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# 人权理事会

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议程项目9

种族主义、种族歧视、仇外心理和相关不容忍行为:

《德班宣言和行动纲领》的后续行动和执行情况

# 促进从空谈走向现实

非洲人后裔问题专家工作组的报告\*, \*\*

## 概要

本文件载有非洲人后裔问题专家工作组根据人权理事会第 51/32 号决议编写的报告。

工作组在报告中盘点并审查了自 2002 年成立以来 20 年间所开展的工作,并就如何更高效地解决非洲人后裔的人权关切提出了结论和建议。工作组重点介绍了其根据任务采取的举措,特别是专题分析和专门的国别访问,并强调需要会员国作出承诺并提供资源,使工作组能够继续开展其重要工作。





<sup>\*</sup> 因提交方无法控制的情况,经协议,本文件迟于标准发布日期发布。

<sup>\*\*</sup> 本报告附件不译,原文照发。

# 一. 导言

- 1. 本报告根据人权理事会第 51/32 号决议第 13 段提交,理事会在该决议中请非洲人后裔问题专家工作组向人权理事会第五十四届会议提交一份报告,在报告中审查工作组成立 20 年来所开展的工作,并就如何更高效地解决非洲人后裔的人权关切提出结论和建议。
- 2. 在编写本报告时,请利益攸关方分享与工作组的工作直接或间接相关的最新情况,提供具体实例,包括专题建议或国别建议的执行情况。1此外,工作组还与民间社会组织、国家人权机构和工作组前成员进行了在线磋商。
- 3. 工作组谨感谢澳大利亚、巴西、智利、厄瓜多尔、圭亚那、意大利、卢森堡、墨西哥、荷兰王国、挪威、葡萄牙、卡塔尔、西班牙、瑞典、瑞士和特立尼达和多巴哥提供的意见。工作组还感谢欧洲反贫困网络、非洲人后裔国际十年圭亚那大会、爱法法律行动组织、热图利奥·瓦加斯基金会圣保罗法学院种族正义和法律中心、国际反对酷刑协会、维多利亚平等机会和人权委员会与维多利亚大学(联合提供)、AI for the People 以及德国科隆市提供的意见。本报告附件一载有所有意见的摘要。

# 二. 《德班宣言和行动纲领》的承诺:任务的确立和演变

- 4. 在 2001 年反对种族主义、种族歧视、仇外心理和相关不容忍行为世界会议通过的《德班宣言和行动纲领》中,国际社会承认跨大西洋奴隶贸易以及贩运被奴役非洲人是一场悲剧,属于危害人类罪。国际社会强调三角贸易残酷野蛮、规模巨大且有组织性,非洲人和非洲人后裔遭受了系统的非人化对待。2 尽管非洲人和非洲人后裔在被奴役期间也作出了重大贡献,但由于榨取性政策、移民障碍和暴行正常化,他们长期、持续地遭受种族不平等。许多国家的财富源于对非洲人和非洲人后裔的劳动力、资源和创新的剥削,在这些国家依然存在榨取性政策。
- 5. 如今,跨区域和跨边界的社会和经济不平等持续存在,非洲人和非洲人后裔继续遭受殖民主义及其后果的系统性影响。《德班宣言和行动纲领》承认公共和私营机构中普遍存在对非洲人和非洲人后裔的社会偏见和歧视,并寻求重新承认他们的文化权、身份权、公民权、经济权和文化参与权、自决权、发展权以及使用、享有和保护自然资源的权利。3《行动纲领》要求人权委员会考虑建立一个机制,以研究非洲人后裔面临的种族歧视。4
- 6. 2002 年 4 月 25 日,人权委员会于根据其关于种族主义、种族歧视、仇外心理和相关不容忍行为的第 2002/68 号决议设立该工作组。工作组的设立是关于《德班宣言和行动纲领》全面实施和后续行动的战略的一部分。在成立之后的

1 见https://www.ohchr.org/en/calls-for-input/2023/report-un-working-group-experts-people-african-descent-reviewing-20-years-work。

<sup>&</sup>lt;sup>2</sup> 《德班宣言》,第13段。

<sup>3</sup> 同上,第34和第35段。

<sup>4 《</sup>行动纲领》,第7段。

20 年里,人权委员<sup>5</sup> 会和人权理事会<sup>6</sup> 延长了工作组的任务期限并扩大了任务范围。

# 三. 成员

- 7. 工作组由五名独立专家组成,根据公平地域分配原则任命。<sup>7</sup> 自成立以来,工作组有过来自阿尔及利亚、孟加拉国、巴西、法国、希腊、圭亚那、匈牙利、印度、牙买加、北马其顿、菲律宾、波兰、罗马尼亚、南非、瑞典、阿拉伯叙利亚共和国、乌干达、美利坚合众国和赞比亚的成员。<sup>8</sup> 自 2002 年以来,已有 12 名妇女和 11 名男子被任命为工作组成员。
- 8. 现任成员是多米尼克·戴伊(美国)、比纳·德科斯塔(孟加拉国)、米里亚姆·埃基奥多科(匈牙利)、芭芭拉·雷诺(圭亚那)和凯瑟琳·纳马库拉(乌干达)。

# 四. 任务、影响和成就

- 9. 工作组的任务是提出措施,确保非洲人后裔充分有效地诉诸司法;提交关于制定、实施和执行有效措施的建议,消除对非洲人后裔的种族定性做法;并拟订关于消除对非洲人后裔种族歧视的短期、中期和长期建议,包括关于设立机制以监测和促进其人权的建议。工作组寻求与国际和发展机构以及联合国机构在这方面密切合作。工作组的任务还包括在当地和跨国背景下支持社区层面的相关举措;促进信息交流和技术援助;促进对卫生、教育、住房、电力、饮用水和环境控制措施的投资;以及促进平等就业机会并在人权框架内采取扶持性举措或积极举措。9
- 10. 延长任务期限是对工作组能力的认可,并扩大了工作组的工作范围,确保其工作范围和方法涵盖促进、保护和充分实现非洲人后裔的人权。工作组履行任务的方式包括国别访问、年度报告、年度会议(非公开和公开)、来文程序(指控信函、紧急呼吁、对法律的评论)、法庭之友简报、技术访问、新闻稿、与利益攸关方协商以及为会员国和其他主要利益攸关方拟定建议。
- 11. 工作组自成立以来,在全球打击种族主义的斗争中发挥了重要的领导作用并提供了重要分析。工作组领导了非洲人后裔国际年(2011年),侧重于提高对全球非洲人后裔所面临挑战的认识。工作组还在制定"落实非洲人后裔国际十年活动方案"方面发挥了关键作用。除了年度公开会议的专题重点之外,工作组还于

<sup>5</sup> 见人权委员会第2003/30号决议。

<sup>6</sup> 见人权理事会第9/14号、第18/28号、第27/25号、第36/23号和第45/24号决议。

<sup>7</sup> 人权委员会第2002/68号决议,第8段。

<sup>8</sup> 玛丽一埃弗利娜·彼得吕斯一巴里(法国)、米雷耶·法农一孟戴斯·弗朗斯(法国)、利诺斯一亚历山大·西西利亚诺斯(希腊)、乔·弗兰斯(瑞典)、萨贝洛·古梅泽(南非)、马娅·萨赫利(阿尔及利亚)、彼得·莱萨·卡桑达(赞比亚)、米哈乌·巴尔采扎克(波兰)、米里亚娜·奈切夫斯卡(北马其顿)、伊琳娜·莫罗亚努一兹勒泰斯库(罗马尼亚)、苏希尔·拉吉(印度)、里卡多·松加三世(菲律宾)、莫诺拉莫·比斯沃斯(孟加拉国)、乔治·尼古拉·雅布尔(阿拉伯叙利亚共和国)、艾哈迈德·里德(牙买加)、韦雷纳·谢泼德(牙买加)、罗尔斯顿·米尔顿·内特尔福德(牙买加)和罗伯托·博尔热斯·马丁斯(巴西)。

<sup>9</sup> 人权委员会第2002/68号决议,第8-10段。

2019 年发布了重要的专题报告,包括关于负面种族成见和对非洲人后裔的成见在持久地强化带有种族偏见的决策、种族差异和种族不公正中所起的作用<sup>10</sup>,以及 2020 年发布了关于冠状病毒病(COVID-19)疫情、系统性种族主义与全球抗议的报告。<sup>11</sup> 非洲人后裔在可持续发展目标相关倡议中明显处于隐形状态且这种状态令人担忧,针对这一问题,工作组于 2020 年 12 月通过了关于将非洲人后裔纳入《2030 年议程》的操作指南。<sup>12</sup> 工作组还根据人权理事会第 43/1 号决议,积极协助联合国人权事务高级专员办事处(人权高专办)编写一份关于系统性种族主义、警察有罪不罚和执法人员侵犯非洲人和非洲人后裔人权的报告。工作组的分析为最后报告<sup>13</sup> 和会议室文件提供了信息,这些报告和文件也是基于工作组先前的工作而编写的。工作组也是联合国系统内第一个倡导和呼吁为非洲人后裔提供赔偿的机构。

12. 工作组的双边和多边宣传一直很有力度。工作组一贯主张更广泛地执行《德班宣言和行动纲领》,并参加了纪念《德班宣言和行动纲领》二十周年的活动。工作组还参加了非洲人后裔国际十年的中期审查,并一贯主张实施相关活动方案。工作组通过双边宣传和参与利益攸关方协商等方式,积极推动设立非洲人后裔问题常设论坛,工作组欢迎该论坛于 2022 年设立并参加了其届会。

# A. 来文程序、新闻稿和法庭之友

13. 从 2013年1月1日至2023年6月30日,工作组发出了100多份来文,通常与人权理事会其他特别程序联合发出。在这些来文中,50.72%发给拉丁美洲和加勒比国家组,31.88%发给西欧和其他国家组,6.52%发给非洲国家组,3.2%发给亚太国家组。其余7.25%发给其他利益攸关方,包括私营企业。这些来文涉及约901,206名据称受害者,公众可在网上查阅。14各国政府对工作组63%的来文作出了答复。答复也可在网上查阅。

14. 在国别访问和届会之外,工作组通过来文程序审查了关于侵犯和践踏人权行为的个人申诉。这些来文提请注意侵犯非洲人后裔权利的行为,并请有关当局采取行动,防止、调查或限制这种侵权行为,促进问责,并确保受害者或其家属能够获得补救。即使缺乏量化数据,工作组通过这些来文也能确定新出现的趋势和做法。工作组还发布了许多新闻稿,以便利公众了解严重关切或对积极的事态发展表示欢迎。

15. 许多来文涉及执法官员非法、过度或致命使用武力的指控,以及针对移民、难民和寻求庇护者的歧视性政策和做法的指控。工作组已干预的案件涉及缺乏诉诸司法的机会、强行带离儿童、系统性种族主义和结构性种族歧视、享有健康权和正当程序的障碍、强迫失踪、酷刑和其他残忍、不人道或有辱人格的待遇或处

<sup>&</sup>lt;sup>10</sup> A/74/274.

<sup>&</sup>lt;sup>11</sup> A/HRC/45/44.

<sup>12</sup> 別

https://www.ohchr.org/sites/default/files/Documents/Issues/Racism/WGEAPD/Guidelines\_inclusion\_2030\_Agenda.pdf。

<sup>&</sup>lt;sup>13</sup> A/HRC/47/53.

 $<sup>^{14}</sup>$  见https://spcommreports.ohchr.org。

罚。工作组还提请注意奴役和拍卖被奴役非洲移民、强行将儿童从父母身边带走、在禁毒行动中法外杀害儿童、环境种族主义、报复人权维护者、袭击非洲人后裔领导人和社区、种族歧视、仇外心理、强制驱逐以及在 COVID-19 疫情期间国家和私人行为体过度针对非洲人和非洲人后裔等问题。

16. 工作组关注了与其任务有关的几个典型案件,并提交或请求提交法庭之友简报或专家简报供法院审议。<sup>15</sup> 例如,2019 年 11 月 19 日,工作组就涉及 Jude Kasangaki、Anita Mavita 及其子女的案件向荷兰王国一家家事法庭提交了法庭之友简报,讨论了违反《儿童权利公约》的行为以及基于种族歧视违反难民法的行为。2022 年 2 月 15 日,工作组就罗格斯大学法学院国际人权诊所诉美国案(关于被监禁者的投票权)向美洲人权委员会提交了法庭之友简报。2022 年 5 月 27 日,工作组就 Brian K.诉瑞士案发布了一份专家报告,将提交瑞士刑事法院,该报告讨论了系统性种族主义在司法系统决策中持续发挥的作用,这已经侵犯了一名非洲裔儿童的权利。2022 年 12 月 6 日,工作组就宾夕法尼亚州联邦诉 Mumia Abu-Jamal 案提交了法庭之友简报,目的是帮助分析刑事司法系统中涉及长期被扣留证据的公正性和相关性的系统性种族主义。<sup>16</sup> 工作组还请求允许就 B.H.K.诉瑞士案提交法庭之友简报,此案目前正在欧洲人权法院待审。

## B. 国别访问

17. 自 2002 年以来,工作组应各国政府的邀请,根据特别程序的职权范围,进行了 23 次国别访问,其中包括 5 次后续访问。工作组访问了阿根廷 $^{17}$ 、澳大利亚 $^{18}$ 、比利时 $^{19}$ 、巴西 $^{20}$ 、加拿大 $^{21}$ 、厄瓜多尔 $^{22}$ 、德国 $^{23}$ 、圭亚那 $^{24}$ 、意大利 $^{25}$ 、

 $<sup>^{15}</sup>$  见https://www.ohchr.org/en/special-procedures/wg-african-descent/activities。

 $<sup>^{16}</sup>$  见https://www.ohchr.org/sites/default/files/documents/issues/racism/wgeapd/amicuscuriae/20221206-WGEPAD-Amicus-Mumia-Abu-Jamal.pdf。

<sup>&</sup>lt;sup>17</sup> 见A/HRC/42/59/Add.2。

<sup>18</sup> 见https://www.ohchr.org/sites/default/files/documents/issues/racism/wgeapd/2022-12-20/2022-12-20-EOM-WGEPAD-Australia.pdf。

<sup>19</sup> 见E/CN.4/2006/19/Add.1、A/HRC/42/59/Add.1和A/HRC/42/59/Add.3。

<sup>20</sup> 见A/HRC/27/68/Add.1。

<sup>21</sup> 见A/HRC/36/60/Add.1。

<sup>&</sup>lt;sup>22</sup> 见A/HRC/13/59和A/HRC/45/44/Add.1。

<sup>23</sup> 见A/HRC/36/60/Add.2和A/HRC/36/60/Add.4。

<sup>&</sup>lt;sup>24</sup> 见A/HRC/39/69/Add.1。

<sup>25</sup> 见A/HRC/33/61/Add.1。

荷兰王国<sup>26</sup>、巴拿马<sup>27</sup>、秘鲁<sup>28</sup>、葡萄牙<sup>29</sup>、西班牙<sup>30</sup>、瑞典<sup>31</sup>、瑞士<sup>32</sup>、大不列颠及北爱尔兰联合王国<sup>33</sup> 和美国<sup>34</sup>。

- 18. 在国别访问期间,工作组评估了非洲人后裔的人权状况,并收集了关于他们面临的各种形式当代种族主义、种族歧视、仇外心理、仇视非洲人和相关不容忍行为的资料。工作组研究了旨在防止结构性种族歧视和保护种族主义受害者的官方措施和机制,以及根据交叉性概念对多种形式歧视采取的应对措施。
- 19. 为此,工作组考虑了历史和当前背景,并仔细审查了为保护非洲人后裔人权而采取的法律框架和步骤,包括体制和政策措施。为了审议种族歧视的表现形式,工作组调查了刑事司法系统、代表性、负面种族成见以及媒体宣传非洲人后裔相关信息的方式。
- 20. 工作组还调查了在获得教育、医疗保健、住房和就业方面的差异以及多种形式的歧视。
- 21. 除了由工作组进行调查和分析之外,国别访问还为各国政府提供了一个机会,以展示已经实施的积极政策和做法,在某些情况下,政策或法律在访问期间仍处于初始阶段,可以在访问后推进。工作组也可以通过国别访问和相关报告分享良好做法。附件二载有在访问期间各国展示的积极政策和做法概要。
- 22. 在编写本报告时,工作组要求各国提供关于其访问期间所提建议落实情况的最新信息。工作组对澳大利亚、巴西、厄瓜多尔、圭亚那、意大利、荷兰王国、葡萄牙、瑞典和瑞士的合作和答复表示欢迎。

## C. 技术援助

- 23. 自成立以来,工作组一直与国际组织,包括侧重于发展的国际组织,以及联合国专门机构密切合作。技术访问使工作组能够向利益攸关方提供技术援助,以确保它们对种族正义的承诺产生实际影响。工作组进行了三次技术访问。此外,它还与世界银行及其统计司以及其他专门机构合作,鼓励在发展规划中更加注重保护非洲人后裔的人权。
- 24. 2021年12月13日至16日,工作组对巴黎进行了一次技术访问,由联合国教育、文化及科学组织主办,作为其题为"被奴役人民的道路:抵抗、自由和遗产"项目的一部分。此次访问重点关注文化和知识生产,这是经济发展的驱动

<sup>&</sup>lt;sup>26</sup> 见A/HRC/30/56/Add.1和A/HRC/30/56/Add.3。

<sup>27</sup> 见A/HRC/24/52/Add.2和A/HRC/24/52/Add.4。

<sup>&</sup>lt;sup>28</sup> 见A/HRC/45/44/Add.2和A/HRC/45/44/Add.3。

<sup>&</sup>lt;sup>29</sup> 见A/HRC/21/60/Add.1和A/HRC/51/54/Add.2。

<sup>&</sup>lt;sup>30</sup> 见A/HRC/39/69/Add.2和A/HRC/39/69/Add.4。

<sup>31</sup> 见A/HRC/30/56/Add.2。

<sup>32</sup> 见A/HRC/51/54/Add.1。

<sup>&</sup>lt;sup>33</sup> 见A/HRC/24/52/Add.1和A/HRC/24/52/Add.3。另见 https://www.ohchr.org/sites/default/files/documents/issues/racism/wgeapd/statements/2023-01-27/eom-statement-UK-WGEPAD-2023-01-27.pdf。

<sup>34</sup> 见A/HRC/15/18和A/HRC/33/61/Add.2。

- 力,符合可持续发展目标。工作组强调,实现《2030年可持续发展议程》要求各国解决非洲人后裔的种族化经历。
- 25. 工作组还进行了两次技术访问: 2023年3月21日至24日访问蒙得维的亚,由联合国国家工作队和乌拉圭驻地协调员办公室接待; 2023年3月27日至30日访问墨西哥的墨西哥城以及格雷罗和阿卡普尔科,由联合国人口基金墨西哥国家办事处接待。工作组在上述访问过程中,倡导在发展规划中更加关注非洲人后裔,工作组还提供了技术援助,促进以立足人权的方式落实与非洲人和非洲人后裔相关的可持续发展目标。工作组还在联合国系统内提供支持以及向发展伙伴提供支持,以便制定战略在国家和地方层面落实非洲人后裔国际十年及其活动方案。

# D. 专题工作

- 26. 自成立以来,工作组通过提供分析和统筹专业知识,审查了世界范围内继续对非洲人后裔的生活和机会产生重大影响的关键问题。这些问题往往植根于历史性和系统性歧视,受到当地环境和历史背景的极大影响,然而,鉴于买卖和贩运被奴役非洲人、殖民主义和种族这一社会建构具有跨国性质,工作组也观察到跨区域和跨边界的惊人一致性。工作组强调的一些普遍主题包括:
- (a) 种族歧视,包括教育、就业、住房和刑事司法系统中的体制性种族主义、种族定性和偏见;
- (b) 贫困和社会经济不平等,包括就业歧视和降级,对民间社会和社会倡议的机构支持不足,以及在获得公共产品、服务和便利方面存在障碍;
- (c) 教育差距,包括获得优质教育的机会不平等、体制上阻碍继续接受高等教育、长期处于不利境地、辍学率较高以及在高等教育机构中的代表性不足;
- (d) 健康差距,包括获得医疗保健的机会不足、医疗环境中的歧视以及消极的社会经济因素,包括死亡率明显偏高、身体疾病和精神健康障碍,这些都与长期种族压力以及后奴隶制时代和后殖民主义时代的创伤直接相关;
- (e) 住房差距,包括住房歧视、隔离以及限制性政策和做法,这会导致非洲人后裔生活条件不平等,难以获得负担得起且安全的住房和生活环境;
- (f) 刑事司法制度中的待遇差异,包括种族定性、过度执法、持续监视和控制、判决更严厉、监禁率更高(特别是对非洲裔少年和青年男子而言),以及惩罚性毒品政策和种族成见的影响;
- (g) 暴力和仇恨犯罪,包括仇恨言论和出于种族动机的犯罪,对个人和社区造成严重的身心影响;
- (h) 对移民和难民的负面态度和做法,包括仇外心理和歧视、限制获得社会服务的机会以及在确定身份、重新安置和其他法律决策方面采用双重标准;
- (i) 交叉歧视,包括具有交叉身份的非洲人后裔(包括妇女、LGBTQ+群体和移民)遭受极端暴力且处境脆弱,因为种族偏见和歧视即使在弱势群体中也长期存在;

- (j) 呼吁承认和赔偿,包括承认和纠正奴隶制和殖民主义等历史上的不公正现象,以及承认和纠正持续存在的系统性种族主义,包括呼吁承认和赔偿性正义。
- 27. 此外,持续存在的种族偏见和种族成见反映在整个社会中,包括广告、社交媒体、政治言论以及医疗保健、教育和就业方面的决策中,往往导致种族歧视长期存在并加剧非洲人后裔的社会边缘化。35
- 28. 工作组组织了公开会议<sup>36</sup> 以探讨各种主题,并发布了 20 多份专题报告,<sup>37</sup> 讨论阻碍非洲人后裔充分实现人权的问题。专题会议和报告<sup>38</sup> 讨论了以下问题: 获得就业、教育、医疗保健和住房的机会;司法;获取信息技术;结构性歧视;非洲裔儿童的处境;通过教育、文化权利和数据收集实现承认;诉诸司法、发展和经济解放;系统性种族主义、种族差异和种族不公正;对非洲人后裔的负面种族成见以及种族偏见决策的长期存在;气候危机如何影响非洲人后裔;必须将非洲人后裔的状况纳入实现千年发展目标的计划中;赔偿;增强非洲裔妇女的权能;以及政党在非洲人后裔融入政治生活和决策进程方面发挥的作用。
- 29. 工作组是联合国系统内第一个倡导和呼吁为非洲人后裔提供赔偿的机构。自 2003 年以来,工作组传播了相关分析和数据,在其所有年度公开会议期间至少召开一次关于赔偿问题的专门会议,并在国别访问和其他干预措施中就赔偿性正义提出建议。工作组还研究了地方、区域和国家层面的各种赔偿建议,并正式认可了加勒比共同体的 10 点赔偿计划。2021 年 2 月 16 日,工作组就一项存在已久的赔偿法案 H.R.40 向美国国会发出一封公开信,强调该法案在理解、承认、解决并最终消除系统性种族主义和促进种族平等方面的重要作用。工作组敦促各国积极为非洲人后裔寻求赔偿性正义,并鼓励采取举措,为非洲人后裔解决承认、正义和发展问题。39
- 30. 工作组在联合国重点关注非洲人后裔和人权的倡议中发挥了关键作用。这些倡议包括大会第 64/169 号决议宣布 2011 年为非洲人后裔国际年,确认有必要加强国家行动以及区域和国际合作,以确保非洲人后裔充分享有经济、文化、社会、公民和政治权利。工作组通过研究、分析和协商积极支持这一倡议。这些活动直接促进了非洲人后裔国际十年的规划和筹备工作。
- 31. 在这方面,工作组根据大会第66/144号决议,提交了一份支持非洲人后裔国际十年的行动纲领草案,提出了"承认、正义、发展"的主题。40 该文件成为了政府间审议的依据,最终产生了大会第68/237号决议,大会在该决议中宣布非洲

<sup>35</sup> 见A/76/302。

 $<sup>^{36}</sup>$  见https://www.ohchr.org/en/special-procedures/wg-african-descent/sessions  $\circ$ 

<sup>37</sup> A/69/318、A/70/309、A/71/297、A/72/319、A/73/228、A/74/274、A/75/275、A/76/302、A/77/232、A/HRC/4/39、A/HRC/7/36、A/HRC/10/66、A/HRC/14/18、A/HRC/18/45、A/HRC/21/60、A/HRC/24/52、A/HRC/27/68、A/HRC/30/56、A/HRC/33/61、A/HRC/36/60、A/HRC/39/69、A/HRC/42/59、A/HRC/45/44、A/HRC/48/78、A/HRC/51/54、E/CN.4/2003/21、E/CN.4/2004/21、E/CN.4/2005/21和E/CN.4/2006/19。

 $<sup>^{38}</sup>$  见https://www.ohchr.org/en/special-procedures/wg-african-descent/annual-reports。

<sup>39</sup> A/HRC/33/61, 第50-72段。

<sup>&</sup>lt;sup>40</sup> A/HRC/21/60/Add.2.

人后裔国际十年从 2015 年 1 月 1 日起至 2024 年 12 月 31 日止,主题由工作组提出。自那时以来,工作组一直在向公共和私营实体宣传非洲人后裔国际十年。

32. 人权理事会在第43/1号决议中要求联合国人权事务高级专员提交关于执法机构针对非洲人和非洲人后裔的系统性种族主义和违反国际人权法行为的报告; 2020年10月,人权理事会在第45/24号决议中要求工作组协助编写该报告。工作组与人权高专办积极合作编写该报告,工作组的分析为最后报告<sup>41</sup>和高级专员关于促进和保护非洲人和非洲人后裔人权和基本自由不受执法人员过度使用武力和其他侵犯人权行为侵害的会议室文件提供了材料。这两份文件都提到了工作组以前的工作。无论如何,工作组的实质性合作对高级专员报告的编写至关重要。

## 通过教育实现承认

- 33. 承认非洲人后裔是一个独特的群体,这对于提高他们的可见度,从而充分实现他们的人权和基本自由至关重要。必须在国家宪法和法律中承认非洲人后裔是一个独特的群体,并通过教育、提高认识活动和尊重其文化权利的方式予以承认。自我承认对非洲人后裔也至关重要。数据收集是确认非洲人后裔的存在、活动和总体状况的一种手段,对实现充分承认至关重要。42
- 34. 工作组第十二届会议的主题是"通过教育、文化权利和数据收集实现承认",<sup>43</sup>工作组在会上强调了非洲人后裔接受包容和公平教育的重要性。这包括解决对非洲历史和贡献的遗漏和歪曲问题;促进课程的文化多样性和包容性;以及确保所有非洲人后裔都能获得优质教育。工作组强调了保护和促进非洲人后裔文化遗产的重要性。工作组呼吁承认和保护文化权利,包括语言、艺术、音乐和传统习俗。
- 35. 工作组还倡导进一步承认非洲人后裔在社会各方面的成就、贡献和多样性。他们担任领导职位,活跃在媒体、艺术和其他领域,但他们在这些领域历来代表性不足。工作组在第十二届会议上敦促各国修订目前的课程和教材,并编写尊重和承认非洲人后裔历史的课程和教材,包括关于奴役非洲人和跨大西洋非法奴隶贸易的材料。在国别访问期间,工作组一直建议相关政府在教育系统中纳入承认的内容。各国必须确保非洲人后裔有机会获得优质教育,这将使他们能够在劳动力市场上与其他人平等竞争。
- 36. 受教育权对非洲人后裔至关重要,不仅能使他们摆脱历史排斥和歧视,也使他们能够享有自己的文化、传统和知识,并使他们的文化、传统和知识得到尊重和承认。非洲裔妇女和女孩面临多重和交叉歧视,她们极度缺乏受教育机会,文盲率高,这严重阻碍了她们的整体进步,也严重阻碍了她们增强权能。

#### 交叉种族正义的数据

37. 由于缺乏按种族分类的统计数据,非洲人后裔的情况要么被忽视,要么被过度关注,包括与事实脱节的负面种族成见,以及否认非洲人后裔的历史及其对国家发展的贡献。工作组强调需要全面收集数据,特别包括关于非洲人后裔的资

<sup>&</sup>lt;sup>41</sup> A/HRC/47/53.

<sup>&</sup>lt;sup>42</sup> A/HRC/24/52,第49段。

<sup>43</sup> 见A/HRC/24/52。

- 料。收集分类数据将有助于更好地了解影响社区的种族差异的范围和性质,并有助于制定有针对性的政策和干预措施,以解决种族差异问题。若未能收集这类数据,就很难承认和解决教育、卫生、就业、住房、拘留、司法等领域持续存在的严重种族歧视和不公正现象。
- 38. 2018 年,工作组开始对非洲人后裔的人权状况进行摸底,以建立衡量进展的基线。此类数据有助于确定歧视模式,并为旨在实现种族正义和平等的循证政策提供信息。<sup>44</sup>
- 39. 工作组指出,如果没有按种族分列的数据来说明持续关切的领域,显示随着时间推移的改善轨迹,并通过承认种族差异来推动补救和纠正工作,则各国可能无法实现其人权目标。此类数据有助于确定歧视模式,为循证政策提供信息并衡量实现种族正义和平等的进展。45 工作组敦促各国按照有关人权和基本自由的规定,例如数据保护条例和隐私权保障,基于自我认同在国家和地方各级收集、汇编、分析、传播以及(在获得明确同意的情况下)公布可靠的分类统计数据。
- 40. 工作组呼吁保持数据透明,公开信息,以确保问责制,并促进社区和机构之间的信任。工作组承认身份的交叉性,并鼓励收集数据,以反映属于多个边缘化群体(包括非洲人后裔)的个人的独特经历。
- 41. 工作组讨论了人工智能的伦理和治理问题,面部识别等技术进步中的偏见问题,以及某些国家刑事司法部门使用的软件。46 工作组提出了关切,即在算法、编码和数据驱动的商业和军事产品(如人脸识别软件、自主武器系统和特征打击定点计划)中,几乎没有作出努力来确保社会反映的种族偏见没有被嵌入进去。传统思维模式仍然根植于决策过程中,往往是因为决策者未能正视自己的偏见。公开这些观点会减轻其影响,特别是算法中反映的偏见,因为算法缺乏反思能力和有效的独立监督。
- 42. 种族偏见和成见反映在整个社会中,包括广告、社交媒体、政治言论以及医疗保健、教育和就业方面的决策。这种偏见和成见长期存在且普遍存在,在许多领域(包括人工智能)持久地强化种族歧视,并助长非洲人后裔的社会边缘化。47
- 43. 工作组敦促各国和利益攸关方认识到定性数据的重要性。逸闻轶事、叙事和个人数据,再加上目击证词,对于准确解读现有定量数据至关重要,以避免系统性种族主义和个人偏见导致数据趋势及其重要性被错误解读或错误描述。

#### 刑事司法系统和诉诸司法

44. 关于刑事司法系统管理和运作中的种族主义的两个主要问题是遵守法律面前人人平等的原则以及将种族主义定为刑事犯罪。<sup>48</sup> 非洲裔儿童和青年是处境脆弱的群体之一,他们获得高质量教育的比例极低,遭受暴力的比例高得惊人,包括遭受执法人员的暴力。非洲裔儿童和青年往往被视为成年人,经常被警察种族定

 $<sup>^{44}</sup>$  见https://www.ohchr.org/en/special-procedures/wg-african-descent/24th-session-working-group。

<sup>&</sup>lt;sup>45</sup> 见A/HRC/42/59。

<sup>46</sup> 同上。

<sup>&</sup>lt;sup>47</sup> 见A/76/302和A/HRC/42/59。

<sup>&</sup>lt;sup>48</sup> A/HRC/27/68, 第19段。

性并作为拦截搜查的目标,他们因此感到愤怒、沮丧且对执法机构缺乏信任,在 极端情况下甚至导致自杀。

- 45. 妇女在诉诸司法方面遇到的困难因若干因素而加剧,包括社会歧视、缺乏教育、缺乏对其权利的认识以及缺乏随时可用的法律援助。尽管存在相关的国际规范,包括消除种族歧视委员会第 31 号一般性建议(2005 年)和第 32 号一般性建议(2009 年)所反映的规范,但非洲裔妇女的情况更为令人不安。
- 46. 工作组对非洲人后裔在刑事司法系统中面临的种族定性和歧视表示关切。工作组呼吁采取措施,处理和防止执法部门的种族定性,并确保法律面前人人平等。工作组在各种场合(包括在国别访问报告中)提醒人们认识到刑事司法系统中非洲人后裔所占比例过高的问题,并敦促各国政府解决造成这种比例过高的深层原因,如社会经济不平等以及治安和判刑方面的偏见。
- 47. 工作组注意到,种族和性暴力及骚扰剥夺了非洲裔妇女诉诸司法的机会。有些非洲裔妇女被关押在无法获得法律服务和领事服务的外国,对她们而言,这个问题更加严重。工作组建议,通过提高认识优先考虑向非洲裔妇女提供法律援助,包括编制方便用户、对性别问题有敏感认识的司法信息指南。
- 48. 工作组强调,必须在所有领域对正义的概念本身提出质疑,必须拓宽正义的 定义,使之包括社会正义、诉诸司法以及运用法律制度解决历史上的不公正。
- 49. 工作组强调了必须确保非洲人后裔能够平等获得法律代理和援助。工作组呼 吁采取措施,解决法律代理方面的障碍,如确保该服务可负担且无论身处何处都 可用。
- 50. 工作组谴责执法部门对非洲人后裔过度使用武力,并主张对国家拘留期间死亡案件追究责任和伸张正义。工作组还倡导提高执法人员、法官和法律专业人员的认识,以消除种族偏见和成见并促进正义。工作组强调了必须收集和分析分类数据,以更好地了解非洲人后裔在刑事司法系统中的经历。此类数据对于循证决策以及监测解决不平等问题的进展至关重要。

#### 发展

- 51. 殖民主义和数百年奴役历史体现在非洲人后裔面临的当代不平等、结构性歧视和种族主义,这阻碍了他们充分实现发展权。工作组承认,历史上发生的不公正不可否认地助长了贫困、发展不足、边缘化、社会排斥、经济差距、不稳定和不安全,影响到世界不同地区的许多人民,特别是发展中国家的人民;又认识到需要在基于团结和互敬精神的新伙伴关系框架内为这些社会和非洲离散社群的社会和经济发展制定方案,领域包括减免债务、消除贫困、市场准入和促进外国直接投资。49
- 52. 工作组得出结论认为,不平等现象在结构性障碍中根深蒂固,这些障碍相互交织,相互强化。鉴于结构性障碍的跨领域性质,如果不承认这些长期存在的障碍,可持续发展目标及其具体目标将无法实现。可持续发展目标和非洲人后裔国

<sup>49</sup> 《行动纲领》,第158段;和A/HRC/30/56,第43段。

际十年为促进非洲人后裔的人权提供了机会。结构性种族主义、种族歧视、仇视 非洲人、仇外心理和相关不容忍行为是这种不平等的根源,必须加以解决。50

53. 在这方面,关于将非洲人后裔纳入《2030年议程》的操作指南提到了工作组的报告和国际人权法,强调在《2030年议程》中特别关注非洲人后裔的重要性,以确保不让任何人掉队,优先帮助最落后的人。工作组在2019年和2020年访问厄瓜多尔和秘鲁期间对指南进行了实地测试,并于2020年11月20日在一次专家会议上进行了验证,出席此次专家会议的有联合国人口基金以及拉丁美洲和加勒比经济委员会的代表。该指南旨在承认和包容非洲人后裔作为利益攸关方,以立足人权的方式实现可持续发展目标。

## 承认、正义和发展之间的相互联系

54. 非洲人后裔国际十年的三大支柱(承认、正义和发展)之间的相互联系、相互关系和相互依存是不可分割的。非洲人后裔所面临的系统性歧视以及结构性和体制性忽视源于无法获得承认,他们的历史和贡献被重新定义、改写、篡改或否认,从而被抹去。在这方面,司法是探明真相的重要手段。正义包括赔偿,其中包含停止、保证和保障不再发生,以及恢复原状、补偿和抵偿,但非洲人后裔面临结构性歧视和忽视,在主张其权利方面面临艰苦斗争。

# 关于促进、保护和充分尊重非洲人后裔人权的联合国宣言草案

- 55. 大会第 76/226 号决议第 11 段请非洲人后裔问题常设论坛和工作组为拟订关于促进、保护和充分尊重非洲人后裔人权的联合国宣言草案作出贡献,该决议是在 2021 年通过的。工作组至少自 2012 年以来就一直在强调有必要通过这样一项宣言并制定补充标准。51
- 56. 工作组第二十二届会议专门讨论了关于促进和充分尊重非洲人后裔人权的宣言框架这一主题。52 工作组指出,这样一项宣言将提供一个契机,以审议历史上的不公正和结构性种族主义对非洲人后裔的影响并纠正其后果。该宣言还将提供一个契机,以阐述尚未载入国际法律框架且与非洲人后裔的经历相关的权利。
- 57. 工作组呼吁宣言草案确立或重申有关非洲人后裔个人和集体权利的标准,包括获得赔偿的权利;被承认为族裔社区和群体的权利;祖传土地的共同所有权;保护传统知识的权利;以及公平分享资源的权利。工作组建议宣言草案:
- (a) 包含一项呼吁,即呼吁各国承认本国非洲人后裔人口的存在以及他们在文化、经济、政治和科学方面的贡献,强调跨大西洋奴隶贸易和殖民主义的遗留问题与当今持续存在的针对非洲人后裔的种族主义、种族歧视、仇外心理和相关不容忍行为之间的关系;
- (b) 解决非洲人后裔因多重和交叉形式的歧视而面临的边缘化、贫困和排 斥问题及其脆弱处境,并强调必须消除非洲人后裔面临的一切形式歧视,包括在 《2030年议程》框架内;

<sup>50</sup> A/HRC/36/60, 第51-88段。

<sup>&</sup>lt;sup>51</sup> A/HRC/21/60,第59段。

<sup>52</sup> 见A/HRC/39/69。

- (c) 强调非洲人后裔作为集体和个人有权充分享有国际人权法承认的所有 人权和基本自由,要求所有国家批准相关条约,并确保国家法律符合国际人权 法;
- (d) 包括公民权利和政治权利以及经济、社会和文化权利的保障,并包括赔偿、保护土地权、防止国家暴力(包括种族定性)、防止仇恨犯罪、保护人权维护者以及保护非洲裔移民、难民和寻求庇护者。还应呼吁各国制定积极措施,确保非洲人后裔参与社会各个层面和所有就业领域,包括保障高度的政治参与。53
- 58. 在最近的会议上,工作组和常设论坛还确定了必须阐明系统性种族主义嵌入制度和做法的具体方式,例如,在虐待或忽视诉讼中强行带走儿童以及环境和气候政策对非洲人后裔的影响。

# COVID-19、系统性种族主义和全球抗议

- 59. COVID-19 疫情期间,那些应该维护正义、确保公平、提供补救和提出建议的机构却存在种族歧视。例如,非洲人后裔感染 COVID-19 的比例过高,与其他人群相比,他们的情况更严重,死亡率更高,但执法机构未能提供保护。相反,在许多国家,执法人员暴力针对非洲人后裔而不受惩罚,甚至不顾对整个社区的社会保护或人权,强制实施疫情限制措施。在疫情期间,工作组表示关切的是,这种限制措施对非洲人后裔造成过度影响,尤其影响到他们获得医疗保健的机会,导致经济差距,以及非洲人后裔社区更容易因为疫情而在健康和社会经济方面受到影响。54
- 60. 工作组还讨论了疫情与人权的交叉问题,特别侧重于疫情如何加剧了非洲人后裔面临的现有不平等和人权挑战。工作组敦促各国政府和国际组织确保采取包容和公平的措施应对疫情和社会动乱,并考虑到非洲人后裔的具体需求和脆弱性。工作组表示,至关重要的是,各国应承认非洲人后裔面临最大风险,是最需要保护的群体,各国还要考虑对健康有影响的社会因素。非洲人后裔在疫情期间遭受暴力,人权被无视,各国未能认识到他们面临的风险,助长了疫情期间的种族差异。
- 61. 这种差异反映在疫情期间日常生活的许多方面,例如在隔离、保持社交距离和戴口罩的规定方面,对非洲人后裔的影响尤其严重,包括他们面临感染的风险很大,因为在应急响应人员、必要工作人员和无证基本工人中非洲人后裔的比例很高。没有针对非洲人后裔这一高危人群采取特别措施。在整个疫情期间,政策制定过程中对非洲人后裔不重视或忽视,加剧了对他们的伤害。在有些国家,获得财政援助的机会就是一个明显的例子,刺激支付和失业援助的对象不包括无证人员,而无证人员中非洲人后裔的比例很高。
- 62. 在疫情期间,世界各地的非洲人后裔报告的警察暴力行为不断增多,这些暴力行为往往以执行社交距离要求为借口。疫情期间发生的滥用权力行为也为全球抗议执法和准执法中的系统性种族主义奠定了基础,几名非洲人后裔被杀害成为这一全球抗议的导火索。55

<sup>&</sup>lt;sup>53</sup> A/HRC/39/69, 第65和第80-82段。

<sup>54</sup> 见A/HRC/45/44。

<sup>55</sup> A/HRC/45/44, 第41-44段。

- 63. 针对 2020 年 5 月乔治•弗洛伊德之死引发的全球抗议活动<sup>56</sup> 以及反对种族不公正和警察暴行的更广泛运动,工作组对抗议者表示声援,并强调有必要解决全世界非洲裔人面临的系统性种族主义和歧视。工作组呼吁对侵犯人权行为追究责任;进行警务改革;以及采取措施打击种族定性和种族歧视。
- 64. 鉴于疫情和人权抗议活动具有重大影响,工作组再次呼吁改进数据收集和监测工作,以更好地了解这些事件对非洲人后裔的影响,并为循证政策应对措施提供依据。工作组指出,一些司法管辖区决定不保留按种族分类的数据或不发布数据,特别是在疫情期间的种族差异变得明显之后。57 这种平权阻碍直接限制了信息的生产和人们的理解。

## 非洲裔儿童

- 65. 工作组在其 2022 年关于非洲裔儿童的报告<sup>58</sup> 中,重点讨论了与这些儿童面临的种族歧视和不平等有关的人权问题,包括在司法、执法、教育、卫生、家庭管理制度和发展等方面的人权问题,并且还考虑了对奴役、殖民主义和种族隔离遗留问题的补救事宜。该报告的发布是工作组 2009 年举行的专题讨论的后续行动,当时的讨论聚焦于非洲裔儿童,包括他们遭受的暴力行为以及他们获取教育和医疗保健的机会。与利益攸关方和嘉宾的讨论得出了一些重要结论,包括必须努力防止非洲裔儿童在少年司法系统中的比例过高。<sup>59</sup>
- 66. 在工作组 2022 年的公开会议上,有人强调指出,非洲裔儿童在实现其最大利益方面面临种族主义障碍,阻碍他们充分发挥潜力。这些障碍造成了贫困和基于种族的创伤性应激反应的代际传递,他们无法获得可达到的最高标准身心健康,以及基于身份特征被定罪。对非洲裔儿童而言,无论年龄大小往往都会受到负面种族成见的影响,这剥夺了他们作为儿童通常应享有的系统性保护。
- 67. 2022 年的报告详细说明了持续存在的关于推定犯罪、罪责和危险性的负面种族成见如何影响了全球范围内警察、检察官、律师和法官等的决策。治安和家庭干预措施中持续存在的种族偏见夺走了非洲人后裔的童年,包括带走儿童和终止父母权利以及种族化的决策和结果。
- 68. 工作组还注意到此类行动的历史依据。在国际上,自从买卖和贩运被奴役非洲人开始以来,自从国际上有人认同非洲人后裔及其子女是可供出售、贩运和交易的财产以来,非洲人后裔的家庭早已四分五裂,一直受到合法化分离措施的深刻影响。支撑这一制度的是奴役者的船只、拍卖场、系统性强奸和强制繁殖,甚至让妇女在怀孕期间和之后从事非人道工作。与此相关的还有将贫困、药物使用和堕胎定为刑事犯罪,以及种族规范将非洲裔妇女描述为性欲亢进,给她们贴上不道德的标签,剥夺她们的权威性并导致对子女和家庭的投资失去合法性。

<sup>56</sup> 见https://www.ohchr.org/en/press-releases/2020/06/un-experts-condemn-modern-day-racial-terror-lynchings-us-and-call-systemic。

<sup>57</sup> 见A/76/302,第54、第55、第81和第92段。

<sup>&</sup>lt;sup>58</sup> A/HRC/51/54.

<sup>59</sup> 见A/HRC/10/66。

## 环境种族主义、气候危机和非洲人后裔

69. 非洲人后裔继续受到环境种族主义的影响,并在气候危机中受到过度影响。 环境种族主义是指在种族化社会中,实践和政策中的环境不公正现象。环境种族 主义是种族主义、种族歧视、仇外心理、仇视非洲人和相关不容忍行为的一种可 衡量的当代表现。<sup>60</sup>

70. 环境种族主义由国家、国际公司和其他非国家行为体犯下,往往违反国际人权义务和当地法律,并且故意无视对非洲人后裔社区的影响。正是基于这个原因,《德班宣言和行动纲领》要求各国在得到国际合作支持的情况下,积极考虑在以非洲人后裔为主的社区中加大环境控制方面的额外投资。环境正义和赔偿是非洲人后裔应享有的人权。

71. 气候危机的特点是人类决策造成的全球变暖和气候变化,已经对非洲人后裔的生活产生了过度影响。据报告,非洲大陆也受到了过度影响。有些社区甚至整个国家占据和依赖低洼沿海土地、苔原和北极冰层、干旱土地和其他脆弱生态系统,它们的处境尤其危险。政策制定(包括各国应对气候危机的政策制定)可能会加强气候危机对非洲人后裔社区的影响,因为这些社区在地方和全球范围内的政治权力和职权往往较弱。应对气候危机需要采取基于人权的方针,优先考虑让非洲人后裔参与所有阶段的决策,包括防范、减缓、应对和恢复。

72. 工作组指出,应优先考虑让非洲人后裔更多地参与制定和实施气候变化应急响应、适应和减缓措施。应抓住机会,将气候变化和种族歧视问题一并处理,而不是分开处理。61

# 五. 与其他机制的合作

73. 工作组作为人权理事会的一个特别程序,与其他任务负责人,特别是当代形式种族主义、种族歧视、仇外心理和相关不容忍行为特别报告员合作并采取联合行动,包括在来文、新闻稿和其他活动方面。

74. 作为确保 2001 年反对种族主义、种族歧视、仇外心理和相关不容忍行为世界会议的成果《德班宣言和行动纲领》得到有效落实的机制之一,工作组在职能上与其他后续机制紧密联系并合作。工作组定期参与有效落实《德班宣言和行动纲领》政府间工作组<sup>62</sup>、执行《德班宣言和行动纲领》问题独立知名专家组以及人权理事会拟订《消除一切形式种族歧视国际公约》补充标准特设委员会的活动并向它们提供专业知识。

75. 消除种族歧视委员会是工作组的一个主要伙伴。委员会专家积极参加工作组的会议,这两个机制就专题问题和具体国家的情况进行定期磋商,以筹备各自的任务活动。这两个机制都致力于协调和支持相关建议的落实,特别是国别访问

<sup>60</sup> 见A/HRC/48/78。

<sup>61</sup> A/HRC/48/78, 第73-87段。

<sup>&</sup>lt;sup>62</sup> A/HRC/46/66, 第38段; A/HRC/49/89, 第27和第37段; 以及A/HRC/52/78, 第23和第56段。

和审议期间产生的建议。工作组还为一般性辩论和委员会的一般性建议提供意见。<sup>63</sup>

76. 工作组在其 20 年的工作中,开展专题协商,举行年度会议,进行了 20 多次国家访问,并编写了各种专题报告。工作组在履行任务时具有包容性和广泛的协商性,与国际组织、专门机构和联合国其他实体以及国家人权机构、学术界、基层组织和政府专门机构进行了接触。工作组的建议已被纳入普遍定期审议<sup>64</sup> 以及联合国条约机构和机制的工作中。<sup>65</sup>

77. 工作组与民间社会中的非洲人后裔(包括受害者和家属)举行了多次协商会议。2020 年疫情爆发,工作转为在线,工作组率先组织了与非洲人后裔的在线协商,以收集区域信息。

78. 工作组还加强了与区域人权机制的合作,包括与美洲人权委员会非洲人后裔权利和反对种族歧视问题报告员<sup>66</sup>、加勒比共同体以及非洲人权和民族权委员会的合作。2022 年 11 月,工作组参加了在班珠尔举行的非洲人权和民族权委员会第七十三届常会。工作组主张在委员会的任务框架内更加关注离散社群中的非洲人和非洲人后裔的人权状况。工作组提出了一项关于非洲人后裔和离散非洲人的决议草案,委员会核可了该决议草案,从而通过了关于非洲赔偿议程与全世界离散非洲人和非洲人后裔的人权的决议。工作组还组织了关于非洲赔偿议程和非洲人后裔国际十年的会外活动,并参加了届会前的非政府组织和国家人权机构的论坛。

79. 大会第75/314号决议设立非洲人后裔问题常设论坛,工作组为该论坛的设立作出了贡献,除此之外,工作组还与常设论坛以及人权理事会第 47/21 号决议设立的在执法工作中推进种族正义和平等的国际独立专家机制密切合作。

# 六. 持续存在的趋势和新出现的趋势

80. 工作组在其 20 年的工作中注意到,缺乏按种族分列的数据仍然是充分实现非洲人后裔人权的一个主要障碍。分类数据提供了一种手段,可确保非洲人后裔得到承认,并克服他们在历史、社会和体制上被忽视的问题。<sup>67</sup>

81. 尽管一些国家在承认非洲人后裔的文化、历史和贡献方面取得了进展,但中小学课程中基本上没有这方面的内容。大学生和工作人员报告称,非洲研究和非

<sup>63</sup> 见https://www.ohchr.org/en/treaty-bodies/cerd/general-recommendations。

<sup>64</sup> 世界人权索引数据库生成的数据显示,在迄今完成的普遍定期审议中,向33个受审议国家提出了与工作组工作有关的共236项建议。这些建议主要侧重于种族歧视(21.6%)以及平等和不歧视(21.4%)的大专题,与法律和体制改革(10.3%)以及司法和公平审判(8.2%)也有重大关联,对宪法和立法框架的关注略少(5.3%)。关于受教育权的建议占建议总数的3.7%,关于诉诸司法和补救的建议占3.7%,关于身心健全权的建议占3.2%。大部分涉及非洲人后裔的建议与可持续发展目标10(减少国家内部和国家之间的不平等)(44.2%)和目标16(创建和平、包容的社会以促进可持续发展,让所有人都能诉诸司法,在各级建立有效、负责和包容的机构)(39.3%)有关,涉及更多相关目标的建议所占比例较小,包括目标5(实现性别平等,增强所有妇女和女童的权能)(5.8%),这表明对交叉性有一些关注。

<sup>65</sup> 所有建议均可在世界人权索引数据库查阅: https://uhri.ohchr.org/en/search-human-rights-recommendations。

<sup>66</sup> A/HRC/21/60, 第84段。

<sup>67</sup> A/HRC/42/59/Add.1, 第19段。

洲作家在既定的文学经典中贬值。在教学中涉及殖民历史时,往往含蓄或明确地强调殖民遗产和规范,大多数国家没有确保教科书和教材准确反映有关过去悲剧和暴行的历史事实,特别是奴役、跨大西洋奴隶贸易、对非洲人民、土地和资源的剥削以及殖民主义。68 各国政府应建立对非洲人后裔的历史和贡献的理解和认识,包括殖民时期财富积累对非洲国家稳定性的影响,以及散居在外、殖民主义遗留问题、买卖和贩运被奴役非洲人对个人、家庭和社区的财富、健康和资源获取的影响。

- 82. 在全球范围内,工作组还注意到一种长期存在的否认文化,包括否认种族主义或系统性种族主义的存在,以及贬低关于种族偏见、系统性种族主义和种族不公正的个人经历并使其失去合法性。工作组注意到,在媒体、教育和公共机构(包括司法系统)的运作中,当前以及历史上都存在这种否认文化的实例。这种否认仍然是诉诸司法的一个持久而无形的障碍。69
- 83. 非洲人后裔在刑事司法系统中所占比例仍然居高不下,同时严重不公和违反正当程序的情况也时有发生,这凸显了说服司法系统决策者正视自己的偏见是一项挑战。种族偏见在刑事司法系统的所有层面都普遍存在,非洲人后裔在刑事司法过程的各个阶段(从拦截搜查到判刑)所占比例都过高。警察、边境管制当局、安全部队和其他执法机构对非洲人后裔非法使用或过度使用武力的现象仍在各地区持续存在。从种族定性到行使检察自由裁量权,从审前监禁到量刑时的种族差异,非洲人后裔继续过度遭受监视、社会控制和双重标准,尽管已经有相当易于获取且广泛传播的信息阐述了偏见如何影响针对非洲人后裔的决策。70
- 84. 体制性和结构性的种族主义和种族歧视是奴役、殖民主义、新殖民主义和数世纪非人化行为的遗留问题。非洲人后裔在司法领域继续受到过度歧视。种族定性导致警察暴力和其他侵犯行为,尤其针对非洲人后裔。工作组严重关切非洲人后裔所遭受待遇方面的趋势,轻则拦截搜查,重则被执法人员杀害。
- 85. 人权理事会在关于非洲人后裔问题专家工作组任务的第 36/23 号决议中,对世界各地种族主义和种族仇恨的高涨趋势表示震惊,白人至上主义以及极端民族主义和民粹主义意识形态死灰复燃就是明证。一些民选官员和其他人公开宣扬一种错误的等同观念,将白人至上主义意识形态与反种族主义倡议等同。各国政府应该拒绝将反种族主义承诺视为极端主义,并引导公共话语揭示关于法西斯主义与反种族主义等同的主张是站不住脚的。人权不应因政治考虑而受到损害。
- 86. 工作组观察并记录了不断扩大的数字鸿沟,包括算法偏见对非洲人后裔生活的影响。风险工具在编码中嵌入传统偏见,基于全白人数据集测试的人工智能产品获得认证,而这些数据集中蕴含了严重的种族化错误,还有不当做法被高深莫测的算法掩盖,这样就更容易将非洲人后裔排除在获取信息、金融和教育资源以及医疗保健服务之外,因为算法决策中的偏见不易被普通用户察觉。
- 87. 非洲人后裔严重缺乏参与和融入政策制定和决策的机会,在政治、学术界、 行政领导层、高级职位和媒体中也缺乏适当的代表性。非洲人后裔在界定其社会

<sup>68</sup> 同上,第26和第27段。

<sup>&</sup>lt;sup>69</sup> A/HRC/27/68/Add.1,第59段。

<sup>&</sup>lt;sup>70</sup> A/HRC/36/60/Add.1,第34段。

保障问题的决策中缺乏代表性,导致在政策制定的专业知识、合法性和理解方面存在重大差距。

# 七. 结论和对未来的建议

88. 工作组在《德班宣言和行动纲领》通过后一年成立,在成立后的 20 年中提出了令人鼓舞的倡议、断断续续取得了不少成就并参与了许多重要活动,但如今对工作组的需求并未减少,这反映出一种强大的全球否认文化,这种文化淡化或忽视了种族歧视、不平等和不公正的系统性特点。许多反种族主义倡议在制定之时并未参考有关种族主义如何持续存在或转变的分析或有效专业知识。关于系统性种族主义的全球讨论日益增多,这可能是工作组任务下和《德班宣言和行动纲领》下最持久的成就。工作组的任务仍然很重要。履行任务需要更多的国际承诺、会员国的参与和支持,包括增加资源。

89. 工作组一直致力于扩大联合国内部反种族歧视架构,这种扩大是迫切需要的。已经建立了具有互补任务的机制,这些机制有能力加深和细化全球对系统性种族主义的持续存在和性质的理解。在这一架构内更好地协调,包括依据任务进行协作以及在不同机制之间建立网络和关系,有可能带来早就应该实现的协同作用和互补作用。

90. 工作组为民间社会、基层组织和学术界提供了一个平台,讨论如何跨学科、跨区域和跨代际争取正义、承认和赔偿。工作组与民间社会组织和地方行为体就种族转型问题进行接触,包括在国别访问期间接触,促进了对系统性种族主义的重要理解、术语和表述,以推动国家和国际宣传工作。这种参与使得工作组的分析更加深刻和丰富,因为分析系统性种族主义和人权的交叉性必须获得迭代信息的支撑,并由熟悉当地情况和生活经验丰富的人提供指导。需要提供支助和机会来加强这些平台,并支持在这些讨论中提出的倡议。

91. 工作组在后续活动(包括后续国别访问)中发现了长期存在严重侵犯和践踏人权行为的证据,包括以前被工作组认定为系统性助长种族歧视、差距和不公正的行为。在有些国家,之前曾向工作组强调过的关于种族平等或警察有罪不罚问题的示范项目后来又被列为新举措,但这些项目在十年或更长时间内基本上没有变化。在另一些国家,反种族主义举措未能切实让非洲人后裔参与,也未能为他们提供支持,而非洲人后裔的生活经历和专门知识本可提供关于影响力、可信度和合法性的重要见解。还有一些国家援引当前的事件或复杂状况,或鼓动否认文化,为明显与持续存在的种族差异和不公正有关的行为辩护。工作组呼吁所有利益攸关方和会员国落实对种族平等和公平的承诺。工作组随时准备应请求提供技术援助并参与其中。

92. 工作组注意到,在有些国家,非洲人后裔的种族平等和正义有所衰退和萎缩,往往是通过对传播战略的投入而不是对社区的投入来掩盖这种情况。因此,虽然国别访问有助于增强国际层面的认识、问责制和政策变化,但自满情绪限制了任务的影响力,也限制了会员国充分利用工作组的建议或本国人民的实际经验和专门知识的能力,有损它们对种族公平和平等的承诺。

93. 如今,关键人权举措的可见性、优先顺序和资金来源都利用了数据驱动的循证规范的合法性。在这方面,工作组重点关注了两个关键问题。第一,对定性数据和个人叙述的忽视令人震惊,使非洲人后裔的现实被淡化和扭曲,从而符合大量数据集中显而易见的结论。按种族分列的数据被视为黄金标准,基于该标准可以让人们看到非洲人后裔所面临的问题,然而,即使按种族分列数据,也需要大力投资于定性数据,包括逸闻轶事和叙述性数据,才能对数据驱动举措有适当的理解、解释和监测。逸闻轶事和叙述性数据包括将侵犯人权行为与交叉人群联系起来的日常经验和信息,而这些信息可能不会体现在定量数据中,例如,国家和非国家行为体暴力侵害跨性别妇女和性别多样化非洲人后裔的发生率很高,包括在医疗保健领域。

94. 第二,工作组发现,许多国家以隐私权、普遍主义、第二次世界大战遗留问题或其他关切为由,回避收集按种族分列的数据,但这些国家保留并公布性别数据,而性别同样是一种社会建构。它们未能参与相关讨论,没有探索哪些保护措施可以减轻此类关切,包括自我认同和现代数据隐私规定。缺乏按种族分列的数据导致无法清楚了解种族偏见和种族定性如何助长警察有罪不罚、骚扰和暴力,这些国家也没有正视这个问题。工作组注意到,没有一项国家举措、政策或做法没有参考按种族分列的数据,有些国家的侵犯和践踏人权行为在其人口中明显存在种族化性质,这些数据可以充分解决种族化性质被抹去的问题。如果没有基于自我认同原则的按种族分列的数据来说明令人持续关切的领域,显示随时间推移的改善轨迹,并通过承认种族差异来推动补救和纠正工作,则各国可能无法实现人权目标。

95. 工作组呼吁会员国正视一个问题,即各地区对非洲人后裔过度监视、拦截搜查和骚扰,处于社会控制措施(无论是监禁、缓刑还是其他情况)下的非洲人后裔人数过多,种族偏见和系统性种族主义在其中都起了作用。在有些国家,包括输出警务专门知识的全球超级大国,殖民主义的遗留问题以及买卖和贩运被奴役非洲人的历史直接影响了政策和做法,包括警察职能。因此,警察对暴力侵害非洲人后裔行为的有罪不罚现象持续存在,跨越国界、地区和发展背景,反映了种族和种族主义(作为控制黑人身体的机制)这一社会建构的跨国根源。

96. 工作组注意到,警察对非洲人后裔的暴力行为和大规模监禁并不完全是警务问题,在助长种族化不当行为的环境中,广泛存在有罪不罚、不当行为和残暴行为。假装没看到,就是无视种族化行径,久而久之,期望会不断降低,种族化的结果会不断恶化。系统性种族主义存在于各部门,反映了剥削(而不是保护)非洲人后裔的互相关联系统的历史发展。各国必须明确承认并表明其打击大规模监禁和警察有罪不罚现象的意图,以此作为对抗系统性种族主义的一种机制,并作为赔偿性正义的一部分。

97. 在联合国各机制和联合国系统其他实体、会员国和民间社会中,经常发生对非洲人后裔相关内容的抹除。在关于儿童、人权维护者和移民等的人权分析中,往往不考虑或不承认侵犯和践踏人权行为的种族化性质。这可能是系统性种族主义否认文化的一种表现。工作组关切地注意到,即使在国别访问报告或其他合作的报告之后,这种抹除仍然存在。尽管工作组作出了努力,但由于缺乏资源或能力,切实的合作和提高认识活动受到限制。国际、区域和国家组织,包括联合国各实体,应采用关于非洲人后裔的具体任务,并应定期嵌入分析,涉及系统性种

族主义的表现方式,以及买卖和贩运被奴役非洲人的遗留问题如何影响各自专题 领域或地理区域的政策和做法。

- 98. 工作组积极参与制定与非洲人后裔权利有关的国际文书和准则。对第二个非洲人后裔国际十年的呼声在全球引起强烈反响,呼吁加强民间社会和成员国的参与以及多边支持。工作组应继续站在推动和实施《落实非洲人后裔国际十年活动方案》的前列。
- 99. 工作组呼吁所有国家与联合国各实体和机制合作,以加强其建议的有效实施。工作组鼓励民间社会与各国进行建设性接触,以落实工作组在国别访问后提出的建议。联合国国家工作队也是这项活动的相关合作伙伴。
- 100. 工作组建议各国和其他义务承担者实施《消除一切形式种族歧视国际公约》、《德班宣言和行动纲领》以及"落实非洲人后裔国际十年活动方案",并采取行动解决种族主义、种族歧视、仇外心理、仇视非洲人和相关不容忍行为(包括环境种族主义)的根本原因和当前表现形式,让拥有关键专业知识的非洲人后裔积极参与并切实融入各级领导职位。
- 101. 工作组倡导赔偿,反映了全球对正义的呼吁,会员国和民间社会应广泛参与。正如联合国人权事务高级专员所承认的那样,没有一个国家对系统性种族主义的过去或当前的影响作出过全面的解释。<sup>71</sup> 在这方面,同样重要的是,声称代表赔偿性正义的倡议覆盖的范围要足够广,要有充分的影响力和包容性,才真正具有赔偿性。

<sup>&</sup>lt;sup>71</sup> A/HRC/47/53,第60段。

## Annex I

# Summaries of the inputs provided by stakeholders for the elaboration of the report on the 20 years of work of the Working Group of Experts on People of African descent

- 1. The stakeholders that replied to the call for inputs of the Working Group include Member States, civil society organizations, specialized agencies/ ministries within Governments as well as independent experts. Their inputs are summarized in this section.
- 2. Australia reaffirmed its commitment to positive engagement with the UN human rights system. It welcomed the Working Group's fact-finding mission and considers the review process as an opportunity to showcase good practices and remains dedicated to fulfilling its human rights obligations.
- 3. Brazil highlighted the efforts in promoting racial equality and combating racism through the implementation of various public policies and measures. Key milestones include the incorporation of Afro-Brazilian history and culture in the official curriculum, the creation of the Special Secretariat for Policies for the Promotion of Racial Equality, and the enactment of laws reserving vacancies in higher education and public job contests for people of African descent. Notably, the establishment of the Ministry of Racial Equality in 2023 has led to additional measures, such as making racial injury a non-bailable and imprescriptible crime and introducing the "FIAR" Program to address structural racism in the public service. Education has shown significant progress, with a 400% increase in Afro-descendant students in higher education between 2010 and 2019. These efforts demonstrate Brazil's commitment to combat racial inequality and promote racial equality in the country.
- 4. Chile noted it has taken significant steps to combat discrimination and promote the rights of indigenous and Afro-descendant communities. Laws, such as the Law No. 20.609, have been enacted to prevent arbitrary discrimination and establish penalties for discriminatory acts. The government has also recognized the legal status of the Chilean Afro-descendant tribal people, ensuring protection of their cultural identity, language, and traditions. Efforts have been made to include these communities in national surveys and censuses, allowing for a better understanding of their needs and concerns. Additionally, national plans on human rights and action against racism and discrimination have been developed with active participation from indigenous and Afro-descendant representatives, ensuring their voices are heard in policymaking.
- 5. In addressing the needs of its Afro-descendant population and promoting racial equality, Ecuador highlighted the implementation of various policies and initiatives across different sectors. The Ministry of Public Health has played a crucial role in addressing health disparities and promoting intercultural healthcare for marginalized communities, including Afro-Ecuadorians. Furthermore, Ecuador has implemented affirmative actions to promote diversity and inclusion in the workface, ensuring representation of Afro-Ecuadorians and other marginalized groups within the Ministry of Public Health. Ecuador emphasizes the country's commitment to social inclusion, health equity, and the recognition of its diverse population's cultural and health needs. These efforts reflect the nation's dedication to advancing racial equality and promoting the well-being of all citizens.
- 6. Guyana highlights its commitment to eliminate racial discrimination and promote harmony. It notes it has a strong framework to protect human rights and prohibit racism. Recent legislative developments include restorative justice, bail reform, and judicial efficiency. Measures ensure Afro-Guyanese rights and provide opportunities in education and social security. Additionally, the MEN on MISSION program encourages men to be more engaged in their families and communities for the welfare of their children and community development.
- 7. Italy noted the establishment of the National Office for Racial Anti-discrimination (UNAR) to safeguard victims and combat discrimination based on various grounds. Though collecting data on racial discrimination is challenging, Italy aims to address discrimination

triggered by skin colour. Efforts are underway to prepare a new National Plan of Action against racism, and the country is actively involved in projects to integrate migrants and refugees, promoting vocational training and job opportunities. Italy noted that the Working Group's recommendation to include people of African descent in relevant decision-making mechanisms aligns with Italy's commitment to equality, and it is exploring reforms to grant undocumented migrants access to basic human rights and pathways to citizenship.

- 8. Luxembourg's efforts to combat racism and racial discrimination involve a combination of approaches. A general approach concerning all the population without distinction of race or ethnic origin, and a targeted one focusing on groups at risk of discrimination including people of African descent. It noted that concrete measures have been implemented in research, training, awareness-raising, and legislation. Research aims to understand and measure racism, while training focuses on capacity-building and awareness of racial biases. Awareness initiatives are undertaken by civil society organizations with public funding, promoting inclusion and challenging stereotypes. Legislation includes laws facilitating nationality access, protecting victims of discrimination, and consolidating non-discrimination principles in the Constitution. A National Action Plan against racism is being developed in collaboration with stakeholders, and a law on intercultural coexistence is being drafted to replace the current integration law, emphasizing the fight against racism and discrimination.
- 9. Mexico highlighted that the constitution and the Federal Law to Prevent and Eliminate Discrimination (LFPED) protect the right to equality and non-discrimination. The National Program for Equality and Non-Discrimination (PRONAIND) implements strategies and actions to combat racism and discrimination systematically. It aims to change norms, promote cultural sensitivity, and generate inclusive measures in various sectors. Specific actions include strengthening medical services regulation, combating stigmas related to drugs and disabilities, addressing school bullying, and promoting inclusion for marginalized groups. Additionally, the National Survey on Discrimination (ENADIS) provides data on discrimination's extent and its impact on vulnerable communities, such as indigenous and Afro-Mexican populations. These efforts demonstrate Mexico's commitment to equality, inclusion, and eradicating racism and discrimination.
- 10. Netherlands noted its efforts to address racism and promote equality for people of African descent. Acknowledging the existence of racism, the government committed to combating institutional racism and issued an apology for its historical role in enslavement. The appointment of a National Coordinator against Discrimination and Racism (NCDR) aimed to engage all stakeholders in countering discrimination and hate crime. Training sessions for civil servants were initiated to raise awareness and combat discriminatory decision-making. Improved data collection and analysis on discrimination incidents facilitated targeted positive measures. The government also emphasized media and cultural representation to combat stereotypes and promote inclusivity. Moreover, changes to the Sinterklaas celebration were made to address negative stereotyping. Despite these achievements, ongoing efforts are necessary to bridge gaps, increase financial support to Curaçao, and repeal legislation resulting in differential treatment within the Kingdom to ensure a more inclusive and equal society.
- 11. Norway highlighted various measures taken to combat racism and discrimination based on ethnicity, national origin, and skin colour. The country has implemented action plans against racism and discrimination in different sectors, focusing on promoting diversity, inclusion, and dialogue. Norway has established a grant scheme to support initiatives against racism and hate speech, and a new Integration Act aims to ensure early integration of immigrants into Norwegian society. The government has funded research on public attitudes towards ethnic and religious minorities and has developed measures to address racism and discrimination based on external characteristics. Efforts are made to increase diversity and inclusion in arts, cultural life, media, voluntary work, and sports. The sports sector works actively to prevent racism and discrimination, promoting zero tolerance for any form of discrimination and harassment.
- 12. Portugal has taken significant and comprehensive measures to address the recommendations of the Working Group. They have implemented a Plan for Prevention of Discrimination in Security Forces, launched Guidelines on Preventing and Combating Racial

Discrimination in Schools, and revised curricula to recognize the history of colonialism and slavery. The country is actively commemorating the International Decade for People of African Descent and has expedited amendments to the Penal Code to prevent hate speech and hate crimes. Additionally, Portugal is engaging in extensive training for public officials and justice professionals to raise awareness about the prohibition of racial discrimination. They have also created new protocols to ensure free legal aid and established an Agency for Integration, Migration, and Asylum to improve immigration and asylum processing and enhance the integration of migrants.

- 13. Spain highlighted the legislative measures in place, such as the comprehensive law for equality and non-discrimination, as well as ongoing efforts to address intersecting forms of discrimination. It emphasized the prohibition of identity checks based on racial or ethnic profiling, the establishment of national offices to combat hate crimes and protect human rights, and the allocation of resources to fight racial discrimination. Additionally, it underscores the importance of awareness campaigns and dialogue with African and Afro Descendant communities to promote inclusivity and understanding. Overall, the text emphasizes Spain's dedication to addressing racism and fostering a more equitable society.
- 14. Switzerland stressed government's efforts in implementing recommendations made by international bodies, particularly those related to people of African descent. Switzerland acknowledges the existence of racism, highlights ongoing initiatives to combat it, and addresses the challenges and opportunities presented by federalism in addressing discrimination. It also mentions steps taken to regulate online hate speech and the government's response to recommendations from the Committee on the Elimination of Racial Discrimination and the Universal Periodic Review.
- 15. Trinidad and Tobago notes the various initiatives of the Ministry of Sport and Community Development (MSCD) to address the concerns and promote the well-being of people of African descent. Some of these initiatives include participating in the Community Recovery Committee, relaunching the MpowerTT program for young males' development, supporting the republication of a booklet on African heritage sites, commemorating Nelson Mandela's life and work, providing financial assistance to organizations promoting African heritage awareness, and supporting Emancipation Day celebrations. Through these efforts, the MSCD aims to empower and uplift people of African descent and raise awareness of their history and contributions while addressing social issues affecting their communities.
- 16. Qatar notes it has implemented several initiatives to combat human trafficking and protect migrant workers' rights. They published a guide on forced labour and human trafficking, established communication channels to report cases, and signed memorandums with organizations to aid trafficking victims. Educational activities and training sessions were organized by the National Committee to Combat Human Trafficking in collaboration with institutions and embassies. Qatar is leading the Gulf-Africa Dialogue on Labour Migration, aiming to improve cooperation and promote fair work for expatriate workers. Partnerships with Msheireb Real Estate Museums have led to cultural programs raising awareness about trafficking and historical slavery. These efforts demonstrate Qatar's commitment to combating human trafficking, protecting human rights, and fostering international cooperation and awareness.
- 17. European Anti-Poverty Network provided highlights of its Portugal project addressing migration and integration challenges for people of African descent. The project includes "Opportunities" and the "Local Immigrant Council." The recommendations emphasize meaningful participation of migrants, a holistic approach to migration issues, and promoting equal treatment. Specific thematic recommendations cover combating racism in the legal framework, inclusive education, and equal opportunities in the job market.
- 18. The International Decade for People of African Descent Assembly-Guyana, a good practice established to serve Guyana as the country coordinating mechanism for the decade and an umbrella organization with a network of 67 member organizations in remote and urban communities, that works through advocacy and programmes, informed that the recommendations of the Working Group following its country visit to Guyana had not been effectively implemented. They noted the need for the Government to highlight historic

contributions of African Guyanese to the country, and for affirmative action or reparatory justice for African Guyanese.

- 19. Ilex Acción Jurídica, an organization advocating for racial justice in Colombia and Latin America, highlighted their focus on two key areas: landmark Colombian Constitutional Court decisions protecting the rights of Afro Descendants during the COVID-19 pandemic and recognizing the significance of traditional midwifery in the Pacific region, and the importance of collecting disaggregated ethnic-racial data to address inequalities and monitor institutional racism. Ilex recommends the Working Group to focus on the need for monitoring judicial decisions' implementation, enhanced collaboration with other UN mechanisms, and improved communication with civil society organizations for more effective follow-up on human rights issues affecting Afrodescendant communities.
- 20. The Racial Justice and Law Center of the São Paulo Law School of the Getúlio Vargas Foundation highlighted that even after the Working Group's visit to Brazil in 2013 and the recommendations they provided, there continues to be a chronic situation of police violence and brutality against black people in the country. The cases analyzed in the research highlight how the police word still carries significant weight in court, leading to acquittals even when there is evidence from civil witnesses and experts pointing to police misconduct. This indicates a lack of progress in addressing the issue and implementing the necessary changes to hold police accountable for their actions and protect the human rights of Afro-descendants in Brazil.
- 21. The City of Cologne noted its diverse population and that it considers diversity as a strength and opportunity. The city is committed to promoting inclusivity and addressing racism and colonial heritage. Initiatives and activities have been supported to give more visibility to Afro-diasporic communities and encourage their participation. The city banned the use of the N-word and funded Black History Month events. Education and cultural projects were also supported to celebrate African heritage and contributions. The city is actively dealing with its colonial past, with an expert committee appointed to develop recommendations for action by the end of 2023. In December 2022, the City of Cologne reached an agreement to transfer ownership of historic Benin bronzes to Nigeria, aiming to return looted cultural assets to their rightful owners.
- 22. The Victorian Equal Opportunity and Human Rights Commission jointly with the Victoria University noted that the visit of the Working Group to Australia in December 2022 shed light on challenges faced by the community, including anti-blackness and policies leading to overrepresentation in detention. The community received the Working Group's recommendations as a credible effort to address their human rights concerns. The visit also fostered connections between the African Australian community and civil society, enabling advocacy skills development and collaboration on promoting human rights. As a result of the strengthened ties, a delegation of five African Australian individuals attended the 32nd session of WGEPAD on Economic Empowerment of People of African Descent, increasing awareness of the presence and contributions of people of African descent in Australia and the Asia Pacific region.
- 23. AI for the People, illustrated how recommendation 84 of the report of the Working Group of Experts on People of African Descent on Data Justice (A/HRC/42/59) shaped AI for the People's advocacy for the crafting and introduction of the Algorithmic Accountability Act to the US House of Representatives in June 2019. This federal bill would hold technology companies accountable for algorithmic harm levied against Black and other people of African descent. Further to the recommendation of the Working Group the discussion on the addition of human rights impact assessments was considered. The murder of George Floyd when combined with this policy advocacy has resulted in AI for the People having a seat on Tik Tok's Content Moderation Advisory Board, working alongside Google Health on their next generation of devices.
- 24. The Working Group also took note of the oral contributions during the online consultation. Contributions focused on the importance of the role of the Working Group as an amplifying voice for people of African Descent, including women as they often face multiple forms of discrimination. It was mentioned that the work in the reports brings to the attention of government complex issues such as systemic discrimination, not solely confined

to the criminal system but that extends to the civil and administrative sectors. One of the participants also highlighted the work of the Working Group in addressing the delicate balance between freedom of expression and systemic discrimination and hate speech. Several speakers highlighted the work of the experts on the issue of reparations for people of African Descent and the reality of intersectionality. They reiterated the call made by the Working Group in its reports for stronger policies and action to address systemic discrimination. Speakers highlighted the need for policy and legislative framework that ensures the government's obligation to address systemic anti-Black racism.

- 25. Civil society highlighted the positive impact of the Working Group's country visits reports and noted the positive engagement of governments with the Working Group and called for a follow-up to that dialogue and efforts as well as to the recommendations made in the reports. The reports create opportunities to put governments on notice of the issues affecting people of African descent in the specific national contexts. The Working Group's recommendations have been used as an umbrella to create a national policy recommendation as a means to assess the government's actions in addressing the protection of human rights of people of African Descent.
- 26. Regarding the relationship between civil society and the Working Group stressed the importance of continuing collaboration emphasizing the intergeneration nature of the issues and the inclusive approach of the Working Group. One of the speakers suggested the formation of a Council of Elders of People of African Descent to complement the focus on youth and to ensure wisdom and experience of the older generation is documented and passed on.
- 27. Civil society groups spoke about the positive impact of sharing reports online. They noted that it allows individuals to engage with the content at their own pace, share it and use it for advocacy and projects. Speaking on the Working Group's sessions, participants highlighted the opportunity the sessions provide to share findings and recommendations with people of African descent across the globe and receive expert feedback and advice. They however noted the need for sessions to be more inclusive and suggested they be held elsewhere. On the issue of inclusiveness, the lack of interpretation in Portuguese was highlighted given the number of participants of the Lusophone community. One of the speakers noted the exodus of youth from the African continent which he believed should be addressed alongside the fight against racism, systemic racism, and racial profiling.
- 28. Some speakers welcomed the insistence of the Working Group in requesting States to collect disaggregated data and encouraged the Working Group to continue their advocacy on this important issue.

## Annex II

# Compendium of good practices and policies identified by the Working Group of Experts on People of African descent during country visits

- 1. Argentina launched its National Human Rights Plan of Action (2017–2020) based on the international commitments made by the State and the 2030 Agenda for Sustainable Development. Its axes are inclusion, non-discrimination and equality; public security and non-violence; memory, truth, justice and reparation policies; universal access to rights; and civic culture and commitment to human rights. The Plan of Action outlines concrete actions to give visibility to the Afro-descendant community in the framework of the International Decade for People of African Descent.¹ Law No. 26852 (2013), designates 8 November as National Day of Afro-Argentineans and Afro-Culture. This is an effort to acknowledge and correct history in order to restore the symbolic and cultural legitimacy of the role played by people of African descent in establishing the national identity of Argentinean society and Law No. 4355 institutes Afro Women's Day on 25 July in Buenos Aires.
- 2. The Australian Human Rights Commission works on the development of the National Anti-Racism Framework, the State Commissions and the Ombudsman to protect the human rights of people of African descent and other communities that face racial discrimination in the country. Australia also offered support to organisations, alliances, community leaders and communities of African descent to ensure the human rights of their constituencies.<sup>2</sup>
- 3. In 2018, Belgium renamed the former Square du Bastion in Brussels as Square Patrice Lumumba and an exhibition commemorating Congolese soldiers who fought in the First World War. Belgium also launched of the International Decade for People of African Descent at the national level in 2019 to contribute both to the practical implementation of the Decade at the national level and to the preparation of a future national action plan against racism, through specific measures for people of African descent.<sup>3</sup>
- 4. Brazil's affirmative action in 2012 with the adoption of the Quota Law (Law No. 12.711),<sup>4</sup> had an impact on the higher educational opportunities of Afro-Brazilians as well as other disadvantaged groups and is a landmark step towards equality in education. This followed the 2003 adoption of Law No. 10.639 to address racist discrimination against people of African descent by amending the General Education Law to include African and Afro-Brazilian history in the national curriculum making African and Afro-Brazilian history and culture compulsory at basic and secondary education levels.
- 5. In Canada, in 2017 the Government of Ontario passed Bill 114, the Anti-Racism Act, which recognizes the distinct nature of anti-Black racism and the need to address it on an ongoing basis.<sup>5</sup> It also formally recognized the International Decade for People of African Descent<sup>6</sup> and released A Better Way Forward: Ontario's 3-year Anti-Racism Strategic Plan part of the provincial government's commitment to fight systemic racism and create fair and equitable outcomes for Black, indigenous and other racialized people.<sup>7</sup> The Government of Quebec issued a publication highlighting the contribution of African Canadians to the history and development of Quebec society and the organization of intercultural awareness activities in schools by the Black History Month Round Table. In Nova Scotia's Department of Education, the African Canadian Services Division advises the provincial government on

<sup>&</sup>lt;sup>1</sup> A/HRC/42/59/Add.2, para. 16.

https://www.ohchr.org/sites/default/files/documents/issues/racism/wgeapd/2022-12-20/2022-12-20-EOM-WGEPAD-Australia.pdf.

<sup>&</sup>lt;sup>3</sup> A/HRC/42/59/Add.1, paras. 22–23.

<sup>&</sup>lt;sup>4</sup> A/HRC/27/68/Add.1, para. 35–43.

<sup>&</sup>lt;sup>5</sup> A/HRC/36/60/Add.1, para. 20.

<sup>&</sup>lt;sup>6</sup> A/HRC/36/60/Add.1, para. 23.

<sup>&</sup>lt;sup>7</sup> A/HRC/36/60/Add.1, para. 24.

African Canadian education, promotes understanding of African Canadians and their history, heritage, culture, traditions and contributions to society.

- 6. Through Executive Decree No. 915, Ecuador declared the International Decade for People of African Descent a national policy. Ecuador also elaborated the Agenda for the Equal Rights of Indigenous Nationalities and Peoples, Afro-Ecuadorian People and Montubio People 2019–2021.8 Ecuador's Constitution of 2008 contains specific provisions to protect the human rights of people of African descent, including recognition of their collective rights. Through Executive Decree No. 60, the Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion was adopted with a view to minimizing rates of discrimination and exclusion and improving the situation of populations that have historically suffered discrimination (indigenous, Afro-Ecuadorian and Montubio peoples), including affirmative action measures.9
- 7. In Germany, the National Action Plan against Racism explicitly refers to increased efforts by Government in the fight against racial discrimination and the recognition of people of African descent, in view of the proclamation of the International Decade for People of African Descent. The National Action Plan also includes measures in the field of political education and research as well as awareness-raising in relation to the colonial past.<sup>10</sup>
- 8. Guyana has set aside the month of August for Emancipation Month. The Working Group welcomed the formation of the Guyana Reparations Committee and the Government's commitment to fund it, and the civil society-led initiative to coordinate the programmes, plans and events for the International Decade for People of African Descent in Guyana. The Government has also made a call for the submission of funding proposals for activities relating to the International Decade for People of African Descent in Guyana.<sup>11</sup>
- 9. Italy's legal framework includes a range of criminal, civil and administrative provisions to combat racism and incitement to racial hatred. In particular, the Mancino Law, allows judges to increase a sentence if the crime was committed with the purpose of discrimination or hatred based on ethnicity, nationality, race or religion. It also makes it a crime to "instigate in any way or commit violence or acts of provocation to violence for racist, ethnic, national or religious motives", and to "propagate ideas based on racial superiority or racial or ethnic hatred, or to instigate to commit or commit acts of discrimination for racial, ethnic, national or religious motives." 12
- 10. In the Netherlands, the Minister of the Interior and Kingdom Relations sends the House of Representatives a yearly letter on action taken to combat discrimination and is also responsible for the Municipal Anti-Discrimination Services Act. All the municipalities report to the Ministry of the Interior every year about complaints on discrimination. <sup>13</sup> The Netherlands has a proactive approach in the collection of disaggregated data, including by ethnicity. <sup>14</sup>
- 11. Panama adopted a Presidential Decree providing for the creation of the Executive Secretariat of the National Council of the Black Ethnic Community a Presidential advisory body responsible for addressing certain aspects of the disparities that affect people of African descent.<sup>15</sup> The Ministry of Education noted that in the new curricular contents for basic and secondary education includes areas of knowledge related to the history and contributions of Afro-descendants to Panamanian society.<sup>16</sup> In 2010, for the first time self-identification as a person of African descent was possible in the census questionnaire.<sup>17</sup>

<sup>&</sup>lt;sup>8</sup> A/HRC/45/44/Add.1, paras. 21–22.

<sup>&</sup>lt;sup>9</sup> A/HRC/45/44/Add.1, para. 15.

<sup>&</sup>lt;sup>10</sup> A/HRC/36/60/Add.2, para. 22.

<sup>&</sup>lt;sup>11</sup> A/HRC/39/69/Add.1, para. 19.

<sup>&</sup>lt;sup>12</sup> A/HRC/33/61/Add.1, paras. 25–27.

<sup>&</sup>lt;sup>13</sup> A/HRC/30/56/Add.1, para. 43.

<sup>&</sup>lt;sup>14</sup> A/HRC/30/56/Add.1, para.51.

<sup>&</sup>lt;sup>15</sup> A/HRC/24/52/Add.2, para. 17.

<sup>&</sup>lt;sup>16</sup> A/HRC/24/52/Add.2, para. 33.

<sup>&</sup>lt;sup>17</sup> A/HRC/24/52/Add.2, paras. 4–6.

- 12. In July 2016, the Government of Peru approved the National Development Plan for the Afro-Peruvian Population (2016–2020). <sup>18</sup> Another example is the establishment of a registry of Afro-Peruvian representative organizations alongside a working group to facilitate dialogue between the Executive and Afro-Peruvian civil society for the formulation and monitoring of public policy. <sup>19</sup> In 2014, the Government mandated that Afro-Peruvian culture would be celebrated in June. June 4<sup>th</sup> is the National Afro-Peruvian Culture Day. <sup>20</sup> The Office of the Ombudsperson and the Government have published studies on the situation of people of African descent in Peru on the situation and legal framework for their protection. The Indigenous and Afro-Peruvian Peoples Directorate has established public policies, consolidated representative participation, developed an information system, and strengthened the visibility and institutional coordination of Afro-Peruvians. <sup>21</sup> In 2009, Peru made a historical apology to Afro-Peruvians, asking for forgiveness for the abuses, exclusion and discrimination perpetrated since the colonial period to recognize the legacy of the Afro-Peruvian people.
- 13. Portugal adopted its first National Plan to combat racism and discrimination (2021–2025). This plan includes the creation of an independent observatory on hate speech, racism and xenophobia; and envisages assessing the possible revision of the legislation on combating discrimination and hate speech.<sup>22</sup> The High Commission for Migration undertook regular activities to promote the International Decade for People of African Descent, focusing on awareness-raising among the youth of issues related to discrimination, equality and dialogue across cultures, among others. It also has elaborated a national plan of activities to promote the International Decade.<sup>23</sup>
- 14. Spain has approved Act No. 19/2007 has been approved to combat violence, racism, xenophobia and intolerance in sport and is aimed at preventing, controlling and penalizing any violent manifestation with racist, xenophobic or intolerant connotations in any sporting activity.<sup>24</sup> The establishment of a number of institutions at the national, provincial and local levels including the Council for the Elimination of Racial or Ethnic Discrimination, specialized offices dealing with hate crimes and discrimination in all provincial prosecutorial offices in Spain, the Spanish Observatory on Racism and Xenophobia, are also important initiatives for combating racial discrimination.<sup>25</sup> The National Museum of Anthropology hosted some exhibitions in relation to the history of people of African descent, which were supported by the General Sub directorate for the Promotion of Fine Arts of the Ministry of Culture.<sup>26</sup>
- 15. In Sweden, the new Discrimination Act entered into force in 2009. It prohibits discrimination associated, inter alia, with ethnicity, religion or other belief. It also includes compensation for discrimination to facilitate the provision of higher levels of compensation to victims of discrimination.<sup>27</sup> The Swedish Government awarded a grant to the Multicultural Centre to undertake a study on Afrophobia in Sweden.<sup>28</sup> The Equality Ombudsman was to be given an assignment to carry out awareness-raising measures regarding Afrophobia during 2015 and 2016.<sup>29</sup> It is also important to mention the Strategic Plan for Anti-Discrimination in Malmö, a study to implement the Afrophobia report recommendations and a textbook review to map, and correct where necessary, misrepresentations of the history of Sweden and its role during the transatlantic trade in captured Africans, enslavement and colonialism.<sup>30</sup>

<sup>18</sup> A/HRC/45/44/Add.2, para, 16–18.

<sup>&</sup>lt;sup>19</sup> A/HRC/45/44/Add.2, para. 18.

<sup>&</sup>lt;sup>20</sup> A/HRC/45/44/Add.2, paras. 10–11.

<sup>&</sup>lt;sup>21</sup> A/HRC/45/44/Add.2, para. 12.

<sup>&</sup>lt;sup>22</sup> A/HRC/51/54/Add.2, paras. 9–11.

<sup>&</sup>lt;sup>23</sup> A/HRC/51/54/Add.2, para. 13.

<sup>&</sup>lt;sup>24</sup> A/HRC/39/69/Add.2, para. 11.

<sup>&</sup>lt;sup>25</sup> A/HRC/39/69/Add.2, para. 13.

<sup>&</sup>lt;sup>26</sup> A/HRC/39/69/Add.2, para. 43.

<sup>&</sup>lt;sup>27</sup> A/HRC/30/56/Add.2, paras. 21–27.

<sup>&</sup>lt;sup>28</sup> A/HRC/30/56/Add.2, para. 37.

<sup>&</sup>lt;sup>29</sup> A/HRC/30/56/Add.2, para. 40.

<sup>&</sup>lt;sup>30</sup> A/HRC/30/56/Add.2, para. 45.

- 16. In Switzerland, in 2019, the city of Neuchâtel renamed a plaza to honour Tilo Frey, the first person of African descent elected to the National Council of Switzerland. The plaza had been named after a nineteenth-century scientist who leveraged his reputation in the area of glaciation into an advocacy platform for "scientific" racism. In Neuchâtel and Zurich, the revision of public narratives has included plaques with historical context being added to public buildings. Other initiatives include tenders for monuments and public works of art; the creation of an educational itinerary of the historical past and modern links; a permanent exhibition on Neuchâtel citizens' involvement in the triangular trade; and a website to situate those truths within the official municipal history. Since 2016, the canton and city of Geneva have recognized anti-Black racism as a particular form of human rights violation and has approved a budget line for the prevention of and the fight against anti-Black racism.
- 17. In 2014, the Government of the United States launched the My Brother's Keeper to address opportunity gaps that African American boys and young men face in regard to their access to basic health care, good nutrition, high-quality education, and labour opportunities, and in reduction of violence.<sup>33</sup> The Government also adopted the Patient Protection and Affordable Care Act, which has allowed 2.3 million African American adults to gain medical health insurance.<sup>34</sup>
- 18. In the United Kingdom of Great Britain and Northern Ireland, the Parliamentary Joint Committee on Human Rights 2020 report on Black People, Racism and Human Rights, concluded that the Government must urgently take action to protect the human rights of Black people, including within healthcare, criminal justice, nationality and immigration and democracy; and its leadership in articulating the concerns, progress, missteps, and a way forward on human rights including in providing scrutiny of Government Bills for compliance with human rights. The Lammy Review and the Race Disparity Audit are also positive examples of the Government's action to identify disparities in outcomes for ethnic groups, including Black, Asian and minority Ethnic individuals.<sup>35</sup>

<sup>31</sup> A/HRC/51/54/Add.1, para. 12–14.

<sup>&</sup>lt;sup>32</sup> A/HRC/51/54/Add.1, para. 24.

<sup>&</sup>lt;sup>33</sup> A/HRC/33/61/Add.2, para. 15.

<sup>&</sup>lt;sup>34</sup> A/HRC/33/61/Add.2, para. 17.

https://www.ohchr.org/sites/default/files/documents/issues/racism/wgeapd/statements/2023-01-27/eom-statement-UK-WGEPAD-2023-01-27.pdf.