

Distr.  
RESTRICTED

A/CONF.211/PC/WG.1/CRP.2  
3 September 2008

ENGLISH ONLY

DURBAN REVIEW CONFERENCE  
Preparatory Committee  
Intersessional open-ended intergovernmental working group  
to follow up the work of the Preparatory Committee  
Second session  
Agenda item 5

**IMPLEMENTATION OF THE MANDATE OF THE WORKING GROUP  
AS CONTAINED IN PREPARATORY COMMITTEE DECISION PC.2/4 OF  
22 APRIL 2008 ENTITLED “ESTABLISHMENT AND DATES OF THE  
INTERSESSIONAL OPEN-ENDED INTERGOVERNMENTAL WORKING  
GROUP”**

**Working paper submitted by the Chairperson-Rapporteur of the working group**

Annex 1

[3 September 2008]

Dear colleagues,

In preparation for our meeting of the intersessional open-ended intergovernmental working group to follow up the work of the Preparatory Committee to be held on 5 September, I am forwarding to you a working document on certain indicative elements in relation to the outcome document.

Following the May session of the intersessional working group and its decision, I have been working throughout the subsequent three months and in close consultations with the informal Group of the Friends of the Chair on further review of the contributions received in connection with the objectives of the Durban Review Conference. As a result, and having in mind the mandate of the intersessional working group as outlined in decision PC.2/4 of the Preparatory Committee, we attempted to adjust the contributions received to date to the agreed structure of the outcome document (see decision PC.2/8) and subsequently to bring such contributions closer to a negotiating text. In doing so we also had in mind the fact that according to the same decision PC.2/8, the outcome document will consist of a declaratory part and an action-oriented part. The available contributions made it possible to develop textually parts I to IV of the document. We also have in mind and support such proposals which 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. I believe that textual proposals for these parts of the text would require a different modality of work, which I look forward to discuss during our meeting on 5 September.

Finally, 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 contributions that have taken place during this summer and their outcome documents, as well as any other regional contributions, we will have the opportunity to hear and receive from representatives of such regional groups their textual proposals to be incorporated in the present text. I intend to adjust such further contributions to the present text in the time available in September.

I look forward to our meeting on 5 September, at which I will further elaborate on the present status of the process and would invite further discussions both on substance and method of work in line with the mandate of the working group.

With my best wishes,  
Zohrab Mnatsakanian

Annex 2**Certain indicative elements in relation to the outcome document**

**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 f

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



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 person

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





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 add -245.065 -13.8 Tdd o



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 13<sup>th</sup> 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 particular

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

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 sh



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.

*[see above paras from the Brasilia report, §72-73]*

*E. Strategies to achieve full and effe*



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 .295585(nhe)3750 Td [(r)2.805(a)2.16558(n)-Oran 2015



the Convention, and requests that sufficient additi

with the Special Rapporteur and urges States to examine the possibility of accepting his requests for visits and recommendations so that he may discharge his mandate fully and effectively;

82. Encourages the Anti-Discrimination Unit of the Office of the United Nations High Commissioner for Human Rights to continue working with determination in providing guidance and support to the mechanisms of the Human Rights Council to monitor the implementation of the Durban Declaration and Programme of Action;

83. Calls for the Unit to be elevated to the rank of division and strengthened with the additional resources and staff required to serve better the mechanisms established to monitor and implement the Durban Declaration and Programme of Action and for it to interact effectively with all partners, including civil society, in the global campaign to combat racism;

84. Acknowledges the importance and significance of the efforts of the Working Group of Experts on People of African Descent in analysing the current situation, conditions and extent of racism against persons of African descent in the African diaspora;

85. Expresses its recognition of and requests all States to implement the conclusions and recommendations agreed upon by the Working Group of Experts, in particular on the adverse effects of racism on health, employment, housing, education and the media, and likewise regarding the use of racial profiling, bearing in mind the need for States to reject and prevent all practices drawing on race-based stereotyped profiles;

86. Calls for the Working Group of Experts on People of African Descent to be established as a United Nations permanent forum on people of African descent;

87. Takes note of the final report on the existing gaps in

related intolerance, the independent eminent experts on the implementation of the Durban Declaration and Programme of Action and the Ad Hoc Committee on the Elaboration of Complementary Standards;

89. *Urges* the monitoring mechanisms related to the implementation of the Durban Declaration and Programme of Action to promote awareness, dialogue and training of public officials and/or social educationalists regarding the elimination of racism, racial discrimination, xenophobia and related intolerance by promoting meetings between public officials and/or social educationalists and other activities that contribute to attaining the goals of the Durban Declaration and Programme of Action;

90. *Requests* the Human Rights Council to take the appropriate measures to extend the mechanisms for the participation of non-governmental organizations and other civil society organizations cial ed activ24(n)i3.74(1)-2

95. Invites the Preparatory Committee to consider convening a meeting on all the aspects of the articles of the Durban Declaration and Programme of Action and resolutions 61/19 and 62/122 of the General Assembly on the transatlantic slave trade, and including its conclusions and recommendations in the preparatory process and the Durban Review Conference; /

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 71<sup>st</sup> 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

**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**

- *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, th

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 expl



**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

- 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
- 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
- Giving independent national institutions the competence to deal with individual cases and bring them to the courts and to act as mediators
- Establishing official ministries and institutions with the mandate to promote dialogue
- 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 CERD Committee's conclusions and recommendations. In 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

- Establishment of the EU Fundamental Rights Agency.
- Establishment of an ASEAN human rights body in the ASEAN Charter (2007)
- Establishment of *rappoteurships* in the Americas to focus on issues facing

## 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

- 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
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**5. Identification of further concrete measures and initiatives at all levels for combating and eliminating all manifestations of racism, racial discrimination,**