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CONFERENCIA DE EXAMEN DE DURBAN  
Comité Preparatorio  
Segundo período de sesiones sustantivo  
Tema 5 del programa provisional

**INFORME DEL GRUPO DE TRABAJO INTERGUBERNAMENTAL ABIERTO  
ENTRE PERÍODOS DE SESIONES PARA EL SEGUIMIENTO DE LA  
LABOR DEL COMITÉ PREPARATORIO**

**Presidente-Relator:** Sr. Zohrab MNATSAKIAN (Armenia)

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\* Se reproduce como se recibió, en el idioma en que se presentó únicamente.

## **INTRODUCCIÓN**

1. En su decisión PC.2/4 de 22 de abril de 2008, el Comité Preparatorio, recordando sus decisiones PC.1/10 c) y PC.1/15, de 31 de agosto de 2007, decidió establecer un grupo de trabajo intergubernamental abierto entre períodos de sesiones para que se ocupara del seguimiento de la labor del Comité Preparatorio, en particular examinando las aportaciones e iniciando negociaciones sobre el proyecto de documento final, y para que informara al respecto al Comité Preparatorio. El Comité decidió además que el grupo de trabajo intergubernamental abierto celebrara dos reuniones de una semana de duración cada una.
2. El 25 de abril de 2008, el Comité Preparatorio designó a Zohrab Mnatsakanian, Embajador de Armenia y Vicepresidente del Comité Preparatorio, para ocupar el puesto de Presidente del Grupo de Trabajo Intergubernamental abierto entre períodos de sesiones (en adelante el Grupo de Trabajo).
3. La primera reunión del Grupo de Trabajo se celebró del 26 al 28 de mayo de 2008, y la segunda los días 5 y 29 de septiembre de 2008. El Grupo de Trabajo celebró en total cinco sesiones plenarias.

## **I. ORGANIZACIÓN DEL PERÍODO DE SESIONES**

### **A. Apertura del período de sesiones**

4. La primera reunión del Grupo de Trabajo fue declarada abierta el 26 de mayo de 2008 por el Sr. Ibrahim Wani, Jefe de la Subdivisión de Estado de Derecho, Igualdad y No Discriminación de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos.

### **B. Organización de los trabajos y aprobación del programa**

5. En la misma sesión, celebrada el 26 de mayo de 2008, el Sr. Mnatsakanian fue elegido oficialmente Presidente-Relator del Grupo de Trabajo.
6. En su primera reunión, el Grupo de Trabajo tuvo ante sí un documento que contenía el programa provisional preparado por el Secretario General y las anotaciones a dicho programa (A/CONF.211/PC/WG.1/1). El 26 de mayo de 2008 el Grupo de Trabajo aprobó el programa (véase el anexo I). En su segunda reunión, el Grupo de Trabajo tuvo ante sí el programa aprobado en su primera reunión, con las anotaciones que se habían actualizado para que pudieran tenerse en cuenta las últimas novedades registradas (A/CONF.211/PC/WG.1/2).
7. En su primera reunión, el Grupo de Trabajo decidió establecer un "Grupo oficioso de amigos de la Presidencia", que se reuniría entre períodos de sesiones. A continuación, se invitó a los grupos regionales a designar a un máximo de cinco representantes como miembros del grupo oficioso. El Grupo, que se reuniría en varias oportunidades en el período comprendido desde junio a agosto de 2008, quedó integrado por los siguientes países: Argentina, Azerbaiyán, Bélgica, Brasil, Chile, China, Egipto, Eslovenia, Etiopía, Federación de Rusia, Francia, Grecia, India, Irán (República Islámica del), Letonia, México, Nigeria, Pakistán, República Checa, Senegal, Sri Lanka, Sudáfrica, Suiza, Uruguay y Turquía.

### **C. Asistencia**

8. La lista de participantes figura en el anexo II.

### **D. Documentación**

9. Para la lista de documentos publicados por el Grupo de Trabajo, véase el anexo III.

## **II. APLICACIÓN DEL MANDATO DEL GRUPO DE TRABAJO QUE FIGURA EN LA DECISIÓN PC.2/4 DE 22 DE ABRIL DE 2008 DEL COMITÉ PREPARATORIO TITULADA "ESTABLECIMIENTO Y FECHAS DE REUNIÓN DEL GRUPO DE TRABAJO INTERGUBERNAMENTAL ABIERTO ENTRE PERÍODOS DE SESIONES"**

### **A. Primera reunión del Grupo de Trabajo**

10. En la primera sesión del Grupo de Trabajo, celebrada el 26 de mayo de 2008, el Presidente-Relator formuló una declaración. En el debate general subsiguiente, formularon declaraciones los representantes de: Egipto, Liechtenstein, Alemania, Eslovenia, México, Bélgica, Senegal, India, Grecia, Federación de Rusia, Bangladesh, China, Pakistán, Argentina, Ecuador y Argelia. Formuló asimismo una declaración una organización no gubernamental (ONG), el Movimiento Indio Tupaj Amaru.

11. En su segunda sesión, celebrada el 27 de mayo de 2008, el Grupo de Trabajo tuvo ante sí un texto oficioso presentado por el Presidente-Relator, en el que se presentó una lista de temas organizados de acuerdo a la estructura del proyecto de documento final de la Conferencia de Examen de Durban, aprobado por el Comité Preparatorio en su decisión PC.2/8. Tras una declaración explicativa del Presidente-Relator, formularon declaraciones los representantes de: Egipto, Eslovenia (en nombre de la Unión Europea), México, India, Argentina, Liechtenstein, Marruecos, Bélgica, Bangladesh, Tailandia, Bosnia y Herzegovina y República de Corea. Formularon también declaraciones las ONG siguientes: Indigenous Peoples and Nations Coalition, Afro-American Space, Movimiento Indio Tupaj Amaru y Afro-Swedish National Association/Centre against Racism.

12. En su tercera sesión, celebrada el 28 de mayo de 2008, el Grupo de Trabajo aceptó la propuesta del Presidente-Relator de establecer un "Grupo oficioso de amigos de la Presidencia", que se reuniría entre períodos de sesiones para facilitar la labor del Grupo de Trabajo en su segunda reunión (véase también el párrafo 7 *supra*). El Grupo de Trabajo también decidió convocar su segunda reunión entre el 1º y el 5 de septiembre de 2008. Durante el debate sostenido formularon declaraciones los países siguientes: Argelia, Egipto, Grecia, México, Azerbaiyán, Federación de Rusia, Eslovenia, India, Bélgica y Argentina. También formularon declaraciones las ONG siguientes: Movimiento internacional contra todas las formas de discriminación y racismo y Movimiento Indio Tupaj Amaru.

## **B. Segunda reunión del Grupo de Trabajo**

13. En su cuarta sesión, celebrada el 5 de septiembre de 2008, el Grupo de Trabajo tuvo ante sí un documento de trabajo presentado por el Presidente-Relator, titulado "Algunos elementos indicativos en relación con el documento final" (A/CONF.211/PC/WG.1/CRP.2). Tras una declaración introductoria del Presidente-Relator, formularon declaraciones: India, Argentina, Sudáfrica, Francia, Grecia, Brasil, Senegal, Egipto, Suiza, Guatemala, Pakistán, Argelia, Chile, Bolivia, Sri Lanka, Bangladesh y Etiopía. El Grupo de Trabajo decidió reanudar su segunda reunión el 29 de septiembre de 2008.

14. En su quinta sesión, celebrada el 29 de septiembre de 2008, el Grupo de Trabajo tuvo ante sí, como parte del proyecto de informe del Grupo de Trabajo al Comité Preparatorio, un memorando explicativo del Presidente-Relator del Grupo de Trabajo y un conjunto de propuestas de recomendaciones en relación con las modalidades de la organización de los trabajos y las negociaciones relativas al proyecto de documento final durante el segundo período de sesiones sustantivo del Comité Preparatorio. Tras una declaración del Presidente-Relator, formularon declaraciones: Sudáfrica, Francia, India, Argentina, Egipto, Etiopía, Brasil, Bangladesh, Grecia, Federación de Rusia, México, Alemania y Sri Lanka.

## **III. INFORME DEL GRUPO DE TRABAJO AL COMITÉ PREPARATORIO DE LA CONFERENCIA DE EXAMEN DE DURBAN**

15. En su quinta sesión, celebrada el 29 de septiembre de 2009, el Grupo de Trabajo aprobó el informe al Comité Preparatorio, como quedó enmendado durante el debate.

## **ANEXOS**

### **Anexo I**

#### **PROGRAMA**

1. Apertura del período de sesiones.
2. Elección del Presidente-Relator.
3. Aprobación del programa.
4. Organización de los trabajos.
5. Aplicación del mandato del grupo de trabajo que figura en la decisión PC.2/4, de 22 de abril de 2008, del Comité Preparatorio, titulada "Establecimiento y fechas de reunión del grupo de trabajo intergubernamental abierto entre períodos de sesiones".
6. Informe del grupo de trabajo al Comité Preparatorio de la Conferencia de Examen de Durban.

## **Anexo II**

### **LISTA DE PARTICIPANTES**

#### **Estados Miembros de las Naciones Unidas**

Afganistán, Alemania, Arabia Saudita, Argelia, Argentina, Armenia, Australia, Austria, Azerbaiyán, Bahrein, Bangladesh, Bélgica, Bolivia, Bosnia y Herzegovina, Brasil, Bulgaria, Camboya, Chile, China, Chipre, Colombia, Croacia, Dinamarca, Ecuador, Egipto, El Salvador, Eslovaquia, Eslovenia, España, Estonia, Etiopía, Federación de Rusia, Filipinas, Francia, Grecia, Guatemala, Haití, India, Indonesia, Irán (República Islámica del), Irlanda, Italia, Japón, Kazajistán, Letonia, Liechtenstein, Lituania, Luxemburgo, Marruecos, Mauricio, México, Nepal, Noruega, Nueva Zelandia, Omán, Países Bajos, Pakistán, Portugal, Reino Unido de Gran Bretaña e Irlanda del Norte, República Árabe Siria, República Checa, República de Corea, República Democrática Popular Lao, Rumania, Senegal, Serbia, Singapur, Sri Lanka, Sudáfrica, Suecia, Suiza, Tailandia, Túnez, Turquía, Uruguay, Venezuela (República Bolivariana de).

#### **Organizaciones intergubernamentales**

Organización de la Conferencia Islámica, Organización Internacional de la Francofonía, Unión Africana, Unión Europea.

#### **Organizaciones no gubernamentales reconocidas como entidades consultivas por el Consejo Económico y Social**

Afro-American Space, Afro-Swedish National Association/Centre against Racism, Indigenous Peoples and Nations Coalition, Movimiento Indio Tupaj Amaru y Movimiento internacional contra todas las formas de discriminación y racismo.

**Anexo III**

**LISTA DE DOCUMENTOS**

<b>Signatura</b>		<b>Tema del programa</b>
<i>Documentos de distribución general</i>		
A/CONF.211/PC/WG.1/1	3	Programa provisional y anotaciones
A/CONF.211/ PC/WG.1/2	3	Programa y anotaciones
A/CONF.211/ PC/WG.1/5	5	Contribución conjunta de los titulares de mandatos de los procedimientos especiales
<i>Documentos de distribución limitada</i>		
A/CONF.211/PC/WG.1/CRP.1 y Add.1	5	Nota de la secretaría en la que figura una reseña de las contribuciones adicionales de los Estados
A/CONF.211/PC/WG.1/CRP.2	5	Documento de trabajo presentado por el Presidente-Relator

#### **Annex IV**

### **EXPLANATORY MEMORANDUM AND PROPOSALS BY THE CHAIRPERSON-RAPPORTEUR OF THE INTERSESSIONAL OPEN-ENDED INTERGOVERNMENTAL WORKING GROUP ADDRESSED TO THE PREPARATORY COMMITTEE**

In its decision PC.2/4, the Preparatory Committee decided to establish this intersessional open-ended intergovernmental working group and mandated it “to follow up the work of the Preparatory Committee, including through reviewing contributions and commencing negotiations on the draft outcome document, and to report thereon to the Preparatory Committee”. The Preparatory Committee also designated me to the post of the Chairperson of this intergovernmental working group.

Below are some details and explanations on how the mandate entrusted to me was implemented as well as the recommendations and proposals which I am addressing to the Preparatory Committee:

1. Following the May session of the intersessional working group (ISWG) and its decision to establish an informal Group of the Friends of the Chair composed of representatives of 25 States, nominated equitably by the five regional groups, I have been working throughout the subsequent months and in close consultations with the Group of the Friends on further review of the contributions submitted by various stakeholders, which were available during the period of work of the ISWG.
2. As a result, and having in mind the mandate of the working group, we attempted to establish a working document in which the contributions received are adjusted to the agreed structure of the outcome document as contained in decision PC.2/8 of the Preparatory Committee and subsequently to bring such contributions closer to a text that could later serve for negotiations. In doing so, we also had in mind the fact that according to decision PC.2/8, the outcome document will consist of a declaratory part and an action-oriented part.
3. We were able to process all such contributions as submitted by various stakeholders into a text appropriate for an outcome document format, specifically covering sections I to IV of the structure of the document. Several versions of this text have been before the Group of Friends, and it was then submitted to the ISWG in September as a working paper by the Chair, entitled “Certain indicative elements in relation to the outcome document”.
4. This document, which is now forwarded to the Preparatory Committee as reproduced below, should not be considered as a negotiated one, though it contains a considerable number of necessary ingredients drawn from the available contributions at the time, which may be chosen to serve as a basis for negotiations.

5. We also have in mind and support proposals that imply a shorter political text for the declaratory part of the outcome document, which in substance might be linked to part V of the document. However, textual proposals for these parts of the text would require different modalities of work. Some of them are addressed in the recommendations on the organization of future work as contained below.
6. We also have in mind the continuous flow of further contributions from various sources, which will be used in the actual negotiations of the outcome document. Most specifically, following the regional preparatory meetings that have taken place during this summer and their outcome documents, as well as any other already submitted or forthcoming regional and other contributions, there will be an opportunity to hear and receive from representatives of such regional and other groups their textual proposals to be incorporated in the future outcome document. This relates in particular to the ongoing preparation of contributions by the Asian group and by the European Union.
7. However, bearing in mind that the character of the “Indicative elements” text is significantly different from the regional outcome documents which are the results of political negotiations, it appeared neither appropriate nor feasible at this stage to attempt to incorporate those negotiated regional outcomes into the working paper which is limited to contain only “certain indicative elements” of the future outcome document.
8. While some assistance in this regard was offered by the representatives of the GRULAG and the African Group, the Chair refrained from editing the proposed parts of the outcome documents of their respective regional conferences into the streamlined text of his working paper in order not to prejudice the subsequent negotiations of the consolidated text of the future outcome document.
9. Thus, further contributions that were submitted as outcomes of two regional conferences held in Latin America and in Africa, as well as a written contribution by the OIC Group in Geneva will be presented to the second substantive session of the Preparatory Committee at face value for further negotiations with a view to incorporating them into a consolidated outcome document of the Review Conference. For ease of reference, those texts are reproduced in documents A/CONF.211/PC.3/3, PC.3/4 and PC.3/10.
10. In addition to the general recommendation on the organization of work of the Preparatory Committee made by the intersessional working group (see annex V below), I would like to submit for consideration by the Preparatory Committee the following proposals with regard to the modalities of negotiations on the draft outcome document:
  - (a) The process of negotiations may be organized through the establishment of up to five sub-groups of the Preparatory Committee as appropriate, corresponding respectively to the five elements of the structure of the draft outcome document of the Review Conference as contained in decision PC.2/8 of the Preparatory Committee;

- (b) Each such sub-group may be chaired by a facilitator [by one of the Bureau members] to be appointed by the Chairperson of the Preparatory Committee who will lead the discussion and coordinate the work of the sub-group;
  - (c) The process of negotiations will remain an intergovernmental one, while the participation of other stakeholders may be regulated according to respective rules as established by corresponding resolutions of the UN bodies, including that of the ECOSOC;
  - (d) Each of the sub-groups may be mandated (a) to consider the relevant section(s) of the document submitted by the intersessional open-ended intergovernmental working group entitled “Certain indicative elements in relation to the outcome document” as well as all other pertinent contributions and proposals submitted by regional preparatory meetings, regional groups and other stakeholders, and (b) to produce on this basis a text that would constitute one of the five elements of the action-oriented part of the future draft outcome document;
  - (e) The work of the sub-groups may be organized in such a way as to avoid the holding of parallel meetings that may pose problems for small delegations. To achieve this, the Preparatory Committee shall allocate two or more half-day meetings to each of the sub-groups to hold their sessions during the period from 7 to 15 October;
  - (f) The results of the work of each negotiating sub-group will be reported to the plenary of the Preparatory Committee not later than on 16 October 2008;
  - (g) The drafting of the declaratory part of the outcome document may take place in parallel to other sections of the document, both as separate negotiating sub-group or within one of the sub-groups, possibly the one that deals with section five. Alternatively, its drafting may be undertaken after the first reading of the five sections of the action-oriented part of the draft outcome document by the Preparatory Committee is completed;
  - (h) The Bureau of the Preparatory Committee may consider respective preparations for the negotiating process, including the drafting of relevant decisions.
11. Finally, it is also recommended that the High Commissioner for Human Rights should be requested to make a substantive contribution to the preparatory process for the Durban Review Conference.

**CERTAIN INDICATIVE ELEMENTS IN RELATION  
TO THE OUTCOME DOCUMENT  
(Working paper)**

**1. Review of progress and assessment of implementation of the DDPA by all stakeholders at the national, regional and international levels, including the assessment of contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance**

**A. Sources, causes, forms and contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance**

- **Language of DPA**

1. The Durban Programme of Action (DPA) urges States to eradicate poverty and end enslavement and contemporary forms of slavery-like practices.

- **Progress and achievements**

2. **Poverty** is a key source of racism and the importance of addressing the problem as a way of promoting the values of equality and non-discrimination has been highlighted since the DPA was adopted. Poverty should neither be regarded as an acceptable outcome of socio-economic development nor as a natural condition of certain groups or individuals. States are urged to implement activities conducive to an intercultural dialogue at all levels with a view to including vulnerable groups and individuals in poverty eradication policies and programmes; structural adjustment policies should improve social policies, including by giving priority to programmes designed to combat racism, racial discrimination, xenophobia and related intolerance. To this end, international financial institutions need to understand and acknowledge the importance of integration of aspects of discrimination based on racism, racial discrimination, xenophobia or related intolerance in their poverty and social impact assessments.

3. Considerable work has been done by the Working Group on Contemporary Forms of **Slavery**. Despite its limited resources, it has managed to monitor the application of the 1926 & 1956 Slavery Conventions, annually review situations in many parts of the world based on specific themes, as well as to submit recommendations at the national and international levels. The recent appointment of a Special Rapporteur on contemporary forms of slavery will help to further deepen and highlight the slavery and slavery like practices. In addition to taking forward some of the responsibilities of the Working Group on Contemporary Forms of Slavery, the Special Rapporteur will be able to: issue annual thematic reports to the Human Rights Council; conduct about two country visits a year to conduct situation analysis and collect information on best practice; be in continuous dialogue with Governments with regard to human rights violations; create more awareness about slavery and slavery like practices at the national, regional and international level; make concrete practical and policy recommendations that prevent slavery and protect those who are in slavery like circumstances; and regularly monitor human rights violations that pertain to contemporary forms of slavery.

- **Challenges and obstacles**

4. **Poverty** frequently originates from discriminatory practices both overt and covert. Recognizing this linkage implies acknowledging that policies designed to eliminate poverty must address the specific obstacles faced by victims of racial discrimination. Changing social attitudes and removing institutional obstacles that sustain discriminative patterns must be considered central objectives for the effective elimination of poverty. It is considered that the devastating effects of the combination of poverty and racial discrimination are still practically hidden due to poor data collection on the situation of marginalized populations.

5. Contemporary forms of slavery are still prevalent today across the globe. Indeed, the majority of cases of slavery or slavery like practices, including child labour, occur where there is deep seated racism, racial discrimination, xenophobia or related intolerance caused as a result of historical, cultural, religious or economic interactions between groups or individuals.

**B. Victims of racism, racial discrimination, xenophobia and related intolerance**

- **Language of DPA**

6. The DPA identifies certain groups of victims of racism, racial discrimination, xenophobia and related intolerance. The victims specifically named in the DPA are victims of racism who are infected or presumably infected with pandemic diseases such as HIV/AIDS, Africans and people of African descent, indigenous peoples, migrants, refugees, as well as other victims, including victims of trafficking, Roma/Gypsy/Sinti/Travellers, people of Asian descent, persons belonging to national or ethnic, religious and linguistic minorities, women and girls who are victims of racism, children and persons with disabilities. The DPA recommends that States take concrete actions to ensure the eradication of discrimination against all these categories of victims.

- **Progress and achievements**

7. In addition to the adoption of mechanisms, policies and legislation aimed at protecting the rights of groups of victims named in the DPA by numerous States and regional organizations since the adoption of the DDPA, progress and achievements have also taken place at the international level.

8. Regarding the meaning and scope of the definition of racial discrimination, **CERD** has further clarified the concept of racial discrimination through its concluding observations as well as in General Recommendations 29, 30 and 31 on descent, discrimination against non-citizens and on the prevention of racial discrimination in the administration and functioning of the criminal justice system. It has also made important steps forward by addressing discrimination affecting the most disadvantaged groups, inter alia, Roma, indigenous peoples, migrant workers - including undocumented migrants - asylum seekers and refugees.

9. [Victims of racism who are infected or presumably infected with pandemic diseases such as HIV/AIDS]

10. Following the Durban Conference, a Working Group on **People of African Descent** was established and has held meetings regularly, thereby bringing the plight of this group of victims to the international stage.

11. On **indigenous peoples**, several mechanisms were established within the UN framework to encourage discussions at the international level on indigenous issues and to help promote and protect the rights of indigenous peoples. As such, the Permanent Forum on indigenous issues was created in 2000, the first Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people was appointed by the Commission on Human Rights in 2001, the United Nations Declaration on the Rights of Indigenous Peoples was adopted in 2007 by the General Assembly, and the Expert Mechanism on the right of indigenous peoples was created in 2007, replacing the Working Group on indigenous populations of the Sub-Commission on the promotion and protection of human rights. These advancements have helped lead to an increased understanding of the content of the rights of indigenous peoples and to greater opportunities for affirmation and protection of those rights.

12. On **migrants**, the International Convention on the protection of the rights of all migrant workers and members of their families entered into force in 2003, thereby allowing the Committee on the protection of the rights of all migrant workers and members of their families to hold its first session in 2004. Further, the mandate of the Special Rapporteur on the human rights of migrants has been recently reviewed by the Human Rights Council at its 8<sup>th</sup> session. The issue of racism, racial discrimination, xenophobia and related intolerance has been addressed by the Special Rapporteur and his predecessor in their missions to countries in different regions of the world and in numerous communications sent to governments around the world, sometimes jointly with other mandate holders.

13. Since 2001, the Office of the United Nations High Commissioner for **Refugees** (UNHCR) has implemented its mandate of protection to refugees, assistance to governments in finding durable solutions for them, of prevention and reduction of statelessness and of protection to stateless persons. Different types of activities have been developed in order to continue fulfilling this multi-faceted mandate, such as awareness and information activities, drafting of policy and standard-setting document, activities aimed at developing the capacity of States to receive and protect refugees, support to individuals who are victims of crimes motivated by racism or xenophobia.

14. The Commission on Human Rights decided in 2004 to appoint a Special Rapporteur on **trafficking** in persons, especially women and children to focus on the human rights aspects of the victims of trafficking in persons. In performing her functions, the Special Rapporteur has referred to the Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the OHCHR in 2002 to provide practical, rights-based approach policy guidance on the prevention of trafficking and the protection of trafficked persons and with a view to facilitating the integration of a human rights perspective into national, regional, and international anti-trafficking laws, policies and interventions.

15. On **Roma/Gypsies/Sinti/Travellers**, CERD has, where relevant and in accordance to its General Recommendation 27, consistently addressed these issues through its concluding observations and opinions on individual communications.

16. [People of Asian descent] language to be developed.

17. On national or ethnic, religious and linguistic **minorities**, an Independent expert on minority issues was appointed by the Commission on Human Rights in 2001 in order to complement and enhance the work of other UN bodies and mechanisms that address minority rights and issues. In addition, a Forum on minority issues has been recently established in order to replace the Working Group on minorities of the Sub-Commission on the promotion and protection of human rights.

18. [Women and girls who are victims of racism]

19. The Committee on the Rights of the Child issued general comments on: the rights of **children** with disabilities; the treatment of unaccompanied and separated children outside the country of origin; HIV/AIDS and the rights of children. Furthermore, the general comment on general measures of implementation focuses inter alia on non-discrimination. The Secretary-General Study on Violence against Children presented to the GA in 2006 highlighted how, although all children are exposed to violence, some children, because of gender, race, ethnic origin, disability or social status, are particularly vulnerable. The need to address discrimination in all its manifestations is addressed in the different recommendations contained in the Study. In its dialogue with States parties from all regions, the Committee has identified, and noted with appreciation, the existence of good practices and positive initiatives, including legislation aimed at prohibiting discrimination against children belonging to marginalized groups, including children with disabilities, children infected or affected by HIV/AIDS, indigenous children and children belonging to national, ethnic, religious and linguistic minorities.

20. With respect to **persons with disabilities**, the Convention on the Rights of Persons with Disabilities and its Optional Protocol entered into force on 3 May 2008. In its preamble, the Convention speaks of the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status.

- **Obstacles and challenges**

21. There remain important protection gaps despite efforts deployed by governments and regional organizations to protect the victims named in the DPA.

22. [Victims of racism who are infected or presumably infected with pandemic diseases such as HIV/AIDS]

23. [Africans and people of African descent]

24. There remains concern that **indigenous peoples** continue to be targets of racism and discrimination in all parts of the world. Even where legal barriers have been diminished within domestic legislation to allow indigenous peoples greater enjoyment of their human rights, social attitudes continue to reflect racial discrimination. Social indicators reflect the continued presence of indigenous peoples at the bottom of the social strata, with a lack of access to basic services,

and frequent denial of rights to lands and resources. Moreover, there are worldwide examples of the exploitation of natural resources by government and private sector entities without adequate acknowledgement of indigenous presence or interests in resources. Furthermore, social exclusion is continually related to manifestations of violence. Indigenous peoples continue to be targets of attacks and abuse, including but not limited to violence against women and children based on racial profiling and ethnic affiliation.

25. Manifestations of racism, discrimination and xenophobia against **migrants** in both the public and the private spheres are still frequent. In many countries, immigrants bear the brunt of racist or xenophobic backlashes. For instance, campaigns conducted in some political quarters and the media in some countries criminalize immigration by making a direct link between immigration and high crime rates. Political rhetoric and information of this nature can promote xenophobic stereotypes and racist sentiment. In addition, despite the international standards designed to offer protection to all individuals, attention should be drawn at the increasing criminalization of irregular migration and the abuses of migrants during all phases of the migration process. This criminalization is linked in many countries to persistent anti-migrant sentiments, which is often reflected in policies and institutional frameworks designed to manage migratory flows, often in a purely restrictive manner. There remain concern with regard to criminal justice practices used by States to combat irregular migration, including greater criminalization of migration offences (as opposed to treating them as an administrative offence) and cross-national collaboration by police and other authorities, which have in certain cases resulted in increased violations against migrants.

26. Challenges and concerns relating to **refugees**, asylum seekers and displaced persons, as highlighted by the DPA, are as valid today as they were in 2001. Indeed, expressions of racism and xenophobia have been identified as major root causes of human displacement; they create obstacles for asylum-seekers to gain admission to safety and asylum procedures and protection against *refoulement*; for persons of a certain race, colour, descent, or national or ethnic origin to acquire and/or retain a nationality; for refugees and internally displaced persons in finding quality protection in their places of displacement; and for refugees in finding durable solutions, in the form of sustainable return and reintegration in places of origin, successful local integration in countries of asylum, or resettlement in third countries. The situation of stateless persons is also particularly fragile in many aspects. If racial prejudices and xenophobic attitudes are widespread in a given society, one can assume with great probability that they will adversely affect this group of people. Strengthening the protection of stateless persons is, therefore, an important aspect of the struggle against racism, racial discrimination, xenophobia and related intolerance. The plight of undocumented non-citizens and persons who cannot establish the nationality of the State on whose territory they live, even where such persons have lived all their lives on the same territory has also been highlighted by CERD.

27. The problem of **trafficking** persists in many places. Every year, millions of human beings are tricked, sold, forced or otherwise coerced into situations of exploitation from which they cannot escape. They are the commodities of a transnational criminal industry which generates billions of dollars and operates with virtual impunity, due to inefficient law enforcement, compounded, in many cases, by official corruption and complicity. The pool of potential victims in every part of the world is expanding due to widespread inequalities, lack of employment opportunities, insecurity of food and livelihoods, violence, conflict, discrimination and poverty. The partners (including OHCHR, ILO, UNICEF, IOM, UNODC and OSCE) in the UN Global

Initiative to Fight Human Trafficking have endeavored to raise alarm bells and mobilize actions to counter trafficking of human beings, and there have been encouraging developments at the national, regional and international levels. However, little has changed for those caught up in this sordid trade. Attempts to deal with the human consequences of trafficking have been largely ineffective. Some anti-trafficking efforts have even been harmful to the very ones they aimed to protect, as victims of trafficking become “collateral damage” in law enforcement. A human rights-based approach to trafficking demands that steps be taken to ensure that laws, policies and procedures are in place to prevent, monitor and redress such “collateral damage”.

28. [Roma/Gypsies/Sinti/Travellers, including children & youth]

29. [People of Asian descent]

30. The overall vulnerability of national or ethnic, religious and linguistic **minorities** is greater where there is racism, racial discrimination, xenophobia and related intolerance. Many violations of the civil, political, economic, social and cultural rights of persons belonging to minorities have a basis in discrimination, racism and exclusion on the grounds of the ethnic, religious, national, or racial characteristics of the minority group. There remain concern at the number of violations of human rights that display discrimination, racism or xenophobia against a minority group and its members. Minorities in all regions of the world continue to face exclusion, serious threats, discrimination and racism. Furthermore, individuals within ethnic, religious, linguistic or national minority groups can experience multiple forms of discrimination because of other factors. This means that individuals within minority communities who are already struggling against intolerable levels of generalized exclusion can also face compounded forms of discrimination or violence based on their gender, personal identity or expression. Greater consideration should therefore be given to the compounded and often negatively reinforcing nature of multiple forms of exclusion or discrimination of members of minority communities.

31. The DPA recognizes that **women** can face multiple forms of discrimination and that racism, racial discrimination and xenophobia do not necessarily affect men and women in the same manner. Likewise, when reviewing, rationalizing and improving the mandate of the Special Rapporteur on violence against women, its causes and consequences, the Human Rights Council expressed deep concern that all forms of discrimination, including racism, racial discrimination, xenophobia and related intolerance and multiple or aggravated forms of discrimination and disadvantage can lead to the particular targeting or vulnerability to violence of girls and some groups of women, such as women belonging to minority groups, indigenous women, refugee and internally displaced women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, women with disabilities, elderly women, widows and women in situations of armed conflict, women who are otherwise discriminated against, including on the basis of HIV status, and victims of commercial sexual exploitation. Violence against women and girls, including sexual violence, motivated by racism or xenophobia is still ongoing. Since the adoption of the DDPA, credible allegations of racially motivated violence against women, including indigenous and migrant women, in different regions of the world are still received by the Special Rapporteur on violence against women.

32. **Double or multiple forms of discrimination** is said to increasingly affect some individuals and groups. In this regard, CERD has had numerous occasions to address this issue, in particular on the ground of gender and race and on the ground of race and religion and has for instance reminded that all persons should enjoy their right to freedom of thought, conscience and religion, without any discrimination based on race, colour, descent or national or ethnic origin.

33. The 2007 progress report to the GA presented by Independent Expert for the SG Study on Violence against **Children** highlights how, although there were a number of initiatives aimed at addressing the root causes of violence, including discrimination, there continued to be a lack of data and research of violence against children and its root causes and the efforts to address violence against children continued to be mainly reactive, focusing on symptoms and consequences. Strategies to address underlying factors such as discrimination were still fragmented and with insufficient resources. Further, the Committee on the Rights of the Child and other treaty bodies, as well as special procedures have continued to highlight de facto and de jure discrimination against children belonging to vulnerable groups, including girls, children belonging to ethnic, religious, linguistic and other minorities, children with disabilities, children living with HIV/AIDS, children in need of alternative care, children living and/or working in the street, refugee or internally displaced children, migrant children or children of migrant parents, children in contact or in conflict with the law, indigenous children, etc.

34. [Persons with disabilities]

### **C. Measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels**

#### **• Language of DPA**

35. The DPA deals with measures of prevention, education and protection. At the **national level**, the DPA urge legislative, judicial, regulatory, administrative and other measures to prevent and protect against racism, racial discrimination, xenophobia and related intolerance. At the **international level**, the DPA urges all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of, and respect for, cultural diversity and universal human rights.

#### **• Progress and achievements**

#### *Measures at the international and regional levels*

36. **Drafting of regional instruments against racism:** Following the 2001 adoption of the DPA, some regions have started to draft regional conventions against racism and various forms of discrimination. For example, the General Assembly of the Organization of American States (OAS) established a Working Group to prepare a draft for an *Inter-American Convention against racism and all forms of discrimination and intolerance*. In Europe, although the adoption of the *Directive 2000/43/EC on equal treatment on grounds of race and ethnic origin* preceded the 2001 adoption of the DPA, its implementation was particularly strengthened thereafter. In 2007, the European Union adopted a *Framework on combating certain forms and expressions of racism and xenophobia by means of criminal law*, which aims at approximating criminal law

provisions and at combating racist and xenophobic offences more effectively by promoting a full and effective judicial cooperation between Member States. In Africa, the African Commission on Human and Peoples' Rights has promoted a number of legislative initiatives, including the drafting of the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*. In the Asia and Pacific region, the establishment of a Human Rights Commission by the ASEAN Charter represents additional protection for victims of racism and racial discrimination.

37. **Establishment of monitoring and reporting mechanisms:** In order to monitor the implementation of international instruments, Rapporteurships on racism and discrimination, or focusing on particular vulnerable groups, have been established in some regional systems. These include the Special Rapporteur on the Rights of Persons of African Descent and Racial Discrimination; the OSCE Personal Representative on Combating Racism, Xenophobia and Discrimination also focusing on intolerance and discrimination against Christians and members of other religions; the OSCE Personal Representative on Combating Anti-Semitism and the OSCE Personal Representative on Combating intolerance and discrimination against Muslims.

38. **School curricula:** The DPA urges States to introduce and, as applicable, to reinforce anti-discrimination and anti-racism components in human rights programmes in school curricula, to develop and improve relevant educational material, including history and other textbooks, and to ensure that all teachers are effectively trained and adequately motivated to shape attitudes and behavioural patterns, based on the principles of non-discrimination, mutual respect and tolerance. Two months after the adoption of the DPA, an *International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination* was held in Madrid. Based on the concept that education, in particular at school, should contribute in a meaningful way to promote tolerance and respect for the freedom of religion or belief, the Final Document of the Madrid Conference calls for the strengthening of a non-discriminatory perspective in education and of knowledge in relation to freedom of religion or belief at the appropriate levels. Following-up to the Madrid Final Document, the Office for Democratic Institutions and Human Rights (ODIHR-OSCE) Advisory Council of Experts on Freedom of Religion or Belief developed in 2007 the *Toledo guiding principles on teaching about religions and beliefs in public schools* which offers practical guidance for preparing curricula for teaching about religions and beliefs, preferred procedures for assuring fairness in the development of curricula and standards for how they could be implemented.

#### *Measures at the national level*

39. **Recognition of the link between racism and poverty:** one of the central points made in the DPA is the consideration that “inequitable political, economic, cultural and social conditions can breed and foster racism, racial discrimination, xenophobia and related intolerance, which in turn exacerbate the inequity”. Many countries have been marked by the reality of social and economic marginalization of members of racial and ethnic minorities. After the 2001 adoption of the DPA, there has been a gradual recognition among States that the disproportionate impact of poverty on minorities is a key component of structural racism and that racially-conscious measures need to be adopted to tackle this problem.

40. **Promoting human rights education:** the DPA reaffirms that “education at all levels and all ages, [...] in particular human rights education, is a key to changing attitudes and behaviour based on racism, racial discrimination, xenophobia and related intolerance and to promoting tolerance and respect for diversity in societies”. National legislation promoting human rights education has been approved in many countries after the 2001 adoption of the DPA, particularly in order to sensitize the public at large concerning the cultural identity of traditional minorities. In Latin America, many countries have focused on promoting diversity education that centered on the teaching of indigenous and Afro-Brazilian culture and history in schools, including by a redrafting of textbooks and other educational material. In Africa, progress has been made in some contexts where human rights education was promoted as an explicit tool to foster post-conflict understanding and conflict prevention. In the Asia and Pacific region, as reported in the 13th Annual Workshop on Regional Cooperation for the Promotion and Protection of Human Rights, a number of States have engaged in drafting national human rights and human rights education plans of action. In Europe, intercultural education has increasingly become a central element of national policy and educational plans. This has focused particularly on the notion of cultural diversity, which has been incorporated into teacher training programmes and teaching materials.

41. **Information, communication and media, including new technologies:** While the DPA “welcomes the positive contribution made by the new information and communications technologies, including the Internet, in combating racism through rapid and wide-reaching communication”, it also “urges States to encourage the media to avoid stereotyping based on racism, racial discrimination, xenophobia and related intolerance”. While much progress is still needed, particularly in the area of self-regulation and diversity training of media professionals, important actions have taken place since the 2001. Diversity training for journalists has been promoted as a key preventive measure against negative stereotyping and discrimination. Independent media councils composed of media professionals assessing issues related to racism in the media have also been formed in many countries. In some cases, these councils have been mandated to receive complaints of racism in the media and to advise editors and publishers accordingly. The media has also been effectively used as a means to promote more balanced representation of members of minorities, who have increasing access to high visibility functions in many countries.

- **Obstacles and challenges**

42. While numerous measures of prevention, education and protection were put forward by the DPA in order to eradicate racism, racial discrimination, xenophobia and related intolerance, several obstacles and challenges have prevented their full implementation.

*Legislative, judicial, regulatory, administrative and other measures*

43. **De jure or de facto profiling** continues to exist in many parts of the world, although there have been some commendable efforts to stamp it out. Misconduct by law enforcement personnel vis-à-vis non citizens and immigrants seems to have risen since 2001. Emphasis has been put on the need for the composition of security corps to reflect the multicultural nature of the society and on the necessity to improve the response of the internal and external control mechanisms to complaints of racist or racially-discriminatory behaviour on the part of the police. Initiatives aimed at training the police forces on tolerance and anti-discrimination have been made in some

countries together with activities aimed at encouraging members of national or ethnic, religious and linguistic minorities to participate in the recruitment procedures for law enforcement positions so as to overcome those barriers which might prevent members of minorities from applying or succeeding in police recruitment.

44. The **over-representation of certain racial groups among the prison population and among the persons facing execution** in some countries continues to constitute a concern. Such over-representation can be the result of profiling, racial discrimination in the administration of justice, or of the past or present marginalization of a racial group in the enjoyment of economic and social rights. If there remain concern on this issue, there must also be highlighted that positive measures have been taken by some governments to counteract over-representation of a racial group among the prison population. Finally, concern was expressed on racial inequalities in the imposition of the death sentence.

45. Violations of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief still continue. There remain concern about **religious intolerance and acts of violence against members of certain religious or belief communities**. These include violations of the right of members of religious minorities to worship and carry out other religious activities without State registration or approval, attacks on places of worship, killings, as well as prosecution and conviction on the grounds of religion or belief leading to arbitrary deprivation of liberty. Women, individuals deprived of liberty, asylum seekers, refugees, children, minorities and migrant workers are being particularly vulnerable to violations of their right to freedom of religion or belief.

46. [Impunity for perpetrators of racist acts]

47. [Lack of progress in establishing national institutions mandated to fight racism and in drafting and implementing national action plans against racism]

#### *Policies and practices*

48. [Lack of disaggregated data on racial groups]

49. Poorest communities in almost any region tend to be minority communities that have been the targets of longstanding discrimination, violence or exclusion. Poverty within minority communities is both a cause and a manifestation of the depletion of rights suffered by members of minority communities. Poverty in this context involves more than just a lack of income or a daily struggle for basic sustenance. Members of poor communities are generally less able to participate effectively in political decision-making or to access mechanisms of justice. Furthermore, they suffer from unequal access to land, education, employment and health care. Efforts to reduce poverty are essential to larger efforts to promote the full range of civil, political, social, economic and cultural rights for minority communities.

50. There remain concern about the high incidence of **political programmes** based on ideas of racism, racial discrimination, xenophobia and related intolerance. Political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination shall be condemned. Racism and xenophobia based ideas are gaining ground in the political arena and are found in the platforms of political parties in all regions of the world. In

some countries, parties are gaining increasing access to mainstream politics by dressing up policies, which are essentially based on racist and xenophobic prejudices, in the less controversial and less direct language of cultural difference. Some of these parties are gaining access to government by acting as junior members of governing coalitions together with traditional mainstream parties. The impact these parties are having on the overall political agenda is also alarming, and an increasing number of parties are now resorting to policies that negatively target immigrants, minorities, asylum seekers and refugees.

*Education and awareness-raising measures*

51. There continue to be flaws relating to human rights education, including on the issue of continued prejudices carried in textbooks.

*Information, communication and the media, including new technologies*

52. **The role of the media in the fight against racism:** While the media reports on racist incidents in public life, it has to do it in a balanced manner, so as to avoid negative stereotyping of specific groups and avoid contributing to the increase of tensions in inter-community relations. Hence, it should be ensured that in the media racist terms or derogatory stereotypes are not used and that there are no unnecessary references to a person's race, religion or related attributes. Media professionals, as well as the public at large, should be conscious of the potential impact that the ideas they express may have in raising cultural and religious sensitivities. The dissemination of intolerant and discriminatory opinions ultimately promotes discord and conflict and is not conducive to the promotion of human rights.

53. **Racism and the Internet:** The emergence of international communication networks (i.e. Internet) provide certain persons with modern and powerful means to support racism and xenophobia and enables them to disseminate easily and widely expressions containing such ideas. Its potential for use by people with racist motives is significantly high. As a consequence, the DPA "urges States to implement legal sanctions, in accordance with relevant international human rights law, in respect of incitement to racial hatred through new information and communication technologies, including the Internet". Relevant international human rights law include article 19 (3) and 20 of the ICCPR. According to article 19 (3), freedom of expression may be subject to restrictions provided by law and necessary for respect of the rights or reputations of others, the promotion of national security or public order, or of public health or morals. Further to article 20 (2) of the ICCPR, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. The Human Rights Committee confirms that the measures contemplated by article 20 (2) of the ICCPR constitute important safeguards against infringement on the right of religious minorities and of other religious groups. It has been emphasized that legal restrictions on freedom of expression alone have historically proved ineffective to bring about real changes in mindsets, perceptions and discourse. To tackle the root causes of racism, further efforts are required, for example in terms of intercultural dialogue or education for tolerance and diversity.

**D. Provision of effective remedies, recourse, redress, and  
compensatory and other measures at all levels**

• **Language of DPA**

54. The DPA urges States to ensure that victims of racism have full access to information, support, effective protection and national, administrative and judicial remedies, including the right to seek from competent national tribunals and other national institutions just and adequate reparation or satisfaction for damage from acts of racism, as well as legal assistance. States are also urged to ensure the protection against victimization of complainants and witnesses of acts of racism.

• **Progress and achievements**

55. [Legal Assistance]

*National legislation and programmes*

56. Of those States who responded to the questionnaire concerning the Durban review process, most of them reported on the existence of legal provisions addressing the issue of discrimination on the grounds of race or ethnic origin and punishing racist acts. Some regional organizations also informed of the adoption of common standards across their member States (i.e. for the European Union, the *Racial Equality Directive and Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law*).

57. [Remedies, reparations, compensation]

• **Obstacles and challenges**

58. [Legal Assistance]

*National legislation and programmes*

59. CERD considers that the risks of discrimination in the administration and functioning of the criminal justice system have increased in recent years, partly as a result of the rise in immigration and population movements, which have prompted prejudice and feelings of xenophobia or intolerance among certain sections of the population and certain law enforcement officials, and partly as a result of the security policies and anti-terrorism measures adopted by many States.

60. With regard to the issue of difficulties encountered in accessing to justice, including specific barriers related to discriminative practices, it is useful to recall that the concept of access to justice does not only refer to the possibility of defending a case before a tribunal, but also includes the analysis of the whole system of administration of justice and the factors that impinge its functioning. It has been observed that the obstacles that impede access the justice system are often connected to discriminative practices affecting specific vulnerable groups, such as indigenous peoples, refugees, migrants, and stateless persons. These groups face difficulties in accessing justice because of different kinds of barriers, in particular cultural barriers. These

groups have difficulties in understanding their rights and what is at stake in a judicial proceeding. Systems of justice are not prepared to overcome these difficulties.

61. [Remedies, reparations, compensation]

**E. Strategies to achieve full and effective equality, including international cooperation and enhancement of the United Nations and other international mechanisms in combating racism, racial discrimination, xenophobia and related intolerance**

*International legal framework*

62. *See section 3 on Promotion of the universal ratification and implementation of the ICERD and proper consideration of the recommendations of the CERD.*

*General international instruments*

63. A Convention on the Rights of Persons with Disabilities and its Optional Protocol have been adopted by the General Assembly and entered into force on 3 May 2008.

*Regional/International cooperation*

64. [Role of national Parliaments, IPU]

65. [Migrants, Refugees, Victims of Trafficking]

66. [Regional bodies or centres which combat racism, racial discrimination xenophobia and related intolerance/International organizations, financial and development institutions and operational programmes and specialized agencies of the UN]

67. Further to the DPA, a **Group of five independent eminent experts** has been established following the adoption of the DPA and an Anti-Discrimination Unit has also been established within the OHCHR.

*Office of the High Commissioner for Human Rights*

68. [Goodwill Ambassadors]

69. [Technical cooperation]

70. In 2008, the Human Rights Council reviewed, rationalised and improved the mandate of the **Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**. The mandate was extended for a period of three years and expanded to include, among other things, follow-up to the implementation of all relevant paragraphs of the DDPA and the promotion of the establishment of national, regional and international mechanisms to combat racism, racial discrimination, xenophobia and related intolerance.

71. The Human Rights Council decided in 2006 to create the **Ad Hoc committee on the elaboration of complementary international standards**, an intergovernmental body whose mandate is to elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol(s) to the ICERD, filling the existing gaps in the Convention, and also providing new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred.

72. [Decades]

*Indigenous Peoples*

73. As mentioned above, progress and achievements have taken place with regard to indigenous peoples issues. Both the **Permanent Forum** on indigenous issues and the **Special Rapporteur** on the situation of the human rights and fundamental freedoms of indigenous people pursue their work on indigenous issues. In addition, States have concluded the negotiations on a draft declaration on the rights of indigenous peoples. The **United Nations Declaration on the Rights of Indigenous Peoples** was adopted in 2007 by the General Assembly.

74. [Civil society, including leaders of religious communities, Non-Governmental Organizations, Private sector, Youth]

**2. Assessment of the effectiveness of the existing Durban follow-up mechanisms and other United Nations mechanisms dealing with the issue of racism, racial discrimination, xenophobia and related intolerance in order to enhance them**

• **Language of DPA**

75. Certain paragraphs of the DPA requested the establishment of follow-up mechanisms, such as the Working Group of Experts on People of African descent and the Group of Independent Eminent Experts. Further, the DPA invited the Commission on Human Rights to consider any other appropriate means to follow up on the outcome of the Conference and recommended the preparation of complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects.

• **Progress and achievements**

76. Three distinct mechanisms came out of the Durban Conference in 2001 with the aim of ensuring the effective implementation of the DDPA, while a fourth was added in 2006 to complement the other three.

77. **Intergovernmental Working Group (IGWG) on the Effective Implementation of the DDPA:** As the first mechanism established, it addressed over the years themes including racism

and the Internet; racism and poverty; the role of civil society and national human rights institutions in eradicating racism; and existing gaps in the international protection system on racism.

78. **Working Group of Experts on People of African Descent (WGPAD):** As the second mechanism, it has also been very active discussing a range of human rights challenges affecting people of African descent across the world and making recommendations for follow-up action by the Human Rights Council.

79. **Five Independent Eminent Experts:** The third mechanism comprises five eminent persons appointed by the Secretary-General, each representing a world region, which has recommended the development of a racial equality index as a way of assessing the extent to which racism poses a challenge of development in the different countries of the world, among other things.

80. **Ad Hoc Committee on the Elaboration of Complementary International Standards:** In 2006, the Human Rights Council created an intergovernmental body whose role is to “elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol(s) to the ICERD, filling the existing gaps in the Convention and also providing new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred”. The Ad Hoc Committee has taken over the mandate of the development of the complementary standards from the IGWG, leaving the latter to focus on other aspects of its general mandate of ensuring the effective implementation of the DDPA.

81. In general, the Durban follow-up mechanisms made a valuable contribution to the implementation of the DDPA and to the preparations for the review process. A number of States have been of the view that the post-Durban mechanisms are functioning well and should be supported in the form they are for the effective implementation of the DDPA. The Durban follow-up mechanisms have provided the necessary framework for monitoring the problem of overcoming racism and for refining recommendations in an ever-changing context.

82. Since 2001, **CERD** has developed further its monitoring procedures in order to enhance its effectiveness. In particular, it has adopted new procedures to ensure adequate follow-up to its opinions adopted under article 14 of the Convention as well as to its concluding observations. In 2007, it has also revised its reporting guidelines so as to facilitate the drafting of initial and periodic reports by States parties to the Convention. CERD has been encouraged by the response of most States parties to the review procedure during the past years which has resulted in the submission of many overdue reports for consideration by the Committee. This review procedure has allowed CERD to take more effective control of the reporting process and has encouraged States parties to resume a fruitful dialogue. At its 71st session held in August 2007, CERD revised its early warning and urgent action procedure guidelines so as to enhance the effectiveness of this procedure, which has allowed the Committee to adopt numerous decisions and recommendations for action to prevent serious violations of the Convention, in particular those that could lead to ethnic conflict and violence. In 2005, and as a follow-up to its

declaration on the prevention of genocide, CERD developed a special set of indicators of patterns of systematic and massive racial discrimination so as to strengthen its capacity to detect and prevent at the earliest possible stage developments in racial discrimination that may lead to violent conflict and genocide.

- **Obstacles and challenges**

83. Some assert that the multiplication of mechanisms since the Durban Conference risks to undermine the effectiveness of anti-discrimination strategies by dissipating energies, diluting the attention that fight against racism deserves and making it harder for the mechanisms to be used by outsiders. The proliferation of mechanisms can therefore be detrimental and it should be avoided. In addition, some believe that there is lack of clarity in the mandates and objectives of the existing mechanisms, with a risk of overlapping and duplication. Finally, there is also a feeling that not enough attention is paid to the implementation of the DDPA at that national level and that States should be encouraged to report on the national implementation within the Durban follow-up mechanisms. Tools such as questionnaires are important developments in that regard.

84. The **Group of Five Independent Eminent Experts** has not met regularly due to scheduling problems of its high-profile members and therefore this to some extent lessened its effectiveness. In addition, one of its members ceased to be part of the group when he was appointed to another post within the United Nations System, and his replacement is yet to be effected.

<p><b>3. Promotion of the universal ratification and implementation of the ICERD and proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination</b></p>
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- **Language of DPA**

85. The DPA urges States that had not yet done so to consider ratifying or acceding to the international human rights instruments which combat racism, racial discrimination, xenophobia and related intolerance. In addition, the DPA urges States and OHCHR to cooperate and give due consideration to the observations and recommendations of the CERD and to provide adequate resources for the CERD.

- **Progress and achievements**

86. While the goal of **universal ratification** of ICERD by 31 December 2005 has not been achieved, the number of States parties to the Convention has gone from 158 to 173 between August 2001 and March 2008.

87. Since 2001, CERD has established a **new follow up procedure**, requesting States to provide within one year information on the implementation of priority recommendations formulated in its concluding observations. CERD appointed a follow-up coordinator for recommendations made in its concluding observations as well as a rapporteur to follow up on recommendations made in opinions on individual communications. In 2006, the coordinator on follow-up of CERD was invited by one State party to conduct a visit in order to discuss and assess the measures taken in order to follow-up on CERD's recommendations.

- **Obstacles and challenges**

88. The IGWG considers it appropriate to recall that the obstacles to overcoming racism, racial discrimination, xenophobia and related intolerance and achieving racial equality lie mainly in the **lack of political will, weak legislation, and lack of implementation strategies and concrete action by States**.

89. Though a few States have informed CERD that they are in the process of reviewing their **reservations to ICERD** insufficient progress has been made in relation to the DPA's call for States to consider withdrawing reservations contrary to the object and purpose of ICERD.

90. **Delays in reporting** remain a major obstacle to the Committee's work and the effective implementation of the Convention. As at 27 March 2008, 84 out of 173 States parties were late in the submission of two or more reports. As of July 2008, 28 following States parties were at least 10 years late in the submission of their reports, whereas 28 were at least five years late.

91. Despite the encouragements of the Intergovernmental Working Group and calls to States made by CERD in its concluding observations, only 52 States have made the **declaration under article 14** of the Convention.<sup>1</sup> Owing to the relatively small number of declarations made under article 14 ICERD, coupled with a lack of awareness of the mechanism in those States which have made the declaration, the potential of this procedure has not been fully exploited and has impeded the development of CERD jurisprudence.

92. While welcoming the information provided by some States in their periodic reports on the progress made in following up on its recommendations, CERD regrets the continuing **failure of a large number of States to act upon its concluding observations**. The observation that "the obstacles to overcoming racial discrimination and achieving racial equality mainly lie in the lack of political will, weak legislation, and lack of implementation strategies and concrete action by States" is still valid and illustrates that where the ICERD has failed to improve the situation, it may be because the necessary political will is lacking in the States concerned.

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<sup>1</sup> The number of States which have made the declaration under article 14 of ICERD has gone from 34 in 2001 to 52 in 2008.

#### **4. Identification and sharing of best practices achieved at the national, regional and international levels in the fight against racism, racial discrimination, xenophobia and related intolerance**

*This section intends to give examples of good practices relating to the fight against racism at the institutional, legislative and policy levels. The examples are based on the contributions received in relation to the questionnaire sent out by OHCHR in accordance with decision PC.1/10 adopted on 31 August 2007 by the Preparatory Committee of the Durban Review Conference. Additional practices will be identified by WG members.*

##### **Institutional**

###### *General*

1. Democratic and inclusive processes to overcome centuries old racism and racial discrimination, including the establishment of truth and reconciliation mechanisms and schemes aimed at empowering the victims affected by such discrimination
2. Setting-up governmental, as well as independent, institutions and agencies at the national and regional levels to combat racism and monitor racist acts and phenomena and the implementation of relevant national legislation
3. Giving independent national institutions the competence to deal with individual cases and bring them to the courts and to act as mediators
4. Establishing official ministries and institutions with the mandate to promote tolerance and intercultural dialogue
5. Follow-up visits by the CERD Coordinator at the invitation of a State party in order to discuss and assess the measures taken by the State party in order to follow up on the Committee's conclusions and recommendations. CERD is of the view that follow-up visits, together with the follow-up reports submitted for consideration, provide the Coordinator with an optimum overview of the steps taken towards the implementation of the recommendations addressed by the Committee to the State party concerned one year earlier

###### *Regional examples*

6. Establishment of the EU Fundamental Rights Agency
7. Establishment of an ASEAN human rights body in the ASEAN Charter (2007)
8. Establishment of *rapporteurships* in the Americas to focus on issues facing particularly vulnerable social groups

### *National examples*

- Establishing a human rights section within the Directorate of the Internal Police Force (Lebanon)
- Creating an Office for relations with indigenous communities and an Office for relations with afro-descendent communities (Venezuela)

## **Legislative**

### *General*

- Developing comprehensive legal frameworks to combat racism, racial discrimination, xenophobia and related intolerance in all spheres, such as equality or equal treatment acts
- Legislation reforms aimed at strengthening punishments for crimes of racist nature; Devising legislations and policies which are specific to combating racism, racial discrimination, xenophobia and related intolerance at the national level, to complement the more general provisions enshrined in national constitutions
- Devising specific laws for confronting the ideologies and practices of extreme right wing groups

### *Regional examples*

- European Union: Racial Equality Directive (June 2000), Employment Equality Directive (November 2000), Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law (April 2007).
- Council of Europe Additional Protocol to the Convention on Cybercrime ***concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems*** (into force March 2006). The purpose of this Protocol is twofold: firstly, harmonising substantive criminal law in the fight against racism and xenophobia on the Internet and, secondly, improving international co-operation in this area.
- OSCE Decision No. 566, of 27 November 2003, adopted on the *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*. The Action Plan is intended to reinforce the efforts of the participating States and relevant OSCE institutions and structures aimed at ensuring that Roma and Sinti people are able to play a full and equal part in our societies, and at eradicating discrimination against them.
- Continued recognition of the rights of Afro-descendants through new legislation by states and by regional organizations such as the Organization of American States.

*National examples*

- Obligatory teaching on African and Afro-Brazilian history and culture, as well as on indigenous peoples (Brazil)

**Policy**

*General*

- Issuing formal apologies to victims of historic injustices as a means of achieving healing and reconciliation as well as devising means for collective compensation. Also commemorating within the UN and beyond the plight of the victims of historic injustices
- Developing affirmative action programmes, including with respect to recruitment for various public/official posts at all levels
- Ensuring public reporting on the implementation of public policies
- Creating funds to support civil society projects to combat racism and racial discrimination, including through training, education and assistance to the victims
- Devising national policies to combat racism, racial discrimination, xenophobia and related intolerance, including through the participatory development of national action plans that should promote cross-sectoral cooperation and coordination
- Promoting increased vigilance by the judiciary of the implementation of existing legal frameworks, including through adequate training
- Investing in education and awareness raising at an early age, including through leisure activities (sport games, youth camps, multicultural festivals) and undertaking a revision of curricula to raise awareness of different cultures and civilizations and in fair and objective perspectives and to promote a culture of human rights and respect for diversity
- Investing in training and education of all public officials
- Disseminating a culture of equality and non-discrimination, including through awareness raising and education at all levels and through the media
- Compiling and developing studies on racial discrimination to generate adequate diagnosis, in close cooperation with civil society and relevant international organizations/agencies
- Developing indicators to measure discrimination, with the assistance of the UN
- Organizing national and regional meetings on issues related to racism, racial discrimination, xenophobia and related intolerance

- Ensuring the possibility of exchanging good practices on a regular basis at the regional level, through meetings or other institutional arrangements
- Conducting broad consultations at the national level, including with civil society, in the implementation of the DPA
- Devising special policies for confronting the ideologies and practices of extreme right wing groups

#### *Regional examples*

- From June 2006 to September 2007, the Council of Europe ran a Campaign for Diversity, Human Rights and Participation, based upon the slogan “All Different - All Equal”. Various meetings, events, training courses and symposia were organized, concerning issues related to three pillars of the campaign: diversity, participation and human rights. Among the various events which took place all over Europe, five “thematic” weeks were organized in different European cities in order to raise public awareness and to stimulate reflection on issues closely related to the themes of the campaign.

#### *National examples*

- National education campaigns to combat racism
- Manual on teaching of human rights in several languages
- Involving leaders of youth organizations in the elaboration of youth policies
- Anti-racism initiatives in the context of sports events
- Workshops and similar events in educational institutions on the issue of racial discrimination against Roma and Sinti
- Policies of hiring immigrants in public and private spheres
- Establishment of a Roma People’s Fund aimed at improving opportunities for cultural activities and discontinuing the policy of assimilation towards the Romani people
- Having relevant projects scrutinized by indigenous peoples
- Panafrican Festival of Cinema and Television (FESPACO) and the international book festival (Burkina Faso)
- Socio-cultural mediators (Portugal)
- Roma Communities Support Cabinet (Portugal)
- “My school against discrimination” (Portugal)

- Preparation of a “White paper on intercultural dialogue” and reports on “Hate speech” and “Wearing of religious symbols in public areas” by the Committee of Experts for the Development of Human Rights (Council of Europe framework) (Sweden)
- Manual on teaching of human rights in several languages (Armenia)
- Involving leaders of youth organizations in the elaboration of youth policies (Armenia)
- Anti-racism initiatives in the context of sports events (Italy)
- Workshops and similar events in educational institutions on for instance the issue of racial discrimination against Roma and Sinti (Italy)
- Policies of hiring immigrants in public and private spheres (Norway)
- Establishment of a Roma People’s Fund which is aimed at improving opportunities for cultural activities and discontinuing the policy of assimilation towards the Romani people (Norway)
- Having relevant projects scrutinized by indigenous peoples (IFAD)
- Comprehensive and systematic policies for foreigners who reside in the Republic of Korea through the enactment of the Basic Act on the Treatment of Foreigners in Korea and establishing periodic five-year ‘Basis Plans for Policies Regarding Foreigners’ (Reply to Q by Republic of Korea)

**5. Identification of further concrete measures and initiatives at all levels for combating and eliminating all manifestations of racism, racial discrimination, xenophobia and related intolerance, in order to foster the implementation of the DDPA and to address challenges and impediments thereto, including in the light of developments since the adoption of the DDPA in 2001**

**Anexo V**

**RECOMENDACIÓN DEL GRUPO DE TRABAJO INTERGUBERNAMENTAL  
ABIERTO ENTRE PERÍODOS DE SESIONES SOBRE LA ORGANIZACIÓN  
DE LOS TRABAJOS DURANTE EL SEGUNDO PERÍODO DE SESIONES  
SUSTANTIVO DEL COMITÉ PREPARATORIO**

El Grupo de Trabajo entre períodos de sesiones, al que se le encargó que examinara las aportaciones e iniciara negociaciones, recomienda al Comité Preparatorio, sobre la base de los resultados de sus trabajos, que, cuando haya inaugurado su segundo período de sesiones sustantivo, el 6 de octubre de 2008, y aprobado su programa, inicie inmediatamente las negociaciones sobre el documento final de la Conferencia de Examen de Durban y la elaboración de dicho documento.

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