

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction.....	1 - 3	3
Question 1	4 - 38	3
Question 2	39 - 48	12
Question 3	49 - 82	15
Question 4	83	23
Question 5	84	23
Question 6	85 - 91	23

Introduction

1. In decision PC.1/10 the Preparatory Committee of the Durban Review Conference requested the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (Special Rapporteur on racism), the Special Rapporteur on freedom of religion or belief, and other human rights mechanisms including other special procedures, to assist the Preparatory Committee by

racial superiority and related discrimination.⁴

places of worship. She is also concerned by numerous cases of killings and arbitrary detention motivated by religious intolerance and has identified women, individuals deprived of liberty, asylum-seekers, refugees, children, minorities and migrant workers as being particularly vulnerable to violations of their right to freedom of religion or belief. Similarly, the Working Group on Arbitrary Detention notes that it has on numerous occasions been seized with cases of prosecution and conviction on the grounds of religion or belief leading to arbitrary deprivation of liberty.

discrimination, racism or xenophobia against a minority group and its members and confirms that minorities in all regions of the world continue to face exclusion, serious threats, discrimination and racism.

13. Furthermore, the independent expert notes that individuals within ethnic, religious, linguistic or national minority groups can experience multiple forms of discrimination because of other factors including age, gender, gender expression, gender identity, race, sexual orientation, disability and health status. 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. For example, minority women may lack access to remedies and complaint mechanisms for racial discrimination because of gender-related bias and discrimination. The independent expert is of the view that greater consideration must be given to the compounded and often negatively reinforcing nature of multiple forms of exclusion or discrimination of members of minority communities.

14. The independent expert believes that the poorest communities in almost any region tend to be minority communities that have been the targets of long-standing 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. The independent expert is of the view that 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.

15. The independent expert has identified the discriminatory denial or deprivation of citizenship as a tool for excluding national, ethnic, religious and linguistic minorities in all regions of the world.¹⁴ The reasons for discriminatory denial or deprivation of citizenship are often rooted in racist ideologies, and evidence demonstrates that the practice disproportionately affects persons belonging to minorities. She emphasizes that members of minority groups can

to poverty, lack of development and related socio-economic conditions and could in some cases perpetuate poverty and racial discrimination by disproportionately denying children from affected groups the opportunity to acquire the human capabilities needed in productive life and to benefit from economic growth.¹⁶

17. As the Special Rapporteur on a new mandate and

gender-based violence, especially sexual violence, arising from multiple, intersecting and aggravated forms of discrimination, including racism, paying particular attention to the structural causes of violence.

21. In the implementation of her mandate, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (Special Rapporteur on adequate housing) addresses the issue of discrimination in the context of access to adequate housing. The Special Rapporteur notes that her predecessor, Mr. Miloon Kothari, devoted a great deal of attention to the issue and confirms that she also intends to continue to focus on it. She notes that Mr. Kothari actively participated in the preparatory process of the 2001 Durban World Conference and submitted a statement calling upon States to take steps to ensure non-discriminatory access to adequate housing.²¹

22. The Special Rapporteur on adequate housing welcomes the attention given to the issue of housing issues in the DDPA. She notes that the DDPA recognize the existence of discrimination in access to adequate housing, as well as in access to other economic, social and cultural rights and set out a number of steps to be taken to eliminate the impact of racial discrimination on the realization of these rights.²² In this regard, she regrets that Mr. Kothari in his final report submitted to the Human Rights Council, O6571()-0.14 cnce872(m)-2.46056(i)-2.(e)3.74()-071e gissuee iiiIn

based on racism, racial discrimination, xenophobia and related intolerance.²⁴ Furthermore, the Programme of Action sets out a number measures to b

residence status. Immigrant or asylum-seeking women without a valid residence permit are often naturally reluctant to approach State authorities for protection and remain trapped in violent relationships. Women's vulnerability to violence is fostered by increasingly restrictive immigration laws that have unequal consequences for women.²⁸

29. The Special Rapporteur on the right to education notes that the DDPA recommends the need to guarantee all children and adults access to and completion of a quality education, eliminating intra-school and outside-school factors that hinder access, attendance and success; the need for States to guarantee opportunities for indigenous populations to learn in their mother tongue; and the need for human rights education. These key recommendations in the area

35. Domestically, several States, particularly in the Americas, have adopted constitutional reforms and legislation to recognize the multicultural character of States and eradicate barriers for the enjoyment of the human rights of indigenous peoples. Nevertheless, the Special Rapporteur remains concerned that indigenous peoples continue to be targets of racism and discrimination in all parts of the world, as evident from information continually received by the Special Rapporteur and from reports of his predecessor.

36. The Special Rapporteur notes that 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.

37. Furthermore, the Special Rapporteur expresses with great concern the fact that 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.

38. The independent expert on the question of human rights and extreme poverty notes that people living in poverty are typically victims of discrimination on grounds such as birth, property, national and social origin, race, colour, gender and religion and that poverty frequently originates from discriminatory practices both overt and covert. Paragraph 18 of the Durban Declaration acknowledges that poverty, underdevelopment, marginalization, social exclusion and economic disparities are closely associated with racism, and contribute to the persistence of racist attitudes and practices which in turn generate more poverty.

Question 2: On the basis of your experience, please assess contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance, as well as initiatives in this regard with a view to eliminating them.

Profiling in the context of counter-terrorism measures

39. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (Special Rapporteur on human rights and counter-terrorism) has devoted attention to the issue of profiling in the context of countering terrorism.³⁸ Profiling is generally defined as the systematic association of physical, behavioural or psychological characteristics with particular

40. The Special Rapporteur is concerned that profiling may constitute a disproportionate and arbitrary interference with the right to privacy, the right to freedom of movement and the right to personal liberty, as well as contravening the principle of non-discrimination. The Committee on

Discrimination on the grounds of caste and other systems of inherited status

44. The Special Rapporteur on racism highlights his serious concern about discrimination on grounds of caste and other systems of inherited status. He notes that an estimated 250 million people around the world are at risk of violations of civil, political, social, economic and cultural rights, including violence, marginalization and discrimination, on the grounds of caste and other systems based on inherited status. He expresses his concern at reports of prohibition or limitations on ability to alter inherited status, socially enforced restrictions on marriage outside the community, public and private segregation, including in housing and education, and access to public spaces and places of worship and public sources of food and water, limitation of freedom to renounce inherited or degrading occupations or hazardous work, as well as subjection to debt and bondage.

45. The Special Rapporteur on racism believes that the vital first step in addressing this issue is for Member States to recognize that discrimination on the grounds of caste and other systems of inherited status constitutes a form of discrimination prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In the absence of such recognition it will not be possible to effectively address the serious human rights violations and discrimination suffered by individuals and groups on grounds of caste and other systems of inherited status.

46. The Special Rapporteur on racism welcomes the clear confirmation by the Committee on the Elimination of Racial Discrimination that the situation of scheduled castes and scheduled tribes falls within the scope of the ICERD and that discrimination on the grounds of caste constitutes a form of racial discrimination.⁴⁴ The Committee has also confirmed that discrimination on grounds of caste constitutes racial discrimination and that the term “descent” has its own meaning and is not to be confused with race or ethnic or national origin.⁴⁵

47. The Special Rapporteur on racism is aware that the views of large sections of the population in some countries are informed by ideas based on caste and other systems of inherited status. These views are ingrained in the minds of many and have developed over years and generations. The Special Rapporteur is convinced that Governments and political leaders have a key role in combating racism, racial discrimination, xenophobia and related intolerance. As such, they should take the initiative by raising awareness and challenging long-entrenched perceptions and helping to shape public opinion to move towards

48. Against this backdrop, the Special Rapporteur on violence against women wishes to express her concerns about the numerous complaints she receives about violence perpetrated against women on the grounds of caste, as highlighted in her communications with Governments, jointly with other Special Rapporteurs.⁴⁶

Question 3: Please identify concrete measures and initiatives for combating and eliminating all manifestations of racism, racial discrimination, xenophobia and related

making politically binding commitments, they are also willing to enter into legally binding commitments. The mandate-holders further encourage Member States to withdraw any

58. The Special Rapporteur on racism believes that it is particularly important for all States to overcome the North-South polarization that has affected international deliberations on racism issues. He highlights the fact that racism is a global phenomenon that affects all States. He encourages the Preparatory Committee and the Review Conference itself to focus on the issue of national implementation of the DDPA as a central objective of the Conference and the outcome document.

59. In relation to the high incidence of political programmes based on ideas of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur believes that the onus is on political parties to tackle the problem and provide leadership. Political parties and leaders must take steps to promote the participation of individuals and groups that are vulnerable to racism, racial discrimination, xenophobia and related intolerance, with the aim of increasing the representation of individuals from these groups in the political arena, not only as party members, but also as members of parliament and government. The inclusion of representatives from vulnerable groups in the political process is vital to give them a voice to contradict the voices of those political parties with racist or xenophobic platforms.

60. The Special Rapporteur considers that mainstream political parties should refuse as a matter of policy to form coalition governments with parties that have political platforms either explicitly or implicitly based on ideas of racism, racial discrimination, xenophobia or related intolerance. He refers to the issue of political platforms at length in a number of his reports and

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63. The Special Rapporteur on the right to education notes that in many societies, ideas based on racism, racial discrimination, xenophobia and related intolerance are deep-rooted in people's minds and views. It is not possible to change these views overnight. However, States must take a proactive stance and long-term preventive measures, which in time can go a long way towards reducing the prevalence of such views. He is convinced that the commitments in the Programme of Action on education and awareness-raising are key to achieving the aims of the Durban Declaration.⁵² The education and awareness-raising activities undertaken by States should aim to foster a spirit of tolerance and respect for people from different races, religions, cultures and nationalities from an early age.

64. The Special Rapporteur refers the Preparatory Committee to the World Programme for Human Rights Education, which provides a common framework for action for all relevant actors. This Programme may serve as useful guidance for educational policies aimed at strengthening the promotion and protection of human rights, eradicating prejudices and conceptions incompatible with racial equality and freedom of religion or belief and ensuring respect for pluralism and diversity. Consideration must be given to affirmative action and other equity-oriented public policies which attempt to remedy and overcome historical exclusions due to deep-rooted discriminatory processes. Consolidating the public system of education, guaranteeing that education is available, accessible, adequate and adaptable to all is paramount in overcoming historical discrimination.

65. The Special Rapporteur on freedom of religion or belief refers the Preparatory Committee to the final document of the International Consultative Conference on School Education in relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination⁵³ and the Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools.⁵⁴ The latter were developed in 2007 by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe.

66. The Special Rapporteur also encourages initiatives with regard to inter-religious and intra-religious dialogue on the promotion of respect for religious diversity within pluralist societies. She is of the view that these initiatives should not be limited to religious leaders but also include grass-roots members. Further, it may be useful to take into account the perspectives of believers who are dispassionate about their faith, as well as the perspectives of atheistic and non-theistic believers in these opportunities for dialogue. She encourages States to support inter-religious and intra-religious dialogue at the national, regional and international levels.

67. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on racism and the Special Rapporteur on freedom of religion or belief would like to recall that the Durban Declaration recognizes "the positive contribution that the exercise of the right to freedom of expression, particularly by the media and

⁵² Paragraphs 117-139, Programme of Action.

⁵³ E/CN.4/2002/73, Appendix.

⁵⁴ http://www.osce.org/publications/odihr/2007/11/28314_993_en.pdf.

new technologies, including the Internet, and full

in the spirit of article 7 of the ICERD is all the more necessary as societies become more diverse and access to information more global. They also encouraged States to promote the interrelated and indivisible nature of human rights and freedoms and to advocate the use of legal remedies as

discrimination in all areas of the public and private sectors relating to housing, planning and land. Second, he encouraged States to ensure that legislation and policies be implemented in good faith to promote equal access to services essential to the right to adequate housing, including water, electricity and sanitation. Third, he called upon States to guarantee access to judicial remedies for violations of the right to ad

87. The Special Rapporteur on freedom of religion or belief welcomes the entry into force of the Racial and Religious Hatred Act 2006 in England and Wales, which creates the offence of inciting religious hatred in addition to the pre-existing offence of inciting racial hatred. The act seeks to strike a delicate balance with freedom of expression by banning threatening words and behaviour rather than restricting discussion, criticism and expressions of antipathy, dislike, ridicule or insult. The legislation also provides a broad definition of the term religious hatred to include, "hatred against a group of persons defined by reference to religious belief or lack of religious belief".⁶⁴

88. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism notes that South Africa has throughout its history been a multi-ethnic, multireligious society, and has been a

all schools. The challenge for Brazil now is to ensure the full implementation of what the Special Rapporteur considers to be a sound and concrete platform for progress. He welcomes the fact that the developments have placed the recognition of racism and discrimination in society at the forefront of the public agenda.

91. The Special Rapporteur on the right to education also emphasizes the efforts of various civil society organizations, such as the campaign that the “Campaña Latinoamericana por el Derecho a la Educación” has been running for immediate ratification of international conventions against all forms of discrimination, such as ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries and the Convention against Discrimination in Education.
