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Working Group of Experts on People of African Descent

Seventh session

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Item 5 of the provisional agenda

CONTRIBUTION OF THE WORKING GROUP OF EXPERTS ON PEOPLE OF AFRICAN DESCENT TO THE PREPARATORY COMMITTEE OF THE DURBAN REVIEW CONFERENCE

Note by the Secretariat

1. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001, adopted the Durban Declaration and Programme of Action containing recommendations intended to strengthen the international human rights framework to combat racism, racial discrimination, xenophobia and related intolerance.

2. The Working Group of Experts on People of African Descent was established by the Commission on Human Rights in its resolution 2002/68. The Commission, in its resolution 2003/30, reformulated paragraph 8 (*d*) of resolution 2002/68 and expanded the mandate of the Working Group which is as follows:

(a) To study the problems of racial discrimination faced by people of African descent living in the diaspora and to this end gather all relevant information from Governments, non-governmental organizations and other relevant sources, including through holding public meetings with them;

(b) To propose measures to ensure full and effective access to the justice system by people of African descent,

(c) To submit recommendations on the design, implementation and enforcement of effective measures to eliminate racial profiling of people of African descent;

(d) To elaborate short-, medium- and long-term proposals for the elimination of racial discrimination against people of African descent, bearing in mind the need for close collaboration with international and development institutions and the specialized agencies of the United Nations system to promote the human rights of people of African descent.

(e) To make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world;

3. At its first and second sessions, held from 25 to 29 November 2002 and 3 to 7 February 2003, the Working Group decided to recommend that specific themes relevant to the situation of people of African descent be addressed at its forthcoming sessions¹. The Working Group considered that this approach would allow invited panellists on the selected themes to inform the discussions and enrich the debates at the sessions, and lead to the formulation of measures and recommendations addressed to the Commission. The Working Group followed this methodology at its third, fourth, fifth and sixth sessions. At its seventh session, although following a similar methodology, it will have a different objective as outlined below.

4. The General Assembly in its resolution 61/149 decided to convene a Durban Review Conference in 2009 , to review progress on and assess implementation of the Durban Declaration and Programme of Action by all stakeholders, to assess the effectiveness of the existing Durban follow-up mechanisms and other relevant United Nations mechanisms dealing with the issue of racism, racial discrimination, xenophobia and related intolerance in order to enhance them, to promote the universal ratification and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination and to identify

¹ See E/CN.4/2003/21.

and share good practices achieved in the fight against racism, racial discrimination, xenophobia and related intolerance. The Human Rights Council in its resolution 3/2 decided that the Council will act as the Preparatory Committee for the Durban Review Conference.

5. At its 9th meeting, on 31 August 2007, the Preparatory Committee for the Durban Review Conference, in decision PC.1/10, decided to request the Working Group of Experts on People of African Descent and other relevant human rights mechanisms including other special procedures to assist the Preparatory Committee by undertaking review and submitting recommendations, through the Office of the High Commissioner for Human Rights, as contributions to the outcome of the Review Conference (see A/62/375, annex I, p. 34).

6. Following decision PC.1/10, and making best use of the work it has done since its creation and the input of previously invited panellists, the Working Group decided to dedicate its seventh session to an analysis of the observations and conclusions adopted at its in previous sessions in order to distil and formulate its contribution to the Preparatory Committee. The issues of how best to ensure the recommendations of the Working Group are implemented and improvements, major challenges and new manifestations of racism and intolerance since the Durban Conference will also be addressed. Themes discussed at previous sessions and the subject of analysis and review at its seventh session will be:

(a) Administration of justice

(b) The media

(c) Access to education

(d) Racism and employment

(e) Racism and health

(f) Racism and housing

(g) Participation of people of African descent in political, economic, social and cultural aspects of society and in the advancement and economic development in their countries

- (h) Millennium Development Goals
- (i) Empowerment of women of African descent
- (j) Racial profiling

7. Although some advances have been made by States and civil society, among those challenges facing people of African descent identified and discussed by the Working Group at its past six sessions, certain issues stand out as being of particular relevance considering the situation in which this sector of society still finds itself six years after the Durban Conference. The administration of justice, access to education, the Millennium Development Goals and their implications for the participation of people of African descent in political, economic, social and cultural aspects of their society are particularly salient issues. Similarly, the empowerment of women of African descent and racial profiling are issues, the significance of which has in no way diminished since they were discussed by the Working Group. Besides specific recommendations made by the Working Group to address these issues, some other recommendations can be identified that will contribute to the amelioration of many of the manifestations of racism as it affects people of African descent.

8. The Working Group has made several recommendations concerning the administration of justice as it affects people of African descent, including adequate access to legal aid, racial equality and diversity in the recruitment and training of law enforcement personnel, proportional representation in jury selection and adequate representation in judicial appointments at all levels. Other recommendations such as the elimination of violence, including police violence, which affects people of African descent are still of particular relevance. As the Working Group recommended at its third session, “the collection and publication of disaggregated data on arrests, prosecutions and sentencing would enable States and other stakeholder to monitor the situation of people of African descent in the administration of the justice system and to determine whether they are the victims of discrimination”². Available information suggests that people of African descent in some States constitute a disproportionately high percentage of the

² E/CN.4/2004/21, para. 111.

prison inmate population and receive harsh sentences at a greater rate than those of the predominant race. Closely related to this is the issue of racial profiling about which the Working Group, at its sixth session, acknowledged that racial profiling has been recognized as a specific problem as a result of the systematic and historic targeting of persons of African descent, with severe consequences in creating and perpetuating profoundly negative stigmatization and stereotyping of persons of African descent as having a propensity to criminality³. The Working Group's concern regarding racial profiling is shared by the European Commission against Racism and Intolerance which, on 29 June 2007, adopted its General Policy Recommendation No. 11 on racism and racial discrimination in policing in which, inter alia, it adopts the broader definition of racial profiling and recommends measures to combat this practice. The recommendations of the Working Group concerning the administration of justice are particularly salient for the Preparatory Committee in its preparations for the Durban Review Conference.

9. The Working Group has encouraged States and national institutions to include people of African descent, in particular, in the elaboration and implementation of national plans of action to combat racism and racial discrimination, as recommended in the Durban Declaration and Programme of Action. These plans of action would serve to address many of the concerns expressed by the Working Group during its deliberations. Such issues as equal access to health, housing, employment, education and participation in public life would all be well served if States were to elaborate national plans of action concerning people of African descent. Although there have been some advances in this regard, the majority of States have not yet established national plans of action, as called for in the Durban Declaration and Programme of Action, and the inclusion of the Working Group's recommendations in this regard in its contribution to the Preparatory Committee would underline the importance of concerted national initiatives directed at ameliorating the difficult situation faced by people of African descent in many countries. The Office of the United Nations High Commissioner for Human Rights is in a position to offer technical assistance to States in the elaboration of such plans. These plans should include a gender perspective and serve to further the goal expressed by the Working Group at its fifth session regarding the empowerment of women of African descent. Along with national plans of

³ A/HRC/4/39, para. 56.

action, the existence or creation of national institutions mandated to advance the situation of people of African descent is important in addressing the issues identified by the Working Group as the most pressing and assuring effective, coordinated and coherent implementation of its recommendations. In many countries with a considerable population of African descent, national institutions exist to guide and implement policy concerning this sector of the community but the functioning of these institutions will be impaired if they lack adequate funding, autonomy or political legitimacy.

10. Another issue treated by the Working Group that would serve to address myriad problems faced by people of African descent is their access to education. The Working Group recommended that States should continue to pursue equality with regard to access to education through, inter alia, the promotion and implementation of affirmative action measures, as a follow-up to the Durban Declaration and Programme of Action. In many States with a large population of people of African descent, this sector of society is among the least favoured as regards access to, and levels of, education. When people of African descent have greater access to education they are better placed to more equally participate in all political, economic and cultural aspects of society and in the advancement and economic development of their countries. Similarly, they are better positioned to participate in the defining and advancement of their own interests. As the Working Group points out, access to education as a basic right includes the right to an education that accurately reflects the contribution of Africans and people of African descent to world history and civilization, as well as their role in historical events at the national and regional levels.

11. Many of the recommendations made by the Working Group in its deliberations would rely upon accurate disaggregated information for their effective implementation. Similarly, policy can not be correctly formulated, much less implemented, by States if such information is not available. At its first and second sessions, the Working Group laid the foundations for the effective implementation of its future recommendations when it recognized the importance of such information. The Working Group encourage[ed] “Governments, with the assistance of specialized agencies and international development and financial institutions as appropriate, to collect and compile reliable statistical data on the political, economic and social conditions of people of African descent and to disseminate such information, not only in order to undertake

specific development projects but also to empower all stakeholders in the fight to improve the situation of these people”.⁴ As well as for the implementation of recommendations made by the Working Group in areas such as the administration of justice, access to education, employment, health and housing, it is fundamental that States have disaggregated information in order to measure advances, or otherwise, and be in a position to modify initiatives when necessary.

12. Finally, the Working Group has identified the mainstreaming of the situation of people of African descent in plans for achieving the Millennium Development Goals as an important measure to facilitate the participation of people of African descent in all political, economic, social and cultural aspects of society and in the advancement and economic development of their countries. Among the many conclusions and recommendations the Working Group made in this regard, it considered that the “effective implementation of the Millennium Development Goals can address many of the central challenges connected with racism, racial discrimination, xenophobia and related intolerance and lead to equal opportunities for many groups discriminated against, including people of African descent”.⁵ It has been suggested by some, however, that the Millennium Development Goals need to be adjusted in order to include the principles of equality and non-discrimination.

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⁴ E/CN.4/2003/21, para. 29.

⁵ E/CN.4/2006/19, para. 75.