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人权理事会
第三十七届会议
2018年2月26日至3月23日
议程项目9
种族主义、种族歧视、仇外心理和相关不容忍行为，
《德班宣言和行动纲领》的后续行动和执行情况

拟订补充标准特设委员会第九届会议报告*, **

主席兼报告员：塔翁加·穆沙亚万胡(津巴布韦)

概要

本报告根据人权理事会第3/103号决定和第6/21及10/30号决议提交，概述了拟订补充标准特设委员会第九届会议的议事情况以及会议期间开展的实质性讨论。

* 本报告附件不译，原文照发。

** 本文件迟交，以反映最新动态。

目录

一. 导言

1. 拟定补充标准特设委员会根据人权理事会第 3/103 号决定和第 6/21 及 10/30 号决议提交本报告。

二. 会议安排

2. 特设委员会于 2017 年 4 月 24 日至 5 月 5 日举行第九届会议。本届会议期间，特设委员会举行了 18 次会议。

A. 出席情况

3. 各会员国、代表非会员国的观察员、政府间组织，以及在经济及社会理事会具有咨商地位的非政府组织的代表(见附件三)出席了本届会议。

B. 会议开幕

4. 拟订补充标准特设委员会秘书宣布特设委员会第九届会议开幕。

C. 选举主席兼报告员

5. 在第 1 次会议上，特设委员会以鼓掌方式选举津巴布韦常驻联合国日内瓦办事处代表塔翁加·穆沙亚万胡为会议主席兼报告员。

6. 主席兼报告员感谢特设委员会的委员推选他，并表示希望在会议期间与所有会员国、区域集团和其他利益攸关方密切合作。

7. 他指出，特设委员会的任务是寻求如何加强保护所有人免受种族主义、种族歧视、仇外心理和相关不容忍行为的侵害，这些问题在世界各地司空见惯，并呈现出许多当代形式。会议的工作方案包含一系列注重实际的新专题，包括全面的反歧视立法，保护移民免受种族主义、歧视和仇外做法的侵害，保护难民、回返者和境内流离失所者免受种族主义和歧视做法的侵害。鉴于这些弱势群体的处境日益恶化，特设委员会必须紧急提出具体建议，指导国际社会如何确保人人享有更多的尊严、平等和公平。

8. 他指出，特设委员会在本届会议期间将举行关于以下专题的更新讨论：仇外心理、《消除一切形式种族歧视国际公约》的程序性缺陷、国家机制和体育运动中的种族主义，尤其侧重于查明可导致通过国际标准的要素。主席兼报告员指出，按照第八届会议的要求，他将在第 6 次会议上分发“为促进拟定《消除一切形式种族歧视国际公约》补充标准特设委员会工作的主席案文”(以下简称“主席案文”)，其中载有在前八届会议讨论基础上进行谈判的潜在出发点。特设委员会还将就 2016 年 12 月通过的联合国大会第 71/181 号决议进行讨论，大会在其中第 5 段对拟订《公约》补充标准未取得进展表示关切，拟定标准是通过制定新规范性标准填补现有的缺陷，新标准旨在打击当代死灰复燃的一切形式种族主义祸患，大会还在这方面呼吁人权理事会拟订《消除一切形式种族歧视国际公

约》补充标准特设委员会主席兼报告员确保启动关于《公约》附加议定书草案的谈判，将种族主义和仇外行为定为刑事罪。

9. 他补充道，人权理事会第 34/36 号决议决定执行大会第 71/181 号决议所载要求，请特设委员会主席兼报告员确保在特设委员会第十届会议期间启动关于《公约》附加议定书草案的谈判，将种族主义和仇外行为定为刑事罪。

10. 主席兼报告员称，特设委员会讨论的目的是使其能够在第十届会议之前作好准备，特别是提出商定的模式来启动谈判。他促请特设委员会开始构思可作为第十届会议期间的谈判出发点的模式和内容。

D. 通过议程

11. 在第 1 次会议上，特设委员会还通过了第九届会议议程如下：

1. 会议开幕。
2. 选举主席兼报告员。
3. 通过议程和工作方案。
4. 关于全面反歧视立法的发言和讨论。
5. 关于保护移民免受种族主义、歧视和仇外做法侵害的发言和讨论。
6. 关于保护难民、回返者以及境内流离失所者免受种族主义和歧视做法侵害的发言和讨论。
7. 对项目 4 开展一般性讨论和交流意见。
8. 对项目 5 和 6 开展一般性讨论和交流意见。
9. 关于仇外心理的更新讨论。
10. 关于《消除一切形式种族歧视国际公约》方面国家机制和程序性缺陷的更新讨论。
11. 关于种族主义与体育的更新讨论。
12. 对项目 9 和 10 开展一般性讨论和交流意见。
13. 对项目 11 开展一般性讨论和交流意见。
14. 关于大会第 71/181 号决议的讨论。
15. 对结论和建议开展一般性讨论和交流意见。
16. 通过报告。

E. 安排工作

12. 在同次会议上，主席兼报告员提出了本届会议的工作方案草案，该草案得以通过。工作方案随后经过修订，载于附件二。主席兼报告员邀请与会者作一般性发言。

13. 各代表团热烈祝贺主席兼报告员的当选。

14. 突尼斯代表以非洲集团的名义发言，祝贺主席兼报告员的当选，并欢迎他的开幕词。

15. 非洲集团深信，特设委员会自成立以来一直保持的对话提供了充分的机会，以思考与《公约》有关的实质性和程序性缺陷。非洲集团和特设委员会多年来确定了属于种族主义当代表现形式的多个专题问题，包括仇外心理、仇视伊斯兰、反犹太主义、通过网络空间鼓动种族主义和仇外攻击、种族定性以及煽动种族、族裔和宗教仇恨。她指出，种族定性的受害者需要得到更好的保护，以免遭受这些问题。应该最大程度地采取补救，消除对种族主义行为肇事者的有罪不罚现象。

16. 非洲集团充分支持利用大会第 71/181 号决议和人权理事会第 34/36 号决议提供的机会，作为第一步和当务之急，就关于打击通过互联网等媒体平台煽动仇恨的附加议定书进行谈判。非洲集团坚持认为，将这一新愿景的实施推迟到特设委员会第十届会议，将有充分的机会开展相应的筹备工作。非洲集团认为，第九届会议应审议与《公约》范围有关的问题，成功过渡到进一步讨论的阶段。

17. 上述罪行的受害者要求特设委员会讨论《公约》的范围，而不是讨论补充标准是否必要的问题。因此，非洲集团欢迎通过第九届会议的工作方案，因为该工作方案将为特设委员会提供进一步机会来思考未来补充标准的要素。

18. 非洲集团相信，特设委员会将利用这一机会充分执行《德班行动纲领》第 199 段所载的关于反对种族主义、种族歧视、仇外心理和相关不容忍现象世界会议的建议，拟订补充国际标准。特设委员会在保护种族主义、种族歧视、仇外心理和相关不容忍行为的受害者方面责无旁贷。如果逃避责任，就相当于未能以应有的严肃态度处理那些受害者的困境。非洲集团希望特设委员会以第九届会议为契机，竭尽全力完成其任务，并期待就这一非常重要的问题进行建设性的意见交流和有意义的讨论。

19. 欧洲联盟代表指出，欧洲联盟欢迎在会议工作方案中列入关于全面反歧视立法的讨论。通过全面反歧视立法对打击一切形式歧视而言至关重要。欧洲联盟坚决支持采取全面综合办法，这能够提供有效保护，同时考虑到多重和交叉形式歧视的案例。

20. 自成立之初以来，促进平等和不歧视一直是欧盟目标、立法和机构的核心内容。

21. 在欧洲联盟的反对歧视斗争中，2000 年通过的两项基本指令是一项重大而前所未有的成就。种族平等指令和就业平等指令禁止基于种族或族裔、宗教、信仰、残疾、年龄和性取向的歧视，并在就业、教育、社会保障、医疗保健以及获取和供应商品和服务等关键生活领域提供保护。两项文书规定了确保向受害者提供司法补救的义务，并为采取积极行动、促进平等提供了依据。2008 年，欧洲联盟理事会通过了关于利用刑法打击种族主义和仇外心理的某些形式和表现的框架决定，制定了欧洲联盟共同标准，确保在所有会员国以最低程度的有效、适度和劝阻性刑事处罚制裁所有种族主义和仇外犯罪。这些文书连同受害者权利指令、视听媒体服务指令和其他相关立法，构成了全面和先进的欧盟反歧视法律框架。

22. 欧洲联盟各机构非常重视打击歧视、种族主义和仇外心理。欧盟委员会的主要任务是确保正确的法律适用，实施和执行现有法律文书，也鼓励欧盟成员国之间交流良好做法。为此，委员会分别于 2008 年和 2009 年设立了不歧视专家组以及种族主义和仇外心理专家组。此外，2007 年成立的欧洲联盟基本权利机构还在以下方面发挥了关键作用：收集、分析和传播有关种族主义、仇外心理、反犹太主义、仇视伊斯兰和其他形式的不容忍行为的客观和可比数据，以及向欧洲联盟的机构和成员国提供关于平等和不歧视的独立、基于证据的政策指导。在其他活动中，该机构还协助成员国制定和执行有关措施，在仇恨犯罪工作组(于 2014 年设立)的框架内打击仇恨犯罪。

23. 欧洲联盟认为，制定全面反歧视立法十分重要，并表示它将继续致力于促进平等和不歧视。

24. 巴基斯坦代表以伊斯兰合作组织的名义发言，称特设委员会目前的工作比该机构成立之初时更具有相关性。世界正面临各种挑战，包括经济崩溃、仇外心理和不容忍现象日趋严重、国际冲突以及人权和人道主义危机不断恶化。种族暴力的社会经济和政治根源已变得更为复杂，引起了基于种族、性别、语言或宗教等当代新形式的种族歧视现象，现有文书并未涵盖这些形式。因此，需要在国家和国际层面制定有效的法律，以填补缺陷并为遭受不公正和歧视的受害者提供补救措施。

25. 伊斯兰合作组织认为，不能忘记种族歧视的历史以及种族歧视对人民生活和国家的持续不利影响，特别是在经济、社会和文化领域的不利影响。过去的不公正仍然影响着许多人的生活，因此，要消除障碍，实现更高和平等的生活水准，需要开展国际合作。

26. 伊斯兰合作组织感到严重关切的是，世界许多地区出现极右派的危险浪潮以及将民族主义与爱国主义等同起来。煽动暴力、仇恨言论和宣扬仇恨、仇外心理、种族和宗教定性、种族差别化(特别是在边境管理中)、歧视性的入境做法、仇视伊斯兰、消极成见和污名化的趋势日益严重，令人担忧，从社会角度而言是不公正的，应予以强烈谴责。土著人民、移民工人、难民和其他弱势群体面临着与歧视和骚扰有关的众多问题。这些当代挑战进一步凸显了支持特设委员会工作的重要性。

27. 伊斯兰合作组织重申其致力于建设性地参与特设委员会的讨论，并敦促所有其他国家和区域组织搁置政治分歧，努力找到共同点，以履行特设委员会的任务。通过共同努力，他们将击败利用人们的不安全感煽动暴力和仇恨的仇恨贩子和仇外煽动者。通过共同努力，他们可以基于容忍、包容、不歧视和种族间和谐的共同原则为更美好的未来铺平道路。

28. 委内瑞拉玻利瓦尔共和国的代表祝贺主席兼报告员的当选，并向其保证该国将提供全力支持。他的国家致力于打击种族主义、种族歧视和仇外心理及相关形式的不容忍行为。为此，有必要执行《德班行动纲领》第 199 段中的建议，并制定补充标准，加强和更新现有法律框架，以应对新挑战和新形式的歧视并保护受害者。

29. 他指出，他感到遗憾的是，过去几年来，一些国家集团严重缺乏对特设委员会任务授权的支持，他呼吁各国确保切实执行《德班宣言和行动纲领》。与前几届会议一样，委内瑞拉玻利瓦尔共和国愿意继续研究新的歧视形式，因此很重视

与专家的互动，以期找出差距以及与制定补充标准相关的问题。该国代表团愿意合作并积极参与执行特设委员会的重要任务。

30. 南非代表赞同突尼斯代表非洲集团所作的发言。她表示，特设委员会以鼓掌方式任命主席兼报告员，证明了各代表团对其领导力有信心并赞赏其过去领导该机构的方式。她祝贺主席兼报告员获得任命，并表示南非期待与他以及其他代表团和区域集团进行建设性的合作，以推动特设委员会的工作。

31. 南非也期待就新专题进行讨论，并估量以往审议的问题，包括听取 2001 年反对种族主义、种族歧视、仇外心理和相关不容忍行为世界会议、大会和人权理事会的呼吁，以便起草必要的补充标准。

32. 南非希望特设委员会以本届会议为契机，审议补充标准的范围和模式。她相信特设委员会本届会议将真正以受害人为中心。

33. 巴西代表重申巴西致力于加强反对一切形式种族主义、种族歧视、仇外心理和相关不容忍行为的国际法律框架，包括为《公约》制定补充标准。她指出，巴西敦促所有国家本着妥协的精神，致力于建立一个人人免于一切形式歧视和不容忍行为的世界。巴西对将在第九届会议期间讨论的专题表示欢迎。当今世界日益受冲突和分裂性政治言论的影响，造成偏见和仇恨，所以就全面反歧视立法以及保护移民、难民和境内流离失所者问题交流意见是至关重要的。巴西呼吁所有国家加强努力，执行旨在打击一切形式种族主义、种族歧视、仇外心理和相关不容忍行为的政策、方案和活动。

34. 巴西珍视其多样性并拒绝一切形式种族主义、仇外心理和不容忍行为。在过去几年中，巴西向数千名移民和难民敞开大门，并全心致力于在其能力范围内为这些人提供栖身之处。巴西理解人口流动是人类境遇固有的特点，但认为在遵守国际义务的前提下，每个国家都有主权决定关于接纳的国家规则。国际流离失所不应被定为刑事罪。移民和难民有权享有基本人权，应该受到保护，免受种族主义、种族歧视和仇外心理的侵害。除了促进安全、有序、正常和负责任的移民和人口流动，最重要的是解决移民现象的驱动因素，包括加大努力促进发展和消除贫穷，特别是通过技术合作。

35. 关于特设委员会的任务，巴西呼吁所有代表团和区域集团努力建立互信并达成妥协，就拟订《公约》补充标准的敏感和重要问题寻求共识。巴西期待收到关于可能达成共识的领域的主席案文，以便各代表团考虑起草一项不具约束力的文书，以此作为第一步，努力达成让国际社会接受的更强有力的文件。巴西还期待在本届会议期间进行建设性和开放的交流。

36. 尼日利亚代表指出，该国代表团非常重视特设委员会的工作，并重申全力支持和致力于执行《德班宣言和行动纲领》，该文件仍应作为消除一切形式种族主义、仇外心理、种族优越论和相关歧视的路线图。在此框架内，有许多报告指出世界各地的袭击事件不断增加，受害者因其宗教信仰、族裔或种族而成为袭击目标。尽管受害者曾为他们所在国的经济增长和发展作出过巨大贡献，但仍被定性、被针对、被致残，甚至有时被杀害。该国代表团谴责这种暴力和恐吓行为，认为这主要是集体无能力有效执行《德班宣言和行动纲领》的结果。

37. 打击种族主义、种族歧视、仇外心理和相关不容忍行为是一项集体的当务之急，需要所有会员国的支持和贡献，才能实现全球和平共存。所有人都应该在各

层面共同努力，以打击日益增长的仇外心理和种族定性倾向。必须加倍努力限制日益增多的当代形式种族主义，特别是那些针对非洲人后裔、移民和难民等人的种族主义形式。那些目前正面临日益严重的种族主义的国家必须认真对待《德班宣言和行动纲领》，并确保用其指导国内政策。

38. 尼日利亚仍然致力于建设性地参与特设委员会的讨论，并呼吁开展真正的合作，以消除现有规范框架中发现的实质性差距以及一些缔约国对《公约》的保留。各国还可以加强促进社会和谐的现有立法，以发挥重要作用。

39. 利比亚代表赞同突尼斯代表非洲集团所作的发言以及巴基斯坦代表伊斯兰合作组织所作的发言。他感谢主席兼报告员开展的工作，并表示在其英明领导下，特设委员会将能够实现具体成果。他强调特设委员会的任务——讨论关于打击种族主义和种族歧视的补充标准和框架——至关重要。利比亚致力于打击针对难民和移民的种族歧视以及所有其他种族主义和歧视做法。他提请主席兼报告员注意，必须研究非洲和世界其他地方的移民根源，包括贫穷。

三. 一般性讨论和专题讨论

A. 关于全面反歧视立法的发言和讨论

40. 在第 2 次会议上，特设委员会审议了议程项目 4。主席兼报告员解释说，尽管作出了相当大的努力，也无法让专家就全面反歧视立法问题进行发言。因此，特设委员会委员将在没有专家投入的情况下讨论这个专题。他请各代表团自愿介绍各自国家的全面反歧视立法和相关立法框架，并感谢欧盟代表发言启动了讨论。在第 2 次和第 3 次会议上，巴西、多民族玻利维亚国、古巴、埃及、欧洲联盟、牙买加、日本、墨西哥、巴基斯坦(以伊斯兰合作组织的名义和本国的名义发言)、南非(以非洲集团的名义和本国的名义发言)、西班牙、大不列颠及北爱尔兰联合王国和委内瑞拉玻利瓦尔共和国就全面反歧视立法的专题作了发言。本报告附件一提供了关于发言和之后讨论的概要。

B. 关于保护移民免受种族主义、歧视和仇外做法侵害的发言和讨论

41. 特设委员会在第 4 次和第 5 次会议上审议了议程项目 5。美利坚合众国洛杉矶加利福尼亚大学法学院助理教授、南非威特沃特斯兰德大学非洲移民与社会中心助理研究员 E. Tendayi Achiume、东非开放社会倡议的易卜拉希马·凯恩、联合国人权事务高级专员办事处(人权高专办)专题研究、特别程序和发展权司司长佩吉·希克斯以及国际移民组织的 Kristina Touzenis 就保护移民免受种族主义、歧视和仇外做法侵害的专题作了发言。本报告附件一提供了关于发言和之后讨论的概要。

C. 关于保护难民、回返者以及境流离失所者免受种族主义和歧视做法侵害的发言和讨论

42. 特设委员会在第 6 次和第 7 次会议上审议了议程项目 6。挪威奥斯陆大学国际公法硕士课程教授兼主任塞西莉亚·巴耶、联合国难民事务高级专员公署(难

民署)国际保护部保护政策和法律咨询科科长马德琳·加利克、保加利亚赫尔辛基委员会主席克拉希米尔·卡内夫以及美利坚合众国洛杉矶加利福尼亚大学法学院助理教授、南非威特沃特斯兰德大学非洲移民与社会中心助理研究员 E. Tendayi Achiume 就保护难民、回返者以及境流离失所者免受种族主义和歧视做法侵害的专题作了发言。本报告附件一提供了关于发言和之后讨论的概要。

D. 一般性讨论和交流意见，第 8 次会议

43. 在特设委员会第 8 次会议上，主席兼报告员提议首先就议程项目 4 进行一般性讨论并交流意见。主席兼报告员请与会者作出一般性评论，并询问基于各代表团的发言和有关议程项目下的讨论可以得出何种结论。他宣布短暂休会，以便就议程项目 4 和第 6 次会议结束时分发的主席案文进行非正式磋商。

E. 一般性讨论和交流意见，第 9 次会议

44. 在特设委员会第 9 次会议上，主席兼报告员提议首先就议程项目 5 和 6 进行一般性讨论并交流意见。主席兼报告员回顾称，需要向前迈进，在会议结束时商定一套结论和结果。他回顾称，这些结论和结果应基于特设委员会会议上的专家发言以及过去一周举行的相关讨论。他呼吁特设委员会委员提供意见和分析。

45. 主席兼报告员注意到会议室中有专家发言的副本，于是宣布短暂休会以便查看。

46. 鉴于有关移民和难民的议程项目 5 和 6 都与非国民有关，欧洲联盟代表建议特设委员会合并这两个议程项目的结论和建议，以便达成一套共同的建议。

47. 约旦常驻联合国日内瓦办事处和日内瓦其他国际组织的代表指出，约旦一直坚持区分移民和难民，因为适用于这两个群体的法律制度不同。埃及代表指出，不应合并关于这两个群体的建议，因为国际法区分移民和难民，而且决不能淡化国家的义务。

48. 南非代表回顾专家提到种族主义和仇外心理问题日益严重，并表示结论应处理这一问题。

49. 埃及代表建议在结论和建议草案中提及仇视伊斯兰问题，并指出，处理移民问题的一些根本原因需要政治意愿。利比亚代表赞同埃及代表的提议。

50. 欧洲联盟代表建议以人权高专办专题研究、特别程序和发展权司司长希克斯女士的发言中提出的建议为基础，作为讨论的出发点。

51. 特设委员会开始编写会议期间的结论和建议草案。

F. 更新讨论和交流意见，第 10 次、第 11 次和第 12 次会议

52. 在特设委员会第 10 次会议上，主席兼报告员提议根据主席案文就仇外心理进行更新讨论。他回顾称，特设委员会第八届会议曾要求主席兼报告员编写并提交一份文件，汇编特设委员会前七届会议审议的专题和实质性问题，并就拟订补充标准的潜在合并领域提出意见。他鼓励特设委员会委员审议拟议案文/文件，

第 6 次会议结束时在会议室提供了该案文/文件，并通过电子邮件发送给了区域协调员，以便提出关于强化《公约》的建议。

53. 在第 11 次会议上，特设委员会继续就议程项目 4、5 和 6 进行一般性讨论和交流意见。主席兼报告员呼吁特设委员会委员尝试寻求共识，并提出评论和意见。特设委员会继续就会议期间的结论和建议草案开展工作。

54. 特设委员会还根据主席案文审议了关于仇外心理的议程项目 9。主席兼报告员重申，该案文代表了他个人对前八届会议所讨论的关键主题和专题的看法。主席案文所载材料可供特设委员会用于确定共同之处并作为基础，同时考虑到大会通过的第 71/181 号决议。他补充道，特设委员会委员应分析案文/文件，并对专题问题形成自己的解读。欢迎委员会委员补充意见。

55. 在特设委员会第 12 次会议上，主席兼报告员特别介绍了主席案文中侧重于仇外心理的章节。

56. 主席兼报告员首先回顾称，《德班宣言和行动纲领》明确承认，仇外心理的各种表现形式是歧视和冲突的当代主要根源和形式之一，打击仇外心理亟需各国以及国际社会重视并迅速采取行动，人权理事会第 3/103 号决定特别呼吁通过新的规范性标准，旨在打击一切形式的当代种族主义，包括煽动种族和宗教仇恨。

57. 主席兼报告员随后确定了以下八个问题，他认为这八个问题特别重要，特设委员会前几届会议已对此进行了讨论：

(a) 对“仇外心理”一词缺乏明确的定义。关于这一点，主席兼报告员提到了该术语的不同定义，包括字典上的定义以及希克斯女士在特设委员会发言时使用的定义。他还提到了 2008 年《欧洲联盟关于通过刑法打击种族主义和仇外心理的某些形式和表现的框架决定》；

(b) 尽管“仇外心理”和“种族主义”这两个术语有时混用，但它们指的是两种不同的现象；

(c) 需要加强消除种族歧视委员会的监督权力和程序；

(d) 需要加强国家机制；

(e) 需要开展有关仇外心理的人权教育、培训和提高认识活动；

(f) 需要促进文化间对话和不歧视教育；

(g) 需要谴责所有仇外行为和言论；

(h) 需要开展关于仇外心理的强制性人权培训。

58. 南非代表指出，她欢迎主席案文中提及《德班宣言和行动纲领》。她指出，没有令人信服的理由表明需要对“仇外心理”一词作出明确的定义，任何此类定义都应来自人权法和法律措辞，而不是从字典中照搬。

59. 欧洲联盟代表称，她还没有收到本区域集团所有成员对主席案文的意见。然而，对 2008 年《欧洲联盟关于通过刑法打击种族主义和仇外心理的某些形式和表现的框架决定》，有几点必须澄清。她特别指出，该框架决定本身并未界定“仇外心理”一词，而是将某些符合特定标准的行为定为刑事罪，这些行为必须是明显可依法惩处的罪行。因此，框架决定将仇恨言论定为刑事罪，但未将仇外恐惧和态度定为刑事罪。编写该框架决定时考虑了现行人权法，特别是《消除一

切形式种族歧视国际公约》第四条和《公民权利和政治权利国际公约》第二十条，其中包括种族歧视。特设委员会一直致力于仇外心理问题，缺乏“仇外心理”一词的定义似乎没有对其工作造成困扰。

60. 主席兼报告员宣布第 12 次会议休会，以便进行非正式讨论，讨论之后复会。特设委员会随后讨论了种族歧视和仇外心理被认定为不同现象这一事实。还讨论了《公民权利和政治权利国际公约》以及《经济、社会及文化权利国际公约》意义范围内非国民的待遇。主席兼报告员询问，制定一份国际条约表(交叉参照国际标准)是否对特设委员会的工作有帮助。

61. 特设委员会还讨论了主席案文所包含的国家机制专题。南非代表提到拟订补充标准时指出，应以《德班宣言和行动纲领》第 199 段为出发点。在这方面，加强国家标准不会成为国际标准的一部分。

62. 欧洲联盟代表指出，主席案文似乎提及或考虑实施现有的国际标准，并指出其中一些问题已经有国际标准。

G. 一般性讨论和交流意见，第 13 次会议

63. 在第 13 次会议上，主席兼报告员提议基于主席案文继续讨论议程项目 9 和 10。

64. 欧洲联盟代表称，她对主席案文表示欢迎，这是一份涉及多个问题的有深度的提案，其中包括关于各国在《公约》下已承担的义务的提议、政策建议以及与法律概念有关的问题。她将主席案文发送给了欧洲联盟成员国，但所有代表团不可能在一周内提供反馈意见并形成共同立场。

65. 南非代表称，她欢迎主席兼报告员的拟议案文，并指出该案文提到了不同的议程项目。她表示，不应由特设委员会处理国家机制专题，并回顾称在上次会议上，有人提议将该专题交给有效落实《德班宣言和行动纲领》政府间工作组。

66. 主席兼报告员建议南非和欧洲联盟代表团分别就关于国家机制的议程项目 10 和关于仇外心理的议程项目 9 的讨论结论确定措辞。

67. 南美洲印第安人理事会代表以南美洲印第安人理事会以及土著人民和民族联盟的名义发言，提到被这两个组织视为国家立法中持续存在的机构性种族歧视的一个例子，该问题一直存在是由于在根据《公约》第十五条执行《联合国宪章》关于非自治领土的第七十三条过程中不愿意履行管理国的义务以及在消除种族歧视方面存在缺陷。为此，这两个组织建议特设委员会请消除种族歧视委员会处理南美洲印第安人理事会、土著人民和民族联盟和 Koani 基金会的联合请愿；将其案件转交给《给予殖民地国家和人民独立宣言》执行情况特别委员会；如有必要，将其案件转交消除种族歧视委员会以获得审查和指示；或请消除种族歧视委员会通过一项决议，以解决关于执行《公约》第十五条方面的不足之处。

68. 第 13 次会议休会，以便就有关议程项目 9 和 10 的措辞进行非正式磋商。

69. 复会后，主席兼报告员继续讨论主席案文，并就涉及国家机制的章节征求会员国的意见。

70. 欧洲联盟代表称，她的代表团认为国家机制非常重要，并感谢主席兼报告员将该问题列入其案文。她回顾称，欧盟成员国已经建立了这种机制，并补充道

《公约》第六条对国家机制作了规定，因此她的代表团认为在这方面不存在缺陷。

71. 特设委员会随后讨论了与《公约》有关的程序性缺陷问题，主席案文也涵盖了该问题。

72. 南非代表表示，她认为现阶段没有必要进一步讨论程序性缺陷的问题。

73. 主席兼报告员询问代表团，特设委员会是否应该在第九届会议的结果中重申上届会议期间提出的关于程序性缺陷的建议。

74. 欧洲联盟代表指出，人权理事会第 34/36 号决议未考虑特设委员会关于程序性缺陷的建议。因此，她建议删除该建议。此外，她提议对主席案文提出一项一般性建议，确认自特设委员会上届会议以来没有出现新的讨论内容。

75. 主席兼报告员称，主席案文总结并考虑了前几届会议讨论的专题，以便特设委员会推进关于这些专题的讨论。

H. 一般性讨论和交流意见，第 14 次会议

76. 在第 14 次会议上，特设委员会再次讨论了主席案文，具体而言，更侧重种族主义与体育的专题。主席兼报告员开启了讨论，指出体育运动中的歧视呈上升趋势。他强调了最近报道的这种现象的案例数量。他解释道，主席案文概述了特设委员会以往的讨论，不包含新信息。他回顾道，体育方面的歧视并不比任何其他生活领域的歧视更严重。他解释称，特设委员会决定更深入地探讨这个问题，主要是因为有大量关于体育中种族主义案件的报道。

77. 俄罗斯联邦代表称，俄罗斯联邦对乌克兰新纳粹主义和种族主义的持续抬头表示严重关切。在这方面，他提到了在 2017 年 4 月 27 日基辅迪纳摩足球俱乐部与顿涅茨克矿工足球俱乐部(其中有多位非洲裔球员)的比赛中，基辅迪纳摩的球迷作出了种族主义行为。据俄罗斯联邦所知，乌克兰执法机构没有作出任何反应，也没有对此行为作出官方谴责。他表示，早在 2013 年和 2015 年就有关于基辅迪纳摩的球迷作出种族主义行为的报道。他希望特设委员会特别关注 2017 年事件以及种族主义的抬头，并根据其任务采取行动。俄罗斯联邦愿意将事件录像和相关报告发送给感兴趣的代表团。

78. 主席兼报告员感谢俄罗斯联邦代表的发言并征求了代表团的意见。南非代表建议特设委员会承认人权高专办在体育中种族主义问题上取得的进展，并鼓励人权高专办继续在这方面开展工作。考虑到欧洲联盟代表先前建议就主席案文得出一个一般性结论，主席兼报告员宣布休会，进行非正式讨论，为关于主席案文的结论和建议确定措辞。

79. 会议随后复会。然而，在前几次会议期间，有代表团对关于难民和移民的国际法律框架与国际人权法之间的关系等问题表示了关切并表达了不同意见，特设委员会一致认为，在这些代表团缺席的情况下，不可能继续讨论关于议程项目 4、5 和 6 的结论草案。主席兼报告员请各代表团仔细审查大会第 71/181 号决议，为下次会议在这方面进行深入讨论作准备。

I. 关于大会第 71/181 号决议的讨论

80. 在 5 月 3 日的第 15 次会议上，特设委员会审议了议程项目 14、大会第 71/181 号决议和相关的人权理事会第 34/36 号决议。

81. 主席兼报告员提议首先讨论与大会第 71/181 号决议和人权理事会第 34/36 号决议有关的程序事项，以期为特设委员会第十届会议做准备。他建议主要侧重三点：

(a) 第十届会议前的闭会期间筹备工作：

(一) 闭会期间成员非正式磋商；

(二) 闭会期间专家会议；

(三) 时间线。

(b) 主席兼报告员向大会提交的报告：

主席兼报告员向大会提交的报告中应包括的问题。

(c) 特设委员会目前的“轨道”和其余专题。

82. 巴西代表指出，她的代表团想赞扬主席兼报告员对特设委员会的领导。巴西特别赞赏主席兼报告员提出的案文/文件，其中包含一些丰富(虽尚待完善)的材料，有助于完成特设委员会的任务。巴西支持大会第 71/181 号决议和人权理事会第 34/36 号决议。巴西赞成采取渐进办法，先通过谈判达成一项不具约束力的文书，最终达成一份为国际社会所接受的更强有力的文件。巴西仍在审议主席兼报告员的文件，并认同在这方面需要开展大量闭会期间筹备工作。

83. 巴西认为，特设委员会可以讨论对体育中种族主义和仇外行为的定罪问题，这似乎是特设委员会内部已达成共识的领域之一，而且似乎可以在该领域取得有意义的成果。正如主席案文中提到的，体育可以作为促进和平、人类理解和发展的工具。令人遗憾的是，全球范围内不乏关于足球场和其他体育场馆中种族主义、仇外心理和宗教不容忍行为的报道。体育中的仇恨言论以及种族主义和仇外行为有时会酿成悲剧，导致体育迷和其他无辜者死亡。体育庆典向公众传达了重要讯息。在任何领域都不能允许有罪不罚，特别是在有可能放大非法行为影响的领域。打击体育中的种族主义发出了打击有罪不罚的重要讯息，可以在更大的社会范围内树立榜样。巴西对特设委员会的工作仍然持开放和积极参与的态度。

84. 欧洲联盟代表指出，欧洲联盟仍全心致力于彻底消除种族主义、种族歧视、仇外心理和相关不容忍行为，包括其当代形式，并致力于促进和保护所有人的人权，不因任何理由有所歧视。欧洲联盟已采取法律措施和切实举措处理种族主义和仇外心理问题，包括通过强有力的立法框架和 2008 年框架决定，该框架决定要求欧洲联盟成员国将种族主义和仇外心理的某些形式和表现定为刑事罪。

85. 欧洲联盟认为，《消除一切形式种族歧视国际公约》(欧洲联盟所有成员国都是该公约的缔约国)一直是而且应该继续是预防、打击和消除种族主义的一切努力的基础。她指出，种族主义和种族歧视在全球范围内持续蔓延，表明执行《公约》的努力式微。因此，欧洲联盟认为，特设委员会应继续注重充分有效地执行《公约》，以实现彻底消除一切形式种族主义祸害的目标。

86. 关于《公约》存在缺陷或其未能处理当代形式的种族主义问题的事实或证据，她的代表团未能达成一致意见。有鉴于此，欧洲联盟不支持大会第 71/181 号决议、人权理事会第 34/36 号决议，也不支持启动关于将种族主义或仇外行为定为刑事罪的《公约》附加议定书的谈判。

87. 特设委员会内部仍在讨论可能需要关于《公约》的补充标准。也仍在考虑其他选项(如不具法律约束力的文书)，可以在协商一致的基础上进一步探讨。在全球范围打击种族主义、种族歧视、仇外心理和相关不容忍行为，事关世界每个地区的每一个人，国际社会应团结起来应对该问题。本着这一精神，欧洲联盟一直并将继续保持开放态度，与所有利益攸关方就这一专题开展建设性对话。

88. 委内瑞拉玻利瓦尔共和国代表指出，由于会期冲突，特别是与第二十七届普遍定期审议会议冲突，许多代表团未能出席特设委员会本届会议。今后安排会议时应该考虑到这个问题。

89. 委内瑞拉玻利瓦尔共和国继续大力支持特设委员会的工作，认为特设委员会是制定补充标准的重要工具。已有关于新歧视类型的报告，该国代表团认为必须加以解决。他感谢主席兼报告员的主席案文，并确认委内瑞拉玻利瓦尔共和国支持大会第 71/181 号决议和相关的人权理事会第 34/36 号决议。他强调，应通过补充标准，并对主席案文表示欢迎和支持。他不赞同那些反对制定补充标准的代表团，指出种族主义、歧视和移民现象抬头，现在通过补充标准正当其时。他赞同巴西代表的提议，即应审议体育中的种族主义问题。

90. 日本代表赞同欧洲联盟代表的发言，即不需要制定补充标准。他承认在执行《公约》方面存在重大缺陷，并认同需要处理这些缺陷。但是，该国代表团认为，通过补充标准并不是确保执行《公约》的最有效方式：继续进行当前的讨论更可取。

91. 南非代表提议，除了大会第 71/181 号决议和相关的人权理事会第 34/36 号决议提到的新专题之外，特设委员会应继续致力于目前正在审议的专题。主席兼报告员向大会第七十二届会议提交的进展报告应反映他对特设委员会工作的意见，并重点指出进展和挑战。

92. 巴基斯坦代表感谢主席兼报告员对特设委员会的领导。他赞同委内瑞拉玻利瓦尔共和国代表提到的，会期冲突造成困难，今后有必要避免特设委员会与其他会议的时间冲突。他认同欧洲联盟代表关于继续讨论种族主义和仇外心理的提议，以及巴西代表关于解决体育中种族主义问题的提议。他还欢迎关于这些专题的专家发言，这些发言大大丰富了讨论内容，他指出报告应反映主席兼报告员对这些专题的意见。

93. 巴基斯坦代表以伊斯兰合作组织的名义发言，强调需要讨论仇视伊斯兰现象。该国代表团愿意参与讨论基于任何宗教(不仅限于伊斯兰教)的歧视问题。但是，仇视伊斯兰是目前最普遍的基于宗教或信仰的歧视形式。

94. 巴西代表支持南非代表的提议，即除大会第 71/181 号决议和相关的人权理事会第 34/36 号决议提及的专题外，特设委员会还应讨论其他专题，大会要求的进展报告应反映主席兼报告员对特设委员会工作的意见。

95. 主席兼报告员总结了有关前进方向的意见，包括提议特设委员会在致力于应对大会第 71/181 号决议提出并在相关的人权理事会第 34/36 号决议提及的要求的

同时，继续讨论当前专题。他还表示，特设委员会应该像过去一样举行闭会期间非正式会议，并且应邀请专家在委员会第十届会议上发言。他注意到，向大会第七十二届会议提交的报告除了真实地反映特设委员会第九届会议的情况，也应反映主席兼报告员自己对于特设委员会整体工作中的进展和固有困难的看法。

96. 主席兼报告员请特设委员会委员就大会第 71/181 号决议中提出并在相关的人权理事会第 34/36 号决议中提及的要求作出评论，特别是就第十届会议将审议的专题发表意见。

97. 欧洲联盟的代表重申需要有更多时间来考虑这些决议，包括关于程序方面的决议。她建议特设委员会在第九届和第十届会议闭会期间讨论下届会议的专题清单。

98. 南非代表以非洲集团的名义发言，支持巴基斯坦代表以伊斯兰合作组织的名义发言时作出的提议，即在下届会议期间进行关于仇视伊斯兰问题的讨论。

99. 墨西哥代表注意到各代表团就特设委员会的任务表达的不同意见。她强调必须基于共识开展工作。考虑到这一点，她赞成欧洲联盟代表的提议，即在闭会期间讨论专题清单，以期达成共识。

J. 一般性讨论和交流意见，第 16 次和第 17 次会议

100. 在第 16 次会议上，特设委员会继续起草了关于结论和建议的会期案文草案。

101. 关于将在第十届会议讨论的专题清单，主席兼报告员回顾了特设委员会题为“第二届会议讨论的专题清单”的工作文件，其中提到了有关仇视伊斯兰的若干专题，包括：1. 宣扬和煽动种族、族裔、民族和宗教仇恨；3. 基于宗教或信仰的歧视；10. 文化间和宗教间对话；17. 种族、族裔和宗教定性以及打击恐怖主义的措施。主席兼报告员提议在拟定第十届会议专题清单时采用以上措辞和专题清单。

102. 欧洲联盟代表重申，关于专题清单的讨论应推迟到闭会期间。

103. 主席兼报告员回顾称，特设委员会需要一个明确的时间表，以便制定第十届会议的工作计划。

104. 在第 17 次会议上，特设委员会继续讨论了关于结论和建议的会期文件草案，就这些问题交流了意见。会议休会以便进行进一步磋商，以期达成一致意见。

四. 通过报告

105. 在第 18 次会议上，特设委员会继续讨论了关于结论和建议的会期文件草案，以期通过商定的措辞。

106. 主席兼报告员回顾了特设委员会本届会议前几次会议的谈判情况以及非正式会议的情况，称特设委员会未能商定应在结论和建议中包含还是删除仇视伊斯兰做法的问题。鉴于是否应提及仇视伊斯兰和仇视伊斯兰做法这个问题出现在案文草案的导言段和关于移民和难民的段落中，他建议在结论和建议中去掉这些段

落，仅通过那些指出下届会议方向并就如何开展这方面的工作提供指导的段落。主席兼报告员提出以下案文供特设委员会通过：

> “委员会注意到关于推进拟订《消除一切形式种族歧视国际公约》补充标准特设委员会工作的主席案文，决定继续审议该案文。
>
> 委员会讨论了大会第 71/181 号决议并决定在闭会期间继续进行磋商。”

107. 主席兼报告员努力支持特设委员会就本届会议的结论和建议所使用措辞达成共识，埃及代表对此表示赞赏。她反对主席兼报告员的提议，即从特设委员会的结论和建议中删除提及仇视伊斯兰和关于移民和难民的段落，并解释称这些问题对该国代表团极其重要。除了作为一个当代问题，作为一个术语，“仇视伊斯兰”问题已经在《德班宣言和行动纲领》的范围内获得共识，因此这个问题属于特设委员会的任务范围。她指出，她很遗憾特设委员会未能就仇视伊斯兰做法问题达成共识，而且结论和建议不会充分反映特设委员会第九届会议期间进行的讨论。

108. 约旦常驻联合国日内瓦办事处和日内瓦其他国际组织代表同意主席兼报告员的提议，即删除关于移民和难民的段落。不过，她赞同埃及代表的提议，即将仇视伊斯兰问题列入第九届会议的结论和建议中。孟加拉国代表赞同埃及代表和约旦常驻联合国日内瓦办事处和日内瓦他国际组织代表的意见。

109. 主席兼报告员澄清了他的提议，称他之所以建议删除关于移民和难民的段落，是因为特设委员会无法就这些段落是否应该反映仇视伊斯兰问题达成一致意见。因此，特设委员会似乎不可能同意提及仇视伊斯兰，同时删除关于移民和难民的段落。但他重申，特设委员会需要通过为今后工作提供指导的结论。

110. 马来西亚代表发言赞同埃及、孟加拉国和约旦代表的意见，即第九届会议的结论和建议中必须提及仇视伊斯兰问题。鉴于仇视伊斯兰是一种全球现象，特设委员会应考虑这个问题，特别是在其结论和建议中提及这个问题。

111. 欧洲联盟代表指出，关于将仇视伊斯兰问题列入特设委员会结论中的提议，谈判一直没有达成一致意见，因此，无法在第九届会议文件草案中提及该问题。她回顾称，她提出了一项折衷方案，使用《关于难民和移民的纽约宣言》中的商定措辞，该宣言呼吁所有人尊重移民和难民的人权。特设委员会未能就此达成一致意见，而且可能不会通过第九届会议的结论和建议，这令人深感遗憾。

112. 巴基斯坦代表以伊斯兰合作组织的名义发言，他表示特设委员会在本届会议期间做了出色的工作，起草了结论和建议，如果不通过这些结论和建议将是一大损失。正如埃及、孟加拉国和马来西亚的代表以及约旦常驻联合国日内瓦办事处和日内瓦其他国际组织代表之前指出的，仇视伊斯兰对伊斯兰合作组织而言一直是一个重要问题，但这个问题正变得迫切，因为仇视伊斯兰做法在全球范围内呈上升趋势。伊斯兰合作组织自成立以来一直积极主动地参与特设委员会的工作，伊斯兰合作组织支持特设委员会的任务，并以建设性地确定和分析了《公约》中的缺陷。第九届会议期间已讨论了仇视伊斯兰问题。专家发言提出了仇外心理、种族主义与体育以及仇视伊斯兰方面存在的不足。特设委员会在前几届会议上就前两个问题达成了结论，但未能就第三个问题达成结论。最后，他强调，《德班宣言》涵盖了仇视伊斯兰问题。只要明确提到仇视伊斯兰或仇视伊斯兰做

法，伊斯兰合作组织愿意考虑任何措辞，包括提及其他宗教以及《关于难民和移民的纽约宣言》中的措辞。

113. 主席兼报告员请特设委员会委员重点讨论已达成共识的段落，以便特设委员会可以着手通过本届会议的结论和建议。

114. 埃及代表重申，该国代表团不同意删除关于移民和难民的段落。关于只提及仇视伊斯兰问题，没有达成共识，所以很遗憾将从结论中删除关于移民和难民的段落。

115. 阿塞拜疆代表发言赞同埃及、孟加拉国、马来西亚和巴基斯坦代表以及约旦常驻联合国日内瓦办事处和日内瓦其他国际组织代表以伊斯兰合作组织的名义所作的发言，即必须在特设委员会的结论和建议中包含仇视伊斯兰问题。

116. 主席兼报告员和南非代表表示关切的是，第九届会议将不会达成一致意见，因为所有论点和拟议措辞在前几次会议和非正式会议期间已详细讨论过，而没有达成一致意见。

117. 巴基斯坦代表要求短暂休会以便进行额外的磋商，然后再复会。

118. 巴基斯坦代表以伊斯兰合作组织的名义发言，他建议在报告中保留并反映关于主席案文和大会第 71/181 号决议的段落，作为主席兼报告员的结论和建议，主席兼报告员此前提议将这两段作为特设委员会的结论。

119. 主席兼报告员指出，如果将这两段作为结论和建议的一部分纳入报告，则需要进行一些修改，并要求各表提出商定的措辞。

120. 埃及代表发言澄清了伊斯兰合作组织的提议，指出其目的只是为特设委员会今后的届会提供一些指导意见；特设委员会无需就主席兼报告员的结论或建议的措词达成一致意见。同样，南非代表建议特设委员会不要在现阶段进行谈判。

121. 委员会决定第九届会议不通过任何结论和建议。

122. 主席兼报告员请与会者作一般性发言。

123. 南美洲印第安人理事会代表发言，宣读了他为特设委员会草拟的结论和建议，提议特设委员会得出结论：由于在管理和执行《给予殖民地国家和人民独立宣言》过程中拒绝废除歧视性法律和政策，所以高等法院判决中优越论和种族歧视理论的历史根源持续存在于法律、立法和政策中。程序性缺陷导致消除种族歧视委员会无法根据《公约》第十五条和大会第 1514(XV)号决议通过前的国际标准审查歧视情况并向联合国有关机构提出建议。此外，他提议特设委员会建议对消除种族歧视委员会的程序进行审查，以查明缺陷，并使消除种族歧视委员会能够执行自己的程序，根据《公约》第十五条将请求转交给联合国适当机构进行审查。他补充道，他提出这项建议是为了强调《公约》中存在程序性缺陷。

124. 南非代表以非洲集团的名义发言，对主席兼报告员和特设委员会的所有委员表示感谢，并重申非洲集团的观点，即特设委员会必须开始考虑反犹太主义、仇外心理、仇视伊斯兰以及通过网络发起种族主义攻击的问题，并致力于处理《公约》在这些问题上的缺陷。

125. 欧洲联盟代表对所有人表示感谢，指出必须对移民和难民问题进行讨论，各代表团之间必须进行交流，特别是就国家机制进行交流。

126. 巴基斯坦代表以伊斯兰合作组织的名义发言，对其他代表团和专家在本届会议期间提供的高质量讨论表示真诚感谢。他表示，伊斯兰合作组织将继续以积极和建设性的方式参与特设委员会的工作。

127. 埃及代表也向所有人表示感谢。她指出，讨论非常重要，并表示她对特设委员会本届会议未能通过结论和建议感到遗憾。

128. 主席兼报告员在闭幕发言中感谢特设委员会委员在本届会议期间的合作以及对讨论的贡献，并宣布会议结束。

129. 第九届会议报告获得通过，但尚待进一步审核，同时有一项谅解：代表团如对自己的发言有任何技术性更正，将于 2017 年 5 月 19 日前以书面形式提交给秘书处。

Annex I

Summaries of the expert presentations and initial discussions on the agenda topics

Comprehensive anti-discrimination legislation

At the second meeting on 24 April, the Ad Hoc Committee considered agenda item 4. The Chair-Rapporteur explained that while many experts on this topic had been approached, it had not been possible to secure experts to make presentations on the topic of comprehensive anti-discrimination legislation. As such, the Ad Hoc Committee members would discuss the topic without the input of experts. He asked delegations to volunteer to make presentations on comprehensive anti-discrimination legislation and relevant legislative frameworks in their respective countries, and thanked the European Union for initiating the discussions with its presentation. During the second and third meetings, the representatives of Brazil, the Plurinational State of Bolivia, Cuba, Egypt, the European Union, Jamaica, Japan, Mexico, Pakistan (speaking on behalf of the Organization of Islamic Cooperation and in a national capacity), South Africa (speaking on behalf of the African Group and in a national capacity), Spain, the United Kingdom of Great Britain and Northern Ireland and the Bolivarian Republic of Venezuela made presentations on the topic of comprehensive anti-discrimination legislation. A summary of these presentations and the discussion with the participants that followed is provided in annex I to the present report.

The representative of the European Union welcomed the inclusion of a discussion on comprehensive anti-discrimination legislation in the programme of work. The European Union firmly believed that the adoption of a comprehensive anti-discrimination legislation was crucial to fight discrimination in all forms and strongly supported the adoption of a holistic and integrated approach, capable of providing effective protection, also bearing in mind cases of multiple and intersecting forms of discrimination.

As enshrined in its treaties, the European Union is founded on the values of equality, non-discrimination and tolerance and, in implementing its policies and activities, the European Union aimed to fight discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The European Union's commitment to the principle of non-discrimination is further reiterated in Article 21 of the Charter of Fundamental Rights of the European Union, which has acquired the same legal values of the Treaties since the entry into force of the Lisbon Treaty in 2009. Moreover, the prohibition of discrimination is strengthened by Article 14 of the European Convention on Human Rights.

The representative stated that the promotion of equality and non-discrimination had been a core element of the European Union's goals, legislation and institutions from its early days. The Treaties of Rome signed in 1957, provided the competence to develop the first Equality Directives: the Equal Pay Directive of 1975 and the Equal Treatment Directive of 1976, which prohibited discrimination on grounds of gender in access to employment, vocational training and promotion, and working conditions.

The Treaty of Amsterdam of 1997, which introduced a specific European Union competence to combat discrimination on a wide range of grounds, gave new impetus to the development of an EU anti-discrimination legislative framework.

The adoption of two fundamental European Union Directives in the fight against discrimination: the Racial Equality and the Employment Equality Directives, both adopted in 2000, were major achievements. The two ground-breaking Directives prohibit discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation, and provide protection in key areas of life, such as employment, education, social security, healthcare, access to and supply of goods and services. Both instruments provide for the obligation to ensure the availability of judicial remedies to victims and also provide grounds for taking positive actions to promote equality.

In 2008, the adoption of the Framework Decision on combating racism and xenophobia by means of criminal law set common European Union standards to ensure that racist and xenophobic offences are sanctioned in all Member States by a minimum level of effective, proportionate and dissuasive criminal penalties. These instruments, together with the Victim's Rights Directive, the Audiovisual Media Services Directive and other relevant legislation, establish a comprehensive and advanced European Union anti-discrimination legal framework.

The European Union institutions are strongly focused on the fight against discrimination, racism and xenophobia. The European Commission, which is primarily tasked with the mandate of ensuring the correct legal transposition, implementation and enforcement of the existing legislative instruments, also encourages the exchange of good practices between the European Union Member States. To this end, the Commission established an Expert Group on non-discrimination in 2008 and an Expert Group on racism and xenophobia in 2009. In addition, the European Union Fundamental Rights Agency, established in 2007, plays a crucial role in collecting, analysing and disseminating objective and comparable data on racism, xenophobia, anti-Semitism, Islamophobia and other forms of intolerance and in providing independent and evidence-based policy guidance on equality and non-discrimination to the European Union institutions and the Member States. The Agency assists the Member States in designing and implementing relevant measures to combat hate crime in the framework of the Working Party on Hate Crime, set up in 2014.

The European Union's commitment to the fight against discrimination and inequality is further strengthened by its continuous engagement with the Council of Europe. The representative said that the European Union actively participates in the European Commission against Racism and Intolerance as an observer, and cooperates with the Council of Europe through numerous Joint Programmes addressing different aspects of discrimination. The European Union firmly believed in the relevance of developing comprehensive anti-discrimination legislation and would continue to engage in the promotion of equality and non-discrimination.

The representative of Spain shared the main elements of the legal framework established by Spain to combat all forms of discrimination, including racial discrimination. Spain was committed to combating racism, racial discrimination, xenophobia and all related intolerance and considered that the International Convention on the Elimination of All Forms of Racial Discrimination, has great potential to face these challenges of the international community and must be fully implemented.

The representative described the Spanish framework, explaining that it offered comprehensive protection against any kind of discrimination (and this notwithstanding the legal framework of the European Union which has already been described by the Delegation of the European Union and which is fully applied in Spain).

Spain is a party to the International Convention on the Elimination of All Forms of Racial Discrimination, ratifying it in 1969, when it entered into force in the country. Its provisions have since become part of the Spanish legal system. Several articles of the Spanish Constitution are relevant; in addition to articles 9.2 and 10, which make direct constitutional reference to international human rights standards, article 14 states that "Spaniards are equal before the law without any discrimination whatsoever prevailing. Race, sex, religion, opinion or any other personal or social condition or circumstance '(Article 14). Although this provision refers to the Spaniards, the previous article (13.1) states that "foreigners shall enjoy in Spain the public liberties guaranteed by this title in the terms established by treaties and the law".

The Law on the Rights and Freedoms of Foreigners in Spain and its Social Integration (LO 4/2000, of 11 January), with its successive reforms, developed the constitutional mandate established in Article 13.1 of the Constitution and combined it with the international commitments undertaken by Spain, especially as a member country of the European Union. This law established in its art. 3.2 that the norms concerning the fundamental rights of foreigners will be interpreted in accordance with the Universal Declaration of Human Rights and with the international treaties and agreements on the same matters in force in Spain, without the possibility of claiming the profession of

religious beliefs or ideological convictions or cultural diversity to justify the performance of acts or conduct contrary to them. Article 23 includes in its first paragraph the definition of discrimination: "any act that directly or indirectly leads to a distinction, exclusion, restriction or preference against an alien based on race, colour, descent or national or ethnic origin, religious beliefs and practices, and which has the purpose or effect of destroying or limiting the recognition or exercise, on an equal basis, of human rights and fundamental freedoms in the political, economic, social or cultural field". Section 2 specifies various categories of acts that are considered to be discriminatory. Article 24 guarantees judicial protection against any discriminatory practice and also establishes in this Act sanctioning provisions.

In addition, the Law against Violence, Racism, Xenophobia and Intolerance in Sport, 19/2007, of July 11, contemplates a set of measures aimed at the eradication of these practices, establishing a sanctioning regime as well as a regime discipline against such manifestations.

The Spanish Criminal Code contemplates a wide catalogue of prohibited behaviours intended to eradicate racism and xenophobia. The current Penal Code increased the scope of punishment for actions relating to racial discrimination.

Finally, in Spain there is a particular emphasis on the adoption of operational measures to make legal equality a reality. The National and Integral Strategy to combat racism and xenophobia, is the main instrument of action in this area, as well as the Strategic Plan for Citizenship and Integration or the National Strategy for Inclusion Social Situation of the Roma Population 2012–2020. The Council for the Elimination of Racial or Ethnic Discrimination has been created and the elaboration of a mapping of discrimination in Spain to ascertain perceptions of society and the potential victims of discrimination, as well as discriminatory practices and the main empirical data of discrimination in Spain to improve the development of anti-discrimination policies is taking place. There are also measures for the improvement of systems of analysis, information and criminal legal action on qualitative and quantitative data on racism, racial discrimination, xenophobia and related intolerance, aimed at a better understanding of these phenomena.

Training courses of security forces and bodies in the identification and registration of racist or xenophobic incidents, and the publication of an annual report on hate crimes in Spain, intended to improve monitoring have been undertaken. The creation of the post of Deputy Prosecutor of the Attorney General of the State for Criminal Protection of Equality and against Discrimination, as well as specialized prosecutors in all the autonomous communities is another development. The Penal Code was reformed in 2015 to review and improve the regulation of hate speech and violence against groups or minorities. Penalties had been increased and new cases of hate crimes were being catalogued. The preventive role played by the Network of Offices for the Care of Victims of Discrimination of the Council for the Elimination of Racial or Ethnic Discrimination was also highlighted.

The representative of the United Kingdom of Great Britain and Northern Ireland also made an intervention. He stated that the United Kingdom is a multi-ethnic and multi-faith country, and has long been a country of inward and outward migration. It is now a very diverse society. Notwithstanding this progress by communities of ethnic minorities in business, sport, arts, Government and Parliament, there is further to go. The Government of the United Kingdom wants to create a genuine opportunity country, where ethnic origin and background are not allowed to become a barrier to advancement.

He noted that 2015 marked not only the fiftieth anniversary of the International Convention on the Elimination of All Forms of Racial Discrimination but also the fiftieth anniversary of the first piece of domestic legislation against racial discrimination, the Race Relations Act 1965. This historic legislation opened the way to all subsequent equalities legislation, which protects all individuals from direct and indirect discrimination, victimisation and harassment in employment, in the provision of goods and services, and in public functions. Domestic equalities legislation is now contained within a single equality act, which covers nine protected grounds, including race. The Equality Act also places a positive duty on public bodies to give due regard to the need to eliminate discrimination and promote equality of opportunity and good relations in their public functions.

He stated that while the Government of the United Kingdom of Great Britain and Northern Ireland is proud of its equalities legislation, legislation alone is not enough. The Government has set out a series of goals to improve opportunities for black and minority ethnic people.

A review of the criminal justice system in England and Wales is taking place to investigate bias against black defendants and other ethnic minorities, reporting later 2017. With significant overrepresentation of black, Asian and minority ethnic individuals in the criminal justice system, the review will consider their treatment and outcomes to identify and help tackle potential bias and prejudice. Universities are being required to publish admissions and retention data by gender, ethnic background and socioeconomic class. The intention is to enshrine the duty in legislation. Under the proposal, universities will have a new 'transparency duty', part of a drive to highlight those institutions failing to improve access.

The representative stated that the Government is clear that hate crime of any kind, directed against community, race or religion, has no place in British society. In 2016, the Government published a new hate Crime Action Plan, which set out how the Government will tackle this divisive crime. Together, three government ministries, the Home office, the Ministry of Justice, and the Department for Communities and Local Government, are working together to prevent hate crime, support victims and prosecute the perpetrators.

He noted that it has been an important objective of Government policy for several years to raise awareness of hate crime and to encourage reporting. It is possible that the increase in reporting is a result of greater knowledge about hate crime overall, increased reporting of the topic in the media, and greater confidence in the value of reporting it. Recent reports of hate crime have been taken very seriously, by Government and all parts of civil society.

The Chair-Rapporteur thanked the three delegations for their presentations under item 4, and invited the Committee for additional interventions and comments on the topic.

The representative of Pakistan, speaking on behalf of the Organization of Islamic Cooperation (OIC) noted steps had been taken by OIC countries to address the contemporary manifestations of racism, racial discrimination, xenophobia and religious intolerance. He stated that OIC countries were multicultural and multi-ethnic. It was leading on the Human Rights council resolution 16/18 on "Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief" and its implementation through the Istanbul process as a ways and means to address issues of religious intolerance around the world. Pakistan made additional remarks in its national capacity stating that the Constitution of Pakistan and various specific legislation provided protection in respect of discrimination and religious belief, and that Pakistan had a National Action Plan as well. The representative inquired about how to proceed with the topic of comprehensive anti-discrimination legislation, and how it was related to the Ad Hoc Committee's work and mandate.

The representative of South Africa inquired about the agenda item on comprehensive anti-discrimination legislation, noting that while its delegation would be pleased to hear about national legislation; however, inquiring how it assisted the work of the Ad Hoc Committee. The representative asked whether elements from the European Union Framework decision of 2008 would be helpful to the work of the Ad Hoc Committee.

The Chair-Rapporteur raised the question of the legal status of the European Union Framework decision 2008, to which the representative of the European Union explained that the Framework must be transformed into the domestic framework to ensure uniformity in all twenty-eight Member States. She added that there was no explicit definition of racism or xenophobia in those decisions, and that rather the link should be made between the mandate of the Ad Hoc Committee and the ICERD and the general recommendations of the CERD Committee. With regard to hate speech, motivation based on hatred could be an aggravating element in jurisdictions.

The representative of South Africa stated that it was not advisable for the Committee to delay progress in its work by legal definitions, noting that racism was not defined in the

ICERD either, and yet its meaning was understood. Committee discussions on the possible threshold for standards of conduct (for example, “grave” or “aggravated”) would be of greater benefit.

The representative of Spain stated that the present tools and instruments were sufficient and that national level laws and actions should be directed to provide protection to victims. He noted that the current criminal law regime already provides a proportional and appropriate response to these phenomena.

The representative of Pakistan, speaking on behalf of OIC noted current legislation being enacted around the world relating to hate speech and border management, with implications for racial and religious profiling. He questioned whether there was legislation in place in various jurisdictions against racial and religious profiling, and stated that it would be interesting to hear and share comparative legislative experiences in this area, particularly relating to Islamophobia, negative stereotyping, and border management issues.

At its 3rd meeting on 25 April, the Ad Hoc Committee continued its consideration of anti-discrimination legislation under item 4.

The representative of South Africa delivered a statement on behalf of the African Group. She stated that the struggle for the decolonisation of Africa and the right to self-determination and independence, starting from the founding of the Organisation of African Unity (OAU) in 1963 of the African Union, has been preoccupied with human rights. The fight for the liberation and independence from colonialism and apartheid was an anti-racial discrimination struggle. When the continent of Africa waged the struggle against colonialism and apartheid, it waged war against racism, which is deeply embedded within the universal human experience and the contemporary global village in which all people lived. The anti-discrimination discourse could not be divorced from the continent’s historical context, particularly when it is understood that the struggle for human rights and the establishment of a human rights system are products of a concrete social struggle.

It was for this reason that the Constitutive Act of the AU — including, amongst others, (a) the Charter on Human and People’s Rights; (b) the Protocol on the Peace and Security Council; (c) Protocol on the Rights of Women; and (d) African Youth Charter — has further made non-discrimination an explicit part of its mandate, and mainstreamed human rights in all its activities and programmes.

The representative stated that when the United Nations member states gathered in Durban in 2001, it was because the international community came to a realization that despite the end of colonialism and apartheid, racism and sexism have not been quietened and it did indeed exist. There was also further realization that contemporary manifestation/s of racism, including xenophobia, anti-Semitism, Islamophobia and expressions of racism through cyber space. Race and gender continued to define the actual living spaces that billions of human beings occupy. They dictated the boundaries that frustrate the translation into reality of the noble concepts that people are born equal. Paragraph 199 of the Durban Programme of Action was indication that Member States of the United Nations agree and uphold the view that racism must be defeated. In this context, the African Group recommended that the draft protocol on xenophobia should recognise that racism and xenophobia constitute a threat against persons, and groups of persons, which are a target of such behaviour. The protocol should therefore be aimed at criminalising grave violations and abuses. The Committee needed to recognise that combating racism and xenophobia required various kinds of measures in a comprehensive framework.

The representative of India stated that his delegation firmly believed that the racism and racial discrimination are the most pervasive acts often leading to serious violation of human rights.

He shared some of the existing anti-discriminatory laws and policy in India. The representative cited the legal provisions and mechanism enshrined in our Constitution that provide an overall framework to achieve equality of opportunity to all its citizens and persons alike. Articles 14, 15, 16 and 18 of the Constitution of India are some of the key provisions that assure non-discrimination. Article 14 of Constitution of India states: “The State shall not deny to any person equality before the law and equal protection of laws

within the territory of India." Article 15 (1) says, "The State shall not discriminate against any citizen on grounds of religion, race, sex, place of birth or any of them". Again Article 16 (1) says, "There shall be equality of opportunity of all citizens in matters relating to employment of appointment to any office under the State".

India had in the context of private sector employment, a comprehensive action plan that would address discrimination and harassment at the work place. The Indian judiciary over the years, had taken a pro-active approach to protect employees in the instances of discrimination and harassment by any employer. At workplaces, most employers comprehensively cover all general discrimination and harassment issues as part of their internal policies. To name specific legislation in this regard is: Sexual Harassment of Women at Workplace Act, 2013 (SHWW Act) which is a notable statute that would ensure non-discrimination and protect women from being harassed at workplace. Many private workplaces had already ensured as a matter of their internal policy, a free and fair access to their employees having disabilities. In a recent decision of the Indian judiciary, it has been noted that a company has duty to treat all persons with disabilities with dignity and respect, and any discrimination against or harassment of such persons with disabilities shall result in a fine imposed on or other action being taken against the company.

India was one of the earliest countries to sign and ratify the International Convention on the Elimination of All Forms of Racial Discrimination. The representative stated that India practices dualism, and with extensive constitutional provisions and other legislation in place, India can fully ensure and guarantee the effective implementation of our international obligations under ICERD.

Like many other countries, India also recognized the significance of the Durban Declaration and Programme of Action (DDPA). A notable achievement by the international community aimed at developing international standards to strengthen and update international instruments against racism, racial discrimination and xenophobia in all its aspects. In fact, the Durban Declaration explicitly calls upon States to design, implement and enforce effective measures to eliminate this phenomenon. As mentioned earlier by other representatives, paragraph 199 of the Durban Programme of Action mandates us to elaborate some complementary standards that would address the concerns of racism, racial discrimination and xenophobia.

He commented that neither the Indian constitution nor any specific legislation defines the meaning and scope of xenophobia, and that India was keen to listen to others where some of these complex terms have been defined in their respective national legislation.

The representative of Egypt shared the country's experience in the field of combatting discrimination. In 2014, a new constitution had been enacted that prohibited all forms of discrimination. Discrimination was consequently a crime that was punished by law. Egypt had established an independent commission that dealt with discrimination and several laws new laws had been enacted in order to address these phenomena. The representative also stated that Egypt had also launched several programmes against discrimination, often in cooperation with national human rights institution and civil society. These programmes covered for example, the housing sector. The national human rights institution was also in charge of studying complaints received from victims of discrimination. In addition, all ministries had installed focal points for women and people with disabilities. At the international level, Egypt noted that it was concerned about the rise of racism and discrimination, and expressed its hope that a draft protocol would address those matters.

The representative of Cuba gave a presentation on existing anti-discrimination legislation in the country, noting that current legislation that prohibited discrimination. The representative cited articles of the Constitution prohibiting discrimination, in particular Chapter VI, Article 14 which provides that all citizens had the same rights and responsibilities and Article 42 that specifically prohibited racial and other forms of discrimination. Based on Article 42 of the Constitution, the criminal code had (among others) the objective to protect society, the social, political, economic and state order. The labour code (Law 116) in its article 2 the fundamental labour rights principles, which

expressly prohibit discrimination in the work place based on skin colour, gender, religious beliefs, sexual orientation, territorial origin, disability, etc. Cuba was now engaged in drafting a multi-sectorial policy, in order to eliminate the vestiges of racial discrimination. He also noted national reform efforts aimed at reviewing policies and existing laws. Changes would, in particular, be introduced in the educational system and a programme on African origins might be introduced. Further efforts would focus on special education programmes directed at education and law enforcement on discriminatory practices, and diversifying the public debate. The delegate then referred to additional legislation prohibiting and preventing racial discrimination in Cuba, including national legislation that prohibits the promotion of ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, which attempt to justify or promote racial hatred and discrimination.

The representative of Mexico gave a summary of its national-level experiences, noting that Mexico rejected any form of discrimination and legislation prohibited all forms of discrimination, and that xenophobia was criminalized under that legislation. Mexico's federal act contained measures prohibiting discrimination and listed the grounds of discrimination. Mexico had also established a national council tasked with the prevention of discrimination. That body was also responsible for measures of affirmative action and for monitoring the implementation of such measures. In addition, it was called upon to mediate in racial discrimination cases. The representative recalled that those amendments to the criminal code being planned in her country, had been shared with the Committee during its seventh session.

The representative of the Bolivarian Republic of Venezuela noted that the Venezuelan constitution incorporated the principle of non-discrimination. In addition, the country had enacted a number of laws, including the law against racism that was implemented in 2011, dealing with discrimination on a wide range of grounds. Article 10 of the law contained a definition of xenophobia, as well as definitions of racial discrimination, ethnic origin, national origin, vulnerable groups, cultural diversity, racism and "endo-racism." In compliance with the law, the Bolivarian Republic of Venezuela created the National Institute against Racial Discrimination, following the guidance provided in the Durban Declaration and Programme of Action. The focus of Venezuelan legislation was to provide protection to social groups that were considered vulnerable, including people of African descent. Specific measures were contained in the 2013–2019 "Plan de la Patria" and the "Plan de Derechos Humanos" that were being implemented in the period 2015–2019. A number of laws were sector specific, focusing for example on the work force and corporate social responsibility law that providing penalties for television and radio broadcasters for any emission that incites hatred and intolerance for religious, political, gender, racist or xenophobic reasons, as well as any other form of discrimination. The law contemplates administrative sanctions for television broadcasters, radio stations and electronic media that commit these offences. The representative reaffirmed his country's support for the need to draft complementary standards to ICERD.

The representative of Japan stated that the constitution of the country stipulated that all people were equal under the law and there should be no discrimination based on political, economic or social status or family origin. Based on the constitution and relevant laws, Japan had been fighting various forms of discrimination and had been striving to realize a society without any form of racial or ethnic discrimination. Japan had hoped that the Committee would have future oriented discussions in order to come up with practical and effective measures against racism. According to Japan, official statistics reflected that the 2,282,822 foreigners from 190 countries living in Japan at the end of 2016, were being protected by anti-racism legislation.

Speaking in her national capacity, the representative of South Africa stated that the ICERD and the DDPA affirmed the necessity of eliminating racial discrimination throughout the world in all its forms and manifestations. The ultimate intention of all these efforts was to ensure the respect and dignity of the human person and to promote the observance of human rights for all persons regardless of race, sex, language or religion. Efforts towards the total elimination of racism, racial discrimination, xenophobia and related intolerance had a special significance for South Africa, given the country's tragic

history of injustice, dispossession and inequality. The representative further explained that apartheid affected each and every part of a person's life — where they were allowed to live, whom they could marry, who they could associate with, which government services, if any, they could access. Dismantling the edifice of apartheid involved much more than the repeal of apartheid legislation and its replacement with legislation based on equality and the rule of law. The achievement of substantive equality required a much more determined effort. It required not only political will, but also dedicated resources. It required building new institutions to support constitutional democracy. It required the progressive realization of socioeconomic rights for all our people. Policy formulation in this environment required the careful balancing of interests — with the goal of enhancing the dignity of all of our people whose everyday lived experiences still, in many ways, reflect the legacy of apartheid.

The work of the Government of South Africa was directed towards redressing the inequalities of the past, the representative said. The Constitution of South Africa formed the basis of the country's social compact. Through the constitution, the country sought to heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights.

The majority of South African women, who were black, were the most oppressed section of the country's people, suffering under a triple yoke of race, gender and class oppression. The liberation of women was, and still remained, central to the struggle for freedom. South African women had come a long way in the struggle for recognition, promotion, protection and realisation of their rights. This struggle was part of the larger struggle against apartheid, the consequences of which are still felt today. Thus, the empowerment of women and the achievement of gender equality in South Africa also involved dealing with the legacy of apartheid and the transformation of society, particularly the transformation of power relations between women, men institutions and laws. It was about addressing gender oppression, patriarchy, sexism, ageism and structural oppression and the creation of an environment that is conducive to women taking control of their lives.

South Africa, the representative noted, had passed a number of laws to give effect to its constitutional goals of achieving equality, human dignity and the advancement of human rights and freedoms. During the last 23 years of democracy more than 1200 laws and amendments aimed at dismantling apartheid and eradicating all forms of discrimination were passed. South Africa was currently in the process of finalising the National Action Plan, in accordance with the Durban Declaration and Programme of Action. The NAP provided the basis for the development of a comprehensive policy framework against the scourges of racism, racial discrimination, xenophobia and related intolerance. Importantly, the development and actual implementation of programmes, measures and activities in respect of the NAP lied with all government departments, institutions supporting constitutional democracy, civil society as well as business, labour, the media and other sectors. The NAP would also provide South Africa with a comprehensive policy framework to address racism, racial discrimination, xenophobia and related intolerance at both a private and public level. It was not intended to replace existing laws and policies — rather it was complementary to existing Government legislation, policies and programmes which address equality, equity and discrimination. The overall goal of the NAP was to build a non-racial, non-sexist society based on the values of human dignity, equality and the advancement of human rights and freedom. The government had recently published the Prevention and Combating of Hate Crimes and Hate Speech Bill. Once it became law, it would criminalise several forms of discrimination including on the basis of race, gender, sexual orientation, religion and nationality. This Bill was an illustration of the seriousness with which South Africa viewed hate crimes.

The representative of the Plurinational State of Bolivia stated that the knowledge of history helped to prevent future intolerance. Racism, discrimination, xenophobia and Afrophobia are interconnected forms of intolerance and have its origin in the accumulated combination of process that have not yet subsided. The Plurinational State of Bolivia rejected any form of discrimination and the Bolivian Constitution, in particular in Article 14, prohibited all forms of discrimination based on sex, colour, origin, gender, sexual orientation, language, religion, ideology, political reasons, civil status, economic or social status, educational level, occupation etc. Bolivian anti-racism law defines xenophobia as

"hate or rejection of a foreigner, reaching from manifestations of rejection to different manifestations of aggression or even violence." The law was implemented by a Directorate for Anti-Racism, a public institution that had taken up its functions this year. The representative confirmed his country's commitment to the work of the Committee.

The representative of Brazil noted that racism was a crime according to the Brazilian Constitution. As in most countries, Brazil also had specific laws and provisions on crimes of racism and xenophobia, which punished those crimes. Brazil understood that combating racism and racial discrimination also required the direct action of the Brazilian State, in order to ensure equality. In 2010, Brazil adopted a Racial Equality Statute to ensure equal opportunities to the Afro-Brazilian population. The Statute provides that: "Besides the constitutional norms, related to the fundamental principles, to the fundamental rights and guarantees and social, economic and cultural rights, the Racial Equality Statute adopts as a political and legal guideline the inclusion of victims from ethnic-racial inequality, the appreciation of ethnic equality and strengthening of the Brazilian national identity. The participation of the afro Brazilian population in equal conditions of opportunity in the economic, social, political and cultural life of the country shall be promoted primarily through: I — inclusion in public policies of economic and social development; II — adoption of measures, programs and policies of affirmative action; III — changing of the institutional structures of the State for the adequate coping and overcoming of ethnic inequalities stemming from ethnic prejudice and discrimination; IV — promoting normative adjustments to improve the struggle against ethnic discrimination and ethnic inequality in all its individual, institutional and structural manifestations; V — removing historical, sociocultural and institutional barriers that obstruct the representation of ethnic diversity in public and private spheres; VI — encouraging, supporting and strengthening initiatives from civil society aiming to promote equal opportunities and fighting ethnic inequalities, including through the implementation of incentives and criteria for conditioning and priority in the access to public resources; VII — implementation of affirmative action programs aiming to cope with ethnic inequalities in terms of education, culture, sport and leisure, health, safety, work, housing, means of mass communication, public funding, access to land, justice, and others."

The representative of Jamaica stated that the country was a post-slavery society, and noted that a majority of the population was of mixed origin. As such, the Jamaican Constitution was naturally defined by a strong focus on anti-discrimination. Chapter 13 of the Constitution, spoke to the rights of all persons. She outlined from a national perspective what was required to address racial discrimination and underlined that investment in education was key to combatting discrimination. She also noted that there were many avenues for victims to redress discrimination, but very often, victims were not aware of their options. Education was therefore needed to supplement the laws; and that it was essential to focus on the implementation of the existing legal framework. The representative expressed that Jamaica had to further focus on the implementation of anti-discrimination legislation rather than embarking on creating new and costly laws.

A representative of the non-governmental organization Indian Council of South America noted his organization's struggle to support a "decolonization" of Alaska. The representative mentioned de-colonialization, and asked about a United Nations body that would consider this cause. He mentioned this as proof of a gap in the current international legal framework that was linked to racism, as he believed that the colonialization of Alaska was based on racist beliefs.

Before the end of the meeting the Chair-Rapporteur reiterated the reasons for the existence of the Committee, referred to the genesis of the body and spoke about its mandate. He noted that the General Assembly had now issued new instructions to the Committee in resolution A/RES/71/181 that requested the Committee to commence negotiations on the draft additional protocol "criminalizing acts of a racist and xenophobic nature."

Protection of migrants against racist, discriminatory and xenophobic practices

At the 4th meeting on 25 April, the Ad Hoc Committee considered agenda item 5. E. Tendayi Achiume from the School of Law of the University of California, Los Angeles, United States of America, and Research Associate at the African Centre for Migration and

Society, University of Witwatersrand, South Africa, and Ibrahima Kane from the Open Society Initiative for Eastern Africa, presented on this topic.

Ms. Achiume gave a presentation entitled "Protection of Migrants against Racist, Discriminatory and Xenophobia Practices — An International Human Rights Approach: Limitations and Possibilities". She distinguished between the concerns and vulnerabilities of voluntary migrants and involuntary migrants, as well as migrants and refugees, and protection regimes for these groups. She cautioned against too siloed an approach in the protection of these groups, as perpetrators of xenophobic discrimination and violence did not distinguish between refugees and other migrants. Ms. Achiume described the phenomenon of xenophobia as "illegitimate anti-foreigner acts or attitudes", and further elaborated that xenophobia was compounded by foreignness (on account of their nationality or national origin) and other intersectional social categories including race, ethnicity, religion, class and gender. She added that racism and xenophobia were overlapping when race is often an explicit or implicit basis for xenophobic discrimination and anxiety. At the same time, she stated that there existed a distinction between the two when race is not always salient in the construction of foreignness where migrants are concerned, including when non-citizenship can amplify the negative impact of racism, and addressing racism alone may not appropriately address the circumstances of non-citizens experiencing racial discrimination.

Ms. Achiume stated that there was an absence of a clear answer in international human rights law as to when anti-foreigner attitudes and actions become xenophobic. She pointed out that while ICERD provided an important framework for addressing xenophobic discrimination, it has a number of significant shortcomings that limit its capacity fully to protect migrants (especially involuntary migrants) from xenophobic harm. She pointed out the ambiguity in Article 1 of ICERD about the extent and scope of its prohibition of xenophobic discrimination, the contested legal status of CERD General Recommendations, and the gap in terms of the status of religious discrimination against migrants. She provided a number of examples aimed at criminalizing acts of a racist and xenophobic nature such as the Additional Protocol to the Convention on Cybercrime Concerning the Criminalization of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems. Ms. Achiume recommended for the elaboration of global anti-xenophobia norms by clarifying the bounds of prohibited manifestations of xenophobia, and to account for non-criminal intervention; pursue a human rights-based approach that views social cohesion and integration as vital for combatting xenophobia, and to pursue a coordinated approach that situates ICERD elaboration within broader reform efforts tied to the international regulation of migration, such as the Global Compacts on Migrants and Refugees.

Mr. Kane from the Open Society Initiative for Eastern Africa, presented an analysis of the migration and refugee situation in Africa, with a focus on Southern Africa. He pointed out that intraregional emigration in Sub-Saharan Africa is the largest south-south movement of people in the world. Southern Africa has a long history of intra-regional migration even before the drawing of colonial boundaries, with male labour migration to the mines and commercial farms and plantations. Mr. Kane highlighted a number of factors attributing to migration in the Southern region, including governance deficit, growing inequality and poverty; the historical legacy and consequences in the nature of state-formation and social pluralism, including Apartheid, and conflicts in the region; gender inequality exacerbated by gender based violence, and the inadequacy and poorly funded institutional mechanisms and capacity for conflict resolution and management at the regional level. He emphasized that there was a pressing need to implement the migration policy at the AU level, including through the adoption of the proposed AU Protocol on the free movement of persons in Africa and Protocol to the African Charter on Human and Peoples' Rights on the right to a nationality in Africa along with regional dialogue on the issue of migration, and the need to harmonize labour migration policy and data collection.

During the interactive discussion, the representative of the European Union shared its measures to combat racism and xenophobia, including its action plan on building inclusive societies, and legislation to criminalize hate speech. The representative of Mexico shared its concerns about the vulnerability faced by migrants and stated that education initiatives were important to combat xenophobia, as undertaken by its National Council to

Combat Discrimination, through specific campaigns to promote and protect rights of migrants. The representative of the Plurinational State of Bolivia asked about the extent of conceptual and legal understanding in terms of setting up systems to eradicate xenophobic acts in international transit. The representative of South Africa highlighted its own history of South Africans having been refugees in their own region and the historical movement of its people, and asked a question whether the tendency to invoke sovereignty when it comes to managing migrants was specific to Southern Africa as a region or if there were differences in policies among the different countries in the region.

The representative of Pakistan asked the panellists on its opinion regarding preferred processes to deal with xenophobia and the rights of migrants and whether the ICERD through its General Recommendations and the ongoing work of the Committee (through the development of an Optional Protocol) or the Global Compact process provided better ways to address the problem. The representative of Jamaica asked the panellists for their view on the issue of consular assistance and the Vienna Convention on consular relations pertaining to addressing situation when people come into conflict with the law in foreign countries, and the possibility to address the real or perceived xenophobia faced by migrants in such situations. The Chair-Rapporteur asked the panellists if there was any justification for the non-ratification of the Migrant Workers Convention in Southern Africa, and asked Ms. Achiume, whether the non-reference of racism in ICERD could be seen as a gap.

Mr. Kane in response said that Southern Africa had a significant experience on migration due to the historical legacy of apartheid. In his opinion, South Africa should play a leading role in promoting the implementation of the SADC protocol on the movement of persons. Ms. Achiume responded that on the issue of transit countries and borders, extra-territorialization of borders resulted on gross human rights violations. She added that borders allow for the exercise of heightened discretion on the admission of non-nationals. As such, she suggested that it was essential in such situations additional clarity in the extent exercise of discretion was required in treating incoming migrants. With regards to racial discrimination, while ICERD was a touchstone to address racial discrimination worldwide, the Convention is focused on biological determinants of race and as such there are gaps in it to address racism as an evolving social construct and cultural markers, including gaps in addressing xenophobic discrimination. She added that it was essential that there was more clarity required within ICERD framework to address xenophobia and cannot therefore be outsourced to the Global Compacts on migrants and refugees. Moves to criminalize a xenophobic act should necessitate a comprehensive understanding on ICERD, she added. Ms. Achiume further emphasized the importance of national action plans to combat racism and criminalization of xenophobia for a comprehensive and harmonized human rights response.

On 26 April, at its 5th meeting, the Ad Hoc Committee continued its consideration of agenda item 5. Peggy Hicks, Director of the Thematic Engagement, Special Procedures and Right to Development Division, OHCHR, and Kristina Touzenis from the International Organization for Migration, gave presentations on this topic.

Ms. Hicks noted that migration is a universal phenomenon — migrants can be found in practically all countries. Migration can be a positive and empowering experience for many migrants. Yet, too often migrant women, men, boys and girls find themselves in a precarious situation. She noted that, increasingly, restrictive measures are being taken across the world that prevent migrants from accessing their rights. Migration is further the subject of intense debate in the media, in political circles and in public discussions. The public narrative on migration is deeply polarised as a result of the many myths, misunderstandings and even falsehoods that have taken the place of facts and evidence in the debate.

Ms. Hicks noted that three issues are of particular significance:

The language that is used and how the narrative on migration and migrants is framed: Terminology plays an important role in shaping the migration narrative and inciting hatred against migrants. Terminology has long been used to distance migrants and their communities from the mainstream, to marginalize and stigmatize them as the unknown ‘Other’, or even to dehumanise migrants. She notably mentioned terms such as ‘illegal’,

‘economic migrant’, or ‘bogus asylum seekers’ to be particularly harmful. She noted that OHCHR’s challenge is how to frame narratives on migrants and migration that are based on evidence and principles, but resonate with a broader public.

Lack of data and evidence: In the migration context, data gaps are more glaring than in other areas as migrants and, in particular irregular migrants, often are not reached by data collection methods. Yet, that glaring absence of data characterises much of the debate and indeed policy-making on migration. A critical lack of data collection on the rights of migrants often conceals exclusion and makes it difficult to dismantle patterns of discrimination.

Criminalization of migrants and discriminatory practices: Public policies that criminalize irregular migration and those who provide services to migrants stigmatize, marginalize and exclude migrants and their communities and put them at further risk of abuse and exploitation by leaving them without protection, support and assistance.

Ms. Hicks addressed the issue of international law and the protection of migrants. She noted that migrants are protected by all United Nations human rights treaties, including the ICERD, and that States are required to respect, protect and fulfil the human rights of all migrants, regardless of their status and without discrimination. In September 2016, Member States reaffirmed and committed to fully protect the human rights of all migrants, regardless of their migratory status (New York Declaration, Annex II, 8i). They further condemned acts and manifestations of racism, racial discrimination, xenophobia and related intolerance against migrants, and the stereotypes often applied to them (New York Declaration, para. 14).

Migrants are protected by human rights norms and standards from discrimination or racism. However, the international community continues to struggle with inadequate implementation of these legal norms. States are therefore called upon to implement measures that range from strengthening law enforcement and criminal justice responses, putting in place accessible complaints mechanisms in order to ensure access to justice for victims, collecting better data on racist crimes, and developing awareness raising initiatives which focus on inclusiveness, diversity and human rights. Concretely, States are called upon to promulgate robust anti-discrimination and equality legislation that protect migrants from all forms of discrimination including on grounds of nationality or migrant status, establish national specialized bodies in this respect, and develop benchmarks for the elimination of xenophobia against migrants. They should provide accessible legal, medical, psychological and social assistance to migrants affected by racism, xenophobia and discrimination. Integration and anti-discrimination policies should be developed through the participation of migrants and other relevant stakeholders.

States should develop and implement clear and binding procedures and standards on the establishment of “firewalls” between immigration enforcement and public services at all levels, in the fields of access to justice, housing, health care, education, social protection and social and labour services for migrants. In the context of racism and xenophobia, this means that migrants, independently of their status need to have access to mechanisms to challenge racist and discriminatory acts and bring perpetrators to justice.

Partnerships should be established with political leaders and parties, media, private sector, local communities, trade unions and other public actors, to promote tolerance, and respect for all migrants, regardless of their status. Other responses could include public education measures, child rights education programs and education curricula, and conduct targeted awareness campaigns in order to combat prejudice against and the social stigmatization of migrants. OHCHR has developed a number of tools, which contain the aforementioned practical guidance to States and other stakeholders.

Under the Global Compact on Safe, Orderly and Regular Migration, States have acknowledged a shared responsibility to govern large-scale movements in a humane, sensitive, compassionate and people-centred manner, recalling their obligations to fully protect the human rights of all refugees and migrants as rights-holders, regardless of their status. The main challenge was to translate the aspirational words of the Summit and the New York Declaration into a concrete plan of action. The proposed global compact on safe migration could provide that concrete plan.

In conclusion, Ms. Hicks state that OHCHR has taken note of the recent General Assembly resolution 71/181 and Human Rights Council resolution 34/36 that called upon the Committee to "ensure the commencement of the negotiations on the draft additional protocol to the Convention criminalizing acts of a racist and xenophobic nature during [its] tenth session". She added that OHCHR looks forward to more pragmatic progress during the current session, so as to provide guidance on ways to address racism, racial discrimination, xenophobia and related intolerance more effectively.

Ms. Touzenis, International Organization for Migration, presented on migrants' rights and on policy efforts to address migration. She started by emphasizing that migrants have the same rights as nationals. Rights are in no way reserved exclusively for nationals. Though this important fact may be obvious for people dealing with human rights, there are countries were part of the population would distinguish between nationals who have rights and migrants who do not deserve any rights. It is essential to communicate with those populations, governments as well as politicians (as they often use migrants as scapegoats), in order to inform them that the targeting of groups is unlawful.

She emphasized that communication is indeed a key factor in framing policies on migration. She noted that the discourse that focuses on discrimination of the 'Other' needs to be turned into a more positive discourse. One could achieve that goal by combining a number of approaches, one of them being the adoption of new law. Such new law is, however, hard to obtain. The international legal human rights framework already covers the subject of racism and xenophobia, but guiding principles to facilitate the implementation of these international laws in the context of migration could be useful. Guidelines could notably spell out how migrants' human rights should be implemented.

She noted that the issue of hate speech has often been topical, but that focusing on hate speech could be slightly misleading as discrimination is often more subtle. As an example, she referred to the term "illegal migrant" and noted that a person could never be illegal. Such commonly used terminology would not fall under hate speech but is still based on the assumption that migrants might not enjoy the same amount of rights as a national of a country. That wrong assumption, which seems to prevail in the area of migration, is never used when describing other groups, such as women.

In order to rectify the situation, the expert recommended implementation of the existing legal framework as a key priority. Implementation should not only concern the national level, but also encompass the local level. Municipalities are a key player as they are often responsible for integrating migrants. They should therefore be consulted when framing a policy response to migration. Municipalities often have experiences that constitute good practices and that could serve as models for counteracting hateful acts. Other important stakeholders that could participate in the framing of a policy response and in implementing existing laws include the judiciary, which needs to be empowered to this purpose, and civil society, which is an important partner when it comes to raising awareness through campaigns.

The expert also pointed out that good migration policies would support the rights of the individual and would establish long term migration goals. The current international legal framework is a good basis for improving or redrafting such policies. The existing legal framework also provides for addressing hate speech and xenophobia. The issue of implementation, however, would need further concerted efforts. The expert mentioned that IOM is already putting considerable efforts behind this goal and aims at facilitating implementation of sound migration policies by including a human rights based approach in all of its policies.

The Chair-Rapporteur underlined some of the points made by the presenters including the importance of seriously addressing hate speech; the fact that denying human rights to some human beings — be they migrants — actually impacts on the human rights of all; the importance of terminologies and of referring to migrants in non-pejorative terms; as well as the importance of legal channels for migration. He also noted that an international legal framework on migration and the need for guidance on how to implement international human rights law are important. He opened the floor to discussions and comments.

The representative of South Africa noted that the two presenters had focused their presentations on the receiving states, rather than on the sending states. She asked if the economic, political and social state of the sending state should also be considered in order to frame policy recommendations.

Ms. Touzenis responded that it is indeed very important to also analyse the drivers of migration in the countries of origin. The reasons for migration are diverse, combining a variety of economic, social and political factors. She stressed that, in her view, the terminology 'economic migrant' is harmful because it suggests that migrants come to 'steal our jobs' and undermines the fact that migration also has a positive impact for receiving economies. Addressing those factors in sending countries is a complex issue because it concerns different policy fields and social problems, such as development, corruption, the political situation, as well as other issues, in the country. Countries of origin are of importance because of the necessity to inform migrants about their rights prior to embarking on their journey. She notably referred to the work done by IOM in providing pre-departure information and training to potential migrants. She also added that, in terms of numbers, the flows of migrants and refugees are not so big.

Ms. Hicks agreed that it is important to analyse the various factors that encourage migration; as racism could be such a factor, as well as the economic situation. She stressed that it is important to base policy efforts on a holistic picture that is also informed by the right to development.

The representative of the European Union underlined the importance of taking into account the risk of 'history repeating itself' raised by one of the presenters. She noted that, despite its strong anti-discrimination legal and policy framework, the European Union was yet to find a response to the issues raised by the construction of this idea of the 'other'. She noted that there is a strong international framework that covers migration. ILO conventions on migrant workers cover, for example, the issue of migration and workers' rights. She further voiced her agreement that implementation of human rights law is essential. She asked if the Global Compact would be the venue to develop policy guidelines for migrants.

Ms. Touzenis responded and noted that the negotiation of the Global Compact on Migration could be the venue to discuss migrants' rights. Even though it is momentarily unclear what shape the document would eventually take, the goal of integrating a human rights approach into the document is already a clear goal that one could follow up on. Ms. Hicks agreed that the legal framework on migration has gaps, for instance concerning the detention of children, while the human rights framework is already providing sufficient clarity but lacks — in many cases — implementation. Ms. Hicks mentioned that the Global Compact on Migration is one of the avenues where some of these gaps could be addressed.

The representative of Pakistan, speaking on behalf of OIC, highlighted the importance of narrative building with regards to racial discrimination against migrants and refugees in receiving societies and, thus, the importance for the Ad Hoc Committee to address the issue of hate speech, which could also take the form of xenophobic and Islamophobic speech. In this respect, he noted that States need to find a balance between preserving the freedom of speech and limitations on hate speech.

Ms. Touzenis noted that the tension between freedom of expression and hate speech is an important issue and courts have already expressed their opinions on that issue. Those judicial statements provide guidance on how to approach the subject. The expert notably referred to the European Court of Human Rights, which had heard interesting cases on the limitations of freedom of expression. She noted that freedom of expression is indeed a fundamental human right but could be limited when it impinges on other fundamental human rights. Ms. Hicks stressed the need to prevent hate speech and, at the same time, to not infringe on freedom of expression, and outlined some recent progress made on this issue.

The expert, Ibrahima Kane, Open Society Institute for Eastern Africa, noted that legal proceedings might not be an ideal way to implement migrants' rights. An alternative approach that he supports would be to use statistical data to point to the positive effects of migration. He noted that, for example, a South African initiative is using data that show that migration has a positive economic effect. Such data has the potential to change the

perception of migrants. Ms. Hicks and Ms. Touzenis agreed that the use of data to provide a different narrative about the positive effects of migration is a very useful approach. However, it should be complementary, and not replace, legal proceedings, including the criminalization of certain acts, in order to prevent impunity for such acts.

The representative of the Plurinational State of Bolivia referred to seasonal migratory patterns of indigenous people in his country and raised concerns on the compatibility of complementary standards with national legal frameworks.

The representative of Brazil asked Ms. Touzenis to develop her point on the fact that not criminalizing certain acts, especially of racism and xenophobia, grants impunity for these acts, and to link it to the mandate of the Ad Hoc Committee, notably in light of the latest Human Rights Council resolution 34/36.

Ms. Touzenis responded that, though she may not be in the position to reflect on the mandate of the Committee, she considers that not taking acts that are motivated by racism or xenophobia sufficiently seriously from a legal perspective would send the signal that such criminal acts are not so serious. In many national legal systems, the certain motivations to commit criminal acts, notably xenophobic and racism motivations are considered aggravated circumstances.

The representative of Tunisia outlined her country's approach to the implementation of the right to development and the positive impacts it can have on both countries of origin and receiving countries. She stressed that migrants are people who have something to bring to the host country and can contribute positively to their economic prosperity. She noted that, though the right to development is implemented in developed countries, this is not the case in under-developed and developing countries. In this light, she asked whether preventing migrants from the opportunity to move would not exclude them from the right to development.

Ms. Hicks welcomed the comment by the representative of Tunisia, stressing that the advancement of the right to development, as well as social and economic rights are part of OHCHR's work and would certainly help addressing migration in a more successful way, which includes developing legal channels for migration and dealing with illegal migration in a more humane manner.

Protection of refugees, returnees and internally displaced persons against racism and anti-discriminatory practices

On 26 April, at its 6th meeting, the Ad Hoc Committee considered agenda item 6 on "Protection of refugees, returnees and internally displaced persons against racism and discriminatory practices". Ms. Cecilia Bailliet, Professor and Director of the Masters Programme in public international Law at the University of Oslo and Ms. Madeline Garlick, Chief of the Protection Policy and Legal Advice Section, Division of the International Protection at the Office of the United Nations High Commissioner for Refugees (UNHCR), gave presentations on this topic.

Cecilia Bailliet, Professor and Director of the Masters Programme in public international Law at the University of Oslo stated that the issue of protection of refugees, returnees, and internally displaced persons against racism and discriminatory practices is one of the most compelling challenges of contemporary times. Many persons are fleeing state failure, armed conflict, terrorism, insecurity, natural disasters, famine, and other situations which do not fit neatly into the 1951 Convention on the Status of Refugees, and hence complicate recognition of the legitimacy of their protection claims and related rights, although they may be covered by regional refugee and IDP instruments, such as the OAU Convention on Refugees and the Kampala Convention on IDPs.

In spite of the fact that the majority of displaced persons remain in the South, there has been a significant increase in discriminatory attitudes across the world against those forced to flee. There is a correlation between fear of terrorism and crime and discriminatory attitudes including religious stereotyping, racial discrimination, fear of non-assimilation (different values), concern about competition for scarce jobs and social benefits, etc. This

context may be juxtaposed against the statistic that only 1% of refugees are resettled from the South to the North.

In addition, States are currently strengthening mechanisms to prevent the physical entry of asylum seekers, ranging from construction of fences and walls, to legal requirements based on nationality, such as visas, and other tactics to deny legal presence or stay. Asylum seekers are regularly treated as irregular migrants and denied protection when undergoing processing. The trend is to support containment or speedy deportation, at times in the form of disguised collective expulsion.

In comparison, she quoted that "in most of Africa these days, refugees are not welcomed with the exuberant sense of solidarity that surrounded the promulgation of the OAU Convention. Instead, African states are increasingly following the lead of other regions by closing their borders and threatening to forcibly return those who have made it into their territories. Even in those countries where refugees are readily admitted and positive policies towards them are in force, their treatment is not always in keeping with the Convention. Previously such treatment was by states alone but today it is also the treatment by the general public that is the concern as hosting communities have become increasingly hostile to the refugees."[1]

Ms. Bailliet presented a brief overview of the three scenarios faced by refugees and IDPs (namely protracted camps, urbanization, and detention) outlining the range of human rights violations and accountability gaps, arguing that these are examples of structural racism. She discussed normative gaps within international law, the role of compliance mechanisms, and the risk of inaction in the face of discrimination against refugees, using the case study of Norway, and discussed the way forward in the form of a new Protocol to the CERD.

First, she explained that the warehousing of refugees and IDPs in camps which commenced in the 1980's had now resulted in protracted containment in camps located in Kenya, Jordan, South Sudan, the United Republic of Tanzania, Ethiopia, Pakistan or off-shore locations such as Nauru. Refugees and IDPs are isolated from host communities and sentenced to a "forever temporary" existence, describing themselves as "children of UNHCR" and thus effectively stateless.

Refugees and IDPs were subject to many violations, including lack of access to food or clean water, denial of the right to work or study, exposure to diseases, sexual violence, etc. Collaboration between UN system agencies and NGOs as implementing partners or operational partners to run hospitals schools, provide water, sanitation, etc. can result in accountability gaps which prompt impunity in cases of corruption, negligence, denial of food, sexual exploitation, and physical violence. The camps are parallel states within states, where neither national law nor international law prevails. There are accusations of a lack of investigation, prosecution, or punishment for state and non-state actors responsible for violations. Refugees and IDPs lack mechanisms for redress and accountability, and there is no transparency in the processing of their cases or of their enjoyment of rights, thereby indicating grounds for structural racism. There is a need to articulate the legal obligations of the host state, International Organizations, and NGOs, as well as create a compliance mechanism to conduct visits and write reports.

Second, many refugees and IDPs were not in camps, but instead rendered invisible within large cities, where they work in the informal market and have little follow up by the State or UNHCR, although there are some programs available, they are limited. Urbanized refugees lack documentation and therefore may be excluded from education or suffer exploitation at work or in access to housing. They are often discriminated against and suffer fear of deportation.

Third, Refugees in Western countries are often placed in detention or reception centres which may be very isolated from host societies. There is often little transparency regarding the conditions in the centres or the processing of cases. Asylum seekers may be

1 J O Moses Okello.

denied legal aid (often legal information is given instead), they may be subject to accelerated procedures, non-suspension of deportation, age testing — including bone tests, dental examination, language testing, restrictions on family reunification, isolation, and excessive delays, this results in depression, humiliation, self-harm, suicide, etc. There is use of corporate actors to run detention centre creating clear accountability concerns. One of the problems regarding enjoyment of rights, she argued, is the lack of clarity regarding the normative regime which applies.

She addressed the issue of normative gaps within international law, stating that the 1951 Convention on the Status of Refugees provides a hierarchical framework for the enjoyment of rights which divides along the categories of jurisdictional control, physical presence, lawful presence, lawful stay, and habitual residence. Rights are granted in reference to three different groups — aliens in the same circumstances, most-favoured foreigners, and citizens. She explained that this framework is itself discriminatory and may further inequality in contradiction of Article 26 of the ICCPR.[2] Further, many asylum seekers are denied recognition as refugees, and instead given humanitarian protection which results in reduced enjoyment of rights.

Discrimination against refugees prevails in part because of the structures within national immigration systems, normative and institutional, as well as regional initiatives (such as the European Union Turkey Agreement, or even the Dublin Regime). She added that regarding IDPs, the UN Guiding Principles is soft law and lacks centralized compliance mechanism.

She addressed the role of the Treaty Bodies, ECTHR, UNHCR, IACTHR IACommHR, African Commission, and Constitutional Courts regarding Follow up of Refugees and IDPs. The Treaty Bodies have issued General Comments confirming the rights of refugees to enjoy protection of the treaties. The Treaty bodies set forth that distinctions must be based on a "reasonable and objective" standard — consistent application, not arbitrary, in pursuit of legitimate aim. This is similar to the European Union Test for Distinction which assesses whether distinction pursues an objective and reasonable justification, furthers a legitimate objective, regard for principles of a democratic society, and use of reasonable and proportionate means to the end sought.

However, the European Court of Human Rights accepts protection of country's economic system as a legitimate aim for treating aliens differently from nationals and the need to reverse illegal immigration as a legitimate aim for distinguishing between nationals and aliens in public benefits.

Treaty Bodies identify many of the most pressing human rights violations affecting refugees and IDPs, however, quite often the State is advised to consult with UNHCR, which can be problematic for a number of reasons including financial, legal and operational. There is a need for an independent actor to review compliance of States with human rights obligations pertaining to refugees and IDPs.

She emphasized the importance of taking concrete action to address discrimination against refugees, citing the concluding observations of CERD to Norway in 2011 which identified the risk of hostile acts linked to racism prevalent in the media and among political actors. On 22 July 2011, the mass killings occurred in Oslo and on the island of Utøya. In response, Norwegians gathered for a rose ceremony in the capitol where they claimed allegiance to the values of democracy, openness, and humanity. However, by 2015, CERD had once again to express continued concern about hate speech. Norway had also undertaken a series of legislative reforms which had negatively impacted refugees including the removal of independence of the Immigration Appeals Board, now subject to instruction by the Ministry of Justice; a significant increase of hiring of immigration police to facilitate deportation, a marked decrease in asylum appeals, in part based on substantial increase in deportations — 3,400 less appeals, the hiring of extra case workers to process an expected influx of asylum seekers which never arrived resulted in reassignment of caseworkers to screen persons granted citizenship for grounds for cancellation going back 20 years in order

2 Marina Sharpe.

to withdraw citizenship, restrictions on family reunification, ongoing discrimination regarding access to housing, education, workplace, etc., weakening of the ombudsman addressing discrimination cases, and continued use of detention, including children, solitary confinement. These developments, in the expert view, underscored the urgency to take action to ensure that equality and non-discrimination are lifted so that States can correct policies and legislation which run contrary to these principles.

Ms. Bailliet stated that there is arguably a need for a new protocol to CERD addressing discrimination against refugees and IDPs. She suggested that this instrument would receive political attention and should be promoted at the highest level by the UN Secretary General. It should include a compliance mechanism, either following the Optional Protocol to the CAT which set forth a Sub-Committee and national mechanism or the Disabilities Convention, which relies on national monitoring, or the European Union Rapporteur on Racism, which conducts visits and writes reports. She added that although creating a CERD General Recommendation or a UNHCR Guidance Note might be considered; it may prove a helpful source for legal cases, but would be unlikely to prompt a political response.

She added that there is a need to review the recent reforms in legislation, regulations, and directives addressing terrorism, immigration, deportation, and citizenship, as the changes may have discriminatory impact on refugees, returnees, and IDPs.

Further, it would be beneficial to publish best practices reports to review positive jurisprudence from national courts, including constitutional courts, to map case law addressing discrimination against refugees, returnees, and IDPs. This would also help to identify and articulate adequate and effective remedies to address structural discrimination affecting refugees. She added that lawyers needed to be engaged to address procedural and substantive violations in refugee cases, and that outreach to national ombudsperson offices, law associations, pro bono firms, law schools, etc. to bring cases addressing discrimination against refugees, returnees, and IDPs should be pursued. There was also a need to strengthen the demand upon to States to make legal aid to made available (not just legal information) to refugees.

Ms. Bailliet emphasized the importance of outlining the procedural rights of asylum seekers and refugees, as this is the primary vehicle for excluding them from enjoyment of equality and non-discrimination. These rights must be made secure in a normative instrument. The core aim should be centred upon CERD's statement on the Occasion of the UN Summit on Refugees and Migrants in August 2016.

In response to Ms. Bailliet's presentation, the representative of the European Union requested clarification on whether the mechanism suggested would be similar to the Optional Protocol to the Convention against Torture, and inquired about the role of special procedures. Ms. Bailliet explained that the mechanism she suggested would be similar to the OPCAT model, combining international level and national level ombudspersons, and contemplated the national roles and national-level involvement. She suggested the creation of a best practice map to determine the coverage in terms of case law and standards. A compliance review of national laws that are being adopted in the current environment, including good examples, should take place.

Ms. Madeline Garlick, Chief of the Protection Policy and Legal Advice Section, Division of the International Protection at the Office of the United Nations High Commissioner for Refugees (UNHCR), recalled that, as of mid-2016, an estimated 61.5 million persons were forcibly displaced around the world, including approximately 21 million refugees and 37 million internally displaced people, as well as asylum seekers, returnees and others falling under UNHCR's mandate. These numbers are among the highest in recent years in some regions and countries. Asylum and migratory pressures that some States were facing were having a significant impact upon the public discourse as well as political debate and actions. This is noteworthy in several European countries, although the numbers of forcibly displaced people in Europe, in absolute and relative terms, are a fraction of those hosted by other less well-resourced regions of the world. Close to 90% of the global refugee population is hosted in middle and low-income countries.

Increasing concerns in some countries about security and integration capacity can exacerbate racism and xenophobia, thus worsening the already precarious situations of those forced to flee. The proliferation of xenophobic narratives, hate speech and inflammatory statements directed against refugees and migrants has been reported lately. Not only has this threatened to undermine the institution of asylum, but also at times has even led to violence against refugees and migrants.

She stressed that UNHCR has a special interest in and commitment to reducing racism and xenophobia, stemming from the fact that racism, related intolerance and xenophobia are common causes of forced displacement, but can also compromise the protection afforded to asylum seekers and refugees at different stages of the displacement cycle. For instance, they can be manifested through official restrictions on access to asylum or inadequate standards of treatment afforded to those seeking asylum or recognised as refugees. Asylum seekers and refugees may be denied the full enjoyment of human rights in the host country, such as equal access to public services. This can hamper the achievement of durable solutions, by hindering integration in the receiving societies. Furthermore, voluntary return by refugees to their countries of origin is a less viable and sustainable option if it takes place in conditions where peace is fragile and ethnic, religious or other forms of discrimination persist.

She recalled that discrimination on the basis of race, colour, descent, or national or ethnic, origin, among others grounds, is also a reason for the denial or deprivation of nationality, and is therefore a cause of statelessness in many cases. The majority of the world's estimated 10 million stateless people belong to minority groups. At least 20 countries maintain laws which deny or permit the withdrawal of nationality on the grounds of ethnicity, race, or origin. As the organization mandated by the UN General Assembly, together with States, to identify and protect the rights of stateless people, and prevent and reduce statelessness around the world, UNHCR saw a pressing need for greater acknowledgement and action to address discrimination where it leads to the injustice and hardship of statelessness.

She stated that UNHCR welcomed the opportunity to take part in the session, and to speak with the members of the Ad Hoc Committee about the legal and practical tools at our disposal to address the manifold challenges associated with racism and xenophobia in many contexts today. The principle of non-discrimination is articulated in the 1951 Convention Relating to the Status of Refugees, which in its Article 3 binds States Parties to apply its provisions without discrimination as to race, religion or country of origin. Subsequent multilateral instruments — including notably the International Convention on the Elimination of Racial Discrimination (ICERD) — elaborated and developed further in crucial ways the content of this principle and the specific obligations of states to refrain from and prevent discrimination, including where it affects asylum seekers, refugees, stateless persons and others under UNHCR's mandate.

In UNHCR's view, the standards which exist in international law at present provide a solid framework for protection against discrimination in its many forms today. The challenge, in UNHCR's view, is to ensure more effective observance of these standards in practice. This can be done, among other ways through training and ensuring accountability of state officials and organs; through processes for enforcing anti-discrimination rules; and through initiatives to foster tolerance and inclusiveness, as well as countering racist and discriminatory attitudes, rhetoric and actions. She elaborated on a number of tools and elements that can contribute to these goals in the following points of her presentation.

She addressed the question of how to tackle the particular vulnerability of refugees and asylum seekers to racist and xenophobic attitudes. She noted that many manifestations of racism and xenophobia are not directed against asylum seekers or refugees per se, but against non-nationals more broadly. However, refugees, asylum seekers and members of minorities may be particularly vulnerable to the effects of discrimination due to a less secure legal status or the absence of a supportive network in society. Some extremist political parties, movements and groups may also explicitly incite discrimination against new arrivals, by unjustifiably blaming them for wider social problems.

Refugees, asylum seekers, stateless and internally displaced persons, due to their specific protection needs and vulnerabilities, can suffer multiple form of discrimination, and may become victims of rejection, stigmatization, exclusion, or event violent attacks. Many children report little positive contact with host communities in their countries of asylum, but rather negative experience of xenophobia, racism and discrimination. There is evidence that such experience, coupled with other hardships of forced displacement, can increase young refugees' vulnerability to recruitment by or victimization at the hand of gangs, other criminal groups and radical extremists.

She explained that, institutionally, the protective role of the ICERD is more critical than ever in addressing elimination of racial discrimination, promoting understanding, outlawing hate speech, and criminalizing membership in racist organizations. Parties to the ICERD are obliged to review and amend their laws and policies to ensure that they do not discriminate on the basis of race, and to guarantee the right of everyone to equality before the law regardless of race, colour, or national or ethnic origin, Additionally, the Committee's General Recommendation No. 30 provides guidance to States where it elaborates in particular on the relevance of the ICERD for non-citizens.

She noted that States can nevertheless do more to act in the spirit of the ICERD and the Durban Declaration. Global refugee numbers, and the higher number of arrivals in numerous individual countries worldwide, have underscored the need for States to develop efficient and effective, longer-term multi-stakeholder strategies and programmes which truly facilitate refugees' inclusion and self-sustainability. The Durban Declaration and Programme of Action and the Outcome Document urge States to develop national action plans, to monitor their implementation in consultation with relevant stakeholders and to establish national programmes that facilitate the access of all, without discrimination, to basic social services. The Outcome Document also recommends that States establish mechanisms to collect, analyse and disseminate reliable and disaggregated statistical data and that they set up independent bodies to receive complaints from victims.

She argued that more can be done effectively and comprehensively to train law enforcement, immigration, and border officials. Such training should aim to sensitize them to racism, racial discrimination, xenophobia and related intolerance, but also make clear their legal obligations to take or refrain from taking certain actions, as agents of the State. Greater concerted action is needed to counter xenophobic attitudes and negative stereotypes directed against non-citizens by politicians, law enforcement, immigration officials, and the media, and grant refugees non-discriminatory access to services.

She informed that in March 2016, together with the OECD, UNHCR organised a high-level meeting on integration, in order to counter myths and use research evidence to demonstrate how refugees can benefit economies, as well as to make the case for early investment in refugees' integration and social inclusion.

Greater efforts are required from all concerned parties — States, the UN and other international and regional organization, as well as NGOs and community groups — to address these challenges. The success of any such effort will directly proportional to the political will of States to put in place systems for the protection of basic rights and mechanisms for ensuring their effective implementation. This needs to be complemented by activities aimed at preventing racist and intolerant attitudes from developing, such as human rights education and public information campaigns to promote respect and tolerance.

UNHCR can provide support to partners in initiating public awareness campaigns in host communities in order to promote tolerance, and combat racism and xenophobia. Information strategies targeted at sensitizing host communities may include projects to better inform communities about the root causes of mixed movements and the human suffering involved. She also noted that UNHCR launched awareness-raising campaigns to "roll back xenophobia; "the Diversity initiative" in Ukraine; as well as Joint IPU-UNHCR handbooks for parliamentarians on "Human Rights" (2016); "Migration, human rights and governance" (2015), "Nationality and Statelessness" (2014) and "Refugee Protection: A Guide to International Refugee Law" (2001) — soon to be issued in an updated edition — as well as the IPU Resolution on "Migrant Workers, People Trafficking, Xenophobia and Human Rights" (2008). UN has also launched the "TOGETHER" global initiative, that

promotes respect, safety and dignity for everyone forced to flee their homes in search of a better life.

She emphasized that real partnership with persons of concern to UNHCR and their communities is essential in addressing racism, xenophobia and intolerance. This, after all, is about their experiences and their lives, and that they needed to be engaged in all stages, from development of any strategic approach for a particular national or local context, through its implementation. The most effective way to eradicate fear of 'the other' is typically through personal encounters and interaction.

The unanimous adoption of the New York Declaration for Refugees and Migrants by UN members States last September was a clear acknowledgement of this imperative. The Global Compact on Refugees envisaged in the Declaration aimed to ensure equitable and predictable responsibility-sharing arrangements to address both large-scale movements of refugees and protracted refugee situations. The principle of international cooperation, which is key to ensure global stability, building public confidence in our institutions, and bolstering refugee protection, will lie at its core.

In reaction to Ms. Garlick's presentation, the Chair-Rapporteur asked about the refugee status situation in Zimbabwe and the onward movement of refugees to other countries in the SADC region, to which Ms. Garlick explained that the fact that refugees moved on again to other countries did not necessarily mean that they were not in fact, refugees. She reiterated the need for regional solidarity and burden-sharing in this regard, and agreed with Ms. Bailliet on the need for effective procedural rights for refugees.

The representative of the European Union expressed agreement with Ms. Garlick on the sufficiency of the current legal framework for refugees. She asked the expert to elaborate on its work with parliamentarians, especially with regard to the role of political narratives.

The representative of South Africa stated that South Africa recognized the dignity of migrants and refugees and appreciated the benefits they brought to societies. Through annual consultations with UNHCR, it was working on improving the domestic refugee situation in respect of access to education, health, water and sanitation. While there was still room for improving the societal attitudes and educating the public, the xenophobic waves which had taken place had further spurred the Government to address the situation. She stated that the issues in South Africa were happening elsewhere in the world which suggested a global approach, and in this regard, a binding international law was needed and collective work on a protocol would be beneficial.

Ms. Garlick acknowledged the efforts undertaken by South Africa to deal with the refugee situation the country. She responded also to the query about the role of parliamentarians, explaining that UNHCR shared knowledge, tools and facts to national and regional parliaments and recommended an upcoming new guide to refugee law addressed to parliamentarians. She stated that refugees were referred to in many national contexts as being "illegally present" and she noted that no person could be illegal. She referred to the 1951 Refugee Convention which in article 31, provided for non-penalization for illegal entry and stay, adding that in some cases refugees did not have the access to the means to enter legally.

Ms. Bailliet also commented on the important role of parliamentarians, and also to the need to educate society, noting that many lawyers were unaware that national constitutional protections applied to refugees.

At its 7th meeting on 27 April, the Ad Hoc Committee continued its consideration of agenda item 6 on "Protection of refugees, returnees and internally displaced persons against racism and discriminatory practices", during which Krassimir Kanev, Chairperson of the Bulgarian Helsinki Committee and E. Tendayi Achiume from the School of Law of the University of California, Los Angeles, United States of America, and Research Associate at the African Centre for Migration and Society, University of Witwatersrand, South Africa, presented on this topic.

Mr. Kanev, Chairperson of the Bulgarian Helsinki Committee, gave a presentation entitled "Approaches to combating racial discrimination in Bulgaria". He highlighted the

wide-ranging discrimination faced by Roma and other ethnic minorities in Bulgaria, in the areas of employment, housing, including forced evictions, segregation in education and health care, selective targeting by the criminal justice system, exclusion from political decision-making and public incitement to hatred and violence. He also pointed out the prevalence of Islamophobia including attacks on mosques, negative media coverage of Islam and Muslims in general and public incitement to hatred, discrimination and violence through marches and rallies in front of mosques. Migrants in particular were also subjected to public incitement to hatred, discrimination and violence, including through a number of demonstrations against migrants, physical violence through "migrant hunters" and refusals to register and expulsion of migrants from different towns in the country.

Mr. Kanev also provided several examples of incitement to hatred against migrants and hate speech in the media as well as statements made by political party activists. Despite such prevalence, there had been no prosecution even in the most flagrant of cases, owing to racist bias among the police and the prosecution, as well as political influences and corruption. He added that the Protection against Discrimination Commission (PADC), heard complaints by victims and there were some successful proceedings against private individuals, businesses and media, but it had a mixed record when the perpetrators were politicians. Mr. Kanev also provided examples of a number of cases of discrimination that were brought before the European Court, and had ruled in favour of victims of discrimination. He therefore recommended that collective litigation by NGOs on behalf or in support of victims, collective complaints before international bodies had a better chance of addressing human rights violations and discrimination faced by migrants and ethnic minorities in Bulgaria. He further recommended the establishment of a system of specialized independent adjudicative and preventive mechanisms at the domestic level.

Ms. Tendayi Achiume gave a presentation entitled "Structural Xenophobic Discrimination against Refugees." She pointed out that refugees and involuntary migrants share the same chaotic, dangerous migratory routes and that many perpetrators of xenophobic discrimination and violence do not distinguish between refugees and other migrants. She then provided a review of demographics of refugees, emphasizing that displacement was rooted in structures or conflicts involving foreign sovereigns, including foreign military intervention. She added that the exclusion of refugees or discrimination against refugees is overwhelmingly exclusion or discrimination along racialized lines. Ms. Achiume then provided a number of different scenarios in which refugees faced structural xenophobic discrimination with a disproportionate and harmful impact of laws, policies, and practices, on refugees on account of their status as foreigners, even in the absence of explicit anti-foreigner prejudice. She took the example of a banking policy that prohibits refugees and asylum seekers from opening bank accounts as a measure for protecting against untraceable money laundering, and described the multifarious implications of such a policy to refugees. She outlined limitations faced by refugees and asylum seekers in the employment and housing sectors, as well as in access to social services, leading to overall structural inequality.

Ms. Achiume delved into the point that on one hand, the "purpose or effect clause" of Article 1 of ICERD clearly requires the regulation of policies whose effect is to nullify or impair the equal exercise of human rights on account of differentiation on account of race, colour, descent or national or ethnic origin. On the other hand, criminalization of acts of a xenophobic or racist nature would almost certainly not include this type of approach because criminal convictions typically require intent, at least in common law jurisdictions. She thus reiterated that Article 1 of ICERD remained ambiguous about the extent and scope of its prohibition of xenophobic discrimination. She concluded that while the CERD's General Recommendation 30 was important because it stated that differential treatment based on citizenship or immigration status constitutes discrimination, Ms. Achiume argued whether ICERD member states uniformly defer to CERD's interpretive guidance, and whether the General Recommendation 30 is viewed as authoritative enough, giving each state to engage in its own legitimacy/ proportionality analysis. She argued that this had implications for determining the global baseline for when structural exclusion of refugees that violates their human rights is prohibited xenophobic discrimination. This may merit some clarity by a possible international guidance or baseline.

During the interactive discussions, the representative of the Bolivarian Republic of Venezuela asked Ms. Achiume about policies, practices and laws which would allow access to health care and education for refugees and asylum seekers who would otherwise not be able to access such services due to the lack of documents or knowledge about the processes. The representative of the European Union sought clarification from Mr. Kanev on the efficacy of criminal procedures and asked Ms. Achiume for her views as to how the new mandate of the Committee could contribute to clarifying tensions between Articles 1.1 and 1.2 of ICERD and how could the idea of additional protocol overcome those challenges. The representative of Pakistan behalf of OIC, asked for more information from the panellists on the issue of criminalisation of xenophobia and on the proportionality issue stipulated in the ICERD General Recommendation 30. The representative of Pakistan also highlighted the comments of the Secretary General of OIC that Islamophobia is a contemporary manifestation of racism and combating Islamophobia as well as vilification of all religions and denigration of symbols and personalities sacred to all religions is a matter of priority.

In response, Mr. Kanev pointed out that criminalization has not worked in Bulgaria, given the few prosecutions, except in cases when private individuals are involved in severe forms of racial discrimination when there may be criminal prosecution. Ms. Achiume emphasized on the importance of temporary documents, along with education and awareness-raising about the legitimacy of such documents among all stakeholders to facilitate access to services by refugees and asylum seekers. She also suggested a comprehensive approach including through the framework of national action plans to better understand how the barriers operate and how to address them. She added that on the issue of criminalisation, a comprehensive approach was necessary whereby criminalisation should not be the final destination. Aside from punitive measures, Ms. Achiume said while criminalisation is important, that the expressive function of criminal law is also important, as there would not be a dramatic shift in the circumstances of an average refugee, migrant or an asylum seeker by merely through a criminal prohibition of a xenophobic act. On the tension between Article 1(1) and 1(2), Ms. Achiume said that there needed to be further clarity to tackle the constraints in ICERD as legitimacy and proportionality are left to the discretion of states meaning wide discretion where citizenship-based discrimination is at play, even where citizenship-based discrimination results in the human rights violations against non-nationals. The problem lies in the lack of clarity as to what extent non-citizens are entitled to equal enjoyment of human rights and ICERD does not do enough to clarify this, and therefore the need for a standard at the global level, clarifying that citizenship discrimination that results in human rights violations is not explicit to states.

Annex II

Programme of Work — 9th Ad Hoc Committee on the Elaboration of Complementary Standards (as adopted 24.04.2017)

	1st week				
	Monday 24.04	*Tuesday 25.04*	*Wednesday 26.04*	*Thursday 27.04*	*Friday 28.04*
10:00–13:00	Item 1 Opening of the Session Item 2 Election of the Chair Item 3 Adoption of the Agenda and Programme of Work — General statements	Item 4 continued Comprehensive anti-discrimination legislation	Item 5 continued Protection of migrants against racist, discriminatory and xenophobic practices Peggy Hicks, Director, Thematic Engagement, Special Procedures and Right to Development Division, Office of the High Commissioner for Human Rights; Kristina Touzenis, International Organization for Migration, Geneva	Item 6 continued Protection of refugees, returnees and internally displaced persons against racism and discriminatory practices Krassimir Kanev, Chairperson, Bulgarian Helsinki Committee; E. Tendayi Achiume, Assistant Professor of Law, University of California — Los Angeles School of Law	Item 8 General discussion and exchange of views on items 5 and 6
15:00–18:00	Item 4 Comprehensive anti-discrimination legislation	Item 5 Protection of migrants against racist, discriminatory and xenophobic practices E. Tendayi Achiume, Assistant Professor of Law, University of California — Los Angeles School of Law;	Item 6 Protection of refugees, returnees and internally displaced persons against racism and discriminatory practices Cecilia Bailliet, Professor & Director of the Masters Programme in Public International Law, University of Norway;	Item 7 General discussion and exchange of views on item 4	Item 9 Update discussion on Xenophobia

Ibrahima Kane, Open Society Initiative for Eastern Africa	Madeline Garlick, Chief of the Protection Policy and Legal Advice Section, Division of International Protection, United Nations High Commissioner for Refugees

2nd week

	Monday 1.05	*Tuesday 2.05*	*Wednesday 3.05*	*Thursday 4.05*	*Friday 5.05*
10:00–13:00	Item 10 Update discussion on Procedural gaps with regard to the International Convention on the Elimination of All Forms of Racial Discrimination — Update discussion on National Mechanisms	Item 12 General discussion and exchange of views on items 9 and 10	Item 14 Discussion on General Assembly resolution 71/181	Item 15 General discussion and exchange of views — Conclusions and Recommendations	Conclusions and Recommendations — General discussion and exchange of views
15:00–18:00	Item 11 Update discussion on racism in sport	Item 13 General discussion and exchange of views on item 11	Item	Compilation of the Report	Item 16 Adoption of the report of the ninth session

Annex III

List of attendance

Member States

Algeria, Azerbaijan, Bangladesh, Belgium, Bolivia (Plurinational State of), Brazil, Burundi, Canada, China, Colombia, Congo, Cote d'Ivoire, Cuba, Czechia, Djibouti, Egypt, Estonia, Greece, Guatemala, Haiti, India, Italy, Japan, Jamaica, Jordan, Kuwait, Libyan Arab Jamahiriya, Luxembourg, Malaysia, Malta, Mexico, Morocco, Nigeria, Pakistan, Qatar, Russian Federation, Singapore, Slovakia, South Africa, Spain, Sudan, Switzerland, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of), Zambia, Zimbabwe.

Non-Member States represented by observers

Holy See.

Intergovernmental Organizations

African Union, Organization of Islamic Cooperation, European Union.

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

African Commission of Health and Human Rights Promoters, Indian Council of South America and the Indigenous Peoples and Nations Coalition, International Youth and Student Movement for the United Nations (ISMUN).

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

Culture of Afro-Indigenous Solidarity, World against Racism Network (WARN).