pointed out that supportive policy measures were needed.

34. The speaker emphasized that NHRIs could play an important role in ensuring effective protection of migrants' human rights. He also highlighted the importance of a human rights approach to migration, in other words, placing human rights standards at the centre of migration considerations and making use of existing human rights mechanisms to protect migrant women, men and children from the human rights violations they suffer at the different stages of the migratory process.

35. A concern was raised with regard to the increasing tendency to criminalize the irregular entry into a country and to use mandatory detention as a punitive measure to discourage irregular migration. Such procedures did not spare migrant children who, in many countries, could be held in prolonged administrative detention without proper justification. Often such detainees had neither the capacity nor the rights to challenge the legality of their detention.

36. A delegate stressed that the vulnerability and specific needs of migrant women and migrant children should receive due attention, including through institutional frameworks and legislative measures. It was noted that migrants' access to employment, justice, education, health, and housing should be ensured through specific measures.

37. A delegate provided an extensive overview of national migratory policy. It was stressed that the national measures aimed to facilitate the residence of migrants, irrespective of their status, to promote their integration and equal access to public services and goods, to facilitate the reunification of migrants' families and to facilitate the legalization of status, among others. The participant emphasized that it was important that Governments move to design and implement realistic policies.

38. Several delegates noted that migration was not only South-to-North, and that more people were migrating from South-to-South and North-to-North. It was also pointed out that the full scope of understanding of migration was somehow incomplete, due to the lack of figures.

39. Several delegates emphasized that the human rights of migrants were not conditioned by the entrance and status of those migrants. It was stressed that the limitation of the human rights of migrants was contrary to international human rights instruments, generated additional distinctions, and fostered negative stereotypes, among others. It was noted that legislation that penalized and criminalized migrants triggered further discrimination. Repressive policies increased the price of trafficking. It was emphasized that repatriation of migrants should be safe. It was also highlighted that for effective measures in the realm of migration, the active involvement of countries of origin, transition and destination was needed.

40. A delegate speaking on behalf of a regional group emphasized the importance of national plans of action and noted that they could strengthen the protection of migrant workers.

41. A delegate speaking on behalf of a regional group noted that it was important to strengthen the rule of law, to eliminate xenophobic practices, to elaborate administrative measures and to establish independent human rights institutions, and among others, to effectively address issues pertaining to migration.

42. A participant noted that it was important not only to diagnose the problems of migration, but also to find solutions. The need for increased attention on the mental health of migrants was highlighted.

43. Another participant pointed out the need to foster institutional dialogue between OHCHR, the International Organization for Migration and UNHCR, among others, on the different aspects of migration. The necessity for a broadened consideration of best practices in the area of migration was emphasized.

44. Anja Klug, senior legal officer at UNHCR, emphasized that racism and discrimination had always been among the primary root causes of forced displacement. It was noted that hate crimes were at the heart of persecution and at the end of a spectrum, starting with hidden as well as institutionalized discrimination, incitement to hatred, verbal and physical abuse; genocide was at the extreme end of the spectrum. It was pointed out that the right to seek and enjoy asylum from such forms of persecution must be ensured.

45. The panellist noted that in the last years, racism, xenophobia and discrimination against asylum-seekers and refugees had increased; that increased their trauma and decreased their chances of integrating into their new societies. It was pointed out that the global financial crisis also led to an increase in xenophobia and related intolerance.

46. Ms. Klug pointed out that due to that increase, there were more restrictive asylum policies: it was more difficult for refugees to have their economic and social rights realized and it was more difficult for UNHCR to find resettlement countries for refugees from certain regions. It was noted that the negative trend had led to an increase in violent attacks, including hate crimes, against asylum-seekers and refugees.

47. The panellist emphasized the importance of working in partnerships on all fronts, including collaborating with human rights mechanisms, regional organizations, national associations, launching awareness-raising campaigns and activities, developing specific projects and arranging meetings in safe places where people could discuss challenges and look for sustainable solutions.

48. Ms. Klug mentioned that protection for all people on the move was an approach where human rights are the cornerstone. It was pointed out that there was a need to move to a rights-based approach. It was mentioned that there had been a debate on the need to think more broadly about people on the move and their different protection needs.

49. With regard to root causes of migration, John Bingham, the Head of Policy at the International Catholic Migration Commission, noted that it was important to focus on the three Ds: differences in demographics, differences in development and differences in democracy. Moreover, it was pointed out that persecution and conflicts, poverty, environmental changes, including man-made and natural disasters, and job opportunities should be also taken into consideration. The panellist emphasized that national policies were linked to migration; they also had an impact on trafficking and on the routes the migrants took. He also pointed out the importance of keeping families together.

50. Mr. Bingham noted that it was important to look at both the positive and negative aspects of migration. It was mentioned that the issues of social instability and non-cohesion both in the countries of origin and destination needed more attention and research.

51. The panellist recalled paragraph 96 of the Durban Declaration and Programme of Action that invites States to promote and conduct studies and noted that studies on migration should be action-oriented so that progress in the area of migration was facilitated.

52. A delegate speaking on behalf of a regional group noted that it was important to discuss the issue of displacement of migrants due to natural disasters and conflicts. Difficulties arising from the sense of insecurity of migrants and refugees were highlighted; reference was made to short-term permits. It was pointed out that the issue of resettlement needs to be addressed more extensively. The importance of effective awareness-raising initiatives was underlined.

53. A delegate stressed that migrants faced multiple forms of discrimination. The high vulnerability of women and indigenous peoples was pointed out.

54. Another delegate noted that forced displacement was a serious problem. It was also mentioned that it was important to understand how global governance could be strengthened in order to assist people more effectively.

55. Several delegates pointed out the significant role of media with regard to creating or eliminating negative stereotypes and xenophobic attitudes towards migrants and refugees.

56. A delegate provided an overview of national measures in the area of migration. Concerns with regard to conditions in detention centres were raised; it was stated that detention had to be in accordance with human rights standards, and that the respective Government did not have a detention policy for migrants. Difficulties in ensuring accurate and accessible statistics on migration were also pointed out.

57. A delegate speaking on behalf of a regional group recalled paragraph 175 of the Durban Programme of Action. The vulnerability of migrant women to trafficking was noted. The need for information campaigns, awareness-raising and human rights education was highlighted.

58. Patrick Taran, senior migration specialist at ILO, pointed out that the greatest single danger to social cohesion everywhere was the rising tide of xenophobia and violence against foreigners. It was noted that the global employment crisis, following the financial crisis, was only the beginning. Migrants tended to be among the workers most hit by economic downturns; they were often the last to be hired and the first to be fired. Many countries had reduced quotas or intake of foreign workers. Migrants remaining employed were often affected by reductions in pay, working time, and worsening working conditions. They had less access to support from the social safety net. The vulnerability of migrant workers made them attractive because they could be underpaid, provided with little or no workplace safety and health protections, hired and dismissed on a moment's notice; furthermore, union organizing among such workers could be impossible. Migrants in irregular situations were even more vulnerable to exploitation and abuse.

59. The speaker pointed out that migration provided responses to fast-changing needs for skills and personnel resulting from technological advances, changes in market conditions and industrial transformations. In countries of ageing populations, migration offered a potential to replenish declining workforces as well as to inject younger workers, increasing dynamism, innovation and mobility in workforces. It was noted that ILO research indicated that legal labour migration channels contributed to reducing both the trafficking and smuggling of migrants.

60. Mr. Taran pointed out that, in accordance also with the provisions of the Durban Declaration and Programme of Action, racist and xenophobic discrimination, behaviour and action should be made unacceptable and illegal; administrative measures should ensure the full implementation of legislations and accountability of all government officials; independent NHRIs/anti-discrimination institutions should have the power to address non-citizens; respect for diversity and multicultural interaction should be promoted; media should be encouraged to emphasize positive images/messages of diversity and migration; multicultural and diversity training should be incorporated in educational curricula; and civil society should be mobilized.

61. Moreover, the panellist noted that immediate crisis response should include, among others: avoiding forced expulsions or return of migrant workers; increasing capacity and extending labour inspection; using all means to repress violence and xenophobia against foreigners and to prosecute perpetrators of such acts; explicitly discouraging the scapegoating of migrants in public discourses; expanding international support for employment-intensive recovery measures, employment creation and the extension of protection measures to affected populations.

62. A delegate speaking on behalf of a regional group emphasized that respect for human rights could not be ignored even in times of financial difficulty. It was suggested that regional bodies become more involved in exchanging ideas and sharing good practices.

63. Another delegate speaking on behalf of a regional group expressed concerns over nationalistic movements with political motives aiming to deepen xenophobic practices against foreigners. The need for urgent measures in this regard was highlighted.

64. A delegate pointed out that the human dimension, including the labour force, of globalization had not been receiving appropriate attention.

65. Another delegate highlighted the importance of national action plans and NHRIs. The necessity to improve the collection of information on migration and close collaboration with civil society was also noted.

66. A participant noted that the sharing of success stories could facilitate progress in the area.

67. The importance of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was emphasized by several delegates. It was also noted that participatory approaches, involving all relevant stakeholders in the identification of problems and feasible solutions increased the efficiency of measures, both in terms of design and implementation.

C. Protection of children

68. The Chief of the Special Procedures Division at OHCHR, Jane Connors, noted that despite the comprehensive legal framework, children experienced discrimination every day, often because they were not recognized as subjects of rights. It was pointed out that no one is more vulnerable than a child when it comes to the effects of racism, discrimination and intolerance. Those pervasive and very serious violations compromised the right of children

to survive, develop and reach their fullest potential. Such discrimination was also frequently compounded by discrimination on other grounds, such as on the basis of sex or disability. Very often that discrimination deprived children of the enjoyment of rights generally, including the rights to life, to be free from torture, to education and to health. Children who experienced racial discrimination were also often denied access to basic social services.

69. During its latest session, the Committee on the Rights of the Child expressed concern at the significant disparities in a State party in the implementation of the rights enshrined in the Convention, reflected in a range of social indicators, such as enrolment in and completion of education, infant mortality rates and access to health care, which indicated persistent discrimination against indigenous and Afro-descendent children from economically disadvantaged families. Among its recommendations to address these issues was the development of awareness-raising campaigns to prevent and eliminate all forms of de facto discrimination against those children.

70. The panellist noted that much more was required to address the direct and indirect effects of racism, racial discrimination and xenophobia on children in all contexts, including schools and other educational settings, care and justice systems and in the community.

71. Moreover, the implementation of legal obligations and recommendations remained a challenge. That area should be prioritized. United Nations entities, civil society, including NHRIs and NGOs should actively seek out information in that context. Various ideas could be considered, including an expert seminar on the topic. Measures to monitor progress in this area through the exchange of best practices and lessons learned could be discussed. Further ways to gather data and information on the nature of discrimination experienced by children and its effects could be explored.

72. Karolina Lindholm-Billing, senior liaison officer at UNHCR, highlighted that children were sometimes discriminated against to such a degree that they were forced to flee and seek asylum abroad. The discrimination could have such serious impact on their enjoyment of one or several of their human rights that it amounted to persecution in the sense of the definition of a refugee in the 1951 Refugee Convention. It was noted that in line with the general comment No. 6 of the Committee on the Rights of the Child on treatment of unaccompanied and separated children outside their country of origin, it was important to interpret the refugee definition in a child, gender and diversity-sensitive way.

73. The speaker stated that rights-based, victims-oriented protection response must include the right to seek asylum and protection against refoulement.

74. The panellist pointed out that children who were not citizens of the country in which they lived were often discriminated against in legislation and in practice. In addition, those children often faced discrimination because they were asylum-seekers, refugees, or stateless. And those children who in addition were, for example, disabled or from an ethnic minority or held a certain religious belief could face additional discrimination on those and other grounds.

75. Ms. Lindholm-Billing noted that in mixed migration situations, security and immigration concerns tended to prevail over the welfare and rights of children, including that to seek asylum.

76. It was pointed out that one of the most pressing protection problems facing asylum-seeking, refugee and sometimes also stateless children, was their lack of access to national child protection systems due to discrimination, living in remote areas far away from local infrastructure and services, and lack of documentation which de facto precluded children from accession to national child protection systems and essential services, such as health or

education. That was particularly the case in respect of stateless children. Asylum-seeking and refugee children, including those who had suffered sexual violence and abuse, often faced problems accessing legal remedies.

77. In line with paragraph 96 of the Durban Programme of Action, the panellist strongly encouraged the conduction of studies, especially if they examined the root causes and the various ways in which racism, xenophobia and related intolerance manifested itself vis-à-vis asylum-seekers, refugees and migrants, and contained suggestions on ways of combating such expressions and acts.

78. It was noted that another area where children belonging to certain groups faced discrimination was in regard to their right to acquire nationality. Often it was discriminatory policies towards, for example, certain ethnic, religious or minority groups, or towards women, which resulted in statelessness. Ms. Lindholm-Billing pointed out that ensuring the equal right of children to the immediate registration of birth, as called for in paragraph 56 of the Durban Programme of Action, was essential for preventing statelessness, and for enabling children to exercise their other rights.

79. Nicolette Moodie, human rights and gender officer at UNICEF, noted that children from indigenous communities experienced higher mortality rates; they were more prone to low birthweight, malnutrition and disease; and maternal mortality was also particularly high in indigenous areas. In most countries, indigenous children had low school enrolment rates; education provided to them often was not culturally sensitive; indigenous girls were particularly vulnerable to missing out on school because of the multiple forms of discrimination they faced.

80. Moreover, a significant proportion of indigenous children were not registered at birth, which limited access to health and education and increased the risk of child abuse, trafficking and exploitation and led to further exclusion. Indigenous children were also at particular risk of becoming involved in the worst forms of child labour. Furthermore, indigenous young people in some countries were more likely to be incarcerated.

81. The panellist said that many country offices, particularly those in Latin America, supported a range of programmes for indigenous children, within the framework of a human rights-based approach. However, challenges included limited funds, weak coordination with other United Nations agencies, variable relationships with indigenous organizations and relatively low coverage of indigenous populations. It was noted that indigenous peoples should be involved in the identification of their needs, and collaboration with United Nations agencies working on the issue should be strengthened.

82. One delegate speaking on behalf of a regional group emphasized that education was the key to advancement in life and that access to education must be ensured for all children. A suggestion was made to create an information centre on abuse of children in the world. The delegate noted that OHCHR should play a role with regard to the collection of information on the issue. The importance of legislative measures and awareness-raising campaigns was highlighted.

83. Another delegate on behalf of a regional group underlined the importance of criminalizing all forms of violence against children. It was pointed out that children faced multiple forms of discrimination. The delegate said that a discussion in the current forum, on how the fight against impunity for acts of violence against children could be further promoted and implemented at the national level and on the ground, would be welcomed.

84. A participant highlighted the need to study in greater depth how provisions of the Durban Declaration and Programme of Action related to children were implemented, in particular by Member States. Another participant suggested that an in-depth study should be undertaken on the situation of children who suffered racism, racial discrimination,

xenophobia and related intolerance, including on challenges for refugees and asylum-seekers. It was noted that it was important for the United Nations entities to submit inputs for the study. Moreover, it was proposed that the study be complemented by an expert meeting.

D. Employment

85. Frederick Muia, senior adviser at IOE, pointed out that fighting against racial discrimination was in the best interest of the employer. It had an impact on business competitiveness, as in the era of globalization companies needed a variety of skills, innovativeness, image and reputation, and a human resource pool. All communities must be included in the labour market, to foster social cohesion and industrial relations, potential and productivity. It was noted that the cooperation of enterprises, NGOs, Government and trade unions needed to be enhanced to promote tolerance and change people's mindsets.

86. The panellist outlined a number of practical measures that could be undertaken by employers aiming to eliminate racial discrimination: systematic anonymization of CVs eliminated discrimination based on applicant's name or origin, and could be done in close collaboration with employment agencies; scholarships and internships for students and young people from underrepresented communities; intensified exchange of good practices; increase of campaigns and awareness-raising initiatives, and codes of conduct; efforts to make cultural allowances; organization of trainings; introduction of anti-harassment policies and disciplinary procedures.

87. Esther Busser, deputy representative of ITUC, noted that workers from vulnerable population groups were concentrated in the lowest-paid jobs with the worst working conditions, without social security and, in many cases without trade union representation to ensure respect for their rights. It was stated that the Decent Work Agenda could also be mobilized to address racial discrimination and xenophobia at the workplace.

88. The panellist pointed out a number of problematic issues, such as the lack of awareness and mobilization against racism, the absence or inadequate involvement of workers from discrimination groups in trade union activities, the poor representation of those workers in decision-making instances and the inadequate integration of the subject in the social dialogue process.

89. The speaker highlighted several actions that could be undertaken by Governments, including: providing resources for awareness-raising campaigns and wide-ranging training programmes on diversity in the workplace and implementing positive actions to prevent and eradicate racial discrimination at work; establishing national observatories and an international observatory on the impact of racial discrimination and xenophobia on the employment market and associated mechanisms for receiving complaints; establishing monitoring mechanisms and a legal framework covering racism in the media; promoting the development of a database and systematic studies aimed at following the evolution of the issue; disseminating good practices and regular reports to the workers, their unions as well as to employers and companies; examining and strengthening employment policies; implementing capacity-building programmes for labour inspectors; and establishing mechanisms to assist the victims of racial discrimination in the workplace.

90. Several delegates highlighted the importance of having monitoring mechanisms on racial discrimination and related intolerance at the workplace put in place by the employers. It was noted that efforts should be strengthened to eliminate negative stereotyping in the process of recruitment.

91. Several delegates pointed out that implementation of international norms was an important step. It was noted that the promotion of diversity at the workplace was essential.

States should also continue making efforts to reduce inequalities with regard to access to public services. The delegates stressed that awareness-raising campaigns and the sharing of good practices could make a difference. It was pointed out that the more active participation and involvement of regional organizations would be helpful in that regard. A delegate speaking on behalf of a regional group highlighted the importance of combating discrimination against women in relation to employment, and suggested paragraphs 31 and 51 in the Durban Programme of Action as a basis for further discussion.

V. Conclusions and recommendations

A. Implementation of previous decisions of the Working Group

92. The Working Group reiterates its commitment to ensure that its recommendations are consistent with the provisions of the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference.

93. The Working Group supports the efforts of the High Commissioner for Human Rights to continue incorporating the implementation of the Durban Declaration and Programme of Action in the human rights mainstreaming in the whole United Nations system, including through the High-level Committee on Programmes, and welcomes the leadership of the High Commissioner in this regard.

94. The Working Group decides to allocate sufficient time in its upcoming sessions, within the existing time frame and mandate, for Member States and other stakeholders, including regional organizations, civil society, national human rights institutions and indigenous peoples, to share their experience, including on good practices, implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference.

95. The Working Group agrees that at the beginning of each session it will review progress on implementation of recommendations adopted at the preceding session.

96. The Working Group commits to undertake further measures, with the assistance of OHCHR, to increase awareness on its recommendations and other relevant reports and studies by human rights mechanisms at the level of the Human Rights Council in order to enhance the effective implementation of the Working Group's recommendations and facilitate follow-up activities.

97. The Working Group commits to adopt recommendations that are action-oriented and formulated in a clear manner, ensuring their reflection in the respective resolutions of the Human Rights Council.

98. The Working Group acknowledges the achievements of OHCHR and, consistent with the provisions of the Durban Declaration and Programme of Action, encourages it to continue collecting information, including through questionnaires, provided by stakeholders on the implementation of the Durban Declaration and Programme of Action and make it available in due time to the Working Group. The Working Group urges stakeholders to reply promptly to questionnaires. It also requests that the collected information be placed on the website of OHCHR, which has to be duly and timely updated.

99. The Working Group emphasizes the high importance of elaborating and adopting national action plans to combat racial discrimination and related intolerance, with the active participation of all stakeholders. To this end, it calls on

Member States to provide information to the Secretariat on measures taken in this regard. It calls upon OHCHR to assist efforts of Member States to draft and revise national action plans. The Working Group emphasizes the need for the relevant United Nations bodies and specialized agencies to provide, within their existing budgets, technical cooperation to enhance the effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference. It further calls on the international community to support the efforts of the developing countries in this regard.

100. The Working Group invites relevant treaty monitoring bodies and special procedures mandate holders, in particular the Committee on the Elimination of Racial Discrimination and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, to increase their participation in the sessions of the Working Group.

B. The effectiveness of the Working Group in the framework of resolution 11/12 of the Human Rights Council

101. The Working Group commits to improve its methods of work, aiming to enhance its effectiveness and efficiency, taking due cognizance of the approaching commemoration of the tenth anniversary of the Durban Declaration and Programme of Action. The Working Group decides that procedural issues, including ones related to agenda, programme of work and themes for deliberations will be addressed at least three months in advance by the Chairperson before the beginning of the respective session. The Working Group requests that the Secretariat circulate all relevant documentation, both procedural and substantive, at least six weeks before the respective session starts. The Working Group requests that the Secretariat notify NGOs, NHRIs and other stakeholders well in advance, with regard to upcoming sessions.

102. The Working Group commits to increase efforts to complement the work of other Durban follow-up mechanisms, aiming to avoid overlapping and/or duplication of initiatives and agrees to continue discussion on this at future sessions.

103. The Working Group invites experts, in particular the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to have interactive discussions with the Working Group during its respective sessions, in accordance with the availability of the Special Rapporteur.

104. The Working Group decides to increase efforts to remain focused throughout its work and to address three themes per session, enabling the Group to analyse the complex nature of the themes and adopt action-oriented recommendations.

105. The Working Group decides to achieve better coordination and ensure synergy with other human rights mechanisms, in particular the Working Group of Experts on People of African Descent. In this regard it invites the Chairpersons of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and the Working Group of Experts on People of African Descent to identify common themes for the respective sessions of both working groups. It requests that, in coordination with Conference Services, the sessions of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action are held immediately after the sessions of the Working Group of Experts on People of Descent, enabling improved dialogue and collaboration between these two mechanisms. The Working Group encourages its

members to participate in the last day of the sessions of the Working Group of Experts on People of African Descent in order to promote dialogue and exchange of ideas between the two mechanisms, as well as to take stock of the conclusions and recommendations of the Working Group of Experts on People of African Descent.

106. The Working Group decides to convene its sessions in the last two weeks of October.

C. Migration, protection of children and employment

107. The Working Group decides, having engaged in the interactive dialogue following the presentations by experts on the themes of migration, protection of children and employment during its seventh session, to request the Chairperson of the Working Group to prepare draft conclusions and recommendations on the aforementioned themes with a view to consider their adoption at its eighth session.

VI. Adoption of the Report

108. On 16 October 2009, the draft report was adopted ad referendum, and the Working Group decided to entrust the Chairperson-Rapporteur with its finalization.

Annexes

Annex I

List of attendance

Member States

Afghanistan, Algeria, Angola, Argentina, Armenia, Austria, Azerbaijan, Belarus, Belgium, Benin, Bolivia (Plurinational State of), Botswana, Brazil, Bulgaria, Burkina Faso, Chile, China, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Dominican Republic, Egypt, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Haiti, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Kuwait, Latvia, Lesotho, Libyan Arab Jamahiriya, Lithuania, Malta, Mauritius, Mexico, Morocco, Nepal, Netherlands, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Senegal, Serbia, Singapore, Slovakia, Slovenia, South Africa, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Zambia, Zimbabwe.

Non-Member States by observers

Holy See.

Intergovernmental organizations

African Union, Council of the European Union, International Organization of la Francophonie (OIF).

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 (AIPD-GL), African Commission of Health and Human Rights Promoters, Al-Hakim Foundation, Amnesty International, Association of World Citizens, Cercle de Recherche sur les Droits et les Devoirs de la Personne Humaine (CRED), International Committee for the Respect and Application of the African Charter on Human and People's Rights (ICRAC), Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations (CONGO), Indian Council of South America (CISA), Indigenous Peoples and Nations Coalition, Interfaith International, International Council for Human Rights, International Federation of University Women, International Youth and Student Movement for the United Nations, Nord-Sud XXI, Union of Arab Jurists, Women's International League for Peace and Freedom.

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

Culture of Afro-Indigenous Solidarity, Foundations for Our New Alkebulan/Afrikan Millennium (Fonami) and We Demand Reparations SASA, Human Rights.ch, Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP), SOS Rassismus Deutschschweiz.

Annex II

Agenda

1. Opening of the session.
2. Election of the Chairperson-Rapporteur.
3. Adoption of the agenda.
4. Organization of work.

Annex III

Programme of work of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action at its seventh session

(Geneva, 5–16 October 2009)

Programme of work of the first week

| <i>Time</i> | <i>Monday</i> <i>5 October 2009</i> | <i>Tuesday</i> <i>6 October 2009</i> | <i>Wednesday</i> <i>7 October 2009</i> | <i>Thursday</i> <i>8 October 2009</i> | <i>Friday</i> <i>9 October 2009</i> |
|----------------------------------|---|---|---|---|--|
| Morning: 10.00 to 13.00 | Item 1 Opening of the session | Item 2 Election of the Chairperson-Rapporteur | Item 2 Election of the Chairperson-Rapporteur | Item 2 Election of the Chairperson-Rapporteur Item 3 Adoption of the agenda | Item 4 Organization of work (a) Discussion on migration: ● Mrs. Elizabeth Cubias Member of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| Afternoon: 15.00 to 18.00 | Item 2 Election of the Chairperson-Rapporteur | Item 2 election of the Chairperson-Rapporteur | Item 2 Election of the Chairperson-Rapporteur | Item 2 Election of the Chairperson-Rapporteur Item 3 Adoption of the agenda Item 4 Organization of work | Item 4 Organization of work (a) Discussion on migration (continued) ● Ms. Anja Klug, senior legal officer in the Protection Policy and Legal Advice Section, UNHCR ● Mr. John K. Bingham, Head of Policy, International Catholic Migration Commission |

Programme of work of the second week

| <i>Time</i> | <i>Monday</i> <i>12 October 2009</i> | <i>Tuesday</i> <i>13 October 2009</i> | <i>Wednesday</i> <i>14 October 2009</i> | <i>Thursday</i> <i>15 October 2009</i> | <i>Friday</i> <i>16 October 2009</i> |
|----------------------------------|---|--|---|---|---|
| Morning: 10.00 to 13.00 | Item 4 Organization of work | Item 4 Organization of work (a) Discussion on migration (continued) ● Mr. Patrick Taran, senior migration specialist, ILO | Item 4 Organization of work (d) Discussion on protection of children ● Ms. Karin Lindholm-Billing, senior liaison officer, UNHCR ● Ms. Nicolette Moodie, human rights and gender officer, UNICEF ● Ms. Jane Connors, Chief, Special Procedures Division, OHCHR Discussion on draft recommendations on (a) Migration (e) Effectiveness of IGWG in the framework of resolution 11/12 of the Human Rights Council | Item 4 Organization of work Discussion on draft recommendations on: (b) Employment Adoption of recommendations | No meeting |
| Afternoon: 15.00 to 18.00 | Item 4 Organization of work (c) Implementation of previous decisions of the IGWG (continued) | Item 4 Organization of work Adoption of programme of work Discussion on draft recommendations on (c) Implementation of previous decisions of the IGWG (e) Discussion on effectiveness of IGWG in the framework of resolution 11/12 of the Human Rights Council | Item 4 Organization of work (b) Discussion on employment ● Mr. Frederick Muia, senior adviser, International Organization of Employers (IOE) ● Ms. Esther Busser, deputy representative, International Trade Union Confederation (ITUC) to be confirmed Discussion on draft recommendations on: (d) Protection of children | No meeting | No meeting |