



Silvio José Albuquerque e Silva was born in Niterói, Rio de Janeiro. He graduated from the Pontifícia Universidade Católica of Rio de Janeiro and holds a master’s degree in International Politics from the Université Libre de Bruxelles. In 1986, Albuquerque e Silva enrolled in the Diplomatic Career Preparation Course at the Rio Branco Institute, where he later completed the Higher Studies Course in 2007 with a thesis titled *A Conferência Mundial de Durban e a Política Externa Brasileira* [The Durban World Conference and Brazilian Foreign Policy].

An Ambassador in the Brazilian diplomatic service since December 2015, Albuquerque e Silva served, as an independent expert, on the United Nations Committee on the Elimination of Racial Discrimination from 2018 to 2022. His previous roles include Chief of Staff to the President of the Federal Supreme Court (October 2012–July 2014) and to the Minister of Defense (January–October 2015). The Ambassador also acted as Deputy Special Secretary for Human Rights at the Ministry of Justice and Citizenship, and later at the Ministry of Human Rights (June 2016 – August 2017).

In 2013, the third edition of his book *As Nações Unidas e a Luta Internacional Contra o Racismo* [The United Nations and the International Fight Against Racism] was published by FUNAG. He also co-authored *Combate ao Racismo — Desafios e a Promoção da Igualdade* [Combating Racism — Challenges and the Promotion of Equality] with Flávia Piovesan in 2021.

Albuquerque e Silva previously served as Brazil’s Ambassador to Kenya and Permanent Representative to the United Nations Office in Nairobi. He currently holds the position of Ambassador to the Kingdom of Belgium and the Grand Duchy of Luxembourg. Son of Irídio Silva and Maria da Penha Albuquerque Silva, he is married to Ludmilla Duarte and has four children.

At no time in recent history has it been so essential to develop and implement a foreign policy in the environmental and climate fields that takes into account the structural and transversal characteristics of racism and racial discrimination. Its legitimacy will increase with the broadening of the bases for dialogue with civil society, especially entities representing sectors particularly affected by the climate emergency and environmental damage.



Silvio José Albuquerque e Silva

ENVIRONMENTAL MULTILATERALISM
AND RACIAL DISCRIMINATION

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This essay will take a cross-cutting approach to the subtopic of climate justice, which stems from the broader movement for environmental justice. Discussions about climate justice are directly tied to the historical responsibility of developed countries (and private actors) in transforming today’s climate conditions. In addition to the goal of reversing the conditions caused by the accumulation of greenhouse gases in the atmosphere, advocates of climate justice seek to hold those responsible for the crisis accountable and to promote reparative and compensatory measures for its victims. As will be demonstrated throughout this paper, from a legal standpoint, one of the main obstacles to advancing causes related to climate justice in human rights protection bodies is the difficulty of unequivocally proving causal links between the damage caused to humans (and the environment) by extreme weather events and a set of specific actions or omissions.

With a focus on the structural characteristics of racism and racial discrimination in Brazil and other parts of the world, as attested by the UN Committee on the Elimination of Racial Discrimination, this paper aims to contribute to reflections in the field of Brazilian foreign policy, bringing together the environmental and human rights regimes. As it will be shown, both have differences and similarities. However, it does not make them irreconcilable in the conception of an environmental diplomatic line of action that adopts clear priorities in combating environmental racism and values the defense and protection of the most discriminated and vulnerable sectors of society.

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ENVIRONMENTAL MULTILATERALISM AND RACIAL DISCRIMINATION

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SILVIO JOSÉ ALBUQUERQUE E SILVA

ENVIRONMENTAL MULTILATERALISM AND RACIAL DISCRIMINATION



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Ministry of Foreign Affairs
Esplanada dos Ministérios, Bloco H, Anexo II, Térreo,
70170-900 Brasília-DF
Phone numbers: +55 (61) 2030-9117/9128
Website: gov.br/funag
E-mail: funag@funag.gov.br

Publishing and Events General Coordination:

Henrique da Silveira Sardinha Pinto Filho

Editorial Coordination:

Fernanda Antunes Siqueira

Translation:

Ana Clara Ribeiro Teixeira

Publishing and Editing Team:

Alessandra Marin da Silva
Eliane Miranda Paiva
Gabriela Del Rio de Rezende
Luiz Antônio Gusmão
Nycole Cardia Pereira

Visual Planning and Graphic Design:

Denivon Cordeiro de Carvalho

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TABLE OF CONTENTS

Introduction.....	9
1. Environment and Human Rights.....	13
2. Human rights, environment and climate in the multilateral debate and in regional and international jurisprudence: challenges and opportunities	21
3. Environmental justice: interpretations and advances in international jurisprudence	27
4. Environmental racism as a foreign policy issue: Brazilian and international perspectives	37
Conclusion.....	47
Bibliography.....	57
Attachments	
International Convention on the Elimination of All Forms of Racial Discrimination (1965).....	65
African Charter on Human and Peoples' Rights (1981)	81
Durban Declaration and Programme of Action (2001)	99
Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance (2013)	253
Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean.....	261
Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, E. Tendayi Achiume (2022)	303

To my mother, Maria da Penha Albuquerque Silva.

The commitment with which we are called upon to address environmental issues, in any case, without allowing more space for deeper reflection on the relations, through technical means, their vectors and actors, between the human community, thus mediated, and Nature, thus dominated, is typical of an era and clearly illustrates the risks we run, as well as the need to act heroically in all areas of knowledge if we wish to continue pursuing the truth.

—Milton Santos, 1992: *A Redescoberta da Natureza*

Introduction

In the novel *How Beautiful We Were*, Cameroonian writer Imbolo Mbue¹ tells the story of the devastation caused by the actions of a North American oil company in a fictional West African country. Water poisoning, acid rain, and soil pollution result in the death of countless children, disruption of community life, and expose the entrails of a harmful pattern of economic exploitation, whose victims, in the real world, occupy a social position and belong to invisible, discriminated groups.

The novel can be read as an elegy to a lost land or to life plans torn apart, but also as a meditation on the power of human resistance in the face of extreme situations generated by environmental and climate crises. This is what can be inferred from the question asked by an old villager at the end of the novel, whose answer may contain elements of hope: “Why do humans fight when we all want the same things?”²

To what extent does a work of fiction that portrays the unconditional love characters have for their land, their community, and their values relate to reflections on a topic of international politics? The novel raises issues that are neglected in the context of complex diplomatic negotiations on the environment, one of which is precisely the inseparable ties between environmental crisis, social justice, and environmental racism.

This relationship was made explicit by the former United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance during her presentation to the UN General Assembly in November 2022. Tendayi Achiume recalled that there can be no meaningful solution to the global climate and ecological crises without addressing systemic racism and, in particular, the historical racial legacies of colonialism and slavery.³

1 Imbolo Mbue. *How Beautiful We Were* (Canongates Books Ltd, 2021).

2 Mbue, *How Beautiful We Were*, 338.

3 United Nations, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance*, E. Tendayi Achiume, A/HRC/50/61 (New York: United Nations, 2022), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/338/64/PDF/G2233864.pdf>.

The ongoing destruction of our planet affects everyone. But what experts consulted by her make clear is that race, ethnicity, and national origin continue to result in the unearned enrichment of some and the total exploitation, abuse, and death of many due to discrimination at the heart of environmental and climate injustice. The opening words of the report are sufficiently clear as to what it sets out to expose in the body of the document:

The global ecological crisis is simultaneously a crisis of racial justice. As countless studies and writings have demonstrated, the devastating effects of the ecological crisis are disproportionately felt by racially, ethnically, and nationally marginalized groups—those who face discrimination, exclusion, and conditions of systemic inequality based on their race, ethnicity, or national origin. In every country, these groups overwhelmingly comprise residents of areas most affected by pollution, biodiversity loss, and climate change.⁴

The pursuit of social, economic, and environmental justice, which underpins the concept of sustainable development, is inseparable from the fight for racial and gender justice. This was revealed by President Luís Inácio Lula da Silva in his speech at the 78th session of the UN General Assembly in September 2023. Referring to the 2030 Agenda for Sustainable Development, which brings together 17 goals, the president stated that we wish to achieve an 18th goal, which Brazil has voluntarily committed to adopt: racial equality.

This innovative perspective announced by the President has not yet been translated into concrete Brazilian foreign policy strategy in the fields of environment and climate. It is outlying or non-existent in the debates held at the United Nations Environment Program (UNEP) in Nairobi and in UN forums dealing with environmental issues. Furthermore, this perspective is not given due importance in international instruments on

⁴ United Nations, *Report of the Special Rapporteur*, 3.

climate change and environmental issues, including in draft convention texts currently under negotiation.⁵

This essay will take a cross-cutting approach to the sub-theme of climate justice, which derives from the broader movement for environmental justice. It is well known that discussions about climate justice are directly related to the historical responsibility of developed countries (and private actors) for the transformation of current climate conditions. In addition to reverse the conditions caused by the accumulation of greenhouse gases in the atmosphere, those who advocate for climate justice want to hold those responsible for the crisis accountable and make them adopt reparative and compensatory measures for the victims. As it will be seen throughout this paper, from a legal point of view, one of the main obstacles to the progress of causes related to the achievement of climate justice in human rights protection institutions is the difficulty of unequivocally proving causal connections between the damage caused to human beings (and the environment) by extreme climate events and a set of specific actions or omissions.

To be concerned about the magnitude of the climate crisis and its catastrophic consequences if effective and coordinated measures are not adopted globally to neutralize carbon emissions and global warming, and alignment of perspectives, economic growth models, and financial commitments, is more than reasonable. But there is a challenge that is often overlooked in multilateral discussions: the impact of environmental damage caused by human action on specific groups of people who have historically been discriminated due to their race, ethnic-cultural background, socioeconomic status, gender, and other traits.

From the Brazilian perspective, addressing racism in the specific context of the environmental crisis and including the issue in multilateral debates means recognizing that the quality and dignity of life of a significant group of human beings, living in the slums of cities, in rural areas, or in forest regions, are disproportionately affected by the negative environmental impacts generated by private enterprises or by the actions or omissions

5 The case of the future international convention on the prohibition of plastic waste, including in the marine environment.

of the State. International instruments should encourage States to take these circumstances into account when designing public policies in response to environmental and climate crises. By focusing on equal rights among States and their common but differentiated responsibilities, these instruments fail to include human beings, in all their diversity, as active subjects of international law. As a result, they perpetuate environmental inequality and increase discrimination against individuals and groups that have historically been disadvantaged in their social structures. With a focus on the structural characteristics of racism and racial discrimination in Brazil and other parts of the world, as attested by the United Nations Committee on the Elimination of Racial Discrimination, this paper aims to contribute to reflections in the field of Brazilian foreign policy, integrating environmental and human rights regimes. As will be shown, both have differences and similarities. However, this does not make them irreconcilable in the conception of an environmental diplomatic line of action that adopts clear priorities in combating environmental racism and values the defense and protection of the most discriminated and vulnerable sectors of society.

Chapter I

Environment and Human Rights

The recognition of the ties between human rights and environmental law is hardly news. In a seminal work published in 1993, Professor Antônio Augusto Cançado Trindade argued that, although the domains of human protection and environmental protection had been treated separately for decades, it was essential to seek greater convergence between them, as both addressed the main challenges of our time.⁶

The United Nations Charter of 1945 does not separate the maintenance of international peace and security from other social and economic objectives related to human rights and environmental issues, which are interconnected and blend the local with the national and the national with the international.

Almost eighty years after its foundation, the comprehensive agenda of the United Nations endures through time: past, present, and future in an apparent disconnection. Its agenda items are recurring, including the emancipation of human rights (general and special), economic development linked to social development, peace, security, and the right to a healthy environment. These demands have fueled debates at world conferences since the late 1960s and into the new century (human rights, the environment and social development, population, women's rights, human settlements, and the fight against racism).

It is widely accepted that the preservation of international peace and security is the ultimate goal of the UN Charter. For some, it is the most important goal, based on a hierarchical logic that is not supported by the best interpretation of the Charter's text. Although important, it is not the only goal, nor is it the most relevant. Its first article deals with the expectation of achieving international cooperation in solving international

6 Antônio Augusto Cançado Trindade, *Direitos Humanos e Meio Ambiente: Paralelo dos Sistemas de Proteção Internacional* (Sergio Antonio Fabris Editor, 1993a).

problems of an economic, social, cultural, or humanitarian nature and in promoting respect for human rights, without distinction of race, sex, language, or religion; it also refers to the United Nations as a center for harmonizing the actions of States in achieving these common objectives.

There are two essential questions associated with the objectives set out in the UN Charter that are often overlooked. What inspires these principles? And how can they be achieved? To answer these questions, we must examine the preamble, which is an essential source of interpretation for any treaty, reaffirming “faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.”⁷ This is language from the mid-1940s, but it is still relevant today. Of this set of principles, one is particularly noteworthy: human dignity, which would later be reproduced in the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and in fundamental human rights treaties.

The Charter contains five references to human dignity [two in the Preamble, one in Article 1, and two in Articles 22 and 23(3)]. The negotiators, however, wisely refrain from defining the expression “human dignity,” which would take on the contours of principles such as equality, justice, better standards of living, greater degrees of freedom and, more recently, rights to decent housing and a healthy environment.

As the preambles to the two international covenants of 1966 would enshrine, equal and inalienable rights of all members of the human family “derive from the inherent dignity of the human person.” Over the past eight decades, there has been reasonable consensus that this constitutes a fundamental value underlying constitutional democracies, which would inform the negotiations of future international agreements and declarations.

Soon after the war, these would become some of the essential foundations for the creation of new international organizations with the explicit goal of promoting peace, safeguarding human rights, and ensuring the well-being of humanity. From this would emerge the modern

7 United Nations, *Charter of the United Nations* (United Nations, 1945).

multilateral system and institutions designed to coordinate action and cooperation among States, including the United Nations Environment Program.

It was in the same year that Professor Cançado Trindade's work was published that the Second World Conference on Human Rights was held in Vienna. One of the principles enshrined at that Conference was that human rights extend to every field of human activity, without exception. Member States are responsible for incorporating international standards into their domestic legal systems. The United Nations now has an obligation to mainstream human rights into all activities of its agencies and programs and to support the monitoring activities of treaty committees, with the involvement of States Parties. Furthermore, in Article 11, the Vienna Declaration and Plan of Action⁸ proclaimed that the right to development must be fulfilled in such a way as to "equitably meet the environmental and development needs of present and future generations."

Another fact of enormous political symbolism was that there would no longer be any question about the truly universal dimension of the 1948 Declaration, which only 48 countries had adopted. The Vienna Declaration, signed by 171 states, would update the dimension of the universality of human rights and legitimize the consensus reached three years after the creation of the United Nations. Vienna consolidated the notion of the legitimacy of international concern for human rights throughout the world (*erga omnes* obligations of protection), which strengthened the foundations of the universalization process. The 1993 Declaration would further reaffirm the indivisibility and interrelation among human rights.

In the same vein, social, economic and cultural rights should be viewed as fundamental human rights that can be brought into legal spheres. In the words of Flávia Piovesan, "both social rights and civil and political rights demand positive and negative benefits from states, and the view that social rights only demand positive benefits, while civil and political rights demand negative benefits, or mere state abstention, is mistaken and simplistic."⁹

8 A single document, hence the choice of using the verb in singular form.

9 Flávia Piovesan, *Temas de Direitos Humanos* (Editora Saraiva, 2016).

Particularly vulnerable people and groups would become both the object and the subject of fundamental rights, with the purpose of ensuring their special protection through future international conventions. Even in the case of previously negotiated and approved human rights treaties, little by little the jurisprudence of regional courts and international and regional supervisory bodies, influenced by particular hermeneutics and methodology in harmony with Treaty Law, would come to recognize the inalienable rights and guarantees of the Power.

The end of the Cold War would bring along a not very long window of time in which multilateralism would be revalued and, at the same time, the international debate on ways of protecting individuals and social groups from the injustices perpetrated by an economic model of growth and asymmetrical development patterns would be revived not only within nations, but between countries and regions of the world. In this context, human rights agendas began to emerge within the United Nations which, since the Stockholm Conference in 1972, had been limited to the new field of environmental law, such as the human right to a healthy environment.

The United Nations Conference on the Human Environment held in Stockholm formally laid the foundations for international environmental law. Its second preambular article dealt with the essential links between the “human environment” and fundamental human rights, “including the right to life.” The first principle incorporated various advances and terminologies from international human rights instruments approved up to that point, such as the principles of human dignity, equality and non-discrimination. It innovated by proclaiming “new” rights, including the right to a quality environment. It assigned to “men,” in an indeterminate way, the “obligation to protect and improve the environment for present and future generations.” In principle 23, it called for respect for “the value systems prevailing in each country” and caution with standards adopted in “more advanced” countries, which may prove to be “inadequate and of high cost for developing countries.” In the following principle, it encouraged countries to take up, “in a spirit of cooperation and on an equal footing, international issues relating to the protection and improvement of the environment.”

The Stockholm Conference deserves recognition for inserting environmental issues on the international legal agenda and for driving the development of environmental legislation at national and international level. At the same time, the differing treatment of environmental problems and the solutions proposed in the Declaration have influenced, albeit unevenly, subsequent domestic legislation, as well as regional and international instruments. Under the strong influence of Brazilian and Indian diplomacy, developing countries left Stockholm more aware of the importance of articulating a common political agenda around the environment and development.

One of the legacies of the Stockholm Conference was its influence on the inclusion of environmental protection as part of fundamental human rights in constitutional charters. With regard to the 1988 Brazilian Constitution, Article 225 was influenced by both the 1972 Conference and the 1987 Brundtland Report. For the first time, a Brazilian constitution dealt with the environment as a protected good, not only for economic development, but mainly to promote human well-being.¹⁰ Subsequently, in a series of decisions, to be explained in a specific part of this work, the Federal Supreme Court came to recognize that the fundamental right to the environment is directly linked to the defence of inalienable values, the ownership of which falls to the community, i.e. society as a whole. Another central element of the constitutional provision is the enshrinement of the principle of solidarity between all human beings, including those of future generations. Article 225 of the Constitution therefore reflects the values that underpin the welfare state built since 1988, which include justice, equity, non-discrimination, solidarity and environmental sustainability.

In 1992, the Conference on Environment and Development was held in Rio de Janeiro, introducing the concept of sustainable development into the international political and legal framework, as outlined in the influential document “Our Common Future,”¹¹ also known as Brundtland

10 “Everyone has the right to an ecologically balanced environment, an asset of common use to the people and essential to a healthy quality of life, imposing on the public authorities and the community the duty to defend and preserve it for present and future generations.”

11 World Commission on Environment and Development, *Report of the World Commission on Environment and Development: “Our Common Future”* (Oxford: Oxford University Press, 1987).

Report. The two conferences reflected developments in the new International Environmental Law. Probably stimulated by the results of the Rio Conference in 1993, Cançado Trindade wrote about the impossibility of separating human rights, in all their dimensions, from environmental protection and economic development. For him, the right to a healthy environment would be an extension of other human rights, which could only be achieved with the protection of that right. He also argued that the right to life and health should not be interpreted within the limited universe of existence and physical health, but also as a condition for a dignified life. In general, Cançado Trindade recognized that the right to a healthy environment was fundamental to strengthen the protection of all human rights.¹²

The Rio Declaration, containing a brief introduction and 27 principles, was the most important document approved at the 1992 Conference, shifting the center of international discussions on the environment. Development issues joined the logic of environmental protection. As mentioned above, one of the legacies of Rio is the balance it promotes between the environmental, social and economic dimensions of sustainable development. In 1992, principles that would be incorporated into international environmental law emerged, such as prevention (principle 2), intergenerational equity (principle 3), common but differentiated responsibilities (principle 7), technology transfer (principle 9), participatory justice in the resolution of environmental conflicts, in the search for environmental democracy (principle 10), the non-use of environmental considerations to impose restrictions on trade (principle 12), cross-border cooperation (principles 18 and 19, and 7 and 27, respectively) and precaution (principle 15). Due to this impressive set of advances, the Declaration is probably the most representative instrument in the whole field of International Environmental Law to date, despite its non-cogent nature, but which is gradually becoming part of international customary law.

Regarding the reflections in this essay, the Rio+20 Conference promoted the full integration of human rights into the concept of sustainable development. The final document mentions provisions on the right to

12 Antonio Augusto Cançado Trindade, *Medio ambiente y desarrollo: formulación e implementación del derecho al desarrollo como un derecho humano* (Instituto Interamericano de Derechos Humanos, 1993b, 7).

development, the right to an adequate standard of living, the right to food, the right to water and sanitation, the rights to health, education and social protection, labor rights and access to justice, the human rights of women, indigenous peoples, minorities, the elderly, migrants and people living under foreign occupation. It also makes explicit references to human rights related to sexual and reproductive health and sexuality.

From the final declaration, several conceptual human rights-based approaches are drawn, including the principles of social participation, accountability, non-discrimination, as well as the protection of the rule of law and democracy. Among the missing elements are the imperative to assess the impact of environmental damage on human rights, as well as the obligation of due diligence by public and private entities, and stronger accountability mechanisms for both states and companies.

The 2030 Agenda for Sustainable Development is the result of negotiations that began shortly after the 2012 Rio Summit to discuss the agenda that would replace the Millennium Development Goals. Reflecting what was agreed in a document approved by the General Assembly at the end of 2015, the Agenda had as its central foundations the search for peace and the encouragement of partnerships (“cooperation”), social development (“people”), environmental protection (“planet”) and economic growth and development (“prosperity”). Resolution 70/1 would emphasize the role of international law and the principles of the Rio Declaration (mentioned twice), especially those of common but differentiated responsibilities.¹³

The Agenda presents a universal plan to end global poverty, protect human rights as well as preserve and protect the planet. The document is centered on the human person, which means that it contains elements derived from the essential nature of international human rights law, including the integrated and indivisible aspect of the 17 goals, 169 targets and 230 indicators. They are addressed to all countries, without there being any hierarchy between them.

13 United Nations General Assembly, *Resolution 70/1: “Transforming Our World: The 2030 Agenda for Sustainable Development,”* UN Doc. A/RES/70/1, October 2, 2015.

Chapter 2

Human rights, environment and climate in the multilateral debate and in regional and international jurisprudence: challenges and opportunities

In the most diverse multilateral forums, delegations from member states in various regions of the world are opposed to incorporating human rights issues into the environmental agenda. They claim that, although the human right to a healthy environment is provided for in their constitutions and has recently been recognized in resolutions passed by the Human Rights Council and the United Nations General Assembly,¹⁴ the alleged historical “political exploitation of the concept of human rights”¹⁵ would be detrimental to the treatment of environmental issues.

Another argument used by those who resist the inclusion of human rights perspectives in the multilateral environmental debate concerns the distinct nature that would separate the two fields rather than bring them closer together. In this interpretation, the universal nature of human rights, which guarantees equal and inalienable rights to all human beings and considers Member States (especially States Parties to conventions) to have the same rights and obligations, would contrast with a set of domestic,

¹⁴ Through resolution 76/300 of July 28, 2022, the United Nations General Assembly recognized for the first time the human right to a clean, healthy and sustainable environment. The General Assembly declared that the promotion of this right requires the full implementation of multilateral environmental agreements. It also recognized that the exercise of human rights, including the right to seek, receive and impart information, and to participate effectively in the conduct of governmental and public affairs is vital for the protection of a clean, healthy and sustainable environment. It should be recalled that the so-called Escazú Agreement is the first environmental treaty in Latin America and the Caribbean that deals with the promotion of the rights of access to information, public participation and justice in environmental matters. Its importance for increasing the level of protection for environmental defenders should also be highlighted. With the fulfillment of the requirements set out in its article 22 of ratification by a minimum number of states, the treaty has been in force at regional level since January 22, 2021.

¹⁵ Expression used by an ambassador from a BRICS State Party during a dialog with the author of this article in Nairobi.

regional and international rules designed to protect the environment from degradation and climate change generated by human action.

From the perspective of the majority of countries in the Global South, one of the most significant conceptual and political advances in International Environmental Law is the principle of common but differentiated responsibilities, which establishes different obligations for states based on their historical responsibility for generating environmental and climate damage from carbon emissions. Some critics believe that incorporating human rights principles into environmental and climate negotiations or debates would conflict with the preferential treatment granted to certain states due to particular historical considerations, something that is increasingly challenged by developed and even developing countries. They also consider that the “egalitarian” regime between states that sign and ratify human rights protection instruments would not be in harmony with the differentiated treatment that derives from the principle of common but differentiated responsibilities.

In fact, a human rights-based approach to environmental issues in multilateral intergovernmental forums presents challenges due to the distinct nature of guaranteed regimes and the implications of political declarations, particularly conventions, on areas such as the economy, trade, technology transfer, and access to finance. In addition, holding states accountable for environmental damage with an impact on individual and collective human rights depends on the objective identification of the alleged victims and clear ties of causality between the act (or omission) and the damage to one or more rights protected in a treaty or convention. These are not simple issues to resolve on a legal level. Nor would they be negligible for foreign policymakers, who are often forced to weigh up conflicting values in an attempt, not always perfect, to defend national interests, a fluid concept full of implications.

Some considerations should be made about the nature of International Human Rights Law. The strength and impact of human rights lies in the fact that they embody universal values whose concrete application may differ in time and geographical space, but whose essence does not depend on any of these circumstances. However, it should be stressed

that recognizing the universality of human rights does not mean ignoring the various differences that make certain individuals or groups of people more vulnerable to the violation of their rights by the state or by other individuals or groups.

International instruments for the protection of human rights were created and have evolved based on a solid jurisprudential interpretation that allows the traditional principle of absolute sovereignty of states to be relativized in defense of human beings. The system of supervision of human rights treaties provides for monitoring mechanisms by autonomous and independent bodies, and the possibility of holding states objectively accountable by specialized regional and international courts. Human rights treaties, designed to establish a system for the protection of human dignity, are inspired by the *pro homine* principle. This hermeneutic criterion that ensures primacy to the rule most favorable to the human person. Although the criticism regarding the selectivity and politicization of considerations about respect for human rights in the world is partly valid, it has not prevented progress in the treatment of these issues in intergovernmental forums and, above all, in independent treaty monitoring bodies.

There is additional data in this debate that is often overlooked by those who insist on finding more differences than similarities within the international regimes in the fields of human rights and environmental law. Economic, social and cultural rights are considered to be progressively achieved by states, which establishes differentiated treatment between developed and developing countries, with due regard for proportions and historical, social and economic contexts, based on logic aligned with the principle of common but differentiated responsibilities. It is worth noting that states that ratify human rights instruments that protect this class of rights “undertake to adopt the necessary measures, both domestically and through cooperation, [...] to the maximum of their available resources and taking into account their level of development, in order to achieve progressively, and in accordance with domestic law, the full effectiveness of the rights.”¹⁶

16 This is stated in Article 1 of the Additional Protocol to the Convention on Human Rights in the Area of Economic, Social and Cultural Rights, known as the Protocol of San Salvador, inspired by Article 2.1 of the International Covenant on Economic, Social and Cultural Rights.

It is important to qualify the meaning of progressive realization, which is not a license for the indefinite postponement of obligations contained in human rights treaties. In its General Comments No. 3 (1990) on the nature of state obligations under Article 2.1 of the International Covenant on Economic, Social and Cultural Rights, the supervisory committee stated that the expression is in fact a recognition that the full realization of these rights by states cannot be achieved at any time without considering the “maximum of their available resources.” For the treaty body, the reference to the progressive implementation of these rights by the States Parties must be interpreted in the light of the central objective of the treaty, which is to establish objective obligations on the States to adopt measures, as quickly as possible, for their achievement. Associated with this principle is the clause prohibiting social retrogression in economic, social and cultural rights, as well as the prohibition of state inaction. Finally, there are measures of immediate application in social rights, such as those covered by the principle of non-discrimination in Article 2(2) of the Covenant.¹⁷

The fact that the system of global environmental governance is distinct and highly decentralized cannot be denied. When addressing the environmental and climate crisis, the interests of states are complex, sometimes diffuse, and of different natures, extending beyond purely environmental concerns into the realm of human rights. In addition, voluntary adherence to international environmental treaties does not necessarily lead to the renunciation of a State Party’s absolute sovereignty, in a similar way to the human rights protection regime.¹⁸

The inclusion of human rights in the debate about climate change and its effects is complex. The Paris Agreement of 2015 was a pioneer in dealing with human rights in the context of climate change. The text of

17 André de Carvalho Ramos (coord.), *Comentários Gerais dos Comitês de Tratados de Direitos Humanos da ONU* (Clínica de Direito Internacional dos Direitos Humanos da Faculdade de Direito da Universidade de São Paulo e outros, 2020).

18 This is the understanding of the Inter-American Court of Human Rights. On February 7, 2018, the Court published an important Advisory Opinion on the Environment and Human Rights. It reaffirmed that human rights depend on the existence of a healthy environment. It ruled that states must take measures to prevent significant environmental harm to individuals inside—and outside—their territory. In other words, if pollution can cross borders, so does legal responsibility.

the agreement recognized that States Parties, when adopting actions to tackle climate change, must “respect, promote and consider their respective human rights obligations, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and persons in situations of vulnerability, and the right to development, as well as gender equity, women’s empowerment and intergenerational equity.”¹⁹

It should be noted that the perspective held by the drafters of the Paris Agreement involves the importance of the human rights perspective both in the classic general functions of states (promoting rights and committing to fulfilling their obligations) and in the adoption of actions aimed at special groups of people, perceived from their diversity, due to their potential status as victims of discrimination. In this regard, the conceptual advance of this provision is undeniable.

What proves to be challenging is the difficulty in establishing an objective connection of causality between the damage caused by climate change on protected human rights and the action or omission of the state (or private actors). From a legal point of view, this would require the state to be held responsible for changes in the climate system. Furthermore, it would depend on these changes causing harmful events that objectively affect the human rights of specific individuals or groups.

Determining the causal link in climate damage affecting human rights proved to be complex in the case of a petition submitted to the Inter-American Commission on Human Rights by 63 members of the Inuit people, represented by the “Inuit Circumpolar Conference,”²⁰ against the United States for violating the American Declaration of Human Rights. In 2006, the Commission refused to examine the merits of the petition, which alleged that the US government’s refusal to limit greenhouse gas emissions constituted a threat to the human rights of the Inuit. In its response to the petitioners, the Commission stated that it could not analyze the petition at that time “because the information it contains

19 UNFCCC, *Paris Agreement. Decision 1/CP.21, FCCC/CP/2015/10/Add.1*, December 12, 2015.

20 The “Inuit Circumpolar Conference,” which represents 150,000 people living in northern Alaska, Canada, Greenland and Russia, presented the petition in December 2005, together with Earthjustice and the Center for International Environmental Law.

does not meet the requirements established” in its rules of procedure. It stated, specifically, that the information provided did not allow it “to determine whether the facts alleged would tend to characterize a violation of the rights protected by the American Declaration.”²¹

21 Martin Wagner and Donald M. Goldberg, *An Inuit Petition to the Inter-American Commission on Human Rights for Dangerous Impacts of Climate Change* (CIEL/Earthjustice, December 2004), <https://www.ciel.org/reports/an-inuit-petition-to-the-inter-american-commission-on-human-rights-for-dangerous-impacts-of-climate-change-december-2004-cielearthjustice-goldberg-wagner-2/>.

Chapter 3

Environmental justice: interpretations and advances in international jurisprudence

The incorporation of the environmental dimension into regional and international human rights protection instruments occurred explicitly from the end of the 1970s and especially in the 1990s. It is essential to bear in mind that, broadly speaking, the development of the international architecture for the protection of human rights can be divided into two distinct historical periods. The first, which began in 1948 and lasted until 1965/1966, was marked by the general protection of fundamental rights, as outlined in the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. Since then, instruments with a specific scope have been negotiated and approved, such as international conventions that respond to specific human rights violations, including discrimination based on race (1965, in anticipation of the apartheid crisis), discrimination against women (1979) and violations of the rights of children (1989), migrant workers (1990) and people with disabilities (2006), among others.

The global system of protection is complemented by its special dimension, which serves as a supplementary system of protection. As Flávia Piovesan explains, the special system highlights the process of specifying the subject of rights, in which human beings are now viewed in their specificity and concreteness, rather than merely in their abstraction and generality. As a result of this evolution, specific subjects of law, or specific rights violations, now require differentiated responses. Respect for difference and diversity is thus enshrined, which guarantees them special treatment.²²

22 Flávia Piovesan, *Temas de Direitos Humanos* (Editora Saraiva, 2016).

When addressing cases of human rights violations resulting from environmental damage, human rights courts and treaty monitoring committees have adopted a progressive interpretation of regional and international instruments in the fields of human rights and the environment or climate. By progressive we mean the interpretative line adopted especially, but not only, in the case of treaties approved and in force even before the 1972 Stockholm Conference. Among the human rights conventions approved after the Stockholm Declaration, three deserve special mention for incorporating environmental protection into their provisions: the African Charter on Human and Peoples' Rights (1981), the Additional Protocol of San Salvador to the American Convention on Economic, Social and Cultural Rights (1988) and the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance (2013).

There have been major developments in the jurisprudence of regional and international courts and *treaty bodies* when in analyzing individual petitions related to the general protection of human rights that have some connection with the environmental dimension, such as the rights to health, privacy, property, adequate housing and cultural rights, among others. This also applies to the protection of particular or special rights.

In 1994, the Human Rights Committee, in charge of supervising compliance with the International Covenant on Civil and Political Rights, issued a General Comment entitled "Protection of Minorities," in which, for the first time, it dealt with the environmental dimension in the protection of one of the rights provided for in the Covenant. In the case, the Committee interpreted the scope of article 27 of the Covenant and extended it to aspects of the protection of the right to enjoy cultural rights of groups occupying traditional lands. In paragraph 3.2 of the General Comment, the members of the Committee state that "one or another aspect of the rights of individuals protected by that article—for example, the enjoyment of a particular culture—may consist of a way of life that is closely associated with territory and the use of its resources.

This may be especially true for members of indigenous communities who constitute a minority.”²³

There is an even more recent decision by the same Committee with a significant jurisprudential impact. This is the August 2019 decision in the case of *Portillo Cáceres v. Paraguay*. The Committee recognized, for the first time, the existence of a connection between environmental protection and the right to dignified life (human dignity). This was not only a landmark decision for the Committee, but it represented the consolidation of a body of jurisprudence and practice from three regional human rights courts and other UN human rights bodies that had developed over the last quarter of a century. The decision highlighted the potential of two important and widely debated paragraphs in the recently adopted General Comment No. 36 on the Right to Life, which describes environmental degradation as an enabler of threats and a direct threat to the right to life. In its paragraph 62 of that General Comment, the Committee states:

Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats undermining the fundamental right to life for present and future generations. States parties’ obligations under international environmental law must therefore inform the content of article 6 of the Covenant, and states parties’ obligation to respect and guarantee the right to life must also inform their relevant obligations under international environmental law. The implementation of the obligation to respect and guarantee the right to life, and in particular life with dignity, depends, *inter alia*, on the measures taken by States Parties to preserve the environment and protect it against damage, pollution and climate change caused by public and private actors. States Parties must therefore ensure the sustainable use of natural resources, develop and implement substantive environmental standards, carry out environmental impact assessments and consult with relevant

23 Human Rights Committee, *General Recommendation 23 (Protection of Minorities)*, August 4, 1994, CCPR/C/21/Rev.1/Add.5, sec. 3.2, <https://www.refworld.org/docid/453883fc0.html>, accessed May 30, 2023.

States on activities that may have a significant impact on the environment, provide notification to and cooperate with other States concerned about natural disasters and emergencies, provide adequate access to information on environmental risks and pay due attention to the precautionary principle.²⁴

There is no explicit reference in the text of the Convention on the Elimination of All Forms of Racial Discrimination to the human right to a healthy environment. However, the Committee has recognized that environmental damage can compromise the enjoyment of human rights protected by the Convention. In various manifestations, the body has recognized that environmental racism undermines the rights protected by the treaty, including the rights to liberty, equality and access to basic needs such as clean water, food, housing, energy, health and social care. The Committee has enshrined the jurisprudence that states parties have substantive and procedural obligations to protect the human rights protected by the Convention against the adverse impacts of environmental damage.²⁵

The Committee has addressed these obligations thoroughly in the context of the rights of indigenous peoples. The Committee's General Recommendation XXIII on the rights of indigenous peoples states that discrimination against indigenous peoples is covered by CERD (Committee on the Elimination of Racial Discrimination) and that all appropriate means should be taken to combat and eradicate such discrimination. States parties have both substantive and procedural obligations in this regard. Substantive obligations include the duties to recognize and protect the property rights of indigenous peoples; guarantee healthy living conditions; and develop specific policies to deal with environmental impacts affecting them. Procedural obligations include the duties to carry out environmental impact assessments in relation to development activities on indigenous

24 Human Rights Committee, *General Comment No. 36: Article 6, Right to Life*, September 3, 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/261/15/PDF/G1926115.pdf?OpenElement>, accessed May 30, 2025.

25 In 2001, during analysis of the periodic report of the United States, the Committee determined that environmental damage impairs the enjoyment of the right to health. The Committee cited article 5(e) (iv) in reference to environmental pollution, including mining and nuclear waste storage activities in areas inhabited by indigenous peoples. Committee on the Elimination of Racial Discrimination, *Report of the CERD for the Fifty-eighth and Fifty-ninth Sessions, Consideration of Reports, Comments and Information Submitted by States Parties: United States*, October 30, 2001.

peoples' lands; ensure the participation of their representatives in decision-making regarding their lands; guarantee reasonable benefits or compensation to peoples affected by the exploitation of natural resources; and ensure that indigenous peoples affected by the exploitation of natural resources on their lands have effective access to legal action.²⁶

In 2013, CERD issued the special report "Mapping the Related Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment—Individual Report on the International Convention on the Elimination of All Forms of Racial Discrimination."²⁷ The report brought together the main decisions on the subject so far, underlining that environmental damage compromised the enjoyment of human rights protected by the Convention, particularly the rights of indigenous peoples. The Committee recognized that certain types of racial discrimination have a specific impact on women that is different from the effects on men. The intersection of racism and sexism creates specific negative impacts on the fundamental human rights of migrant, indigenous, minority and other marginalized women around the world.

The rich and ever-evolving jurisprudence of the Committee provides opportunities to treat environmental and climate issues affecting racially discriminated people and groups as a human rights matter. Proving that the Convention is a living instrument, the treaty body expands and updates the notion of racial discrimination to include contemporary manifestations of environmental and climate racism.

The jurisprudence of the European Court of Human Rights has focused above all, but not only,²⁸ on issues related to the right to health

26 Committee on the Elimination of Racial Discrimination, *General Recommendation No. XXIII on the Rights of Indigenous Peoples* (1997), https://www.eods.eu/library/UN_International%20Convention%20on%20the%20Elimination%20of%20Racial%20Discrimination_General%20recommendation%2023_1997_EN.pdf, accessed May 30, 2025.

27 Committee on the Elimination of Racial Discrimination, "Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment"—*Individual Report on the International Convention on the Elimination of All Forms of Racial Discrimination*, prepared for the Independent Expert on the Issue of Human Rights Obligations Related to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, CERD/C/56/Misc.21/Rev.3, December 2013, <https://www.ohchr.org/Documents/Issues/Environment/Mappingreport/3.CERD-25-Feb.docx>, accessed May 30, 2025.

28 The European Court has considered cases of violation of Article 10 of the Convention, which addresses the right to freedom of expression associated with the protection of the environment and public health. The Court has taken the position that it is important for the state and the private sector to disclose

and integrity on a broader level, particularly the provisions of Article 8 of the Convention (right to respect for private and family life). This was the case of *Lopez Ostra v. Spain*, presented to the Commission in 1990 and decided by the Court in December 1994. The court found that the construction of a residue processing plant in an area close to that occupied by a family constituted a violation of their right guaranteed by the aforementioned Article 8. The court considered that neither the removal of the family from the property nor the closure of the waste treatment plant altered the fact that the family had lived for years just a few meters from a polluting source. It held the state responsible for violating the right to respect private and family life, since serious pollution can affect the well-being of individuals and prevent them from enjoying their home in a way that does not harm their private and family life. The European court also ruled that the state had failed to strike an appropriate balance between its interest in promoting the economic development of the city and the effective enjoyment of human rights, and ordered it to pay compensation for the damage caused.²⁹

The Inter-American Court of Human Rights issued an important Advisory Opinion in February 2018 on the environment and human rights. It explicitly recognized that environmental degradation can cause irreparable harm to human beings, which is why the enjoyment of a healthy environment is “a fundamental right for the existence of humanity.” It should be remembered that the links between the environment and human rights are regulated both by the provisions of Article 11 of the Protocol of San Salvador and by Article 26 of the American Convention, which deals with economic, social and cultural rights.

information about environmental risks. One of the cases involved *Latvia Vides Aizsardzibas Klubs v. Latvia* (case n. 57829/00, May 27, 2004). A non-governmental environmental protection association published a report in a local newspaper warning about the risks of a planned intervention by the municipal authorities in the Gulf of Riga. The city council sued the association for defamation, and the national courts ruled in its favor, ordering it to pay damages. The association appealed to the European Court, claiming a violation of the right to freedom of expression and the dissemination of socially relevant information, and the Strasbourg Court ruled in its favor, recognizing its role as a monitor of the public authorities regarding the protection of the environment, describing this mission as essential within the framework of a democratic society.

29 European Court of Human Rights, *Lopez Ostra v. Spain*, Application no. 16798/90, judgment of December 9, 1994, <https://www.escri-net.org/caselaw/2008/lopez-ostrea-vs-spain-application-no-1679890>, accessed May 30, 2025.

The Court emphasized the relationship of interdependence and indivisibility that exists between human rights, the environment and sustainable development, since the full enjoyment of all human rights depends on a healthy environment. The Advisory Opinion states that the right to a healthy environment has both individual and collective connotations. In its collective dimension, it constitutes a universal interest, owed to both present and future generations. Violation of this right can have direct or indirect repercussions on individuals, linking it to other rights such as health, personal integrity or the right to life, among others. Other rights, in the procedural field, the exercise of which can contribute to the better formulation and implementation of environmental policies would be those relating to freedom of expression and association, information, participation in decision-making and effective judicial recourse.

In an unprecedented way, the Inter-American Court has described obligations derived from respecting and guaranteeing the rights to life and personal integrity in the context of environmental protection, including the prevention of significant environmental damage, inside or outside its territory, which presupposes regulating, supervising and overseeing activities under its jurisdiction. Another obligation would be to act in accordance with the precautionary principle, preventing possible serious or irreversible damage to the environment that could affect the rights to life and personal integrity, even in the absence of scientific certainty. Others include guaranteeing the right of access to information about possible impacts on the environment, public participation of people in the development of decisions and policies that may affect the environment, and justice.³⁰

A closer look at Africa reveals new perspectives in dealing with the relationship between the environment (and climate emergencies) and human rights. The continent, which is highly vulnerable to environmental and climate damage, is likely to witness an increasing number of legal cases on both the domestic and regional levels. Two emblematic cases (*Gbemre v. Shell* and *Mbabazi v. Attorney General and National Environment Management Authority*, in Nigeria and Uganda respectively) attest to this peculiarity as

30 Inter-American Court of Human Rights, *Advisory Opinion on Environment and Human Rights: Executive Summary*, February 7, 2018, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_23_esp.pdf, accessed May 30, 2025.

they involve civil, economic and social rights issues, and reveal the growing degree of awareness among African civil society of the detrimental impact of climate change on human rights.³¹

It is worth clarifying that the African regional system for the protection of human rights has two central bodies: the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights. The Commission receives communications concerning alleged violations of the 1981 African Charter on Human and Peoples' Rights, while the Court arbitrates disputes through binding decisions and issues advisory opinions on the interpretation and application of the African Charter and any relevant human rights instrument ratified by the States Parties. It should be noted that Article 24 of the African Charter provides that "all peoples shall have the right to a general satisfactory environment conducive to their development".³²

On September 5, 2023, the African Court of Human Rights handed down a landmark ruling on the case involving the State of Côte d'Ivoire for damage caused by the dumping of highly toxic waste in and around 12 towns in Abidjan. The material had been transported by a ship registered in Panama, the *Probo Koala*, chartered by Trafigura Beheer BV, an oil and goods transportation company based in Singapore. The toxic material was transferred to a local contractor (Tommy) in the port of Abidjan. The events took place in August 2006.

After the waste was dumped, 17 people died from inhaling toxic gases, and around 100,000 people had their health affected. Experts declared that there had been serious contamination of the subsoil and water sources. Among other orders, the Court ordered the state to establish, in consultation with the victims, a compensation fund from the sums to be paid by Trafigura, supplemented by the Ivorian government. It must also launch an independent and impartial investigation into all the facts to establish the criminal and individual responsibility of the perpetrators and punish them accordingly.

31 Gbemre v. Shell Petroleum Development Company of Nigeria Ltd and Others, 2005; Mbabazi and Others v. Attorney General and National Environmental Management Authority, 2012.

32 Organization of African Unity, *African Charter on Human and Peoples' Rights (Banjul Charter)*, adopted June 27, 1981, entered into force October 21, 1986, <https://au.int/en/treaties/african-charter-human-and-peoples-rights>.

One of the conclusions that can be drawn from analyzing the jurisprudence of international treaty bodies and regional courts for the protection of human rights is that these bodies are fundamental for protecting human beings from environmental damage. One of the criticisms of their performance concerns the inadequacy of treaty bodies and regional courts in addressing the environmental and climate crisis, since they were not designed to act in this field of increasing technical and scientific complexity. Some environmentalists argue that the treatment provided by these bodies does not always meet environmental demands, as it is inevitably limited to the protection of human beings.

In this line of interpretation, climate change and other environmental damage impact on human lives in increasingly complex and potentially serious forms. They call for a greater emphasis by domestic and regional supervisory bodies and courts on the intrinsic value of the environment, together with the objectives of protecting human rights. They criticize the human rights-centered treatment, even when focused on the right to a healthy environment, for not allowing for satisfactory environmental protection. From this perspective, the barrier lies in the requirement for regional courts to demonstrate direct, real, or imminent damage to identifiable individuals or groups caused by a known polluter. The problem, some point out, is the inability of courts and treaty supervisory bodies to address everyday experiences of environmental and, especially, climate change resulting from the cumulative effects of many actors over an indeterminate period of time.

The segmented critical view of the environmental dimension of the crisis, which excludes its civil, political, social, economic and cultural impacts, goes against the best exegesis of the indivisibility and universality of human rights in their entirety and their interconnection with environmental rights. Furthermore, it is worth rejecting the claim that courts and treaty bodies are absolutely incapable of dealing with the complexity of environmental emergencies that do not necessarily have an objective cause. This means admitting that, when dealing with environmental threats or damage, these bodies will be faced with the challenge and obligation of identifying causal links between the acts and the individual and collective rights potentially violated. In the specific context of climate change (especially in extreme

cases), this exercise becomes much more complex, since it also involves, among other things, common but distinct historical responsibilities.

One of the novelties in the jurisprudential treatment of this issue came from the Advisory Opinion of the International Court of Justice (ICJ) on the obligations of States in relation to climate change, issued in July 2025. The consultation stemmed from resolution A/77/L.58, of March 29, 2023, during the 77th session of the United Nations General Assembly (UNGA), adopted by consensus on the initiative of the government of Vanuatu. The request for an Advisory Opinion was transmitted to the Court by letter from the Secretary-General of the United Nations, received at the Court's Registry on April 17, 2023.

Part of the discussion focused on the interpretation of the obligations for states as a result of ratifying the Paris Agreement and the United Nations Framework Convention on Climate Change. The request also referred to international human rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

In its 140-page Opinion, the Court affirmed that States must uphold existing international laws related to climate change and, if they fail to act, could be held responsible for damage to communities and the environment. The ICJ cited international treaties and relevant scientific background to affirm that obligations to protect the environment are a matter of international environmental law, international human rights law and general principles of State responsibility.

The Court affirmed that all countries have a legal duty under customary international law to prevent harm to the climate. It emphasized that countries that have contributed the most to climate change may bear greater responsibility for repairing the damage under the “common but differentiated responsibility” international law principle. While the ICJ's opinion does not recognize an objective right of direct reparations to individuals, entities or States, it may give rise to future legal actions in both international and national courts.

Chapter 4

Environmental racism as a foreign policy issue: Brazilian and international perspectives

In November 2023, during a session of the UNEP Council of Permanent Representatives, I asked the plenary why Member States and the Program Secretariat systematically avoided addressing the issue of environmental racism. It was a rhetorical question in the middle of an intervention on a set of topics to be discussed at the sixth session of the World Environment Assembly (UNEA 6). I was well aware of the reasons behind the resistance from mission representatives of developed countries, who were not alone in their consistent refusal to address the issue.

Inger Andersen, Executive Director of UNEP, responded by pointing out that, throughout her tenure, the Secretariat had taken a positive view on the issue of environmental justice. And she cited as an example the Program's award of the annual "Champions of the Earth" prize to Professor Robert Bullard in December 2020 for a lifetime of achievements, considered the highest environmental honor of the United Nations. Despite the symbolism of the award, there is no line of activity related to the issue on UNEP's agenda.

Known as the "father of environmental justice" for his more than four decades of pioneering work integrating human rights with environmentalism, Robert Bullard is the author of nearly two dozen books, a professor of urban planning and environmental policy, and director of the Bullard Center for Environmental and Climate Justice at Texas Southern University.

In 1979, Bullard was encouraged by his wife, Linda McKeever Bullard, a lawyer, to help her in a class action lawsuit to prevent a landfill from being installed in an area inhabited by a black community in Houston. Linda wanted to identify the locations of the other landfills in the city. Through the data collected, Robert Bullard discovered that, although blacks

represented only a quarter of the Houston population, all five of its garbage dumps, six of its eight incinerators and three of the four privately-owned landfills were located in black neighborhoods. In addition, more than 80% of all garbage in Houston was being disposed in black communities.

Residents of Northwood Manor in East Houston claimed that the decision to place a landfill in their neighborhood was motivated by race, violating their civil rights. The district court that heard the case of *Bean v. Southwestern Waste Management Corporation* concluded that the placement of the landfill would irreparably harm the community and affect the value of its land, its tax base, the aesthetics, health and safety of its residents, and the operation of the nearby public school.

The data also highlighted that not all communities had access to an objective zoning process that would protect them. Consequently, they were equally vulnerable to petrochemical companies, refineries and coal plants. The big polluters chose to settle in neighborhoods in the community, as they did not face any legal resistance from the residents. The statistical information gathered during the case became the first ethnographic study in the United States capable of identifying neighborhoods close to polluting industries.

However, unable to establish intentional discrimination with sufficiently specific statistical data to show a pattern of polluting plants being installed in black communities and unable to provide the court with detailed information about the decision that motivated this location, the residents did not have their claim granted. The lawsuit, however, was a pioneer in the judicialization of issues linked to human rights violations, particularly those affecting the environment and the lives of individuals and communities, in this case due to racial discrimination.³³

Bullard would later define environmental justice as “the pursuit of fair treatment and meaningful involvement of all people regardless of race, color, origin, or income in the design, development, implementation, and enforcement of environmental policies, laws, and regulations.” Robert Bullard defines that no social group should “bear a disproportionate share

33 U.S. Commission on Civil Rights, *Not in My Backyard: Executive Order 12,898 and Title VI as Tools for Achieving Environmental Justice*, https://www.usccr.gov/files/pubs/envjust/ch2.htm#_ftn1, accessed May 30, 2025.

of the negative environmental consequences resulting from industrial, commercial, and municipal operations, from the implementation of federal, state, local, or tribal policies and programs, and from the consequences resulting from the absence or omission of these policies.”³⁴

From this specific context of racism, with its characteristics linked to the history of the United States, a strand of the environmental justice movement emerged, closely tied to the fight for civil rights. However, certain components of this North American political and legal framework that would later be appropriated in debates in Brazil, other countries and international bodies. These common elements relate to racial or ethnic minorities, especially the black and indigenous population, and, in general, marginalized and vulnerable populations, disproportionate victims of negative environmental externalities.

In September 2001, the Fluminense Federal University (UFF) in Niterói (Brazil) organized the International Colloquium on Environmental Justice, Work and Citizenship. It was no coincidence that the event took place almost simultaneously with the Durban World Conference against Racism and after a long process of preparing Brazil for the most important meeting in the history of the United Nations dedicated to designing strategies for the elimination of racial discrimination. The conference was a pioneer in bringing together well-known academics, trade unionists, environmentalists and representatives of civil society from various parts of the world to discuss the issue of environmental justice. In attendance were figures such as the aforementioned Robert Bullard and Adelina Levine, from the University of Buffalo; Beverly Wright, from the Deep South Center for Environmental Justice, Xavier University, Louisiana; José Augusto Pádua, from the Sustainable and Democratic Brazil Project; Selene Herculano, from UFF’s Laboratory for the Study of Citizenship, Territoriality, Work and the Environment (LACTTA); Paulo Roberto Martins, from the CUT’s Environment Commission, among others.

One of the results of the colloquium was the creation of the Brazilian Environmental Justice Network in January 2002, during the Second World Forum in Porto Alegre. The document released by the Network revealed

34 Robert D. Bullard, *Dumping in Dixie: Race, Class and Environmental Quality* (Westview Press, 1990).

the direction the issue would take in Brazil from that moment on, from the perspective of a representative portion of academia and civil society:

We are convinced that environmental injustice is the result of the perverse logic of a system of production, land occupation, destruction of ecosystems, spatial allocation of polluting processes, which penalises the health conditions of the working population, residents of poor neighbourhoods and those excluded by major development projects [...] We believe that the term environmental justice is an agglutinating and mobilising concept, as it integrates the environmental, social and ethical dimensions of sustainability and development, which are often dissociated in discourse and practice.³⁵

Selene Herculano would add to this debate the concept of environmental racism, seen as a kind of environmental justice, especially in Brazil and in countries with large populations of people from the African diaspora and indigenous or tribal peoples (in the sense given by ILO Convention 169). In November 2005, the first seminar against environmental racism was held in Brazil. The event was organised by the Environmental Racism WG, linked to the Brazilian Network for Environmental Justice, and the Sustainable and Democratic Brazil Project/Phase, together with Lactta, on the Gragoatá campus of the UFF.

The seminar focused on the perception that this type of racism deals with social and environmental injustices that fall disproportionately on ethnic-racial groups in situations of vulnerability. For Selene Herculano, this phenomenon “is not only realised through actions that have a racist intent, but also through actions that have a racial impact.” Among the invisible victims of this type of environmental injustice in Brazil are traditional populations, such as riverside communities, extractivists, fishermen, gypsies, *terreiro* populations, *quilombolas*, and others.³⁶

The term “environmental racism” is often met with resistance in the academic sphere because its defining characteristics, linked to local issues,

35 Selene Herculano, “O clamor por justiça ambiental e contra o racismo ambiental,” *Revista de Gestão Integrada em Saúde do Trabalho e Meio Ambiente* 3, no. 1 (January–April 2008): 10, 16, art. 2.

36 Herculano, “O clamor por justiça ambiental,” 17.

can somehow create barriers so that the expression gains international unity or consensus. Lays Helena Paes e Silva pointed out that not all demands linked to environmental justice can be confined to objective issues related to racial discrimination. And she cited authors, including Bullard, who understood that the use of the expression and concept of environmental justice, which focuses the debate around nature conservation for social justice, tends to make local or group-specific demands universal. The concept would therefore gain more “functionality” and encompass “a diversity of groups and social actors in a globalised way” in an approach centred on class issues and, in this case, incorporating the fight against poverty.³⁷

Due to the structural characteristics of Brazilian racism and the profusion of cases of environmental damage that objectively victimize black and indigenous communities in Brazil, the academic, political and even legal use of the term environmental racism is fully justified. Lays Paes e Silva argues that the struggles for environmental justice and against environmental racism should not take place separately, “since these concepts do not present antagonisms, but, on the contrary, it is their union that gives them a potential richness in identifying and combating injustices.” For the author, it is clear that “not only is it operational, but the term environmental racism is indispensable in the Brazilian context, given that racialization and the exclusion of vulnerable groups is a regular feature in our societies”.³⁸

It is worth noting the circumstances surrounding the environmental tragedy in Maceió, which came to light in late November and early December 2023, due to mining activities carried out by the petrochemical company Braskem.³⁹ Residents of the neighborhoods near the rock salt mines have denounced that they have been victims of environmental racism.⁴⁰

37 Lays Helena Paes e Silva, “Ambiente e Justiça: Sobre a Utilidade do Conceito de Racismo Ambiental no Contexto Brasileiro,” *E-Cadernos CES*, no. 17 (2012), <https://doi.org/10.4000/eces.1123>.

38 Paes e Silva, “Ambiente e Justiça,” pars. 43 and 51.

39 The company Salgema Indústrias Químicas S.A. began exploiting rock salt in the 1970s. In 2002, the company was incorporated into Braskem. Regarding the reparation for the damage caused, in July 2023, Braskem signed an agreement with the city of Maceió in which it allegedly committed to paying R\$1.7 billion in compensation, but the terms are not known to the public.

40 “The Flexais community does not accept the environmental racism it has suffered. The water has been turned off; the population is in a state of giant apprehension about a crime that Braskem has committed here. Today, they decided to close all the roads in Bebedouro. Nothing is passing through.” A phrase

The problems arising from underground mining, which began in the 1970s, have been denounced since the 1980s, but have worsened since 2018, requiring around 60,000 people to leave their homes, many of whom have not benefited from fair reparation measures. It is estimated that more than 200,000 people have been affected. Entire neighborhoods in Benedouro, Bom Parto, Mutange, Pinheiro and the Farol regions were left in ruins and deserted. Historic churches and squares were shaken by deep cracks or swallowed up by craters. The affected residents, the vast majority of whom are poor, black and in vulnerable situations, are a portrait of the groups exposed in the country to the negative externalities of environmental exploitation.

As a participant in negotiations and debates on racial issues at the United Nations (representing the Brazilian state and as an independent expert for the Committee on the Elimination of Racial Discrimination) and at the OAS (as the first chair of the working group that gave rise to the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance), it is clear to me that dealing with racial discrimination in multilateral forums remains a taboo subject. Unlike other issues on the international agenda, the racism and discrimination to be fought and overcome originate in states and are perceived and confronted by governments in different ways. Over the decades, with varying degrees of intensity, numerous states have responded defensively to allegations of racial discrimination within their societies. In doing so, they often treat international treaties aimed at combating racial discrimination as mere tools of foreign policy—applicable to other nations, but irrelevant to their own domestic realities.

This distorted perception of reality, that guided actions by many states that signed and ratified the International Convention on the Elimination of All Forms of Racial Discrimination, including Brazil until the mid-1990s, constitutes a significant barrier to the introduction of the issue into the international environmental and climate debate. This misreading was also evident in the process of holding the Durban

attributed to a resident named Maurício Sarmento. ICL Notícias, “Moradores de bairros ameaçados em Maceió acusam Braskem de racismo ambiental,” December 1, 2023, <https://iclnoticias.com.br/moradores-de-bairros-ameaçados-em-maceio-acusam-braskem-de-racismo-ambiental/>, accessed January 17, 2024.

World Conference, which presented the concrete possibility of governments being directly and publicly questioned on their practices. Furthermore, in a globalized world where frustrations with the worsening of inequality were multiplying, the Conference ended up being the natural point of confluence for demands whose scope could go beyond racism, xenophobia and intolerance.

This did not prevent the Durban Declaration and Plan of Action from breaking new ground by proposing a set of actions to combat environmental racism. In paragraph 5, the Plan of Action calls on states, with the support of the international cooperation, to invest in education, public health, electricity, drinking water and environmental control systems, “as well as other affirmative action measures or initiatives, primarily in communities of African descent.” Paragraph 8.c urged financial and development institutions, together with programs (this includes UNEP) and the specialized agencies of the United Nations, in accordance with their regular budgets and the procedures of their governing bodies, to “develop programs targeting people of African descent, allocating additional investments in health systems, education, housing, electricity, drinking water, environmental control measures and the promotion of equal opportunities in employment, as well as other affirmative or positive action initiatives.” In its article 111, the Plan of Action recommended that states consider adopting non-discriminatory measures to provide a safe and healthy environment for individuals and groups who are victims of racism and racial discrimination, xenophobia and related intolerance.⁴¹

The United Nations Declaration on the Rights of Indigenous Peoples explicitly recognizes the importance of environmental protection in preventing discrimination against indigenous peoples. Article 29 states: “Indigenous Peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement programs to assist indigenous peoples in such conservation and protection, without discrimination.”

41 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. *Declaration and Plan of Action*, <https://www.un.org/WCAR/durban.pdf>, accessed May 30, 2025.

The Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance stipulates that States Parties must prevent, eliminate, prohibit and punish any restriction or limitation “on the right of everyone to have access to water, natural resources, ecosystems, biodiversity and ecological services that constitute the natural heritage of each State, protected by the appropriate international instruments and their own national legislation, and to use them in a sustainable manner.”⁴²

Another binding document that addresses the fight against racial discrimination in its various dimensions is the International Convention on the Elimination of All Forms of Racial Discrimination. Approved in 1965, it is to this day the most important instrument for the international protection of individuals and groups discriminated against based on their race, color, descent or national or ethnic origin. There are two fundamental elements in the Convention’s definition of racial discrimination. The first is the notion of direct discrimination, understood as differentiated treatment based on a series of conditions (race, color, etc.) that have no objective or reasonable justification. The second is the notion of indirect discrimination (contained in the expression “effect”). This is the typical case of discrimination against a specific group of people generated by apparently neutral factors included in a provision, criterion, project or policy. The Convention sanctions acts intended to nullify or impair the recognition, enjoyment or exercise, on an equal terms, of human rights in the political, economic, social, cultural or any other field of public life.

In addition to the jurisprudential contributions provided by its supervisory committee, the Convention has evolved into a treaty with a significantly broader scope than initially contemplated at the time of its creation. The Committee has made it clear in its general recommendations that the prohibition of racial discrimination cannot be interpreted restrictively. The supervisory body has also stated that the Convention applies to racial discrimination, even if unintentional, as well as discrimination of a structural nature. This substantive and non-formalist approach to equality, which would be incorporated into the

42 Organization of American States, *Inter-American Convention against Racism, Discrimination and All Forms of Related Intolerance*, https://www.oas.org/en/sla/dil/docs/inter_american_treaties_A-68_Convencao_Interamericana_racismo_POR.pdf, accessed May 30, 2025.

1988 Constitution, is especially important in the context of environmental degradation and damage caused by the climate crisis, when discriminatory intent is difficult to prove. This issue is still interpreted restrictively by some regional human rights courts.

Conclusion

There are situations in foreign policy where states face choices in pursuit of objectives that may prove to be contradictory or apparently irreconcilable. Decisions between alternatives can represent challenges and dilemmas that will result in risks and opportunities. Making choices and defining priorities will always be an integral part of any foreign policy line that governments establish.

Such is the case with addressing issues of environmental racism in multilateral debates and negotiations linked to the environmental and climate crises. Addressing racism in these contexts requires confronting the racialized dimensions of the socially structured nature around environmental and climate change. According to the authors of a study published in 2021 and funded by the Heinrich Böll Stiftung in Washington on the subject of racism and climate injustice, negotiators who defend positions on environmental racism in climate negotiation processes have been repressed or removed from delegations. These authors claim that, in preparing the work cited, collaborators and reviewers who were black, indigenous or non-white preferred to remain anonymous out of fear of some kind of retaliation. This reveals the risks that researchers face when dealing with the issue of environmental or climate racism in the academic research environment.⁴³

Brazil's diplomatic participation in these discussions should be based on the legacy of the Rio de Janeiro conferences and the centrality of the concept of sustainable development. Associated with this understanding is the need to harmonize foreign policy actions with domestic policies and with the positions long defended by sectors of Brazilian academia and civil society that the pursuit of social, economic and environmental justice,

43 Olumide Abimbola et al., *Racism and Climate (In)Justice: How Racism and Colonialism Shape the Climate Crisis and Climate Action* (Heinrich Böll Stiftung, 2021), [https://assets-global.website-files.com/605869242b20501f9a579e7a/6134ff62304dbb648de38c4a_FINAL%20-%20Racism%20and%20Climate%20\(In\)Justice%20Framing%20Paper.pdf](https://assets-global.website-files.com/605869242b20501f9a579e7a/6134ff62304dbb648de38c4a_FINAL%20-%20Racism%20and%20Climate%20(In)Justice%20Framing%20Paper.pdf), accessed May 30, 2025.

which are the foundations of sustainable development, is inseparable from the fight for racial justice.

In environmental and climate debates, the connection between the three pillars of sustainable development and environmental racism, recognized by academics, the Special Rapporteur on Contemporary Forms of Racism and the Committee on the Elimination of Racial Discrimination, is absent from the United Nations Program and United Nations intergovernmental forums. Similarly, this perspective is not treated with due importance in international instruments about climate change and environmental issues, including in negotiations for future conventions.

The absence of the racial element while discussing environmental and climate issues leads to the perpetuation of inequality in access to environmental rights for the black population, indigenous peoples, quilombolas, riverside communities, among others, including those living in the peripheral areas of our cities. By periphery, I am referring to the definition given by geographer Milton Santos, who understood it as being formed by excluded or segregated urban territories as a result of development processes and the dynamics of urbanization in Brazil⁴⁴ These peripheries are occupied by a mostly black population, who also face the typical challenges of being Brazilians with “mutilated citizenship:”

We could draw up a list of mutilated citizenships in this country. Citizenship mutilated at work through denied entry opportunities. Citizenship mutilated in opportunities for promotion. Citizenship has also been mutilated in the location of men, in their housing... And what about the new rights...?⁴⁵

Authors such as Morato⁴⁶ and Beray-Amond⁴⁷ have more recently addressed the consequences of neglecting urban infrastructure in

44 Milton Santos, *A urbanização brasileira* (Hucitec, 1994).

45 On characterising the condition of black Brazilian women and men as mutilated citizenship, see Santos, 1996–1997.

46 R. G. Morato, R. P. Machado, and M. R. Martins, “Mapeamento da Justiça Ambiental e Racismo Ambiental na Bacia do Córrego do Morro do ‘S,’” *Geoambiente Online*, no. 30 (2018).

47 N. Beray-Armond, “Um Chamado para uma Climatologia Urbana Crítica: Lições da Geografia Crítica,” *Wiley Interdisciplinary Reviews: Climate Change* 13, no. 4 (2022): e773.

peripheral areas where the black population is more concentrated. This generates an unequal distribution of environmental risks, aggravated by the recurrent failure by the state to exercise its supervisory powers. Other manifestations of environmental racism can be identified in the fields of education, healthcare, housing, among others. This led the authors of a study published in 2023 to consider that “environmental racism appears as a kind of *continuum* of structural and even institutional racism, which, under the aegis of capital and colonial rationality, has objectified people, their territories and the environment, contradictorily throwing them either into market exploitation or into abandonment and exclusion”⁴⁸.

The economist Marcelo Paixão addressed the socio-environmental inequality situation in Brazil through the perspective of race, analyzing the realities in rural and urban areas. He concluded that the racial issue is an indispensable variable for an accurate understanding of reality. Paixão traced the trajectory the black Brazilian population from the end of the 19th century to the end of the 1990s and highlighted the exclusion of this population from the most dynamic economic sectors. At the beginning of the current millennium, around 56% of the productive force in the Brazilian agricultural sector was composed of black men and women. In urban areas, this situation was even more dramatic, as the relationship between environmental justice and the racial issue became even more evident.⁴⁹ IBGE data from 2018 showed that 54.7% of black households had access to water, sewage and garbage collection services. Among households occupied by white families, this percentage rose to 72.7%. All the housing and sanitation indicators analyzed reveal the same pattern of inequality between whites and blacks, configuring a pattern of environmental injustice in the urban environment.⁵⁰

48 Karina Leonardo do Nascimento, Sérgio Azevedo, and Maria do Socorro Almeida, “As Múltiplas Faces do Racismo Ambiental no Brasil: Uma Revisão Sistemática,” *Revista Observatorio de la Economía Latinoamericana* 21, no. 6 (2023, 5085), <https://doi.org/10.59905/oelv21n6-099>.

49 Marcelo Paixão, “O Verde e o Negro: A Justiça Ambiental e a Questão Racial no Brasil,” in *Justiça Ambiental e Cidadania*, ed. Henri Acselrad, Selene Herculano, and José Augusto Pádua (Rio de Janeiro: Relume Dumará, 2004, 161).

50 IBGE, *Síntese dos Indicadores Sociais*, 2018, <https://www.ibge.gov.br/estatisticas/sociais/saude/9221-sintese-de-indicadores-sociais.html>, accessed November 29, 2023.

These observations are in line with what the Intergovernmental Panel on Climate Change (IPCC) has noted about the out of proportion effects of climate change on people and communities who are discriminated against due to various factors or conditions. For the IPCC, “people who are socially, economically, politically, institutionally or in other ways marginalized are especially vulnerable to climate change and also to some adaptation and mitigation responses.”⁵¹

During the United Nations Conference on Climate Change (COP 28), held in Dubai, in the United Arab Emirates, at the end of November and beginning of December 2023, Selma Dealdina, a quilombola from Sapê do Norte, in Espírito Santo, vice-president of the Casa Socioambiental Fund Council and of the National Coordination of the Articulation of Quilombola Rural Black Communities, took part in debates and side events on issues related to gender and climate change. She also discussed violence against quilombola leaders. In line with the thinking of Milton Santos, Sueli Carneiro and other black Brazilian intellectuals and activists, she denounced the risk of continuing to deal with environmental racism as a side issue at intergovernmental events: “I don’t think it’s possible to continue discussing the environment, climate justice, territorial management of biomes not considering the racial agenda. We need to racialize the debate.” For Selma, the COPs are important, but she can’t see any real changes at international conferences where the people most affected by environmental and climate problems are not heard.⁵²

It was not the first time that representatives of the black Brazilian people had sounded the alarm. It is not uncommon to criticize the lack of sensitivity of the “traditional” environmental movement to the racial dimension of the crisis. In Glasgow, at COP 26 in 2021, the Black Coalition for Rights and other partners released a letter highlighting that the debate on environmental racism “is not widely embraced, or is even denied, by environmental movements in Brazil.” In the letter, they point out that the climate crisis

51 IPCC, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects*, 50, https://www.ipcc.ch/site/assets/uploads/2018/02/WGIIAR5-PartA_FINAL.pdf, accessed January 19, 2024.

52 Tayguara Ribeiro, “Quilombolas Vão à COP Cobrar Justiça Climática,” *Folha de S. Paulo*, December 2, 2023, <https://www1.folha.uol.com.br/ambiente/2023/12/quilombolas-vao-a-cop28-cobrar-justica-climaica.shtml>.

“is also humanitarian and has a direct impact on the lives of black populations, quilombolas and indigenous peoples [...] To deny environmental racism is to deny... the reality of life on the peripheral areas of large cities, the increase in hunger, to deny the violation of constitutional rights against communities, quilombola territories and indigenous lands, to deny the history of the country’s urbanization and its profound territorial inequalities [...]”⁵³

During the opening ceremony of the COP 28 presidency in Dubai, President Lula sent out a few messages in his speech that showed sensitivity to the unequal burden paid by the poorest and most vulnerable in the face of the climate crisis. And he mentioned the issue of environmental racism:

The cost of climate change is not the same for everyone. And it has come first for the poorest populations... rural workers, whose subsistence crops are devastated by drought and who can no longer feed their families. Residents of the peripheries of big cities, who lose the little they have when the flood sweeps away everything: their homes, furniture, pets and their own children...The world has naturalized unacceptable disparities in income, gender and race.⁵⁴

There is solid evidence, therefore, that for Brazilian diplomacy to be consistent with reality, considerations about sustainable development in the context of broader multilateral discussions concerning the environmental and climate crisis cannot abandon the perspective of racial inequality in a society so strongly marked by racism of a structural nature. As Silvio

53 Diego Pereira (21, quoted in Belmont, 2023) recalls that the Mariana disaster in 2015 took place in an area occupied by a community that consisted of 80% black people. According to Pereira, 84% of those affected by the serious accident were black and brown.

54 Speech by President Lula at the opening of the COP28 Presidency in Dubai, United Arab Emirates, December 12, 2023, <https://www.gov.br/planalto/pt-br/discurso-do-presidente-lula-na-sessao-de-abertura-da-presidencia-da-cop21-1>, accessed in May 30, 2023. President Lula also met with representatives of 135 Brazilian civil society organizations, including indigenous peoples, quilombolas, the black movement, the scientific community and youth. Dinaman Tuxá, coordinator of the Articulation of Indigenous Peoples of Brazil, Kátia Penha, a quilombola environmental activist, Marcele Oliveira, on behalf of young Brazilians, and Márcio Astrini, executive secretary of the Climate Observatory, were the spokespersons for civil society.

Almeida points out, this is not just a moral, legal and economic issue, as it underpins all the structures of society and the state.

A foreign policy with these characteristics in the environmental field implies the abandonment of state neutrality in the face of situations of flagrant inequality and discrimination against parts of the population in different societies around the world due to various factors, including race, class and gender. This is emphasizes on a dimension of foreign policy that defends the right to equality and non-discrimination, described by some authors as an anti-racist foreign policy, which should capitalise opportunities to advance international legal standards with a view to overcoming environmental racism.

In order to be effective and strengthen the legitimacy of its environmental foreign policy, Itamaraty needs to improve its dialogue with civil society (not only experts on environmental issues) to incorporate the specific needs and perspectives of black and indigenous women and men, and other marginalized social groups. And at the same time, it cannot ignore the interpretation of the Supreme Court that the Brazilian Constitution is clear in recognizing the indelible ties between international human rights law and international environmental law.

In a trial concluded in June 2022 of the Claim of Non-Compliance with a Fundamental Precept (APDF) 708, the Federal Supreme Court confirmed, by a solid majority, the constitutional duty of the Brazilian state to protect the climate. The action concerned the deliberate omission of the federal government in the contingency of resources from the Climate Fund. As far as the purposes of this work are concerned, it is worth noting that, in his vote as rapporteur, Justice Luís Roberto Barroso pointed out that “the Constitution recognizes the supra-legal nature of international human rights treaties to which Brazil is a party, under the terms of Article 5, § 2. And there is no doubt that environmental matters fall within this hypothesis... Treaties on environmental law are a type of human rights treaties and, for this reason, hold supranational status. Thus, there is no legally valid option to simply omit the fight against climate change”⁵⁵.

55 Supremo Tribunal Federal (Brazil), *Arguição de Descumprimento de Preceito Fundamental* 708, Distrito Federal, July 4, 2022, <https://redir.stf.jus.br/paginadorpub>, accessed December 1, 2023.

In the joint trial of the Claim for Failure to Comply with a Fundamental Precept (APDF) 760 and the Direct Action for Unconstitutionality by Omission (ADO) 54, it is appropriate to refer to the joint vote of Justice Carmen Lúcia, as rapporteur, on the links between the environmental crisis and fundamental rights.⁵⁶ Her vote was didactic, profound and innovative in its approach to Brazilian and international environmental law. When she heard and ruled on the two petitions, she based her position on values and principles “gleaned from the environmental constitutional subsystem” such as environmental dignity, environmental ethics, solidarity in environmental matters, environmental efficiency and responsibility (of the state and the community) in environmental matters. She dissected the principle of the prohibition of environmental setbacks and discussed what she called the “ecological constitutional state.”⁵⁷

Here is an excerpt from her vote:

Environmental dignity is embedded in the human dignity constitutionally established as the foundation of the Brazilian Republic, formalized as a Democratic State of Law. Dignity imposes commitments on the state with regard to the humanity of those living in its territorial space and in every corner of the planet. Nature obliges. Man disposes; the earth imposes itself. I have always heard that God always forgives; human beings sometimes forgive. Nature never forgives. Since man and nature have been enslaved for so long, civilization and constitutional law have devised a way of living and allowing ourselves to live with the dignity that is proper to humanity. The dominator of men and environmental goods, who believes himself to be the master of people and nature’s goods, is only an enslaver. It dehumanizes itself

56 ADPF 760 demanded the resumption of the Plan for the Prevention and Control of Deforestation in the Amazon (PPCDAm), a public policy instrument with the aim of continuously reducing deforestation and creating conditions for the transition to a sustainable development model in the Legal Amazon. ADO 54, on the other hand, alleged commission and omission by the Federal Government in the fight against deforestation.

57 Supremo Tribunal Federal (Brazil), *Arguição de Descumprimento de Preceito Fundamental 760*, opinion by Justice Cármen Lúcia, judgment of April 6, 2022, 23 and 33, <https://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/VOTOADPF760.pdf>, accessed January 19, 2024.

and the de-nature process caused to it responds by taking lives. The dignity of life is not a choice, it is humanity's only path. It is not the most right, it does not seek justice, it does not guarantee existence. The environmental dignity that is formulated in the constitutional subsystem (part of the system taken as a whole) is a core element of contemporary constitutionalism, of current Brazilian constitutionalism.⁵⁸

The Supreme Court's characterization of environmental law treaties as a species of human rights treaties has huge implications for Brazil's external action in environmental and climate negotiations. In turn, considering the Paris Agreement as an agreement in the field of human rights has direct effects on the inclusion of the issue of environmental racism in multilateral discussions and negotiations in the environmental field.

It should be noted that, for the first time in Brazilian history, the constituent legislator established, in Article 4 of the Charter, guiding values for the external conduct of the Brazilian state, two of which were the prevalence of human rights and the repudiation of racism. For some authors, in a pioneering way, this meant in practice the internationalization of constitutional law. In addition, the Constitution gave public opinion, either directly or through Parliament, the power to supervise and control foreign policy, which is an "active principle of citizenship in a democracy."⁵⁹

From this set of constitutional values and principles, it is pertinent for Brazilian diplomacy to adopt strategies that seek to contribute to building an international consensus on the measures necessary for effective protection against conduct in the environmental field that has discriminatory effects on excluded and vulnerable individuals and groups, including those of ethnic and racial origin. Ignoring these circumstances would be equivalent to compromising the literality, spirit and content of the aforementioned constitutional provision.

At no time in recent history has it been so important to develop and implement a Brazilian foreign policy in the environmental and climate

58 Supremo Tribunal Federal (Brazil), 34–35.

59 Celso Lafer, "Apostamentos sobre a Internacionalização do Direito Constitucional Brasileiro," in *Filosofia e Teoria Geral do Direito: Um Percorso no Século XXI*, vol. 3 (Editora Atlas S.A., 2015, 3–31).

field that takes into account the structural and transversal characteristics of racism and racial discrimination. Its legitimacy will tend to increase with the broadening of the bases for dialogue with Brazilian society, especially entities representing sectors affected in a very particular way by the climate emergency and environmental damage.⁶⁰

The solid jurisprudence of the United Nations Committee on Racial Discrimination has established the understanding that no member state can afford to claim that these phenomena are absent from their societies. They differ in their manifestations due to specific historical circumstances, but are present in various dimensions of human and state actions, including those related to the environment and climate. As Silvio Almeida points out, “they are neither a social pathology nor an institutional disorder.”⁶¹

I conclude by attempting to answer the rhetorical question posed by the character in Imbolo Mbue’s novel, when faced with the destruction of the environment, lives, and hopes caused by an oil company in a fictional African country. “Why do humans fight when we all want the same things?” Bringing Africa and Brazil together, I groped for a possible answer in the narrative force of the novel *Torto Arado*, by Itamar Vieira Júnior, that exposes a deep Brazil inhabited by Brazilians who want simple things like “building their houses with durable materials,” “houses that don’t fall apart over time” and that mark “their relationship with Água Negra,” the invented place where the story takes place, in a lasting way. Invisible Brazilians, without rights and misled by the diamond, which brought dredges and caused the rivers to “become dirty and shallow.” Without “an abundance of water for fishing, they no longer had to ask Santa Rica Pescadeira for anything.”⁶²

The novel ends with a phrase from a *jarê* entity that sums up the story of the problems, challenges and resistance of the central characters, black quilombola women from the hinterlands of Bahia: “The strongest will always live on the land.”⁶³ The ending can be interpreted as fatalistic—and associated with the most pessimistic reading of the environmental and

60 This is the case of the recently created Peregum Black Reference Institute.

61 Silvio Almeida. *O que é racismo estrutural?* (Letramento, 2018, 29).

62 Itamar Vieira Junior, *Torto Arado*, 8th reprint (Editora Todavia, 2021, 203)

63 Vieira Junior, *Torto Arado*, 262.

climate crisis—but also as a sign of hope that, despite all the evidence to the contrary, the present is not as dark as the past and opens up to a future yet to be built.

Bibliography

Abimbola, Olumide, Joshua Kwesi Aikins, Tselane Makhesi-Wilkinson, and Erin Roberts. *Racism and Climate (In)Justice: How Racism and Colonialism Shape the Climate Crisis and Climate Action*. Heinrich Böll Stiftung, 2021. [https://assets-global.website-files.com/605869242b20501f9a579e7a/6134ff62304dbb648de38c4a_FINAL%20-%20Racism%20and%20Climate%20\(In\)Justice%20Framing%20Paper.pdf](https://assets-global.website-files.com/605869242b20501f9a579e7a/6134ff62304dbb648de38c4a_FINAL%20-%20Racism%20and%20Climate%20(In)Justice%20Framing%20Paper.pdf)

Achiume, E. Tendayi. *Ecological Crisis, Climate Justice and Racial Justice*. Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance. United Nations General Assembly, October 25, 2022.

Albuquerque e Silva, Silvio José. *As Nações Unidas e a Luta Internacional contra o Racismo*. 3rd ed. FUNAG, 2023.

Almeida, Silvio. *O que é racismo estrutural? Feminismos plurais*. Letramento, 2018.

Belmont, Mariana, org. *Racismo Ambiental e Emergências Climáticas no Brasil*. Instituto de Referência Negra Peregrum, 2023.

Beray-Armond, N. “Um Chamado para uma Climatologia Urbana Crítica: Lições da Geografia Crítica.” *Wiley Interdisciplinary Reviews: Climate Change* 13, no. 4 (2022): e773.

Bullard, Robert D. *Dumping in Dixie: race, class and environmental quality*. Westview Press, 1990.

Committee on the Elimination of Racial Discrimination. *General Recommendation No. XXIII on the Rights of Indigenous Peoples*. 1997. https://www.eods.eu/library/UN_International%20Convention%20on%20the%20Elimination%20of%20Racial%20Discrimination_General%20recommendation%2023_1997_EN.pdf

Committee on the Elimination of Racial Discrimination. “*Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment*”—Individual Report on the International Convention on the Elimination of All Forms of Racial Discrimination, prepared for the Independent Expert on the Issue of Human Rights Obligations Related to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment. CERD/C/56/Misc.21/Rev.3, December 2013. <https://www.ohchr.org/Documents/Issues/Environment/Mappingreport/3.CERD-25-Feb.docx> (accessed May 30, 2025).

Committee on the Elimination of Racial Discrimination. *Report of the CERD for the Fifty-eighth and Fifty-ninth Sessions, Consideration of Reports, Comments and Information Submitted by States Parties: United States*. October 30, 2001.

Cançado Trindade, Antônio Augusto. *Direitos Humanos e Meio Ambiente: Paralelo dos Sistemas de Proteção Internacional*. Sergio Antonio Fabris Editor, 1993a.

Cançado Trindade, Antonio Augusto. *Medio ambiente y desarrollo: formulación e implementación del derecho al desarrollo como un derecho humano*. Instituto Interamericano de Derechos Humanos, 1993b.

Carneiro, Sueli. *Escritos de uma vida*. Pólen, 2019.

Dupuy, Pierre-Marie, and Jorge E. Viñuales. *International Environmental Law*. 2nd ed. Cambridge: Cambridge University Press, 2018.

European Court of Human Rights. *Lopez Ostra v. Spain*, Application no. 16798/90, judgment of December 9, 1994. <https://www.escri-net.org/caselaw/2008/lopez-ostra-vs-spain-application-no-1679890>

Herculano, Selene. “O clamor por justiça ambiental e contra o racismo ambiental.” *Revista de Gestão Integrada em Saúde do Trabalho e Meio Ambiente* 3, no. 1 (Jan./Apr. 2008): 10, 16, 17. Article 2.

Human Rights Committee. *General Recommendation No. 23 (Protection of Minorities)*. August 4, 1994. CCPR/C/21/Rev.1/Add.5, sec. 3.2. <https://www.refworld.org/docid/453883fc0.html>

Human Rights Committee. *General Comment No. 36: Article 6, Right to Life*. September 3, 2019. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/261/15/PDF/G1926115.pdf?OpenElement>

IBGE. *Síntese dos Indicadores Sociais*. 2018. <https://www.ibge.gov.br/estatisticas/sociais/saude/9221-sintese-de-indicadores-sociais.html>

ICL Notícias. “Moradores de bairros ameaçados em Maceió acusam Braskem de racismo ambiental.” December 1, 2023. <https://iclnoticias.com.br/moradores-de-bairros-ameacados-em-maceio-acusam-braskem-de-racismo-ambiental/>

Inter-American Court of Human Rights. *Advisory Opinion on Environment and Human Rights: Executive Summary*. February 7, 2018. https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_23_esp.pdf

IPCC. *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects*. 50. https://www.ipcc.ch/site/assets/uploads/2018/02/WGIIAR5-PartA_FINAL.pdf

Lafer, Celso. “Apontamentos sobre a Internacionalização do Direito Constitucional Brasileiro.” In *Filosofia e Teoria Geral do Direito: Um Percorso no Século XXI*, vol. 3, Editora Atlas S.A., 2015.

Lula, Luiz Inácio. Speech at the opening of the COP28 Presidency, Dubai, United Arab Emirates, December 12, 2023. <https://www.gov.br/planalto/pt-br/discurso-do-presidente-lula-na-sessao-de-abertura-da-presidencia-da-cop21-1>

Juliano, Dayana Christina Ramos de Sousa, and Gabriela Martins Icasuriaga. “Desenvolvimento Capitalista e Racismo Ambiental: (Re) Conhecendo as Resistências de Mulheres.” *Revista Goitacá*, Universidade Federal Fluminense 2, no. 1 (Jan./Jun. 2023): 1–14.

Mbembe, Achille. *Critique de la Raison Nègre*. La Découverte/Poche, 2013.

Mbue, Imbolo. *How beautiful we were*. Canongates Books Ltd, 2021.

Morato, R. G., R. P. Machado, and M. R. Martins. “Mapeamento da Justiça Ambiental e Racismo Ambiental na Bacia do Córrego do Morro do ‘S’.” *Geoambiente Online*, no. 30 (2018).

Nascimento, Karina Leonardo do, Sérgio Azevedo, and Maria do Socorro Almeida. “As Múltiplas Faces do Racismo Ambiental no Brasil: Uma Revisão Sistemática.” *Revista Observatorio de la Economía Latinoamericana* 21, no. 6 (2023). <https://doi.org/10.59905/oelv21n6-099>

Organization of African Unity. *African Charter on Human and Peoples’ Rights (Banjul Charter)*. Adopted June 27, 1981. Entered into force October 21, 1986. <https://au.int/en/treaties/african-charter-human-and-peoples-rights>

Organization of American States. *Inter-American Convention against Racism, Discrimination and All Forms of Related Intolerance*. https://www.oas.org/en/sla/dil/docs/inter_american_treaties_A-68_Convencao_Interamericana_racismo_POR.pdf

Paes e Silva, Lays Helena. “Ambiente e Justiça: Sobre a Utilidade do Conceito de Racismo Ambiental no Contexto Brasileiro.” *E-Cadernos CES*, no. 17 (2012). <https://doi.org/10.4000/eces.1123>

Paixão, Marcelo. “O Verde e o Negro: A Justiça Ambiental e a Questão Racial no Brasil.” In *Justiça Ambiental e Cidadania*, edited by Henri Acselrad, Selene Herculano, and José Augusto Pádua, Relume Dumará, 2004.

Pereira, Diego. “Justiça Ambiental.” In *Racismo Ambiental e Emergências Climáticas no Brasil*, edited by Mariana Belmont, Instituto de Referência Negra Peregum, 2023.

Piovesan, Flávia. *Temas de Direitos Humanos*. Editora Saraiva, 2016.

Ramos, André de Carvalho, coord. *Comentários Gerais dos Comitês de Tratados de Direitos Humanos da ONU*. Clínica de Direito Internacional dos Direitos Humanos da Faculdade de Direito da Universidade de São Paulo e outros, 2020.

Ribeiro, Tayguara. “Quilombolas Vão à COP Cobrar Justiça Climática.” *Folha de S. Paulo*, December 2, 2023. <https://www1.folha.uol.com.br/ambiente/2023/12/quilombolas-vaio-a-cop28-cobrar-justica-climaica.shtml>

- Santos, Milton. "1992: A Redescoberta da Natureza." *Revista de Estudos Avançados* 6, no. 14 (1992). <https://www.scielo.br/j/ea/a/M4qFLBVz8KpwwJjvQrRmyLq/?lang=pt>
- Santos, Milton. *A urbanização brasileira*. Hucitec, 1994.
- Santos, Milton et al. *O preconceito*. IMESP, 1996-1997.
- Supremo Tribunal Federal (Brazil). *Arguição de Descumprimento de Preceito Fundamental* 708. Distrito Federal, July 4, 2022. <https://redir.stf.jus.br/paginadorpub>
- Supremo Tribunal Federal (Brazil). *Arguição de Descumprimento de Preceito Fundamental* 760. Opinion by Justice Cármen Lúcia. Judgment of April 6, 2022. <https://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/VOTOADPF760.pdf>
- United Nations. *Charter of the United Nations*. United Nations, 1945.
- United Nations Framework Convention on Climate Change (UNFCCC). *Paris Agreement. Decision 1/CP.21*. FCCC/CP/2015/10/Add.1. December 12, 2015. <https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>.
- United Nations General Assembly. *Resolution 70/1: "Transforming Our World: The 2030 Agenda for Sustainable Development."* A/RES/70/1. October 2, 2015.
- United Nations Human Rights Office of the High Commissioner. *Frequently Asked Questions on Human Rights and Climate Change*. Fact Sheet no. 38. Geneva/New York, 2021.
- U.S. Commission on Civil Rights. *Not in My Backyard: Executive Order 12,898 and Title VI as Tools for Achieving Environmental Justice*. https://www.usccr.gov/files/pubs/envjust/ch2.htm#_ftn1
- Vieira Junior, Itamar. *Torto Arado*. 8th reprint. Editora Todavia, 2021.
- Wagner, Martin, and Donald M. Goldberg. *An Inuit Petition to the Inter-American Commission on Human Rights for Dangerous Impacts of Climate Change*. CIEL/Earthjustice, December 2004. <https://www.ciel.org/reports/an-inuit-petition-to-the-inter-american-commission-on-human-rights-for-dangerous-impacts-of-climate-change-december-2004-cielearthjustice-goldberg-wagner-2/>

World Commission on Environment and Development. *Report of the World Commission on Environment and Development: "Our Common Future."* Oxford: Oxford University Press, 1987.

World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. *Declaration and Plan of Action*. <https://www.un.org/WCAR/durban.pdf>

ATTACHMENTS

**International Convention on the Elimination of All
Forms of Racial Discrimination**

**Adopted and opened for signature and ratification by
General Assembly resolution 2106**

(XX) of 21 December 1965

**entry into force 4 January 1969, in accordance with
Article 19**

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion, Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of

speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

PART I

Article 1

1. In this Convention, the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.
4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:
 - (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to,

or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

(c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

- (i) The right to freedom of movement and residence within the border of the State;
- (ii) The right to leave any country, including one's own, and to return to one's country;
- (iii) The right to nationality;
- (iv) The right to marriage and choice of spouse;
- (v) The right to own property alone as well as in association with others;
- (vi) The right to inherit;
- (vii) The right to freedom of thought, conscience and religion;
- (viii) The right to freedom of opinion and expression;
- (ix) The right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
 - (ii) The right to form and join trade unions;
 - (iii) The right to housing;
 - (iv) The right to public health, medical care, social security and social services;
 - (v) The right to education and training;
 - (vi) The right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and

other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within

two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5.

(a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee;

(b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 9

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention:

(a) within one year after the entry into force of the Convention for the State concerned; and

(b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually, through the Secretary General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

Article 10

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The secretariat of the Committee shall be provided by the Secretary General of the United Nations.
4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.
3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international

law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.

5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1.

(a) After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention;

(b) If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.

5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.
6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.
8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.
3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims

of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.

4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6.

(a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications;

(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

7.

(a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged;

(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph I of this article.

Article 15

1 . Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2.

(a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution

1514 (XV) applies, relating to matters covered by this Convention which are before these bodies;

(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in subparagraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports. 4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention. 2. This Convention

is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.
2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two thirds of the States Parties to this Convention object to it.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

Article 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 23

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14, 20 and 23;
- (d) Denunciations under article 21.

Article 25

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

African Charter on Human and Peoples' Rights (1981)

Preamble

The African States members of the Organization of African Unity, parties to the present convention entitled "African Charter on Human and Peoples' Rights",

Recalling Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a "preliminary draft on an African Charter on Human and Peoples' Rights providing inter alia for the establishment of bodies to promote and protect human and peoples' rights";

Considering the Charter of the Organization of African Unity, which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples";

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations. and the Universal Declaration of Human Rights;

Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;

Recognizing on the one hand, that fundamental human rights stem from the attributes of human beings which justifies their national and international protection and on the other hand that the reality and respect of peoples rights should necessarily guarantee human rights;

Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone;

Convinced that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception

as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;

Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinions;

Reaffirming their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instrument adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and the United Nations;

Firmly convinced of their duty to promote and protect human and people' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa; Have agreed as follows:

Part I: Rights and Duties

Chapter I: Human and Peoples' Rights

Article 1

The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 6

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Article 7

1. Every individual shall have the right to have his cause heard. This comprises:

a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; b) the right to be presumed innocent until proved guilty by a competent court or tribunal; c) the right to defence, including the right to be defended by counsel of his choice; d) the right to be tried within a reasonable time by an impartial court or tribunal.

2) No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

Article 8

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

Article 9

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

Article 10

1. Every individual shall have the right to free association provided that he abides by the law.
2. Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.

Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Article 12

1. Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.
2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality.
3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions.
4. A non-national legally admitted in a territory of a State Party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law.
5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

Article 13

1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.
2. Every citizen shall have the right of equal access to the public service of his country.
3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

Article 14

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

Article 15

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.

Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

Article 17

1. Every individual shall have the right to education.
2. Every individual may freely, take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 18

1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.
2. The State shall have the duty to assist the family which is the custodian or morals and traditional values recognized by the community.
3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

Article 19

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

Article 20

1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.
2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.
3. All peoples shall have the right to the assistance of the States parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

Article 21

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.

2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.
3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law.
4. States parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.
5. States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.

Article 22

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Article 23

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States.
2. For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that: a) any individual enjoying the right of asylum under 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State party to the present Charter; b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State party to the present Charter.

Article 24

All peoples shall have the right to a general satisfactory environment favorable to their development.

Article 25

States parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

Article 26

States parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

Chapter II: Duties

Article 27

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.
2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

Article 29

The individual shall also have the duty:

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need;
2. To serve his national community by placing his physical and intellectual abilities at its service;
3. Not to compromise the security of the State whose national or resident he is;
4. To preserve and strengthen social and national solidarity, particularly when the latter is threatened;
5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defence in accordance with the law;
6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;
7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society;
8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

Part II: Measures of Safeguard

Chapter I: Establishment and Organization of the African Commission on Human and Peoples' Rights

Article 30

An African Commission on Human and Peoples' Rights, hereinafter called "the Commission", shall be established within the Organization of African Unity to promote human and peoples' rights and ensure their protection in Africa.

Article 31

1. The Commission shall consist of eleven members chosen from amongst African personalities of the highest reputation, known for their high

morality, integrity, impartiality and competence in matters of human and peoples' rights; particular consideration being given to persons having legal experience.

2. The members of the Commission shall serve in their personal capacity.

Article 32

The Commission shall not include more than one national of the same state.

Article 33

The members of the Commission shall be elected by secret ballot by the Assembly of Heads of State and Government, from a list of persons nominated by the state parties to the present Charter.

Article 34

Each state party to the present Charter may not nominate more than two candidates. The candidates must have the nationality of one of the state parties to the present Charter. When two candidates are nominated by a state, one of them may not be a national of that state.

Article 35

1. The Secretary-General of the Organization of African Unity shall invite state parties to the present Charter at least four months before the elections to nominate candidates.

2. The Secretary-General of the Organization of African Unity shall make an alphabetical list of the persons thus nominated and communicate it to the Heads of State and Government at least one month before the elections.

Article 36

The members of the Commission shall be elected for a six-year period and shall be eligible for re-election. However, the term of office of four of the members elected at the first election shall terminate after two years and the term of office of the three others, at the end of four years.

Article 37

Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to decide the names of those members referred to in article 36.

Article 38

After their election, the members of the Commission shall make a solemn declaration to discharge their duties impartially and faithfully.

Article 39

1. In case of death or resignation of a member of the Commission, the Chairman of the Commission shall immediately inform the Secretary-General of the Organization of African Unity, who shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.

2. If, in the unanimous opinion of other members of the Commission, a member has stopped discharging his duties for any reason other than a temporary absence, the Chairman of the Commission shall inform the Secretary-General of the Organization of African Unity, who shall then declare the seat vacant.

3. In each of the cases anticipated above, the Assembly of Heads of State and Government shall replace the member whose seat became vacant for the remaining period of his term unless the period is less than six months.

Article 40

Every member of the Commission shall be in office until the date his successor assumes office.

Article 41

The Secretary-General of the Organization of African Unity shall appoint the Secretary of the Commission. He shall also provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organization of African Unity shall bear the costs of the staff and services.

Article 42

1. The Commission shall elect its Chairman and Vice-Chairman for a two-year period. They shall be eligible for re-election.
2. The Commission shall lay down its rules of procedure.
3. Seven members shall form a quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The Secretary-General may attend the meetings of the Commission. He shall neither participate in deliberations nor shall he be entitled to vote. The Chairman of the Commission may, however, invite him to speak.

Article 43

In discharging their duties, members of the Commission shall enjoy diplomatic privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

Article 44

Provision shall be made for the emoluments and allowances of the members of the Commission in the Regular Budget of the Organization of African Unity.

Chapter II: Mandate of the Commission

Article 45

The functions of the Commission shall be:

1. To promote Human and Peoples' Rights and in particular: a) to collect documents, undertake studies and researches on African problems in the field of human and peoples' rights, organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Governments; b) to formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislations; c) co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights.

2. Ensure the protection of human and peoples' rights under conditions laid down by the present Charter.
3. Interpret all the provisions of the present Charter at the request of a State party, an institution of the OAU or an African Organization recognized by the OAU.
4. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government.

Chapter III: Procedure of the Commission

Article 46

The Commission may resort to any appropriate method of investigation; it may hear from the Secretary General of the Organization of African Unity or any other person capable of enlightening it.

Communication From States

Article 47

If a State party to the present Charter has good reasons to believe that another State party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that State to the matter. This communication shall also be addressed to the Secretary-General of the OAU and to the Chairman of the Commission. Within three months of the receipt of the communication, the State to which the communication is addressed shall give the enquiring State, written explanation or statement elucidating the matter. This should include as much as possible relevant information relating to the laws and rules of procedure applied and applicable, and the redress already given or course of action available.

Article 48

If within three months from the date on which the original communication is received by the State to which it is addressed, the issue is not settled to the satisfaction of the two States involved through bilateral negotiation or by any other peaceful procedure, either State shall have the right to submit the matter to the Commission through the Chairman and shall notify the other States involved.

Article 49

Notwithstanding the provisions of 47, if a State party to the present Charter considers that another State party has violated the provisions of the Charter, it may refer the matter directly to the Commission by addressing a communication to the Chairman, to the Secretary-General of the Organization of African Unity and the State concerned.

Article 50

The Commission can only deal with a matter submitted to it after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.

Article 51

1. The Commission may ask the States concerned to provide it with all relevant information. 2. When the Commission is considering the matter, States concerned may be represented before it and submit written or oral representation.

Article 52

After having obtained from the States concerned and from other sources all the information it deems necessary and after having tried all appropriate means to reach an amicable solution based on the respect of Human and Peoples' Rights, the Commission shall prepare, within a reasonable period of time from the notification referred to in 48, a report stating the facts and its findings. This report shall be sent to the States concerned and communicated to the Assembly of Heads of State and Government.

Article 53

While transmitting its report, the Commission may make to the Assembly of Heads of State and Government such recommendations as it deems useful.

Article 54

The Commission shall submit to each ordinary Session of the Assembly of Heads of State and Government a report on its activities.

Other Communications

Article 55

1. Before each Session, the Secretary of the Commission shall make a list of the communications other than those of States parties to the present Charter and transmit them to the members of the Commission, who shall indicate which communications should be considered by the Commission.
2. A communication shall be considered by the Commission if a simple majority of its members so decide.

Article 56

Communications relating to human and peoples' rights referred to in 55 received by the Commission, shall be considered if they:

1. Indicate their authors even if the latter request anonymity,
2. Are compatible with the Charter of the Organization of African Unity or with the present Charter,
3. Are not written in disparaging or insulting language directed against the State concerned and its institutions or to the Organization of African Unity,
4. Are not based exclusively on news discriminated through the mass media,
5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged,
6. Are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter, and
7. Do not deal with cases which have been settled by these States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the present Charter.

Article 57

Prior to any substantive consideration, all communications shall be brought to the knowledge of the State concerned by the Chairman of the Commission.

Article 58

1. When it appears after deliberations of the Commission that one or more communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples' rights, the Commission shall draw the attention of the Assembly of Heads of State and Government to these special cases.
2. The Assembly of Heads of State and Government may then request the Commission to undertake an in-depth study of these cases and make a factual report, accompanied by its findings and recommendations.
3. A case of emergency duly noticed by the Commission shall be submitted by the latter to the Chairman of the Assembly of Heads of State and Government who may request an in-depth study.

Article 59

1. All measures taken within the provisions of the present Chapter shall remain confidential until such a time as the Assembly of Heads of State and Government shall otherwise decide.
2. However, the report shall be published by the Chairman of the Commission upon the decision of the Assembly of Heads of State and Government.
3. The report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government.

Chapter IV: Applicable Principles

Article 60

The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provisions of various African instruments on human and peoples' rights, the Charter of the United Nations, the Charter of the Organization of African Unity, the Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights as well as from the

provisions of various instruments adopted within the Specialized Agencies of the United Nations of which the parties to the present Charter are members.

Article 61

The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognized by member states of the Organization of African Unity, African practices consistent with international norms on human and people's rights, customs generally accepted as law, general principles of law recognized by African states as well as legal precedents and doctrine.

Article 62

Each state party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter.

Article 63

1. The present Charter shall be open to signature, ratification or adherence of the member states of the Organization of African Unity.
2. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary General of the Organization of African Unity.
3. The present Charter shall come into force three months after the reception by the Secretary General of the instruments of ratification or adherence of a simple majority of the member states of the Organization of African Unity.

Part III: General Provisions

Article 64

1. After the coming into force of the present Charter, members of the Commission shall be elected in accordance with the relevant Articles of the present Charter.

2. The Secretary-General of the Organization of African Unity shall convene the first meeting of the Commission at the Headquarters of the Organization within three months of the constitution of the Commission. Thereafter, the Commission shall be convened by its Chairman whenever necessary but at least once a year.

Article 65

For each of the States that will ratify or adhere to the present Charter after its coming into force, the Charter shall take effect three months after the date of the deposit by that State of its instrument of ratification or adherence.

Article 66

Special protocole or agreements may, if necessary, supplément the provisions of the present Charter.

Article 67

The Secretary-General of the Organization of African Unity shall inform member states of the Organization of the deposit of each instrument of ratification or adherence.

Article 68

The present Charter may be amended if a State party makes a written request to that effect to the Secretary General of the Organization of African Unity. The Assembly of Heads of State and Government may only consider the draft amendment after all the States parties have been duly informed of it and the Commission has given its opinion on it at the request of the sponsoring State. The amendment shall be approved by a simple majority of the States parties. It shall come into force for each State which has accepted it in accordance with its constitutional procedure three months after the Secretary General has received notice of the acceptance.

World Conference Against Racism,
Racial Discrimination, Xenophobia
and Related Intolerance

Declaration and Programme of Action



United Nations



Human Rights

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TABLE OF CONTENTS

	Page
Contents	iii
Foreword by the High Commissioner for Human Rights	vii
Introduction	1
Declaration of the World Conference	5
General issues	13
Sources, causes, forms and contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance	16
Victims of racism, racial discrimination, xenophobia and related intolerance	21
Measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at the national, regional and international levels	32
Provision of effective remedies, recourse, redress, and compensatory and other measures at the national, regional and international levels	37
Strategies to achieve full and effective equality, including international cooperation and enhancement of the United Nations and other international mechanisms in combating racism, racial discrimination, xenophobia and related intolerance	40
Programme of Action of the World Conference	47
I. Sources, causes, forms and contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance	47
II. Victims of racism, racial discrimination, xenophobia and related intolerance	48
Victims: General	48
Africans and people of African descent	48
Indigenous peoples	51
Migrants	54
Refugees	58
Other victims	59



III. Measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at the national, regional and international levels	66
National level	68
Legislative, judicial, regulatory, administrative and other measures to prevent and protect against racism, racial discrimination, xenophobia and related intolerance	68
Policies and practices	79
Education and awareness-raising measures	88
Information, communication and the media, including new technologies	96
International level	101
IV. Provision of effective remedies, recourse, redress, and other measures at the national, regional and international levels	103
Legal assistance	105
National legislation and programmes	106
Remedies, reparations, compensation	108
V. Strategies to achieve full and effective equality, including international cooperation and enhancement of the United Nations and other international mechanisms in combating racism, racial discrimination, xenophobia and related intolerance and follow-up	109
International legal framework	112
General international instruments	113
Regional/international cooperation.....	113
Office of the High Commissioner for Human Rights	119
Decades	121
Indigenous peoples	122
Civil society	124
Non-governmental organizations	125
The private sector	126
Youth	127
Index to the Declaration	129
Index to the Programme of Action	137





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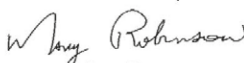
FOREWORD

Member States of the United Nations adopted these texts at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held from 31 August to 8 September 2001 in Durban, South Africa.

They represent the hard-won results of a landmark occasion. The terrible attacks in the United States just three days later, with their aftermath of rising fear and xenophobia, make these anti-discrimination texts all the more relevant.

They consist of a Declaration and Programme of Action. The Declaration represents the commitments arising from the complex global dialogue which took place. It addresses past manifestations as well as contemporary forms of racial discrimination. The Programme of Action is a road-map illustrating how the international community will follow up on these commitments. It indicates the steps to be taken to put an end to racism, racial discrimination, xenophobia and related intolerance and to prevent their future occurrence.

If pursued with energy and goodwill by all actors – States, the United Nations, national institutions, intergovernmental organizations, and non-governmental organizations – this anti-discrimination agenda can bring new hope and change to the lives of the millions of human beings the world over who are victims of racial discrimination and intolerance.



Mary Robinson,

*United Nations High Commissioner for Human Rights
and Secretary-General of the World Conference against Racism,
Racial Discrimination, Xenophobia and
Related Intolerance*



INTRODUCTION

Although the standard of non-discrimination has been established as a bedrock principle of international law, the persistence of racism, racial discrimination, xenophobia and related intolerance clearly demonstrates the need to look for new ways to address this problem with more resolve, with more humanity and with greater efficiency. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001, helped focus the international community's thinking about where action to date has been insufficient, and in what areas and in what ways we can do more to create just and fair societies free of racial discrimination.

The Conference involved nine days of intensive and frequently difficult negotiation. Nevertheless, despite all of the obstacles that had to be overcome, the Conference was ultimately successful in negotiating a Declaration and Programme of Action by consensus.

The documents adopted at the Conference address a wide range of subjects. Concerning the past, the language adopted was historic. The Conference agreed that slavery and the slave trade are a crime against humanity, and should have always been so. It was further agreed that slavery and the slave trade, including the transatlantic slave trade, were appalling tragedies in the history of humanity, especially in their negation of the essence of the victims. The Conference also recognized that colonialism had led to racism and caused suffering and that its consequences persist to this day.

Concerning the Middle East and related issues, the Conference expressed concern about the plight of the Palestinian people under foreign occupation and recognised the inalienable right of the Palestinian people to self-determination and the right to an independent state. The Conference also recognised the right to security for all States in the region, including Israel, and called upon all States to support the peace process and bring it to an early conclusion.

The Conference also recalled that the Holocaust must never be forgotten.

Agreement was reached on the need for national action plans, tougher national legislation and more legal assistance to victims of racial discrimination. Improvement in the administration of justice and the reinforcement of national institutions to combat racial discrimination were also emphasized. In this regard, the importance of appropriate remedies and positive action for victims of racial discrimination was underlined.

A wide variety of educational and awareness-raising measures were adopted. Measures were also included to ensure equality in the fields of employment, health and the environment. The need to have accurate data collection and research was identified as an important prerequisite for taking corrective measures. Measures to counter racism in the media, including on the Internet, were also included in the documents adopted.

The documents adopted specified that a victim-oriented approach was an important tool to eliminate racial discrimination. Specific reference was made to Africans and persons of African descent, Asians and persons of Asian descent, indige-



nous peoples, migrants, refugees, minorities, the Roma and others. Durban also put the gender dimension of racial discrimination on the map, as well as the more general question of multiple discrimination. In addition, the importance of involving not only States, but a wide variety of actors including civil society, NGOs and youth, in the implementation of the Durban commitments was emphasized.

In reflecting on the World Conference, it is important to note that the Declaration and Programme of Action adopted in Durban are both historic and forward-looking. They provide a new and innovative anti-discrimination agenda, and, as such, constitute an essential element of an emerging global dialogue on how to eliminate the scourge of racial discrimination from our world.

People in all parts of the world continue to suffer daily from racism, racial discrimination, xenophobia and related intolerance. They are looking to the United Nations and its Member States to lead the way forward and help them to have the conditions for a better life, a decent life, and one free of discrimination.

Durban should be seen as a beginning and not an end. The key to responding to the hopes and aspirations of those who continue to suffer from discrimination is to ensure effective implementation of the commitments made at this landmark Conference. There is an enormous consensus around the world, amongst peoples and Governments alike, on the need to do more to implement the principles of equality and non-discrimination. The Declaration and Programme of Action adopted at the Conference gave the international community the tools to do this. But the best tools are only of value if they are put to use.



DECLARATION

Having met in Durban, South Africa, from 31 August to 8 September 2001,

Expressing deep appreciation to the Government of South Africa for hosting this World Conference,

Drawing inspiration from the heroic struggle of the people of South Africa against the institutionalized system of apartheid, as well as for equality and justice under democracy, development, the rule of law and respect for human rights, recalling in this context the important contribution to that struggle of the international community and, in particular, the pivotal role of the people and Governments of Africa, and noting the important role that different actors of civil society, including non-governmental organizations, played in that struggle and in ongoing efforts to combat racism, racial discrimination, xenophobia and related intolerance,

Recalling that the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in June 1993, calls for the speedy and comprehensive elimination of all forms of racism, racial discrimination, xenophobia and related intolerance,

Recalling Commission on Human Rights resolution 1997/74 of 18 April 1997, General Assembly resolution 52/111 of 12 December 1997 and subsequent resolutions of those bodies concerning the convening of the World

Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and recalling also the two World Conferences to Combat Racism and Racial Discrimination, held in Geneva in 1978 and 1983, respectively,

Noting with grave concern that despite the efforts of the international community, the principal objectives of the three Decades to Combat Racism and Racial Discrimination have not been attained and that countless human beings continue to the present day to be victims of racism, racial discrimination, xenophobia and related intolerance,

Recalling that the year 2001 is the International Year of Mobilization against Racism, Racial Discrimination, Xenophobia and Related Intolerance, aimed at drawing the world's attention to the objectives of the World Conference and giving new momentum to the political commitment to eliminate all forms of racism, racial discrimination, xenophobia and related intolerance,

Welcoming the decision of the General Assembly to proclaim the year 2001 as the United Nations Year of Dialogue among Civilizations, which underlines tolerance and respect for diversity and the need to seek common ground among and within civilizations in order to address common challenges to humanity that threaten shared values, universal human rights and the fight against racism, racial discrimination, xenophobia and related intolerance, through cooperation, partnership and inclusion,

Welcoming also the proclamation by the General Assembly of the period 2001-2010 as the Decade for a



United Nations

Culture of Peace and Non-Violence for Children of the World, as well as the adoption by the General Assembly of the Declaration and Plan of Action on a Culture of Peace,

Recognizing that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in conjunction with the International Decade of the World's Indigenous People, presents a unique opportunity to consider the invaluable contributions of indigenous peoples to political, economic, social, cultural and spiritual development throughout the world to our societies, as well as the challenges faced by them, including racism and racial discrimination,

Recalling the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960,

Reaffirming our commitment to the purposes and principles contained in the Charter of the United Nations and the Universal Declaration of Human Rights,

Affirming that racism, racial discrimination, xenophobia and related intolerance constitute a negation of the purposes and principles of the Charter of the United Nations,

Reaffirming the principles of equality and non-discrimination in the Universal Declaration of Human Rights and encouraging respect for human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Convinced of the fundamental importance of universal accession to or ratification of and full implementation of our obligations arising under the International Convention on the Elimination of All Forms of Racial Discrimination as the principal international instrument to eliminate racism, racial discrimination, xenophobia and related intolerance,

Recognizing the fundamental importance for States, in combating racism, racial discrimination, xenophobia, and related intolerance, to consider signing, ratifying or acceding to all relevant international human rights instruments, with a view to universal adherence,

Having taken note of the reports of the regional conferences organized at Strasbourg, Santiago, Dakar and Tehran and other inputs from States, as well as the reports of expert seminars, non-governmental organization regional meetings and other meetings organized in preparation for the World Conference,

Noting with appreciation the Vision Statement launched by President Thabo Mbeki of South Africa under the patronage of The Honourable Nelson Mandela, first President of the new South Africa, and at the initiative of the United Nations High Commissioner for Human Rights and Secretary-General of the World Conference, and signed by seventy-four heads of State, heads of Government and dignitaries,

Reaffirming that cultural diversity is a cherished asset for the advancement and welfare of humanity at large and should be valued, enjoyed, genuinely accepted and embraced as a permanent feature which enriches our societies,



United Nations

Acknowledging that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid and slavery is permitted, as defined in the obligations under the relevant human rights instruments,

Having listened to the peoples of the world and recognizing their aspirations to justice, to equality of opportunity for all and everyone, to the enjoyment of their human rights, including the right to development, to live in peace and freedom and to equal participation without discrimination in economic, social, cultural, civil and political life,

Recognizing that the equal participation of all individuals and peoples in the formation of just, equitable, democratic and inclusive societies can contribute to a world free from racism, racial discrimination, xenophobia and related intolerance,

Emphasizing the importance of the equitable participation of all, without any discrimination, in domestic as well as global decision-making,

Affirming that racism, racial discrimination, xenophobia and related intolerance, where they amount to racism and racial discrimination, constitute serious violations of and obstacles to the full enjoyment of all human rights and deny the self-evident truth that all human beings are born free and equal in dignity and rights, are an obstacle to friendly and peaceful relations among peoples and nations, and are among the root causes of many internal and international conflicts, including armed conflicts, and the consequent forced displacement of populations,

Recognizing that national and international actions are required to combat racism, racial discrimination, xenophobia and related intolerance, in order to ensure the full enjoyment of all human rights, economic, social, cultural, civil and political, which are universal, indivisible, interdependent and interrelated, and to improve the living conditions of men, women and children of all nations,

Reaffirming the importance of the enhancement of international cooperation for the promotion and protection of human rights and for the achievement of the objectives of the fight against racism, racial discrimination, xenophobia and related intolerance,

Acknowledging that xenophobia, in its different manifestations, is one of the main contemporary sources and forms of discrimination and conflict, combating which requires urgent attention and prompt action by States, as well as by the international community,

Fully aware that, despite efforts undertaken by the international community, Governments and local authorities, the scourge of racism, racial discrimination, xenophobia and related intolerance persists and continues to result in violations of human rights, suffering, disadvantage and violence, which must be combated by all available and appropriate means and as a matter of the highest priority, preferably in cooperation with affected communities,

Noting with concern the continued and violent occurrence of racism, racial discrimination, xenophobia and relat-



ed intolerance, and that theories of superiority of certain races and cultures over others, promoted and practised during the colonial era, continue to be propounded in one form or another even today,

Alarmed by the emergence and continued occurrence of racism, racial discrimination, xenophobia and related intolerance in their more subtle and contemporary forms and manifestations, as well as by other ideologies and practices based on racial or ethnic discrimination or superiority,

Strongly rejecting any doctrine of racial superiority, along with theories which attempt to determine the existence of so-called distinct human races,

Recognizing that failure to combat and denounce racism, racial discrimination, xenophobia and related intolerance by all, especially by public authorities and politicians at all levels, is a factor encouraging their perpetuation,

Reaffirming that States have the duty to protect and promote the human rights and fundamental freedoms of all victims, and that they should apply a genderⁱ perspective, recognizing the multiple forms of discrimination which women can face, and that the enjoyment of their civil, political, economic, social and cultural rights is essential for the development of societies throughout the world,

Recognizing both the challenges and opportunities presented by an increasingly globalized world in relation to the struggle to eradicate racism, racial discrimination, xenophobia and related intolerance,

ⁱ For the purpose of this Declaration and Programme of Action, it was understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.



Determined, in an era when globalization and technology have contributed considerably to bringing people together, to materialize the notion of a human family based on equality, dignity and solidarity, and to make the twenty-first century a century of human rights, the eradication of racism, racial discrimination, xenophobia and related intolerance and the realization of genuine equality of opportunity and treatment for all individuals and peoples,

Reaffirming the principles of equal rights and self-determination of peoples and recalling that all individuals are born equal in dignity and rights, stressing that such equality must be protected as a matter of the highest priority and recognizing the duty of States to take prompt, decisive and appropriate measures with a view to eliminating all forms of racism, racial discrimination, xenophobia and related intolerance,

Dedicating ourselves to combating the scourge of racism, racial discrimination, xenophobia and related intolerance fully and effectively as a matter of priority, while drawing lessons from manifestations and past experiences of racism in all parts of the world with a view to avoiding their recurrence,

Joining together in a spirit of renewed political will and commitment to universal equality, justice and dignity, we salute the memory of all victims of racism, racial discrimination, xenophobia and related intolerance all over the world and solemnly adopt the Durban Declaration and Programme of Action,ⁱⁱ



United Nations

ⁱⁱ Reference should be made to chapter VII of the report of the Conference (A/CONF. 189/12), which lists all the reservations to and statements on the Declaration and the Programme of Action.

GENERAL ISSUES

1. We declare that for the purpose of the present Declaration and Programme of Action, the victims of racism, racial discrimination, xenophobia and related intolerance are individuals or groups of individuals who are or have been negatively affected by, subjected to, or targets of these scourges;

2. We recognize that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds such as sex, language, religion, political or other opinion, social origin, property, birth or other status;

3. We recognize and affirm that, at the outset of the third millennium, a global fight against racism, racial discrimination, xenophobia and related intolerance and all their abhorrent and evolving forms and manifestations is a matter of priority for the international community, and that this Conference offers a unique and historic opportunity for assessing and identifying all dimensions of those devastating evils of humanity with a view to their total elimination through, inter alia, the initiation of innovative and holistic approaches and the strengthening and enhancement of practical and effective measures at the national, regional and international levels;

4. We express our solidarity with the people of Africa in their continuing struggle against racism, racial discrimina-



tion, xenophobia and related intolerance and recognize the sacrifices made by them, as well as their efforts in raising international public awareness of these inhuman tragedies;

5. We also affirm the great importance we attach to the values of solidarity, respect, tolerance and multiculturalism, which constitute the moral ground and inspiration for our worldwide struggle against racism, racial discrimination, xenophobia and related intolerance, inhuman tragedies which have affected people throughout the world, especially in Africa, for too long;

6. We further affirm that all peoples and individuals constitute one human family, rich in diversity. They have contributed to the progress of civilizations and cultures that form the common heritage of humanity. Preservation and promotion of tolerance, pluralism and respect for diversity can produce more inclusive societies;

7. We declare that all human beings are born free, equal in dignity and rights and have the potential to contribute constructively to the development and well-being of their societies. Any doctrine of racial superiority is scientifically false, morally condemnable, socially unjust and dangerous, and must be rejected along with theories which attempt to determine the existence of separate human races;

8. We recognize that religion, spirituality and belief play a central role in the lives of millions of women and men, and in the way they live and treat other persons. Religion, spirituality and belief may and can contribute to the promotion of the inherent dignity and worth of the human person



and to the eradication of racism, racial discrimination, xenophobia and related intolerance;

9. We note with concern that racism, racial discrimination, xenophobia and related intolerance may be aggravated by, inter alia, inequitable distribution of wealth, marginalization and social exclusion;

10. We reaffirm that everyone is entitled to a social and international order in which all human rights can be fully realized for all, without any discrimination;

11. We note that the process of globalization constitutes a powerful and dynamic force which should be harnessed for the benefit, development and prosperity of all countries, without exclusion. We recognize that developing countries face special difficulties in responding to this central challenge. While globalization offers great opportunities, at present its benefits are very unevenly shared, while its costs are unevenly distributed. We thus express our determination to prevent and mitigate the negative effects of globalization. These effects could aggravate, inter alia, poverty, underdevelopment, marginalization, social exclusion, cultural homogenization and economic disparities which may occur along racial lines, within and between States, and have an adverse impact. We further express our determination to maximize the benefits of globalization through, inter alia, the strengthening and enhancement of international cooperation to increase equality of opportunities for trade, economic growth and sustainable development, global communications through the use of new technologies and increased intercultural exchange through the preservation and promotion of

cultural diversity, which can contribute to the eradication of racism, racial discrimination, xenophobia and related intolerance. Only through broad and sustained efforts to create a shared future based upon our common humanity, and all its diversity, can globalization be made fully inclusive and equitable;

12. We recognize that interregional and intraregional migration has increased as a result of globalization, in particular from the South to the North, and stress that policies towards migration should not be based on racism, racial discrimination, xenophobia and related intolerance;

SOURCES, CAUSES, FORMS AND CONTEMPORARY MANIFESTATIONS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

13. We acknowledge that slavery and the slave trade, including the transatlantic slave trade, were appalling tragedies in the history of humanity not only because of their abhorrent barbarism but also in terms of their magnitude, organized nature and especially their negation of the essence of the victims, and further acknowledge that slavery and the slave trade are a crime against humanity and should always have been so, especially the transatlantic slave trade, and are among the major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance, and that Africans and people of African descent, Asians and people of Asian descent and indigenous peoples were victims of these acts and continue to be victims of their consequences;



14. We recognize that colonialism has led to racism, racial discrimination, xenophobia and related intolerance, and that Africans and people of African descent, and people of Asian descent and indigenous peoples were victims of colonialism and continue to be victims of its consequences. We acknowledge the suffering caused by colonialism and affirm that, wherever and whenever it occurred, it must be condemned and its reoccurrence prevented. We further regret that the effects and persistence of these structures and practices have been among the factors contributing to lasting social and economic inequalities in many parts of the world today;

15. We recognize that apartheid and genocide in terms of international law constitute crimes against humanity and are major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance, and acknowledge the untold evil and suffering caused by these acts and affirm that wherever and whenever they occurred, they must be condemned and their recurrence prevented;

16. We recognize that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism and that human rights violations against members of such groups occur widely in the context of discriminatory, xenophobic and racist practices;

17. We note the importance of paying special attention to new manifestations of racism, racial discrimination, xenophobia and related intolerance to which youth and other vulnerable groups might be exposed;

18. We emphasize that poverty, underdevelopment, marginalization, social exclusion and economic disparities are closely associated with racism, racial discrimination, xenophobia and related intolerance, and contribute to the persistence of racist attitudes and practices which in turn generate more poverty;

19. We recognize the negative economic, social and cultural consequences of racism, racial discrimination, xenophobia and related intolerance, which have contributed significantly to the underdevelopment of developing countries and, in particular, of Africa and resolve to free every man, woman and child from the abject and dehumanizing conditions of extreme poverty to which more than one billion of them are currently subjected, to make the right to development a reality for everyone and to free the entire human race from want;

20. We recognize that racism, racial discrimination, xenophobia and related intolerance are among the root causes of armed conflict and very often one of its consequences and recall that non-discrimination is a fundamental principle of international humanitarian law. We underscore the need for all parties to armed conflicts to abide scrupulously by this principle and for States and the international community to remain especially vigilant during periods of armed conflict and continue to combat all forms of racial discrimination;

21. We express our deep concern that socio-economic development is being hampered by widespread internal conflicts which are due, among other causes, to gross violations of human rights, including those arising from racism, racial discrimination, xenophobia and related intolerance, and from lack of democratic, inclusive and participatory governance;



22. We express our concern that in some States political and legal structures or institutions, some of which were inherited and persist today, do not correspond to the multi-ethnic, pluricultural and plurilingual characteristics of the population and, in many cases, constitute an important factor of discrimination in the exclusion of indigenous peoples;

23. We fully recognize the rights of indigenous peoples consistent with the principles of sovereignty and territorial integrity of States, and therefore stress the need to adopt the appropriate constitutional, administrative, legislative and judicial measures, including those derived from applicable international instruments;

24. We declare that the use of the term “indigenous peoples” in the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance is in the context of, and without prejudice to the outcome of, ongoing international negotiations on texts that specifically deal with this issue, and cannot be construed as having any implications as to rights under international law;

25. We express our profound repudiation of the racism, racial discrimination, xenophobia and related intolerance that persist in some States in the functioning of the penal systems and in the application of the law, as well as in the actions and attitudes of institutions and individuals responsible for law enforcement, especially where this has contributed to certain groups being over-represented among persons under detention or imprisoned;

26. We affirm the need to put an end to impunity for violations of the human rights and fundamental freedoms of individuals and groups of individuals who are victimized by racism, racial discrimination, xenophobia and related intolerance;

27. We express our concern that, beyond the fact that racism is gaining ground, contemporary forms and manifestations of racism and xenophobia are striving to regain political, moral and even legal recognition in many ways, including through the platforms of some political parties and organizations and the dissemination through modern communication technologies of ideas based on the notion of racial superiority;

28. We recall that persecution against any identifiable group, collectivity or community on racial, national, ethnic or other grounds that are universally recognized as impermissible under international law, as well as the crime of apartheid, constitute serious violations of human rights and, in some cases, qualify as crimes against humanity;

29. We strongly condemn the fact that slavery and slavery-like practices still exist today in parts of the world and urge States to take immediate measures as a matter of priority to end such practices, which constitute flagrant violations of human rights;

30. We affirm the urgent need to prevent, combat and eliminate all forms of trafficking in persons, in particular women and children, and recognize that victims of trafficking are particularly exposed to racism, racial discrimination, xenophobia and related intolerance;



VICTIMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

31. We also express our deep concern whenever indicators in the fields of, inter alia, education, employment, health, housing, infant mortality and life expectancy for many peoples show a situation of disadvantage, particularly where the contributing factors include racism, racial discrimination, xenophobia and related intolerance;

32. We recognize the value and diversity of the cultural heritage of Africans and people of African descent and affirm the importance and necessity of ensuring their full integration into social, economic and political life with a view to facilitating their full participation at all levels in the decision-making process;

33. We consider it essential for all countries in the region of the Americas and all other areas of the African Diaspora to recognize the existence of their population of African descent and the cultural, economic, political and scientific contributions made by that population, and recognize the persistence of racism, racial discrimination, xenophobia and related intolerance that specifically affect them, and recognize that, in many countries, their long-standing inequality in terms of access to, inter alia, education, health care and housing has been a profound cause of the socio-economic disparities that affect them;

34. We recognize that people of African descent have for centuries been victims of racism, racial discrimination and enslavement and of the denial by history of many of their rights, and assert that they should be treated with fairness

and respect for their dignity and should not suffer discrimination of any kind. Recognition should therefore be given to their rights to culture and their own identity; to participate freely and in equal conditions in political, social, economic and cultural life; to development in the context of their own aspirations and customs; to keep, maintain and foster their own forms of organization, their mode of life, culture, traditions and religious expressions; to maintain and use their own languages; to the protection of their traditional knowledge and their cultural and artistic heritage; to the use, enjoyment and conservation of the natural renewable resources of their habitat and to active participation in the design, implementation and development of educational systems and programmes, including those of a specific and characteristic nature; and where applicable to their ancestrally inhabited land;

35. We recognize that in many parts of the world, Africans and people of African descent face barriers as a result of social biases and discrimination prevailing in public and private institutions and express our commitment to work towards the eradication of all forms of racism, racial discrimination, xenophobia and related intolerance faced by Africans and people of African descent;

36. We recognize that in many parts of the world, Asians and people of Asian descent face barriers as a result of social biases and discrimination prevailing in public and private institutions and express our commitment to work towards the eradication of all forms of racism, racial discrimination, xenophobia and related intolerance faced by Asians and people of Asian descent;



37. We note with appreciation that despite the racism, racial discrimination, xenophobia and related intolerance faced by them for centuries, people of Asian descent have contributed and continue to contribute significantly to the economic, social, political, scientific and cultural life of the countries where they live;

38. We call upon all States to review and, where necessary, revise any immigration policies which are inconsistent with international human rights instruments, with a view to eliminating all discriminatory policies and practices against migrants, including Asians and people of Asian descent;

39. We recognize that the indigenous peoples have been victims of discrimination for centuries and affirm that they are free and equal in dignity and rights and should not suffer any discrimination, particularly on the basis of their indigenous origin and identity, and we stress the continuing need for action to overcome the persistent racism, racial discrimination, xenophobia and related intolerance that affect them;

40. We recognize the value and diversity of the cultures and the heritage of indigenous peoples, whose singular contribution to the development and cultural pluralism of society and full participation in all aspects of society, in particular on issues that are of concern to them, are fundamental for political and social stability, and for the development of the States in which they live;

41. We reiterate our conviction that the full realization by indigenous peoples of their human rights and fundamental freedoms is indispensable for eliminating racism, racial discrimination, xenophobia and related intolerance. We

firmly reiterate our determination to promote their full and equal enjoyment of civil, political, economic, social and cultural rights, as well as the benefits of sustainable development, while fully respecting their distinctive characteristics and their own initiatives;

42. We emphasize that, in order for indigenous peoples freely to express their own identity and exercise their rights, they should be free from all forms of discrimination, which necessarily entails respect for their human rights and fundamental freedoms. Efforts are now being made to secure universal recognition for those rights in the negotiations on the draft declaration on the rights of indigenous peoples, including the following: to call themselves by their own names; to participate freely and on an equal footing in their country's political, economic, social and cultural development; to maintain their own forms of organization, lifestyles, cultures and traditions; to maintain and use their own languages; to maintain their own economic structures in the areas where they live; to take part in the development of their educational systems and programmes; to manage their lands and natural resources, including hunting and fishing rights; and to have access to justice on a basis of equality;

43. We also recognize the special relationship that indigenous peoples have with the land as the basis for their spiritual, physical and cultural existence and encourage States, wherever possible, to ensure that indigenous peoples are able to retain ownership of their lands and of those natural resources to which they are entitled under domestic law;

44. We welcome the decision to create the Permanent



Forum on Indigenous Issues within the United Nations system, giving concrete expression to major objectives of the International Decade of the World's Indigenous People and the Vienna Declaration and Programme of Action;

45. We welcome the appointment by the United Nations of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and express our commitment to cooperate with the Special Rapporteur;

46. We recognize the positive economic, social and cultural contributions made by migrants to both countries of origin and destination;

47. We reaffirm the sovereign right of each State to formulate and apply its own legal framework and policies for migration, and further affirm that these policies should be consistent with applicable human rights instruments, norms and standards, and designed to ensure that they are free of racism, racial discrimination, xenophobia and related intolerance;

48. We note with concern and strongly condemn the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them; reaffirm the responsibility of States to protect the human rights of migrants under their jurisdiction and reaffirm the responsibility of States to safeguard and protect migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation by individuals or groups; and stress the need for their fair, just and equitable treatment in society and in the workplace;

49. We highlight the importance of creating conditions conducive to greater harmony, tolerance and respect between migrants and the rest of society in the countries in which they find themselves, in order to eliminate manifestations of racism and xenophobia against migrants. We underline that family reunification has a positive effect on integration and emphasize the need for States to facilitate family reunion;

50. We are mindful of the situation of vulnerability in which migrants frequently find themselves, owing, inter alia, to their departure from their countries of origin and to the difficulties they encounter because of differences in language, customs and culture, as well as economic and social difficulties and obstacles to the return of migrants who are undocumented or in an irregular situation;

51. We reaffirm the necessity of eliminating racial discrimination against migrants, including migrant workers, in relation to issues such as employment, social services, including education and health, as well as access to justice, and that their treatment must be in accordance with international human rights instruments, free from racism, racial discrimination, xenophobia and related intolerance;

52. We note with concern that, among other factors, racism, racial discrimination, xenophobia and related intolerance contribute to forced displacement and the movement of people from their countries of origin as refugees and asylum-seekers;

53. We recognize with concern that, despite efforts to combat racism, racial discrimination, xenophobia and related



intolerance, instances of various forms of racism, racial discrimination, xenophobia and related intolerance against refugees, asylum-seekers and internally displaced persons, among others, continue;

54. We underline the urgency of addressing the root causes of displacement and of finding durable solutions for refugees and displaced persons, in particular voluntary return in safety and dignity to the countries of origin, as well as resettlement in third countries and local integration, when and where appropriate and feasible;

55. We affirm our commitment to respect and implement humanitarian obligations relating to the protection of refugees, asylum-seekers, returnees and internally displaced persons, and note in this regard the importance of international solidarity, burden-sharing and international cooperation to share responsibility for the protection of refugees, reaffirming that the 1951 Convention relating to the Status of Refugees and its 1967 Protocol remain the foundation of the international refugee regime and recognizing the importance of their full application by States parties;

56. We recognize the presence in many countries of a Mestizo population of mixed ethnic and racial origins and its valuable contribution to the promotion of tolerance and respect in these societies, and we condemn discrimination against them, especially because such discrimination may be denied owing to its subtle nature;

57. We are conscious of the fact that the history of humanity is replete with major atrocities as a result of gross viola-

tions of human rights and believe that lessons can be learned through remembering history to avert future tragedies;

58. We recall that the Holocaust must never be forgotten;

59. We recognize with deep concern religious intolerance against certain religious communities, as well as the emergence of hostile acts and violence against such communities because of their religious beliefs and their racial or ethnic origin in various parts of the world, which in particular limit their right to freely practise their belief;

60. We also recognize with deep concern the existence in various parts of the world of religious intolerance against religious communities and their members, in particular limitation of their right to practise their beliefs freely, as well as the emergence of increased negative stereotyping, hostile acts and violence against such communities because of their religious beliefs and their ethnic or so-called racial origin;

61. We recognize with deep concern the increase in anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas against Jewish, Muslim and Arab communities;

62. We are conscious that humanity's history is replete with terrible wrongs inflicted through lack of respect for the equality of human beings and note with alarm the increase of such practices in various parts of the world, and we urge people, particularly in conflict situations, to desist from racist incitement, derogatory language and negative stereotyping;



63. We are concerned about the plight of the Palestinian people under foreign occupation. We recognize the inalienable right of the Palestinian people to self-determination and to the establishment of an independent State and we recognize the right to security for all States in the region, including Israel, and call upon all States to support the peace process and bring it to an early conclusion;

64. We call for a just, comprehensive and lasting peace in the region in which all peoples shall co-exist and enjoy equality, justice and internationally recognized human rights, and security;

65. We recognize the right of refugees to return voluntarily to their homes and properties in dignity and safety, and urge all States to facilitate such return;

66. We affirm that the ethnic, cultural, linguistic and religious identity of minorities, where they exist, must be protected and that persons belonging to such minorities should be treated equally and enjoy their human rights and fundamental freedoms without discrimination of any kind;

67. We recognize that members of certain groups with a distinct cultural identity face barriers arising from a complex interplay of ethnic, religious and other factors, as well as their traditions and customs, and call upon States to ensure that measures, policies and programmes aimed at eradicating racism, racial discrimination, xenophobia and related intolerance address the barriers that this interplay of factors creates;

68. We recognize with deep concern the ongoing manifestations of racism, racial discrimination, xenophobia and related intolerance, including violence, against Roma/Gypsies/Sinti/Travellers and recognize the need to develop effective policies and implementation mechanisms for their full achievement of equality;

69. We are convinced that racism, racial discrimination, xenophobia and related intolerance reveal themselves in a differentiated manner for women and girls, and can be among the factors leading to a deterioration in their living conditions, poverty, violence, multiple forms of discrimination, and the limitation or denial of their human rights. We recognize the need to integrate a gender perspective into relevant policies, strategies and programmes of action against racism, racial discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination;

70. We recognize the need to develop a more systematic and consistent approach to evaluating and monitoring racial discrimination against women, as well as the disadvantages, obstacles and difficulties women face in the full exercise and enjoyment of their civil, political, economic, social and cultural rights because of racism, racial discrimination, xenophobia and related intolerance;

71. We deplore attempts to oblige women belonging to certain faiths and religious minorities to forego their cultural and religious identity, or to restrict their legitimate expression, or to discriminate against them with regard to opportunities for education and employment;



72. We note with concern the large number of children and young people, particularly girls, among the victims of racism, racial discrimination, xenophobia and related intolerance and stress the need to incorporate special measures, in accordance with the principle of the best interests of the child and respect for his or her views, in programmes to combat racism, racial discrimination, xenophobia and related intolerance, in order to give priority attention to the rights and the situation of children and young people who are victims of these practices;

73. We recognize that a child belonging to an ethnic, religious or linguistic minority or who is indigenous shall not be denied the right, individually or in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language;

74. We recognize that child labour is linked 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;

75. We note with deep concern the fact that, in many countries, people infected or affected by HIV/AIDS, as well as those who are presumed to be infected, belong to groups vulnerable to racism, racial discrimination, xenophobia and related intolerance, which has a negative impact and impedes their access to health care and medication;

MEASURES OF PREVENTION, EDUCATION AND
PROTECTION AIMED AT THE ERADICATION OF
RACISM, RACIAL DISCRIMINATION, XENOPHOBIA
AND RELATED INTOLERANCE AT THE NATIONAL,
REGIONAL AND INTERNATIONAL LEVELS

76. We recognize 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. We believe that genuine equality of opportunity for all, in all spheres, including that for development, is fundamental for the eradication of racism, racial discrimination, xenophobia and related intolerance;

77. We affirm that universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination are of paramount importance for promoting equality and non-discrimination in the world;

78. We affirm the solemn commitment of all States to promote universal respect for, and observance and protection of, all human rights, economic, social, cultural, civil and political, including the right to development, as a fundamental factor in the prevention and elimination of racism, racial discrimination, xenophobia and related intolerance;

79. We firmly believe that the obstacles to overcoming racial discrimination and achieving racial equality mainly lie in the lack of political will, weak legislation and lack of implementation strategies and concrete action by States, as well as the prevalence of racist attitudes and negative stereotyping;



80. We firmly believe that education, development and the faithful implementation of all international human rights norms and obligations, including enactment of laws and political, social and economic policies, are crucial to combat racism, racial discrimination, xenophobia and related intolerance;

81. We recognize that democracy, transparent, responsible, accountable and participatory governance responsive to the needs and aspirations of the people, and respect for human rights, fundamental freedoms and the rule of law are essential for the effective prevention and elimination of racism, racial discrimination, xenophobia and related intolerance. We reaffirm that any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy and tends to encourage the recurrence of such acts;

82. We affirm that the Dialogue among Civilizations constitutes a process to attain identification and promotion of common grounds among civilizations, recognition and promotion of the inherent dignity and of the equal rights of all human beings and respect for fundamental principles of justice; in this way, it can dispel notions of cultural superiority based on racism, racial discrimination, xenophobia and related intolerance, and facilitate the building of a reconciled world for the human family;

83. We underline the key role that political leaders and political parties can and ought to play in combating racism, racial discrimination, xenophobia and related intolerance and encourage political parties to take concrete steps to promote solidarity, tolerance and respect;

84. We condemn the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial or national prejudice, and state that these phenomena can never be justified in any instance or in any circumstances;

85. We condemn political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination, as well as legislation and practices based on racism, racial discrimination, xenophobia and related intolerance, as incompatible with democracy and transparent and accountable governance. We reaffirm that racism, racial discrimination, xenophobia and related intolerance condoned by governmental policies violate human rights and may endanger friendly relations among peoples, cooperation among nations and international peace and security;

86. We recall that the dissemination of all ideas based upon racial superiority or hatred shall be declared an offence punishable by law with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination;

87. We note that article 4, paragraph b, of the International Convention on the Elimination of All Forms of Racial Discrimination places an obligation upon States to be vigilant and to proceed against organizations that disseminate ideas based on racial superiority or hatred, acts of violence or incitement to such acts. These organizations shall be condemned and discouraged;



88. We recognize that the media should represent the diversity of a multicultural society and play a role in fighting racism, racial discrimination, xenophobia and related intolerance. In this regard we draw attention to the power of advertising;

89. We note with regret that certain media, by promoting false images and negative stereotypes of vulnerable individuals or groups of individuals, particularly of migrants and refugees, have contributed to the spread of xenophobic and racist sentiments among the public and in some cases have encouraged violence by racist individuals and groups;

90. We recognize the positive contribution that the exercise of the right to freedom of expression, particularly by the media and new technologies, including the Internet, and full respect for the freedom to seek, receive and impart information, can make to the fight against racism, racial discrimination, xenophobia and related intolerance; we reiterate the need to respect the editorial independence and autonomy of the media in this regard;

91. We express deep concern about the use of new information technologies, such as the Internet, for purposes contrary to respect for human values, equality, non-discrimination, respect for others and tolerance, including to propagate racism, racial hatred, xenophobia, racial discrimination and related intolerance, and that, in particular, children and youth having access to this material could be negatively influenced by it;

92. We also recognize the need to promote the use of new information and communication technologies, including the

Internet, to contribute to the fight against racism, racial discrimination, xenophobia and related intolerance; new technologies can assist the promotion of tolerance and respect for human dignity, and the principles of equality and non-discrimination;

93. We affirm that all States should recognize the importance of community media that give a voice to victims of racism, racial discrimination, xenophobia and related intolerance;

94. We reaffirm that the stigmatization of people of different origins by acts or omissions of public authorities, institutions, the media, political parties or national or local organizations is not only an act of racial discrimination but can also incite the recurrence of such acts, thereby resulting in the creation of a vicious circle which reinforces racist attitudes and prejudices, and which must be condemned;

95. We recognize that education at all levels and all ages, including within the family, 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; we further affirm that such education is a determining factor in the promotion, dissemination and protection of the democratic values of justice and equity, which are essential to prevent and combat the spread of racism, racial discrimination, xenophobia and related intolerance;

96. We recognize that quality education, the elimination of illiteracy and access to free primary education for all can contribute to more inclusive societies, equity, stable and harmonious relations and friendship among nations, peoples,



groups and individuals, and a culture of peace, fostering mutual understanding, solidarity, social justice and respect for all human rights for all;

97. We underline the links between the right to education and the struggle against racism, racial discrimination, xenophobia and related intolerance and the essential role of education, including human rights education and education which is sensitive to and respects cultural diversity, especially amongst children and young people, in the prevention and eradication of all forms of intolerance and discrimination;

PROVISION OF EFFECTIVE REMEDIES, RECOURSE, REDRESS, AND COMPENSATORY AND OTHER MEASURES AT THE NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

98. We emphasize the importance and necessity of teaching about the facts and truth of the history of humankind from antiquity to the recent past, as well as of teaching about the facts and truth of the history, causes, nature and consequences of racism, racial discrimination, xenophobia and related intolerance, with a view to achieving a comprehensive and objective cognizance of the tragedies of the past;

99. We acknowledge and profoundly regret the massive human suffering and the tragic plight of millions of men, women and children caused by slavery, the slave trade, the transatlantic slave trade, apartheid, colonialism and genocide, and call upon States concerned to honour the memory of the victims of past tragedies and affirm that, wherever and whenever these occurred, they must be condemned and their recurrence prevented. We regret that these practices and structures,



political, socio-economic and cultural, have led to racism, racial discrimination, xenophobia and related intolerance;

100. We acknowledge and profoundly regret the untold suffering and evils inflicted on millions of men, women and children as a result of slavery, the slave trade, the transatlantic slave trade, apartheid, genocide and past tragedies. We further note that some States have taken the initiative to apologize and have paid reparation, where appropriate, for grave and massive violations committed;

101. With a view to closing those dark chapters in history and as a means of reconciliation and healing, we invite the international community and its members to honour the memory of the victims of these tragedies. We further note that some have taken the initiative of regretting or expressing remorse or presenting apologies, and call on all those who have not yet contributed to restoring the dignity of the victims to find appropriate ways to do so and, to this end, appreciate those countries that have done so;

102. We are aware of the moral obligation on the part of all concerned States and call upon these States to take appropriate and effective measures to halt and reverse the lasting consequences of those practices;

103. We recognize the consequences of past and contemporary forms of racism, racial discrimination, xenophobia and related intolerance as serious challenges to global peace and security, human dignity and the realization of human rights and fundamental freedoms of many people in the world, in particular Africans, people of African descent, people of Asian descent and indigenous peoples;



104. We also strongly reaffirm as a pressing requirement of justice that victims of human rights violations resulting from racism, racial discrimination, xenophobia and related intolerance, especially in the light of their vulnerable situation socially, culturally and economically, should be assured of having access to justice, including legal assistance where appropriate, and effective and appropriate protection and remedies, including the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination, as enshrined in numerous international and regional human rights instruments, in particular the Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination;

105. Guided by the principles set out in the Millennium Declaration and the recognition that we have a collective responsibility to uphold the principles of human dignity, equality and equity and to ensure that globalization becomes a positive force for all the world's people, the international community commits itself to working for the beneficial integration of the developing countries into the global economy, resisting their marginalization, determined to achieve accelerated economic growth and sustainable development and to eradicate poverty, inequality and deprivation;

106. We emphasize that remembering the crimes or wrongs of the past, wherever and whenever they occurred, unequivocally condemning its racist tragedies and telling the truth about history are essential elements for international reconciliation and the creation of societies based on justice, equality and solidarity;



STRATEGIES TO ACHIEVE FULL AND EFFECTIVE
EQUALITY, INCLUDING INTERNATIONAL
COOPERATION AND ENHANCEMENT OF THE
UNITED NATIONS AND OTHER INTERNATIONAL
MECHANISMS IN COMBATING RACISM, RACIAL
DISCRIMINATION, XENOPHOBIA AND RELATED
INTOLERANCE

107. We underscore the need to design, promote and implement at the national, regional and international levels strategies, programmes and policies, and adequate legislation, which may include special and positive measures, for furthering equal social development and the realization of the civil and political, economic, social and cultural rights of all victims of racism, racial discrimination, xenophobia and related intolerance, including through more effective access to the political, judicial and administrative institutions, as well as the need to promote effective access to justice, as well as to guarantee that the benefits of development, science and technology contribute effectively to the improvement of the quality of life for all, without discrimination;

108. We recognize the necessity for special measures or positive actions for the victims of racism, racial discrimination, xenophobia and related intolerance in order to promote their full integration into society. Those measures for effective action, including social measures, should aim at correcting the conditions that impair the enjoyment of rights and the introduction of special measures to encourage equal participation of all racial and cultural, linguistic and religious groups in all sectors of society and to bring all onto an equal footing. Those measures should include measures to achieve



appropriate representation in educational institutions, housing, political parties, parliaments and employment, especially in the judiciary, police, army and other civil services, which in some cases might involve electoral reforms, land reforms and campaigns for equal participation;

109. We recall the importance of enhancing international cooperation to promote (a) the fight against racism, racial discrimination, xenophobia and related intolerance; (b) the effective implementation by States of international treaties and instruments that forbid these practices; (c) the goals of the Charter of the United Nations in this regard; (d) the achievement of the goals established by the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992, the World Conference on Human Rights held in Vienna in 1993, the International Conference on Population and Development held in Cairo in 1994, the World Summit for Social Development held in Copenhagen in 1995, the Fourth World Conference on Women held in Beijing in 1995, the United Nations Conference on Human Settlements (Habitat II) held in Istanbul in 1996; and the World Food Summit held in Rome in 1996, making sure that such goals encompass with equity all the victims of racism, racial discrimination, xenophobia and related intolerance;

110. We recognize the importance of cooperation among States, relevant international and regional organizations, the international financial institutions, non-governmental organizations and individuals in the worldwide fight against racism, racial discrimination, xenophobia and related intolerance, and that success in this fight requires specifically tak-



ing into consideration the grievances, opinions and demands of the victims of such discrimination;

111. We reiterate that the international response and policy, including financial assistance, towards refugees and displaced persons in different parts of the world should not be based on discrimination on the grounds of race, colour, descent, or national or ethnic origin of the refugees and displaced persons concerned and, in this context, we urge the international community to provide adequate assistance on an equitable basis to host countries, in particular to host developing countries and countries in transition;

112. We recognize the importance of independent national human rights institutions conforming to the Principles relating to the status of national institutions for the promotion and protection of human rights, annexed to General Assembly resolution 48/134 of 20 December 1993, and other relevant specialized institutions created by law for the promotion and protection of human rights, including ombudsman institutions, in the struggle against racism, racial discrimination, xenophobia and related intolerance, as well as for the promotion of democratic values and the rule of law. We encourage States, as appropriate, to establish such institutions and call upon the authorities and society in general in those countries where they are performing their tasks of promotion, protection and prevention to cooperate to the maximum extent possible with these institutions, while respecting their independence;

113. We recognize the important role relevant regional bodies, including regional associations of national human



rights institutions, can play in combating racism, racial discrimination, xenophobia and related intolerance, and the key role they can play in monitoring and raising awareness about intolerance and discrimination at the regional level, and reaffirm support for such bodies where they exist and encourage their establishment;

114. We recognize the paramount role of parliaments in the fight against racism, racial discrimination, xenophobia and related intolerance in adopting appropriate legislation, overseeing its implementation and allocating the requisite financial resources;

115. We stress the importance of involving social partners and other non-governmental organizations in the design and implementation of training and development programmes;

116. We recognize the fundamental role of civil society in the fight against racism, racial discrimination, xenophobia and related intolerance, in particular in assisting States to develop regulations and strategies, in taking measures and action against such forms of discrimination and through follow-up implementation;

117. We also recognize that promoting greater respect and trust among different groups within society must be a shared but differentiated responsibility of government institutions, political leaders, grass-roots organizations and citizens. We underline that civil society plays an important role in promoting the public interest, especially in combating racism, racial discrimination, xenophobia and related intolerance;

118. We welcome the catalytic role that non-governmental organizations play in promoting human rights education and raising awareness about racism, racial discrimination, xenophobia and related intolerance. They can also play an important role in raising awareness of such issues in the relevant bodies of the United Nations, based upon their national, regional or international experiences. Bearing in mind the difficulties they face, we commit ourselves to creating an atmosphere conducive to the effective functioning of human rights non-governmental organizations, in particular anti-racist non-governmental organizations, in combating racism, racial discrimination, xenophobia and related intolerance. We recognize the precarious situation of human rights non-governmental organizations, including anti-racist non-governmental organizations, in many parts of the world and express our commitment to adhere to our international obligations and to lift any unlawful barriers to their effective functioning;

119. We encourage the full participation of non-governmental organizations in the follow-up to the World Conference;

120. We recognize that international and national exchange and dialogue, and the development of a global network among youth, are important and fundamental elements in building intercultural understanding and respect, and will contribute to the elimination of racism, racial discrimination, xenophobia and related intolerance;

121. We underline the usefulness of involving youth in the development of forward-looking national, regional and inter-



national strategies and in policies to fight racism, racial discrimination, xenophobia and related intolerance;

122. We affirm that our global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance is undertaken, and that the recommendations contained in the Programme of Action are made, in a spirit of solidarity and international cooperation and are inspired by the purposes and principles of the Charter of the United Nations and other relevant international instruments. These recommendations are made with due consideration for the past, the present and the future, and with a constructive and forward-looking approach. We recognize that the formulation and implementation of these strategies, policies, programmes and actions, which should be carried out efficiently and promptly, are the responsibility of all States, with the full involvement of civil society at the national, regional and international levels.

PROGRAMME OF ACTION

Recognizing the urgent need to translate the objectives of the Declaration into a practical and workable Programme of Action, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance:

I. SOURCES, CAUSES, FORMS AND CONTEMPORARY MANIFESTATIONS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

1. *Urges* States in their national efforts, and in cooperation with other States, regional and international organizations and financial institutions, to promote the use of public and private investment in consultation with the affected communities in order to eradicate poverty, particularly in those areas in which victims of racism, racial discrimination, xenophobia and related intolerance predominantly live;
2. *Urges* States to take all necessary and appropriate measures to end enslavement and contemporary forms of slavery-like practices, to initiate constructive dialogue among States and implement measures with a view to correcting the problems and the damage resulting therefrom;

II. VICTIMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

VICTIMS: GENERAL

3. *Urges* States to work nationally and in cooperation with other States and relevant regional and international organizations and programmes to strengthen national mechanisms to promote and protect the human rights of victims of racism, racial discrimination, xenophobia and related intolerance who are infected, or presumably infected, with pandemic diseases such as HIV/AIDS and to take concrete measures, including preventive action, appropriate access to medication and treatment, programmes of education, training and mass media dissemination, to eliminate violence, stigmatization, discrimination, unemployment and other negative consequences arising from these pandemics;

AFRICANS AND PEOPLE OF AFRICAN DESCENT

4. *Urges* States to facilitate the participation of people of African descent in all political, economic, social and cultural aspects of society and in the advancement and economic development of their countries, and to promote a greater knowledge of and respect for their heritage and culture;

5. *Requests* States, supported by international cooperation as appropriate, to consider positively concentrating additional investments in health-care systems, education, public health, electricity, drinking water and environmental control, as well as other affirmative or positive action initiatives, in communities of primarily African descent;



United Nations

6. *Calls upon* the United Nations, international financial and development institutions and other appropriate international mechanisms to develop capacity-building programmes intended for Africans and people of African descent in the Americas and around the world;

7. *Requests* the Commission on Human Rights to consider establishing a working group or other mechanism of the United Nations to study the problems of racial discrimination faced by people of African descent living in the African Diaspora and make proposals for the elimination of racial discrimination against people of African descent;

8. *Urges* financial and development institutions and the operational programmes and specialized agencies of the United Nations, in accordance with their regular budgets and the procedures of their governing bodies:

(a) To assign particular priority, and allocate sufficient funding, within their areas of competence and budgets, to improving the situation of Africans and people of African descent, while devoting special attention to the needs of these populations in developing countries, inter alia through the preparation of specific programmes of action;

(b) To carry out special projects, through appropriate channels and in collaboration with Africans and people of African descent, to support their initiatives at the community level and to facilitate the exchange of information and technical know-how between these populations and experts in these areas;

(c) To develop programmes intended for people of African descent allocating additional investments to health systems, education, housing, electricity, drinking water and environmental control measures and promoting equal opportunities in employment, as well as other affirmative or positive action initiatives;

9. *Requests* States to increase public actions and policies in favour of women and young males of African descent, given that racism affects them more deeply, placing them in a more marginalized and disadvantaged situation;

10. *Urges* States to ensure access to education and promote access to new technologies that would offer Africans and people of African descent, in particular women and children, adequate resources for education, technological development and long-distance learning in local communities, and further urges States to promote the full and accurate inclusion of the history and contribution of Africans and people of African descent in the education curriculum;

11. *Encourages* States to identify factors which prevent equal access to, and the equitable presence of, people of African descent at all levels of the public sector, including the public service, and in particular the administration of justice, and to take appropriate measures to remove the obstacles identified and also to encourage the private sector to promote equal access to, and the equitable presence of, people of African descent at all levels within their organizations;

12. *Calls upon* States to take specific steps to ensure full and effective access to the justice system for all individuals, particularly those of African descent;



13. *Urges* States, in accordance with international human rights standards and their respective domestic legal framework, to resolve problems of ownership of ancestral lands inhabited for generations by people of African descent and to promote the productive utilization of land and the comprehensive development of these communities, respecting their culture and their specific forms of decision-making;

14. *Urges* States to recognize the particularly severe problems of religious prejudice and intolerance that many people of African descent experience and to implement policies and measures that are designed to prevent and eliminate all such discrimination on the basis of religion and belief, which, when combined with certain other forms of discrimination, constitutes a form of multiple discrimination;

INDIGENOUS PEOPLES

15. *Urges* States:

- (a) To adopt or continue to apply, in concert with them, constitutional, administrative, legislative, judicial and all necessary measures to promote, protect and ensure the enjoyment by indigenous peoples of their rights, as well as to guarantee them the exercise of their human rights and fundamental freedoms on the basis of equality, non-discrimination and full and free participation in all areas of society, in particular in matters affecting or concerning their interests;

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- (b) To promote better knowledge of and respect for indigenous cultures and heritage;

and welcomes measures already taken by States in these respects;

16. *Urges* States to work with indigenous peoples to stimulate their access to economic activities and increase their level of employment, where appropriate, through the establishment, acquisition or expansion by indigenous peoples of enterprises, and the implementation of measures such as training, the provision of technical assistance and credit facilities;

17. *Urges* States to work with indigenous peoples to establish and implement programmes that provide access to training and services that could benefit the development of their communities;

18. *Requests* States to adopt public policies and give impetus to programmes on behalf of and in concert with indigenous women and girls, with a view to promoting their civil, political, economic, social and cultural rights; to putting an end to their situation of disadvantage for reasons of gender and ethnicity; to dealing with urgent problems affecting them in regard to education, their physical and mental health, economic life and in the matter of violence against them, including domestic violence; and to eliminating the situation of aggravated discrimination suffered by indigenous women and girls on multiple grounds of racism and gender discrimination;

19. *Recommends* that States examine, in conformity with relevant international human rights instruments, norms and



standards, their Constitutions, laws, legal systems and policies in order to identify and eradicate racism, racial discrimination, xenophobia and related intolerance towards indigenous peoples and individuals, whether implicit, explicit or inherent;

20. *Calls upon* concerned States to honour and respect their treaties and agreements with indigenous peoples and to accord them due recognition and observance;

21. *Calls upon* States to give full and appropriate consideration to the recommendations produced by indigenous peoples in their own forums on the World Conference;

22. *Requests* States:

(a) To develop and, where they already exist, support institutional mechanisms to promote the accomplishment of the objectives and measures relating to indigenous peoples agreed in this Programme of Action;

(b) To promote, in concert with indigenous organizations, local authorities and non-governmental organizations, actions aimed at overcoming racism, racial discrimination, xenophobia and related intolerance against indigenous peoples and to make regular assessments of the progress achieved in this regard;

(c) To promote understanding among society at large of the importance of special measures to overcome disadvantages faced by indigenous peoples;



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- (d) To consult indigenous representatives in the process of decision-making concerning policies and measures that directly affect them;

23. *Calls upon* States to recognize the particular challenges faced by indigenous peoples and individuals living in urban environments and urges States to implement effective strategies to combat the racism, racial discrimination, xenophobia and related intolerance they encounter, paying particular attention to opportunities for their continued practice of their traditional, cultural, linguistic and spiritual ways of life;

MIGRANTS

24. *Requests* all States to combat manifestations of a generalized rejection of migrants and actively to discourage all racist demonstrations and acts that generate xenophobic behaviour and negative sentiments towards, or rejection of, migrants;

25. *Invites* international and national non-governmental organizations to include monitoring and protection of the human rights of migrants in their programmes and activities and to sensitize Governments and increase public awareness in all States about the need to prevent racist acts and manifestations of discrimination, xenophobia and related intolerance against migrants;

26. *Requests* States to promote and protect fully and effec-



tively the human rights and fundamental freedoms of all migrants, in conformity with the Universal Declaration of Human Rights and their obligations under international human rights instruments, regardless of the migrants' immigration status;

27. *Encourages* States to promote education on the human rights of migrants and to engage in information campaigns to ensure that the public receives accurate information regarding migrants and migration issues, including the positive contribution of migrants to the host society and the vulnerability of migrants, particularly those who are in an irregular situation;

28. *Calls upon* States to facilitate family reunification in an expeditious and effective manner which has a positive effect on integration of migrants, with due regard for the desire of many family members to have an independent status;

29. *Urges* States to take concrete measures that would eliminate racism, racial discrimination, xenophobia and related intolerance in the workplace against all workers, including migrants, and ensure the full equality of all before the law, including labour law, and further urges States to eliminate barriers, where appropriate, to: participating in vocational training, collective bargaining, employment, contracts and trade union activity; accessing judicial and administrative tribunals dealing with grievances; seeking employment in different parts of their country of residence; and working in safe and healthy conditions;

30. *Urges States:*

(a) To develop and implement policies and action plans, and to reinforce and implement preventive measures, in order to foster greater harmony and tolerance between migrants and host societies, with the aim of eliminating manifestations of racism, racial discrimination, xenophobia and related intolerance, including acts of violence, perpetrated in many societies by individuals or groups;

(b) To review and revise, where necessary, their immigration laws, policies and practices so that they are free of racial discrimination and compatible with States' obligations under international human rights instruments;

(c) To implement specific measures involving the host community and migrants in order to encourage respect for cultural diversity, to promote the fair treatment of migrants and to develop programmes, where appropriate, that facilitate their integration into social, cultural, political and economic life;

(d) To ensure that migrants, regardless of their immigration status, detained by public authorities are treated with humanity and in a fair manner, and receive effective legal protection and, where appropriate, the assistance of a competent interpreter in accordance with the relevant norms of international law and human rights standards, particularly during interrogation;



(e) To ensure that the police and immigration authorities treat migrants in a dignified and non-discriminatory manner, in accordance with international standards, through, inter alia, organizing specialized training courses for administrators, police officers, immigration officials and other interested groups;

(f) To consider the question of promoting the recognition of the educational, professional and technical credentials of migrants, with a view to maximizing their contribution to their new States of residence;

(g) To take all possible measures to promote the full enjoyment by all migrants of all human rights, including those related to fair wages and equal remuneration for work of equal value without distinction of any kind, and to the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond their control, social security, including social insurance, access to education, health care, social services and respect for their cultural identity;

(h) To consider adopting and implementing immigration policies and programmes that would enable immigrants, in particular women and children who are victims of spousal or domestic violence, to free themselves from abusive relationships;

31. *Urges* States, in the light of the increased proportion of women migrants, to place special focus on gender issues,

including gender discrimination, particularly when the multiple barriers faced by migrant women intersect; detailed research should be undertaken not only in respect of human rights violations perpetrated against women migrants, but also on the contribution they make to the economies of their countries of origin and their host countries, and the findings should be included in reports to treaty bodies;

32. *Urges* States to recognize the same economic opportunities and responsibilities to documented long-term migrants as to other members of society;

33. *Recommends* that host countries of migrants consider the provision of adequate social services, in particular in the areas of health, education and adequate housing, as a matter of priority, in cooperation with the United Nations agencies, the regional organizations and international financial bodies; also requests that these agencies provide an adequate response to requests for such services;

REFUGEES

34. *Urges* States to comply with their obligations under international human rights, refugee and humanitarian law relating to refugees, asylum-seekers and displaced persons, and urges the international community to provide them with protection and assistance in an equitable manner and with due regard to their needs in different parts of the world, in keeping with principles of international solidarity, burden-sharing and international cooperation, to share responsibilities;



35. *Calls upon* States to recognize the racism, racial discrimination, xenophobia and related intolerance that refugees may face as they endeavour to engage in the life of the societies of their host countries and encourages States, in accordance with their international obligations and commitments, to develop strategies to address this discrimination and to facilitate the full enjoyment of the human rights of refugees. States parties should ensure that all measures relating to refugees must be in full accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;

36. *Urges* States to take effective steps to protect refugee and internally displaced women and girls from violence, to investigate any such violations and to bring those responsible to justice, in collaboration, when appropriate, with the relevant and competent organizations;

OTHER VICTIMS

37. *Urges* States to take all possible measures to ensure that all persons, without any discrimination, are registered and have access to the necessary documentation reflecting their legal identity to enable them to benefit from available legal procedures, remedies and development opportunities, as well as to reduce the incidence of trafficking;

38. *Recognizes* that victims of trafficking are particularly exposed to racism, racial discrimination, xenophobia and related intolerance. States shall ensure that all measures taken against trafficking in persons, in particular those that affect the victims of such trafficking, are consistent with interna-

tionally recognized principles of non-discrimination, including the prohibition of racial discrimination and the availability of appropriate legal redress;

39. *Calls upon* States to ensure that Roma/Gypsy/Sinti/Traveller children and youth, especially girls, are given equal access to education and that educational curricula at all levels, including complementary programmes on intercultural education, which might, inter alia, include opportunities for them to learn the official languages in the pre-school period and to recruit Roma/Gypsy/Sinti/Traveller teachers and classroom assistants in order for such children and youth to learn their mother tongue, are sensitive and responsive to their needs;

40. *Encourages* States to adopt appropriate and concrete policies and measures, to develop implementation mechanisms, where these do not already exist, and to exchange experiences, in cooperation with representatives of the Roma/Gypsies/Sinti/Travellers, in order to eradicate discrimination against them, enable them to achieve equality and ensure their full enjoyment of all their human rights, as recommended in the case of the Roma by the Committee on the Elimination of Racial Discrimination in its general recommendation XXVII, so that their needs are met;

41. *Recommends* that the intergovernmental organizations address, as appropriate, in their projects of cooperation with and assistance to various States, the situation of the Roma/Gypsies/Sinti/Travellers and promote their economic, social and cultural advancement;



42. *Calls upon* States and encourages non-governmental organizations to raise awareness about the racism, racial discrimination, xenophobia and related intolerance experienced by the Roma/Gypsies/Sinti/Travellers, and to promote knowledge and respect for their culture and history;

43. *Encourages* the media to promote equal access to and participation in the media for the Roma/Gypsies/Sinti/Travellers, as well as to protect them from racist, stereotypical and discriminatory media reporting, and calls upon States to facilitate the media's efforts in this regard;

44. *Invites* States to design policies aimed at combating racism, racial discrimination, xenophobia and related intolerance that are based on reliable statistical data recognizing the concerns identified in consultation with the Roma/Gypsies/Sinti/Travellers themselves reflecting as accurately as possible their status in society. All such information shall be collected in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees, and in consultation with the persons concerned;

45. *Encourages* States to address the problems of racism, racial discrimination, xenophobia and related intolerance against people of Asian descent and urges States to take all necessary measures to eliminate the barriers that such persons face in participating in economic, social, cultural and political life;

46. *Urges* States to ensure within their jurisdiction that persons belonging to national or ethnic, religious and linguistic minorities can exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law, and also urges States and the international community to promote and protect the rights of such persons;

47. *Urges* States to guarantee the rights of persons belonging to national or ethnic, religious and linguistic minorities, individually or in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference, and to participate effectively in the cultural, social, economic and political life of the country in which they live, in order to protect them from any form of racism, racial discrimination, xenophobia and related intolerance that they are or may be subjected to;

48. *Urges* States to recognize the effect that discrimination, marginalization and social exclusion have had and continue to have on many racial groups living in a numerically based minority situation within a State, and to ensure that persons in such groups can exercise, as individual members of such groups, fully and effectively, all human rights and fundamental freedoms without distinction and in full equality before the law, and to take, where applicable, appropriate measures in respect of employment, housing and education with a view to preventing racial discrimination;

49. *Urges* States to take, where applicable, appropriate



measures to prevent racial discrimination against persons belonging to national or ethnic, religious and linguistic minorities in respect of employment, health care, housing, social services and education, and in this context forms of multiple discrimination should be taken into account;

50. *Urges* States to incorporate a gender perspective in all programmes of action against racism, racial discrimination, xenophobia and related intolerance and to consider the burden of such discrimination which falls particularly on indigenous women, African women, Asian women, women of African descent, women of Asian descent, women migrants and women from other disadvantaged groups, ensuring their access to the resources of production on an equal footing with men, as a means of promoting their participation in the economic and productive development of their communities;

51. *Urges* States to involve women, especially women victims of racism, racial discrimination, xenophobia and related intolerance, in decision-making at all levels when working towards the eradication of such discrimination, and to develop concrete measures to incorporate race and gender analysis in the implementation of all aspects of the Programme of Action and national plans of action, particularly in the fields of employment programmes and services and resource allocation;

52. *Recognizing* that poverty shapes economic and social status and establishes obstacles to the effective political participation of women and men in different ways and to different extents, *urges* States to undertake gender analyses of all economic and social policies and programmes, especially poverty eradication measures, including those designed and implemented to benefit those individuals or groups of indi-

viduals who are victims of racism, racial discrimination, xenophobia and related intolerance;

53. *Urges* States and encourages all sectors of society to empower women and girls who are victims of racism, racial discrimination, xenophobia and related intolerance, so that they can fully exercise their rights in all spheres of public and private life, and to ensure the full, equal and effective participation of women in decision-making at all levels, in particular in the design, implementation and evaluation of policies and measures which affect their lives;

54. *Urges* States:

(a) To recognize that sexual violence which has been systematically used as a weapon of war, sometimes with the acquiescence or at the instigation of the State, is a serious violation of international humanitarian law that, in defined circumstances, constitutes a crime against humanity and/or a war crime, and that the intersection of discrimination on grounds of race and gender makes women and girls particularly vulnerable to this type of violence, which is often related to racism, racial discrimination, xenophobia and related intolerance;

(b) To end impunity and prosecute those responsible for crimes against humanity and war crimes, including crimes related to sexual and other gender-based violence against women and girls, as well as to ensure that persons in authority who are responsible for such crimes, including by committing, ordering, soliciting, inducing, aiding in, abetting, assisting or in any



other way contributing to their commission or attempted commission, are identified, investigated, prosecuted and punished;

55. *Requests* States, in collaboration where necessary with international organizations, having the best interests of the child as a primary consideration, to provide protection against racism, racial discrimination, xenophobia and related intolerance against children, especially those in circumstances of particular vulnerability, and to pay special attention to the situation of such children when designing relevant policies, strategies and programmes;

56. *Urges* States, in accordance with their national law and their obligations under the relevant international instruments, to take all measures to the maximum extent of their available resources to guarantee, without any discrimination, the equal right of all children to the immediate registration of birth, in order to enable them to exercise their human rights and fundamental freedoms. States shall grant women equal rights with men with respect to nationality;

57. *Urges* States and international and regional organizations, and encourages non-governmental organizations and the private sector, to address the situation of persons with disabilities who are also subject to racism, racial discrimination, xenophobia and related intolerance; also urges States to take necessary measures to ensure their full enjoyment of all human rights and to facilitate their full integration into all fields of life;

III. MEASURES OF PREVENTION, EDUCATION AND PROTECTION AIMED AT THE ERADICATION OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE AT THE NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

58. *Urges* States to adopt and implement, at both the national and international levels, effective measures and policies, in addition to existing anti-discrimination national legislation and relevant international instruments and mechanisms, which encourage all citizens and institutions to take a stand against racism, racial discrimination, xenophobia and related intolerance, and to recognize, respect and maximize the benefits of diversity within and among all nations in working together to build a harmonious and productive future by putting into practice and promoting values and principles such as justice, equality and non-discrimination, democracy, fairness and friendship, tolerance and respect within and between communities and nations, in particular through public information and education programmes to raise awareness and understanding of the benefits of cultural diversity, including programmes where the public authorities work in partnership with international and non-governmental organizations and other sectors of civil society;

59. *Urges* States to mainstream a gender perspective in the design and development of measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men;



60. *Urges* States to adopt or strengthen, as appropriate, national programmes for eradicating poverty and reducing social exclusion which take account of the needs and experiences of individuals or groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance, and also urges that they expand their efforts to foster bilateral, regional and international cooperation in implementing those programmes;

61. *Urges* States to work to ensure that their political and legal systems reflect the multicultural diversity within their societies and, where necessary, to improve democratic institutions so that they are more fully participatory and avoid marginalization, exclusion and discrimination against specific sectors of society;

62. *Urges* States to take all necessary measures to address specifically, through policies and programmes, racism and racially motivated violence against women and girls and to increase cooperation, policy responses and effective implementation of national legislation and of their obligations under relevant international instruments, and other protective and preventive measures aimed at the elimination of all forms of racially motivated discrimination and violence against women and girls;

63. *Encourages* the business sector, in particular the tourist industry and Internet providers, to develop codes of conduct, with a view to preventing trafficking in persons and protecting the victims of such traffic, especially those in prostitution, against gender-based and racial discrimination and promoting their rights, dignity and security;

64. *Urges* States to devise, enforce and strengthen effective measures at the national, regional and international levels to prevent, combat and eliminate all forms of trafficking in women and children, in particular girls, through comprehensive anti-trafficking strategies which include legislative measures, prevention campaigns and information exchange. It also urges States to allocate resources, as appropriate, to provide comprehensive programmes designed to provide assistance to, protection for, healing, reintegration into society and rehabilitation of victims. States shall provide or strengthen training for law enforcement, immigration and other relevant officials who deal with victims of trafficking in this regard;

65. *Encourages* the bodies, agencies and relevant programmes of the United Nations system and States to promote and to make use of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), particularly those provisions relating to non-discrimination,

NATIONAL LEVEL

Legislative, judicial, regulatory, administrative and other measures to prevent and protect against racism, racial discrimination, xenophobia and related intolerance

66. *Urges* States to establish and implement without delay national policies and action plans to combat racism, racial discrimination, xenophobia and related intolerance, including their gender-based manifestations;



United Nations

67. *Urges* States to design or reinforce, promote and implement effective legislative and administrative policies, as well as other preventive measures, against the serious situation experienced by certain groups of workers, including migrant workers, who are victims of racism, racial discrimination, xenophobia and related intolerance. Special attention should be given to protecting people engaged in domestic work and trafficked persons from discrimination and violence, as well as to combating prejudice against them;

68. *Urges* States to adopt and implement, or strengthen, national legislation and administrative measures that expressly and specifically counter racism and prohibit racial discrimination, xenophobia and related intolerance, whether direct or indirect, in all spheres of public life, in accordance with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, ensuring that their reservations are not contrary to the object and purpose of the Convention;

69. *Urges* States to enact and implement, as appropriate, laws against trafficking in persons, especially women and children, and smuggling of migrants, taking into account practices that endanger human lives or lead to various kinds of servitude and exploitation, such as debt bondage, slavery, sexual exploitation or labour exploitation; also encourages States to create, if they do not already exist, mechanisms to combat such practices and to allocate adequate resources to ensure law enforcement and the protection of the rights of victims, and to reinforce bilateral, regional and international cooperation, including with non-governmental organizations that assist victims, to combat this trafficking in persons and smuggling of migrants;

70. *Urges* States to take all necessary constitutional, legislative and administrative measures to foster equality among individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance, and to review existing measures with a view to amending or repealing national legislation and administrative that may give rise to such forms of discrimination;

71. *Urges* States, including their law enforcement agencies, to design and fully implement effective policies and programmes to prevent, detect and ensure accountability for misconduct by police officers and other law enforcement personnel which is motivated by racism, racial discrimination, xenophobia and related intolerance, and to prosecute perpetrators of such misconduct;

72. *Urges* States to design, implement and enforce effective measures to eliminate the phenomenon popularly known as “racial profiling” and comprising the practice of police and other law enforcement officers relying, to any degree, on race, colour, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity;

73. *Urges* States to take measures to prevent genetic research or its applications from being used to promote racism, racial discrimination, xenophobia and related intolerance, to protect the privacy of personal genetic information and to prevent such information from being used for discriminatory or racist purposes;



74. *Urges* States and invites non-governmental organizations and the private sector:

(a) To create and implement policies that promote a high-quality and diverse police force free from racism, racial discrimination, xenophobia and related intolerance, and recruit actively all groups, including minorities, into public employment, including the police force and other agencies within the criminal justice system (such as prosecutors);

(b) To work to reduce violence, including violence motivated by racism, racial discrimination, xenophobia and related intolerance, by:

i) Developing educational materials to teach young people the importance of tolerance and respect;

ii) Addressing bias before it manifests itself in violent criminal activity;

iii) Establishing working groups consisting of, among others, local community leaders and national and local law enforcement officials, to improve coordination, community involvement, training, education and data collection, with the aim of preventing such violent criminal activity;

iv) Ensuring that civil rights laws that prohibit violent criminal activity are strongly enforced;

v) Enhancing data collection regarding violence motivated by racism, racial discrimination, xenophobia and related intolerance;

vi) Providing appropriate assistance to victims, and public education to prevent future incidents of violence motivated by racism, racial discrimination, xenophobia and related intolerance;

Ratification of and effective implementation of relevant international and regional legal instruments on human rights and non-discrimination

75. *Urges* States that have 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 particular to accede to the International Convention on the Elimination of All Forms of Racial Discrimination as a matter of urgency, with a view to universal ratification by the year 2005, and to consider making the declaration envisaged under article 14, to comply with their reporting obligations, and to publish and act upon the concluding observations of the Committee on the Elimination of Racial Discrimination. It also urges States to withdraw reservations contrary to the object and purpose of that Convention and to consider withdrawing other reservations;

76. *Urges* States to give due consideration to the observations and recommendations of the Committee on the Elimination of Racial Discrimination. To that effect, States should consider setting up appropriate national monitoring and evaluation mechanisms to ensure that all appropriate steps are taken to follow up on these observations and recommendations;



77. *Urges* States that have not yet done so to consider becoming parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as to consider acceding to the Optional Protocols to the International Covenant on Civil and Political Rights;

78. *Urges* those States that have not yet done so to consider signing and ratifying or acceding to the following instruments:

(a) Convention on the Prevention and Punishment of the Crime of Genocide of 1948;

(b) International Labour Organization Migration for Employment Convention (Revised), 1949 (No. 97);

(c) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949;

(d) Convention relating to the Status of Refugees of 1951, and its 1967 Protocol;

(e) International Labour Organization Discrimination (Employment and Occupation) Convention, 1958 (No. 111);

(f) Convention against Discrimination in Education, adopted on 14 December 1960 by the General Conference of the United Nations Educational, Scientific and Cultural Organization;



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- (g) Convention on the Elimination of All Forms of Discrimination against Women of 1979, with a view to achieving universal ratification within five years, and its Optional Protocol of 1999;
 - (h) Convention on the Rights of the Child of 1989 and its two Optional Protocols of 2000, and the International Labour Organization Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182);
 - (i) International Labour Organization Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);
 - (j) International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the Convention on Biological Diversity of 1992;
 - (k) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990;
 - (l) The Rome Statute of the International Criminal Court of 1998;
 - (m) United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention and the Protocol against the Smuggling of



Migrants by Land, Sea and Air, supplementing the Convention of 2000;

It further urges States parties to these instruments to implement them fully;

79. *Calls upon* States to promote and protect the exercise of the rights set out in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed by the General Assembly in its resolution 36/55 of 25 November 1981, in order to obviate religious discrimination which, when combined with certain other forms of discrimination, constitutes a form of multiple discrimination;

80. *Urges* States to seek full respect for, and compliance with, the Vienna Convention on Consular Relations of 1963, especially as it relates to the right of foreign nationals, regardless of their legal and immigration status, to communicate with a consular officer of their own State in the case of arrest or detention;

81. *Urges* all States to prohibit discriminatory treatment based on race, colour, descent or national or ethnic origin against foreigners and migrant workers, inter alia, where appropriate, concerning the granting of work visas and work permits, housing, health care and access to justice;

82. *Underlines* the importance of combating impunity, including for crimes with a racist or xenophobic motivation, also at the international level, noting that impunity for violations of human rights and international humanitarian

law is a serious obstacle to a fair and equitable justice system and, ultimately, reconciliation and stability; it also fully supports the work of the existing international criminal tribunals and ratification of the Rome Statute of the International Criminal Court, and urges all States to cooperate with these international criminal tribunals;

83. *Urges* States to make every effort to apply fully the relevant provisions of the International Labour Organization Declaration on Fundamental Principles and Rights at Work of 1998, in order to combat racism, racial discrimination, xenophobia and related intolerance;

Prosecution of perpetrators of racist acts

84. *Urges* States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, to take measures so that such motivations are considered an aggravating factor for the purposes of sentencing, to prevent these crimes from going unpunished and to ensure the rule of law;

85. *Urges* States to undertake investigations to examine possible links between criminal prosecution, police violence and penal sanctions, on the one hand, and racism, racial discrimination, xenophobia and related intolerance, on the other, so as to have evidence for taking the necessary steps for the eradication of any such links and discriminatory practices;

86. *Calls upon* States to promote measures to deter the emergence of and to counter neo-fascist, violent nationalist ideologies which promote racial hatred and racial discrimina-



tion, as well as racist and xenophobic sentiments, including measures to combat the negative influence of such ideologies especially on young people through formal and non-formal education, the media and sport;

87. *Urges* States parties to adopt legislation implementing the obligations they have assumed to prosecute and punish persons who have committed or ordered to be committed grave breaches of the Geneva Conventions of 12 August 1949 and Additional Protocol I thereto and of other serious violations of the laws and customs of war, in particular in relation to the principle of non-discrimination;

88. *Calls upon* States to criminalize all forms of trafficking in persons, in particular women and children, and to condemn and penalize traffickers and intermediaries, while ensuring protection and assistance to the victims of trafficking, with full respect for their human rights;

89. *Urges* States to carry out comprehensive, exhaustive, timely and impartial investigations of all unlawful acts of racism and racial discrimination, to prosecute criminal offences ex officio, as appropriate, or initiate or facilitate all appropriate actions arising from offences of a racist or xenophobic nature, to ensure that criminal and civil investigations and prosecutions of offences of a racist or xenophobic nature are given high priority and are actively and consistently undertaken, and to ensure the right to equal treatment before the tribunals and all other organs administering justice. In this regard, the World Conference underlines the importance of fostering awareness and providing training to the various agents in the criminal justice system to ensure fair and

impartial application of the law. In this respect, it recommends that anti-discrimination monitoring services be established;

Establishment and reinforcement of independent specialized national institutions and mediation

90. *Urges* States, as appropriate, to establish, strengthen, review and reinforce the effectiveness of independent national human rights institutions, particularly on issues of racism, racial discrimination, xenophobia and related intolerance, in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights, annexed to General Assembly resolution 48/134 of 20 December 1993, and to provide them with adequate financial resources, competence and capacity for investigation, research, education and public awareness activities to combat these phenomena;

91. *Also urges* States:

- (a) To foster cooperation between these institutions and other national institutions;
- (b) To take steps to ensure that those individuals or groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance can participate fully in these institutions;
- (c) To support these institutions and similar bodies, inter alia through the publication and circulation of existing national laws and jurisprudence, and



cooperation with institutions in other countries, so that knowledge can be gained of the manifestations, functions and mechanisms of these practices and the strategies designed to prevent, combat and eradicate them;

Policies and practices

Data collection and disaggregation, research and study

92. *Urges* States to collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and undertake all other related measures which are necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance;

(a) Such statistical data should be disaggregated in accordance with national legislation. Any such information shall, as appropriate, be collected with the explicit consent of the victims, based on their self-identification and in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees. This information must not be misused;

(b) The statistical data and information should be collected with the objective of monitoring the situation of marginalized groups, and the development and evaluation of legislation, policies, practices and other measures aimed at preventing and combating racism, racial discrimination, xenophobia and related intolerance, as well as for the purpose of determining whether



any measures have an unintentional disparate impact on victims. To that end, it recommends the development of voluntary, consensual and participatory strategies in the process of collecting, designing and using information;

(c) The information should take into account economic and social indicators, including, where appropriate, health and health status, infant and maternal mortality, life expectancy, literacy, education, employment, housing, land ownership, mental and physical health care, water, sanitation, energy and communications services, poverty and average disposable income, in order to elaborate social and economic development policies with a view to closing the existing gaps in social and economic conditions;

93. *Invites* States, intergovernmental organizations, non-governmental organizations, academic institutions and the private sector to improve concepts and methods of data collection and analysis; to promote research, exchange experiences and successful practices and develop promotional activities in this area; and to develop indicators of progress and participation of individuals and groups of individuals in society subject to racism, racial discrimination, xenophobia and related intolerance;

94. *Recognizes* that policies and programmes aimed at combating racism, racial discrimination, xenophobia and related intolerance should be based on quantitative and qualitative research, incorporating a gender perspective. Such policies and programmes should take into account priorities identified by individuals and groups of individuals who are



victims of, or subject to, racism, racial discrimination, xenophobia and related intolerance;

95. *Urges* States to establish regular monitoring of acts of racism, racial discrimination, xenophobia and related intolerance in the public and private sectors, including those committed by law enforcement officials;

96. *Invites* States to promote and conduct studies and adopt an integral, objective and long-term approach to all phases and aspects of migration which will deal effectively with both its causes and manifestations. These studies and approaches should pay special attention to the root causes of migratory flows, such as lack of full enjoyment of human rights and fundamental freedoms, and the effects of economic globalization on migration trends;

97. *Recommends* that further studies be conducted on how racism, racial discrimination, xenophobia and related intolerance may be reflected in laws, policies, institutions and practices and how this may have contributed to the victimization and exclusion of migrants, especially women and children;

98. *Recommends* that States include, where applicable, in their periodic reports to United Nations human rights treaty bodies, in an appropriate form, statistical information relating to individuals, members of groups and communities within their jurisdiction, including statistical data on participation in political life and on their economic, social and cultural situation. All such information shall be collected in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees;

Action-oriented policies and action plans, including affirmative action to ensure non-discrimination, in particular as regards access to social services, employment, housing, education, health care, etc.

99. *Recognizes* that combating racism, racial discrimination, xenophobia and related intolerance is a primary responsibility of States. It therefore encourages States to develop or elaborate national action plans to promote diversity, equality, equity, social justice, equality of opportunity and the participation of all. Through, among other things, affirmative or positive actions and strategies, these plans should aim at creating conditions for all to participate effectively in decision-making and realize civil, cultural, economic, political and social rights in all spheres of life on the basis of non-discrimination. The World Conference encourages States, in developing and elaborating such action plans, to establish, or reinforce, dialogue with non-governmental organizations in order to involve them more closely in designing, implementing and evaluating policies and programmes;

100. *Urges* States to establish, on the basis of statistical information, national programmes, including affirmative or positive measures, to promote the access of individuals and groups of individuals who are or may be victims of racial discrimination to basic social services, including primary education, basic health care and adequate housing;

101. *Urges* States to establish programmes to promote the access without discrimination of individuals or groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance to health care, and to pro-



mote strong efforts to eliminate disparities, inter alia in the infant and maternal mortality rates, childhood immunizations, HIV/AIDS, heart diseases, cancer and contagious diseases;

102. *Urges* States to promote residential integration of all members of the society at the planning stage of urban development schemes and other human settlements, as well as while renewing neglected areas of public housing, so as to counter social exclusion and marginalization;

Employment

103. *Urges* States to promote and support where appropriate the organization and operation of enterprises owned by persons who are victims of racism, racial discrimination, xenophobia and related intolerance by promoting equal access to credit and to training programmes;

104. *Urges* States and encourages non-governmental organizations and the private sector:

(a) To support the creation of workplaces free of discrimination through a multifaceted strategy that includes civil rights enforcement, public education and communication within the workplace, and to promote and protect the rights of workers who are subject to racism, racial discrimination, xenophobia and related intolerance;

(b) To foster the creation, growth and expansion of businesses dedicated to improving economic and educational conditions in underserved and disadvantaged areas, by increasing access to capital through,

inter alia, community development banks, recognizing that new businesses can have a positive, dynamic impact on communities in need, and to work with the private sector to create jobs, help retain existing jobs and stimulate industrial and commercial growth in economically distressed areas;

(c) To improve the prospects of targeted groups facing, inter alia, the greatest obstacles in finding, keeping or regaining work, including skilled employment. Particular attention should be paid to persons subject to multiple discrimination;

105. *Urges* States to give special attention, when devising and implementing legislation and policies designed to enhance the protection of workers' rights, to the serious situation of lack of protection, and in some cases exploitation, as in the case of trafficked persons and smuggled migrants, which makes them more vulnerable to ill-treatment such as confinement in the case of domestic workers and also being employed in dangerous and poorly paid jobs;

106. *Urges* States to avoid the negative effects of discriminatory practices, racism and xenophobia in employment and occupation by promoting the application and observance of international instruments and norms on workers' rights;

107. *Calls upon* States and encourages representative trade unions and the business sector to advance non-discriminatory practices in the workplace and protect the rights of workers, including, in particular, the victims of racism, racial discrimination, xenophobia and related intolerance;



108. *Calls upon* States to provide effective access to administrative and legal procedures and other remedial action to victims of racism, racial discrimination, xenophobia and related intolerance in the workplace;

Health, Environment

109. *Urges* States, individually and through international cooperation, to enhance measures to fulfil the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, with a view to eliminating disparities in health status, as indicated in standard health indexes, which might result from racism, racial discrimination, xenophobia and related intolerance;

110. *Urges* States and encourages non-governmental organizations and the private sector:

(a) To provide effective mechanisms for monitoring and eliminating racism, racial discrimination, xenophobia and related intolerance in the health-care system, such as the development and enforcement of effective anti-discrimination laws;

(b) To take steps to ensure equal access to comprehensive, quality health care affordable for all, including primary health care for medically underserved people, facilitate the training of a health workforce that is both diverse and motivated to work in underserved communities, and work to increase diversity in the health-care profession by recruiting on merit



and potential women and men from all groups, representing the diversity of their societies, for health-care careers and by retaining them in the health professions;

(c) To work with health-care professionals, community-based health providers, non-governmental organizations, scientific researchers and private industry as a means of improving the health status of marginalized communities, in particular victims of racism, racial discrimination, xenophobia and related intolerance;

(d) To work with health professionals, scientific researchers and international and regional health organizations to study the differential impact of medical treatments and health strategies on various communities;

(e) To adopt and implement policies and programmes to improve HIV/AIDS prevention efforts in high-risk communities and work to expand availability of HIV/AIDS care, treatment and other support services;

111. *Invites* States to consider non-discriminatory measures to provide a safe and healthy environment for individuals and groups of individuals victims of or subject to racism, racial discrimination, xenophobia and related intolerance, and in particular:

(a) To improve access to public information on health and environment issues;



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- (b) To ensure that relevant concerns are taken into account in the public process of decision-making on the environment;
 - (c) To share technology and successful practices to improve human health and environment in all areas;
 - (d) To take appropriate remedial measures, as possible, to clean, re-use and redevelop contaminated sites and, where appropriate, relocate those affected on a voluntary basis after consultations;

Equal participation in political, economic, social and cultural decision-making

112. *Urges* States and encourages the private sector and international financial and development institutions, such as the World Bank and regional development banks, to promote participation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance in economic, cultural and social decision-making at all stages, particularly in the development and implementation of poverty alleviation strategies, development projects, and trade and market assistance programmes;

113. *Urges* States to promote, as appropriate, effective and equal access of all members of the community, especially those who are victims of racism, racial discrimination, xenophobia and related intolerance, to the decision-making process in society at all levels and in particular at the local level, and also urges States and encourages the private sec-

tor to facilitate their effective participation in economic life;

114. *Urges* all multilateral financial and development institutions, in particular the World Bank, the International Monetary Fund, the World Trade Organization and regional development banks, to promote, in accordance with their regular budgets and the procedures of their governing bodies, participation by all members of the international community in decision-making processes at all stages and levels in order to facilitate development projects and, as appropriate, trade and market access programmes;

Role of politicians and political parties

115. *Underlines* the key role that politicians and political parties can play in combating racism, racial discrimination, xenophobia and related intolerance and encourages political parties to take concrete steps to promote equality, solidarity and non-discrimination in society, inter alia by developing voluntary codes of conduct which include internal disciplinary measures for violations thereof, so their members refrain from public statements and actions that encourage or incite racism, racial discrimination, xenophobia and related intolerance;

116. *Invites* the Inter-Parliamentary Union to encourage debate in, and action by, parliaments on various measures, including laws and policies, to combat racism, racial discrimination, xenophobia and related intolerance;

Education and awareness-raising measures

117. *Urges* States, where appropriate working with other



relevant bodies, to commit financial resources to anti-racism education and to media campaigns promoting the values of acceptance, tolerance, diversity and respect for the cultures of all indigenous peoples living within their national borders. In particular, States should promote an accurate understanding of the histories and cultures of indigenous peoples;

118. *Urges* the United Nations, other appropriate international and regional organizations and States to redress the marginalization of Africa's contribution to world history and civilization by developing and implementing a specific and comprehensive programme of research, education and mass communication to disseminate widely a balanced and objective presentation of Africa's seminal and valuable contribution to humanity;

119. *Invites* States and relevant international organizations and non-governmental organizations to build upon the efforts of the Slave Route Project of the United Nations Educational Scientific and Cultural Organization and its theme of "Breaking the silence" by developing texts and testimony, slavery multi-media centres and/or programmes that will collect, record, organize, exhibit and publish the existing data relevant to the history of slavery and the trans-Atlantic, Mediterranean and Indian Ocean slave trades, paying particular attention to the thoughts and actions of the victims of slavery and the slave trade, in their quest for freedom and justice;

120. *Salutes* the efforts of the United Nations Educational, Scientific and Cultural Organization made within the framework of the Slave Route Project and requests that the out-

come be made available to the international community as soon as possible;

Access to education without discrimination

121. *Urges* States to commit themselves to ensuring access to education, including access to free primary education for all children, both girls and boys, and access for adults to life-long learning and education, based on respect for human rights, diversity and tolerance, without discrimination of any kind;

122. *Urges* States to ensure equal access to education for all in law and in practice, and to refrain from any legal or any other measures leading to imposed racial segregation in any form in access to schooling;

123. *Urges* States:

- (a) To adopt and implement laws that prohibit discrimination on the basis of race, colour, descent or national or ethnic origin at all levels of education, both formal and non-formal;
- (b) To take all appropriate measures to eliminate obstacles limiting the access of children to education;
- (c) To ensure that all children have access without discrimination to education of good quality;
- (d) To establish and implement standardized methods to measure and track the educational perform-



ance of disadvantaged children and young people;

(e) To commit resources to eliminate, where they exist, inequalities in educational outcomes for children and young people;

(f) To support efforts to ensure safe school environments, free from violence and harassment motivated by racism, racial discrimination, xenophobia or related intolerance; and

(g) To consider establishing financial assistance programmes designed to enable all students, regardless of race, colour, descent or ethnic or national origin, to attend institutions of higher education;

124. *Urges* States to adopt, where applicable, appropriate measures to ensure that persons belonging to national or ethnic, religious and linguistic minorities have access to education without discrimination of any kind and, where possible, have an opportunity to learn their own language in order to protect them from any form of racism, racial discrimination, xenophobia and related intolerance that they may be subjected to;

Human rights education

125. *Requests* States to include the struggle against racism, racial discrimination, xenophobia and related intolerance



among the activities undertaken within the framework of the United Nations Decade for Human Rights Education (1995-2004) and to take into account the recommendations of the mid-term evaluation report of the Decade;

126. *Encourages* all States, in cooperation with the United Nations, the United Nations Educational, Scientific and Cultural Organization and other relevant international organizations, to initiate and develop cultural and educational programmes aimed at countering racism, racial discrimination, xenophobia and related intolerance, in order to ensure respect for the dignity and worth of all human beings and enhance mutual understanding among all cultures and civilizations. It further urges States to support and implement public information campaigns and specific training programmes in the field of human rights, where appropriate formulated in local languages, to combat racism, racial discrimination, xenophobia and related intolerance and promote respect for the values of diversity, pluralism, tolerance, mutual respect, cultural sensitivity, integration and inclusiveness. Such programmes and campaigns should be addressed to all sectors of society, in particular children and young people;

127. *Urges* States to intensify their efforts in the field of education, including human rights education, in order to promote an understanding and awareness of the causes, consequences and evils of racism, racial discrimination, xenophobia and related intolerance, and also urges States, in consultation with educational authorities and the private sector, as appropriate, and encourages educational authorities and the private sector, as appropriate, to develop educational materials, including textbooks and dictionaries, aimed at combat-



ing those phenomena and, in this context, calls upon States to give importance, if appropriate, to textbook and curriculum review and amendment, so as to eliminate any elements that might promote racism, racial discrimination, xenophobia and related intolerance or reinforce negative stereotypes, and to include material that refutes such stereotypes;

128. *Urges* States, if appropriate in cooperation with relevant organizations, including youth organizations, to support and implement public formal and non-formal education programmes designed to promote respect for cultural diversity;

Human rights education for children and youth

129. *Urges* States to introduce and, as applicable, to reinforce anti-discrimination and anti-racism components in human rights programmes in school curricula, to develop and improve relevant educational material, including history and other textbooks, and to ensure that all teachers are effectively trained and adequately motivated to shape attitudes and behavioural patterns, based on the principles of non-discrimination, mutual respect and tolerance;

130. *Calls upon* States to undertake and facilitate activities aimed at educating young people in human rights and democratic citizenship and instilling values of solidarity, respect and appreciation of diversity, including respect for different groups. A special effort to inform and sensitize young people to respect democratic values and human rights should be undertaken or developed to fight against ideologies based on the fallacious theory of racial superiority;

131. *Urges* States to encourage all schools to consider developing educational activities, including extracurricular ones, to raise awareness against racism, racial discrimination, xenophobia and related intolerance, inter alia by commemorating the International Day for the Elimination of Racial Discrimination (21 March);

132. *Recommends* that States introduce, or reinforce, human rights education, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship between different racial or ethnic groups, in schools and in institutions of higher education, and support public formal and non-formal education programmes designed to promote respect for cultural diversity and the self-esteem of victims;

Human rights education for public officials and professionals

133. *Urges* States to develop and strengthen anti-racist and gender-sensitive human rights training for public officials, including personnel in the administration of justice, particularly in law enforcement, correctional and security services, as well as among health-care, schools and migration authorities;

134. *Urges* States to pay specific attention to the negative impact of racism, racial discrimination, xenophobia and related intolerance on the administration of justice and fair trial, and to conduct nationwide campaigns, amongst other measures, to raise awareness among State organs and public officials concerning their obligations under the International



Convention on the Elimination of All Forms of Racial Discrimination and other relevant instruments;

135. *Requests* States, wherever appropriate through cooperation with international organizations, national institutions, non-governmental organizations and the private sector, to organize and facilitate training activities, including courses or seminars, on international norms prohibiting racial discrimination and their applicability in domestic law, as well as on their international human rights obligations, for prosecutors, members of the judiciary and other public officials;

136. *Calls upon* States to ensure that education and training, especially teacher training, promote respect for human rights and the fight against racism, racial discrimination, xenophobia and related intolerance and that educational institutions implement policies and programmes agreed by the relevant authorities on equal opportunities, anti-racism, gender equality, and cultural, religious and other diversity, with the participation of teachers, parents and students, and follow up their implementation. It further urges all educators, including teachers at all levels of education, religious communities and the print and electronic media, to play an effective role in human rights education, including as a means to combat racism, racial discrimination, xenophobia and related intolerance;

137. *Encourages* States to consider taking measures to increase the recruitment, retention and promotion of women and men belonging to groups which are currently under-represented in the teaching profession as a result of racism, racial discrimination, xenophobia and related intolerance, and to

guarantee them effective equality of access to the profession. Particular efforts should be made to recruit women and men who have the ability to interact effectively with all groups;

138. *Urges* States to strengthen the human rights training and awareness-raising activities designed for immigration officials, border police and staff of detention centres and prisons, local authorities and other civil servants in charge of enforcing laws, as well as teachers, with particular attention to the human rights of migrants, refugees and asylum-seekers, in order to prevent acts of racial discrimination and xenophobia and to avoid situations where prejudices lead to decisions based on racism, racial discrimination, xenophobia or related intolerance;

139. *Urges* States to provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society;

Information, communication and the media, including new technologies

140. *Welcomes* the positive contribution made by the new information and communications technologies, including the



Internet, in combating racism through rapid and wide-reaching communication;

141. *Draws attention* to the potential to increase the use of the new information and communications technologies, including the Internet, to create educational and awareness-raising networks against racism, racial discrimination, xenophobia and related intolerance, both in and out of school, as well as the ability of the Internet to promote universal respect for human rights and also respect for the value of cultural diversity;

142. *Emphasizes* the importance of recognizing the value of cultural diversity and of putting in place concrete measures to encourage the access of marginalized communities to the mainstream and alternative media through, inter alia, the presentation of programmes that reflect their cultures and languages;

143. *Expresses concern* at the material progression of racism, racial discrimination, xenophobia and related intolerance, including their contemporary forms and manifestations, such as the use of the new information and communications technologies, including the Internet, to disseminate ideas of racial superiority;

144. *Urges* States and encourages the private sector to promote the development by the media, including the print and electronic media, including the Internet and advertising, taking into account their independence, through their relevant associations and organizations at the national, regional and international levels, of a voluntary ethical code of conduct

and self-regulatory measures, and of policies and practices aimed at:

- (a) Combating racism, racial discrimination, xenophobia and related intolerance;
- (b) Promoting the fair, balanced and equitable representation of the diversity of their societies, as well as ensuring that this diversity is reflected among their staff;
- (c) Combating the proliferation of ideas of racial superiority, justification of racial hatred and discrimination in any form;
- (d) Promoting respect, tolerance and understanding among all individuals, peoples, nations and civilizations, for example through assistance in public awareness-raising campaigns;
- (e) Avoiding stereotyping in all its forms, and particularly the promotion of false images of migrants, including migrant workers, and refugees, in order to prevent the spread of xenophobic sentiments among the public and to encourage the objective and balanced portrayal of people, events and history;

145. *Urges* States to implement legal sanctions, in accordance with relevant international human rights law, in respect of incitement to racial hatred through new information and communications technologies, including the Internet, and further urges them to apply all relevant human



rights instruments to which they are parties, in particular the International Convention on the Elimination of All Forms of Racial Discrimination, to racism on the Internet;

146. *Urges* States to encourage the media to avoid stereotyping based on racism, racial discrimination, xenophobia and related intolerance;

147. *Calls upon* States to consider the following, taking fully into account existing international and regional standards on freedom of expression, while taking all necessary measures to guarantee the right to freedom of opinion and expression:

(a) Encouraging Internet service providers to establish and disseminate specific voluntary codes of conduct and self-regulatory measures against the dissemination of racist messages and those that result in racial discrimination, xenophobia or any form of intolerance and discrimination; to that end, Internet providers are encouraged to set up mediating bodies at national and international levels, involving relevant civil society institutions;

(b) Adopting and applying, to the extent possible, appropriate legislation for prosecuting those responsible for incitement to racial hatred or violence through the new information and communications technologies, including the Internet;

(c) Addressing the problem of dissemination of racist material through the new information and com-

munications technologies, including the Internet, inter alia by imparting training to law enforcement authorities;

(d) Denouncing and actively discouraging the transmission of racist and xenophobic messages through all communications media, including new information and communications technologies, such as the Internet;

(e) Considering a prompt and coordinated international response to the rapidly evolving phenomenon of the dissemination of hate speech and racist material through the new information and communications technologies, including the Internet; and in this context strengthening international cooperation;

(f) Encouraging access and use by all people of the Internet as an international and equal forum, aware that there are disparities in use of and access to the Internet;

(g) Examining ways in which the positive contribution made by the new information and communications technologies, such as the Internet, can be enhanced through replication of good practices in combating racism, racial discrimination, xenophobia and related intolerance;

(h) Encouraging the reflection of the diversity of societies among the personnel of media organizations and the new information and communications technologies, such as the Internet, by promoting adequate



representation of different segments within societies at all levels of their organizational structure;

INTERNATIONAL LEVEL

148. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

149. *Believes* that all conflicts and disputes should be resolved through peaceful means and political dialogue. The Conference calls on all parties involved in such conflicts to exercise restraint and to respect human rights and international humanitarian law;

150. *Calls upon* States, in opposing all forms of racism, to recognize the need to counter anti-Semitism, anti-Arabism and Islamophobia world-wide, and urges all States to take effective measures to prevent the emergence of movements based on racism and discriminatory ideas concerning these communities;

151. As for the situation in the Middle East, *calls for* the end of violence and the swift resumption of negotiations, respect for international human rights and humanitarian law, respect for the principle of self-determination and the end of all suffering, thus allowing Israel and the Palestinians to resume the peace process, and to develop and prosper in security and freedom;

152. *Encourages* States, regional and international organizations, including financial institutions, as well as civil society, to address within existing mechanisms, or where necessary to put in place and/or develop mechanisms, to address those aspects of globalization which may lead to racism, racial discrimination, xenophobia and related intolerance;

153. *Recommends* that the Department of Peacekeeping Operations of the Secretariat and other concerned United Nations agencies, bodies and programmes strengthen their coordination to discern patterns of serious violations of human rights and humanitarian law with a view to assessing the risk of further deterioration that could lead to genocide, war crimes or crimes against humanity;

154. *Encourages* the World Health Organization and other relevant international organizations to promote and develop activities for the recognition of the impact of racism, racial discrimination, xenophobia and related intolerance as significant social determinants of physical and mental health status, including the HIV/AIDS pandemic, and access to health care, and to prepare specific projects, including research, to ensure equitable health systems for the victims;

155. *Encourages* the International Labour Organization to carry out activities and programmes to combat racism, racial discrimination, xenophobia and related intolerance in the world of work, and to support actions of States, employers' organizations and trade unions in this field;

156. *Urges* the United Nations Educational, Scientific and Cultural Organization to provide support to States in the



preparation of teaching materials and tools for promoting teaching, training and educational activities relating to human rights and the struggle against racism, racial discrimination, xenophobia and related intolerance;

IV. PROVISION OF EFFECTIVE REMEDIES, RECOURSE, REDRESS, AND OTHER MEASURES AT THE NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

157. *Recognizes* the efforts of developing countries, in particular the commitment and the determination of the African leaders, to seriously address the challenges of poverty, underdevelopment, marginalization, social exclusion, economic disparities, instability and insecurity, through initiatives such as the New African Initiative and other innovative mechanisms such as the World Solidarity Fund for the Eradication of Poverty, and calls upon developed countries, the United Nations and its specialized agencies, as well as international financial institutions, to provide, through their operational programmes, new and additional financial resources, as appropriate, to support these initiatives;

158. *Recognizes* that these historical injustices have undeniably contributed to the poverty, underdevelopment, marginalization, social exclusion, economic disparities, instability and insecurity that affect many people in different parts of the world, in particular in developing countries. The Conference recognizes the need to develop programmes for the social and economic development of these societies and the Diaspora, within the framework of a new partnership



based on the spirit of solidarity and mutual respect, in the following areas:

- ◆ Debt relief;
- ◆ Poverty eradication;
- ◆ Building or strengthening democratic institutions;
- ◆ Promotion of foreign direct investment;
- ◆ Market access;
- ◆ Intensifying efforts to meet the internationally agreed targets for official development assistance transfers to developing countries;
- ◆ New information and communication technologies bridging the digital divide;
- ◆ Agriculture and food security;
- ◆ Transfer of technology;
- ◆ Transparent and accountable governance;
- ◆ Investment in health infrastructure tackling HIV/AIDS, tuberculosis and malaria, including through the Global AIDS and Health Fund;
- ◆ Infrastructure development;
- ◆ Human resource development, including capacity-building;
- ◆ Education, training and cultural development;
- ◆ Mutual legal assistance in the repatriation of illegally obtained and illegally transferred (stashed) funds, in accordance with national and international instruments;



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- ◆ Illicit traffic in small arms and light weapons;
 - ◆ Restitution of art objects, historical artefacts and documents to their countries of origin, in accordance with bilateral agreements or international instruments;
 - ◆ Trafficking in persons, particularly women and children;
 - ◆ Facilitation of welcomed return and resettlement of the descendants of enslaved Africans;

159. *Urges* international financial and development institutions and the operational programmes and specialized agencies of the United Nations to give greater priority to, and allocate appropriate funding for, programmes addressing the development challenges of the affected States and societies, in particular those on the African continent and in the Diaspora;

LEGAL ASSISTANCE

160. *Urges* States to take all necessary measures to address, as a matter of urgency, the pressing requirement for justice for the victims of racism, racial discrimination, xenophobia and related intolerance and to ensure that victims have full access to information, support, effective protection and national, administrative and judicial remedies, including the right to seek just and adequate reparation or satisfaction for damage, as well as legal assistance, where required;

161. *Urges* States to facilitate for victims of racial discrimination, including victims of torture and ill-treatment, access to all appropriate legal procedures and free legal assistance in

a manner adapted to their specific needs and vulnerability, including through legal representation;

162. *Urges* States to ensure the protection against victimization of complainants and witnesses of acts of racism, racial discrimination, xenophobia and related intolerance, and to consider measures such as, where appropriate, making legal assistance, including legal aid, available to complainants seeking a legal remedy and, if possible, affording the possibility for non-governmental organizations to support complainants of racism, with their consent, in legal procedures;

NATIONAL LEGISLATION AND PROGRAMMES

163. For the purposes of effectively combating racism and racial discrimination, xenophobia and related intolerance in the civil, political, economic, social and cultural fields, the Conference *recommends* to all States that their national legislative framework should expressly and specifically prohibit racial discrimination and provide effective judicial and other remedies or redress, including through the designation of national, independent, specialized bodies;

164. *Urges* States, with regard to the procedural remedies provided for in their domestic law, to bear in mind the following considerations:

- (a) Access to such remedies should be widely available, on a non-discriminatory and equal basis;
- (b) Existing procedural remedies should be made known in the context of the relevant action, and victims



of racial discrimination should be helped to avail themselves of them in accordance with the particular case;

(c) Inquiries into complaints of racial discrimination and the adjudication of such complaints must be carried out as rapidly as possible;

(d) Persons who are victims of racial discrimination should be accorded legal assistance and aid in complaint proceedings, where applicable free of charge, and, where necessary, should be provided with the help of competent interpreters in such complaint proceedings or in any civil or criminal cases arising therefrom or connected thereto;

(e) The creation of competent national bodies to investigate effectively allegations of racial discrimination and to give protection to complainants against intimidation or harassment is a desirable development and should be undertaken; steps should be taken towards the enactment of legislation to prohibit discriminatory practices on grounds of race, colour, descent, or national or ethnic origin, and to provide for the application of appropriate penalties against offenders and remedies, including adequate compensation, for the victims;

(f) Access to legal remedies should be facilitated for victims of discrimination and, in this regard, the innovation of conferring a capacity on national and other institutions, as well as relevant non-governmental organizations, to assist such victims should be seri-

ously considered, and programmes should be developed to enable the most vulnerable groups to have access to the legal system;

(g) New and innovative methods and procedures of conflict resolution, mediation and conciliation between parties involved in conflicts or disputes based on racism, racial discrimination, xenophobia and related intolerance should be explored and, where possible, established;

(h) The development of restorative justice policies and programmes for the benefit of victims of relevant forms of discrimination is desirable and should be seriously considered;

(i) States which have made the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination should make increased efforts to inform their public of the existence of the complaints mechanism under article 14;

REMEDIES, REPARATIONS, COMPENSATION

165. *Urges* States to reinforce protection against racism, racial discrimination, xenophobia and related intolerance by ensuring that all persons have access to effective and adequate remedies and enjoy the right to seek from competent national tribunals and other national institutions just and adequate reparation and satisfaction for any damage as a result of such discrimination. It further underlines the importance of access



to the law and to the courts for complainants of racism and racial discrimination and draws attention to the need for judicial and other remedies to be made widely known, easily accessible, expeditious and not unduly complicated;

166. *Urges* States to adopt the necessary measures, as provided by national law, to ensure the right of victims to seek just and adequate reparation and satisfaction to redress acts of racism, racial discrimination, xenophobia and related intolerance, and to design effective measures to prevent the repetition of such acts;

V. STRATEGIES TO ACHIEVE FULL AND EFFECTIVE EQUALITY, INCLUDING INTERNATIONAL COOPERATION AND ENHANCEMENT OF THE UNITED NATIONS AND OTHER INTERNATIONAL MECHANISMS IN COMBATING RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE AND FOLLOW-UP

167. *Calls upon* States to apply diligently all commitments undertaken by them in the declarations and plans of action of the regional conferences in which they participated, and to formulate national policies and action plans to combat racism, racial discrimination, xenophobia and related intolerance in compliance with the objectives set forth therein, and as provided for in other relevant instruments and decisions; and further requests that, in cases where such national policies and action plans to combat racism, racial discrimination, xenophobia and related intolerance already exist, States incorporate in them the commitments arising from their regional conferences;



168. *Urges* States that have not yet done so to consider acceding to the Geneva Conventions of 12 August 1949 and their two Additional Protocols of 1977, as well as to other treaties of international humanitarian law, and to enact, with the highest priority, appropriate legislation, taking the measures required to give full effect to their obligations under international humanitarian law, in particular in relation to the rules prohibiting discrimination;

169. *Urges* States to develop cooperation programmes to promote equal opportunities for the benefit of victims of racism, racial discrimination, xenophobia and related intolerance and encourages them to propose the creation of multi-lateral cooperation programmes with the same objective;

170. *Invites* States to include the subject of the struggle against racism, racial discrimination, xenophobia and related intolerance in the work programmes of the regional integration agencies and of the regional cross-boundary dialogue forums;

171. *Urges* States to recognize the challenges that people of different socially constructed races, colours, descent, national or ethnic origins, religions and languages experience in seeking to live together and to develop harmonious multiracial and multicultural societies; also urges States to recognize that the positive examples of relatively successful multiracial and multicultural societies, such as some of those in the Caribbean region, need to be examined and analysed, and that techniques, mechanisms, policies and programmes for reconciling conflicts based on factors related to race, colour, descent, language, religion, or national or ethnic origin and



for developing harmonious multiracial and multicultural societies need to be systematically considered and developed, and therefore requests the United Nations and its relevant specialized agencies to consider establishing an international centre for multiracial and multicultural studies and policy development to undertake this critical work for the benefit of the international community;

172. *Urges* States to protect the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and to develop appropriate legislative and other measures to encourage conditions for the promotion of that identity, in order to protect them from any form of racism, racial discrimination, xenophobia and related intolerance. In this context, forms of multiple discrimination should be fully taken into account;

173. *Further urges* States to ensure the equal protection and promotion of the identities of the historically disadvantaged communities in those unique circumstances where this may be appropriate;

174. *Urges* States to take or strengthen measures, including through bilateral or multilateral cooperation, to address root causes, such as poverty, underdevelopment and lack of equal opportunity, some of which may be associated with discriminatory practices, that make persons, especially women and children, vulnerable to trafficking, which may give rise to racism, racial discrimination, xenophobia and related intolerance;

175. *Encourages* States, in cooperation with non-governmental organizations, to undertake campaigns aimed at clar-

ifying opportunities, limitations and rights in the event of migration, so as to enable everyone, in particular women, to make informed decisions and to prevent them from becoming victims of trafficking;

176. *Urges* States to adopt and implement social development policies based on reliable statistical data and centred on the attainment, by the year 2015, of the commitments to meet the basic needs of all set forth in paragraph 36 of the Programme of Action of the World Summit for Social Development, held at Copenhagen in 1995, with a view to closing significantly the existing gaps in living conditions faced by victims of racism, racial discrimination, xenophobia and related intolerance, especially regarding the illiteracy rate, universal primary education, infant mortality, under-five child mortality, health, reproductive health care for all and access to safe drinking water. Promotion of gender equality will also be taken into account in the adoption and implementation of these policies;

INTERNATIONAL LEGAL FRAMEWORK

177. *Urges* States to continue cooperating with the Committee on the Elimination of Racial Discrimination and other human rights treaty monitoring bodies in order to promote, including by means of a constructive and transparent dialogue, the effective implementation of the instruments concerned and proper consideration of the recommendations adopted by these bodies with regard to complaints of racism, racial discrimination, xenophobia and related intolerance;



178. *Requests* adequate resources for the Committee on the Elimination of Racial Discrimination in order to enable it to discharge its mandate fully and stresses the importance of providing adequate resources for all the United Nations human rights treaty bodies;

GENERAL INTERNATIONAL INSTRUMENTS

179. *Endorses* efforts of the international community, in particular steps taken under the auspices of the United Nations Educational, Scientific and Cultural Organization, to promote respect for and preserve cultural diversity within and between communities and nations with a view to creating a harmonious multicultural world, including elaboration of a possible international instrument in this respect in a manner consistent with international human rights instruments;

180. *Invites* the United Nations General Assembly to consider elaborating an integral and comprehensive international convention to protect and promote the rights and dignity of disabled people, including, especially, provisions that address the discriminatory practices and treatment affecting them;

REGIONAL/INTERNATIONAL COOPERATION

181. *Invites* the Inter-Parliamentary Union to contribute to the activities of the International Year of Mobilization against Racism, Racial Discrimination, Xenophobia and Related Intolerance by encouraging national parliaments to review progress on the objectives of the Conference;



182. *Encourages* States to participate in regional dialogues on problems of migration and invites them to consider negotiating bilateral and regional agreements on migrant workers and designing and implementing programmes with States of other regions to protect the rights of migrants;

183. *Urges* States, in consultation with civil society, to support or otherwise establish, as appropriate, regional, comprehensive dialogues on the causes and consequences of migration that focus not only on law enforcement and border control, but also on the promotion and protection of the human rights of migrants and on the relationship between migration and development;

184. *Encourages* international organizations having mandates dealing specifically with migration issues to exchange information and coordinate their activities on matters involving racism, racial discrimination, xenophobia and related intolerance against migrants, including migrant workers, with the support of the Office of the United Nations High Commissioner for Human Rights;

185. *Expresses its deep concern* over the severity of the humanitarian suffering of affected civilian populations and the burden carried by many receiving countries, particularly developing countries and countries in transition, and requests the relevant international institutions to ensure that urgent adequate financial and humanitarian assistance is maintained for the host countries to enable them to help the victims and to address, on an equitable basis, difficulties of populations expelled from their homes, and calls for sufficient safeguards



to enable refugees to exercise freely their right of return to their countries of origin voluntarily, in safety and dignity;

186. *Encourages* States to conclude bilateral, subregional, regional and international agreements to address the problem of trafficking in women and children, in particular girls, as well as the smuggling of migrants;

187. *Calls upon* States, to promote, as appropriate, exchanges at the regional and international levels among independent national institutions and, as applicable, other relevant independent bodies with a view to enhancing cooperation to combat racism, racial discrimination, xenophobia and related intolerance;

188. *Urges* States to support the activities of regional bodies or centres which combat racism, racial discrimination, xenophobia and related intolerance where they exist in their region, and recommends the establishment of such bodies or centres in all regions where they do not exist. These bodies or centres may undertake the following activities, amongst others: assess and follow up the situation of racism, racial discrimination, xenophobia and related intolerance, and of individuals or groups of individuals who are victims thereof or subject thereto; identify trends, issues and problems; collect, disseminate and exchange information, inter alia relevant to the outcome of the regional conferences and the World Conference, and build networks to these ends; highlight examples of good practices; organize awareness-raising campaigns; develop proposals, solutions and preventive measures, where possible and appropriate, through joint efforts by coor-

minating with the United Nations, regional organizations and States and national human rights institutions;

189. *Urges* international organizations, within their mandates, to contribute to the fight against racism, racial discrimination, xenophobia and related intolerance;

190. *Encourages* financial and development institutions and the operational programmes and specialized agencies of the United Nations, in accordance with their regular budgets and the procedures of their governing bodies:

(a) To assign particular priority and allocate sufficient funding, within their areas of competence and budgets, to improve the situation of victims of racism, racial discrimination, xenophobia and related intolerance in order to combat manifestations of racism, racial discrimination, xenophobia and related intolerance, and to include them in the development and implementation of projects concerning them;

(b) To integrate human rights principles and standards into their policies and programmes;

(c) To consider including in their regular reporting to their boards of governors information on their contribution to promoting the participation of victims of racism, racial discrimination, xenophobia and related intolerance within their programmes and activities,



and information on the efforts taken to facilitate such participation and to ensure that these policies and practices contribute to the eradication of racism, racial discrimination, xenophobia and related intolerance;

(d) To examine how their policies and practices affect victims of racism, racial discrimination, xenophobia and related intolerance, and to ensure that these policies and practices contribute to the eradication of racism, racial discrimination, xenophobia and related intolerance;

191.

(a) *Calls upon* States to elaborate action plans in consultation with national human rights institutions, other institutions created by law to combat racism, and civil society and to provide the United Nations High Commissioner for Human Rights with such action plans and other relevant materials on the measures undertaken in order to implement provisions of the present Declaration and the Programme of Action;

(b) *Requests* the United Nations High Commissioner for Human Rights, in follow-up to the Conference, to cooperate with five independent eminent experts, one from each region, appointed by the Secretary-General from among candidates proposed by the Chairperson of the Commission on Human Rights, after consultation with the regional groups, to follow the implementation of the provisions of the Declaration and Programme of Action. An annual progress report on



the implementation of these provisions will be presented by the High Commissioner to the Commission on Human Rights and to the General Assembly, taking into account information and views provided by States, relevant human rights treaty bodies, special procedures and other mechanisms of the Commission on Human Rights of the United Nations, international, regional and non-governmental organizations and national human rights institutions;

(c) *Welcomes* the intention of the United Nations High Commissioner for Human Rights to establish, within the Office of the High Commissioner for Human Rights, an anti-discrimination unit to combat racism, racial discrimination, xenophobia and related intolerance and to promote equality and non-discrimination, and invites her to consider the inclusion in its mandate of, inter alia, the compilation of information on racial discrimination and its development, and on legal and administrative support and advice to victims of racial discrimination and the collection of background materials provided by States, international, regional and non-governmental organizations and national human rights institutions under the follow-up mechanism of the Conference;

(d) *Recommends* that the Office of the High Commissioner for Human Rights, in cooperation with States, international, regional and non-governmental organizations and national human rights institutions, create a database containing information on practical means to address racism, racial discrimination, xeno-



phobia and related intolerance, particularly international and regional instruments and national legislation, including anti-discrimination legislation, as well as legal means to combat racial discrimination; remedies available through international mechanisms to victims of racial discrimination, as well as national remedies; educational and preventive programmes implemented in various countries and regions; best practices to address racism, racial discrimination, xenophobia and related intolerance; opportunities for technical cooperation; and academic studies and specialized documents; and ensure that such a database is as accessible as possible to those in authority and the public at large, through its Web site and by other appropriate means;

192. *Invites* the United Nations and the United Nations Educational, Scientific and Cultural Organization to continue to organize high-level and other meetings on the Dialogue among Civilizations and, for this purpose, to mobilize funds and promote partnerships;

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

193. *Encourages* the United Nations High Commissioner for Human Rights to continue and expand the appointment and designation of goodwill ambassadors in all countries of the world in order, inter alia, to promote respect for human rights and a culture of tolerance and to increase the level of awareness about the scourge of racism, racial discrimination, xenophobia and related intolerance;



194. *Calls upon* the Office of the High Commissioner for Human Rights to continue its efforts further to increase awareness of the work of the Committee on the Elimination of Racial Discrimination and the other United Nations human rights treaty bodies;

195. *Invites* the Office of the High Commissioner for Human Rights, in consultation with the United Nations Educational, Scientific and Cultural Organization, and non-governmental organizations active in the field of the promotion and protection of human rights, to undertake regular consultations with them and to encourage research activities aimed at collecting, maintaining and adapting the technical, scientific, educational and information materials produced by all cultures around the world to fight racism;

196. *Requests* the Office of the High Commissioner for Human Rights to pay special attention to violations of the human rights of victims of racism, racial discrimination, xenophobia and related intolerance, in particular migrants, including migrant workers, to promote international cooperation in combating xenophobia and, to this end, to develop programmes which can be implemented in countries on the basis of appropriate cooperation agreements;

197. *Invites* States to assist the Office of the High Commissioner for Human Rights in developing and funding, upon the request of States, specific technical cooperation projects aimed at combating racism, racial discrimination, xenophobia and related intolerance;



198.

(a) *Invites* the Commission on Human Rights to include in the mandates of the special rapporteurs and working groups of the Commission, in particular the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, recommendations that they consider the relevant provisions of the Declaration and the Programme of Action while exercising their mandates, in particular reporting to the General Assembly and the Commission on Human Rights, and also to consider any other appropriate means to follow up on the outcome on the Conference;

(b) *Calls upon* States to cooperate with the relevant special procedures of the Commission on Human Rights and other mechanisms of the United Nations in matters pertaining to racism, racial discrimination, xenophobia and related intolerance, in particular with the special rapporteurs, independent experts and special representatives;

199. *Recommends* that the Commission on Human Rights prepare complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects;

DECADES

200. *Urges* States and the international community to sup-



port the activities of the Third Decade to Combat Racism and Racial Discrimination;

201. *Recommends* that the General Assembly consider declaring a United Nations year or decade against trafficking in persons, especially in women, youth and children, in order to protect their dignity and human rights;

202. *Urges* States, in close cooperation with the United Nations Educational, Scientific and Cultural Organization, to promote the implementation of the Declaration and Programme of Action on a Culture of Peace and the objectives of the International Decade for a Culture of Peace and Non-Violence for the Children of the World, which started in 2001, and invites the United Nations Educational, Scientific and Cultural Organization to contribute to these activities;

INDIGENOUS PEOPLES

203. *Recommends* that the United Nations Secretary-General conduct an evaluation of the results of the International Decade of the World's Indigenous People (1995-2004) and make recommendations concerning how to mark the end of the Decade, including an appropriate follow-up;

204. *Requests* States to ensure adequate funding for the establishment of an operational framework and a firm basis for the future development of the Permanent Forum on Indigenous Issues within the United Nations system;

205. *Urges* States to cooperate with the work of the Special



Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and requests the Secretary-General and the United Nations High Commissioner for Human Rights to ensure that the Special Rapporteur is provided with all the necessary human, technical and financial resources to fulfil his responsibilities;

206. *Calls upon* States to conclude negotiations on and approve as soon as possible the text of the draft declaration on the rights of indigenous peoples, under discussion by the working group of the Commission on Human Rights to elaborate a draft declaration, in accordance with Commission resolution 1995/32 of 3 March 1995;

207. *Urges* States, in the light of the relationship between racism, racial discrimination, xenophobia and related intolerance and poverty, marginality and social exclusion of peoples and individuals at both the national and international levels, to enhance their policies and measures to reduce income and wealth inequalities and to take appropriate steps, individually and through international cooperation, to promote and protect economic, social and cultural rights on a non-discriminatory basis;

208. *Urges* States and international financial and development institutions to mitigate any negative effects of globalization by examining, inter alia, how their policies and practices affect national populations in general and indigenous peoples in particular; by ensuring that their policies and practices contribute to the eradication of racism through the participation of national populations and, in particular, indigenous peoples in development projects; by further democratizing

international financial institutions; and by consulting with indigenous peoples on any matter that may affect their physical, spiritual or cultural integrity;

209. *Invites* financial and development institutions and the operational programmes and specialized agencies of the United Nations, in accordance with their regular budgets and the procedures of their governing bodies:

(a) To assign particular priority to and allocate sufficient funding, within their areas of competence, to the improvement of the status of indigenous peoples, with special attention to the needs of these populations in developing countries, including the preparation of specific programmes with a view to achieving the objectives of the International Decade of the World's Indigenous People;

(b) To carry out special projects, through appropriate channels and in collaboration with indigenous peoples, to support their initiatives at the community level and to facilitate the exchange of information and technical know-how between indigenous peoples and experts in these areas;

CIVIL SOCIETY

210. *Calls upon* States to strengthen cooperation, develop partnerships and consult regularly with non-governmental organizations and all other sectors of the civil society to harness their experience and expertise, thereby contributing to the development of legislation, policies and other govern-



mental initiatives, as well as involving them more closely in the elaboration and implementation of policies and programmes designed to combat racism, racial discrimination, xenophobia and related intolerance;

211. *Urges* leaders of religious communities to continue to confront racism, racial discrimination, xenophobia and related intolerance through, inter alia, promotion and sponsoring of dialogue and partnerships to bring about reconciliation, healing and harmony within and among societies; invites religious communities to participate in promoting economic and social revitalization and encourages religious leaders to foster greater cooperation and contact between diverse racial groups;

212. *Urges* States to establish and strengthen effective partnerships with and provide support, as appropriate, to all relevant actors of civil society, including non-governmental organizations working to promote gender equality and the advancement of women, particularly women subject to multiple discrimination, and to promote an integrated and holistic approach to the elimination of all forms of discrimination against women and girls;

NON-GOVERNMENTAL ORGANIZATIONS

213. *Urges* States to provide an open and conducive environment to enable non-governmental organizations to function freely and openly within their societies and thereby make an effective contribution to the elimination of racism, racial discrimination, xenophobia and related intolerance throughout the world, and to promote a wider role for grass-roots organizations;



214. *Calls upon* States to explore means to expand the role of non-governmental organizations in society through, in particular, deepening the ties of solidarity amongst citizens and promoting greater trust across racial and social class divides by promoting wider citizen involvement and more voluntary cooperation;

THE PRIVATE SECTOR

215. *Urges* States to take measures, including, where appropriate, legislative measures, to ensure that transnational corporations and other foreign enterprises operating within their national territories conform to precepts and practices of non-racism and non-discrimination, and further encourages the business sector, including transnational corporations and foreign enterprises, to collaborate with trade unions and other relevant sectors of civil society to develop voluntary codes of conduct for all businesses, designed to prevent, address and eradicate racism, racial discrimination, xenophobia and related intolerance;

YOUTH

216. *Urges* States to encourage the full and active participation of, as well as involve more closely, youth in the elaboration, planning and implementation of activities to fight racism, racial discrimination, xenophobia and related intolerance, and calls upon States, in partnership with non-governmental organizations and other sectors of society, to facilitate both national and international youth dialogue on racism, racial discrimination, xenophobia and related intolerance,



through the World Youth Forum of the United Nations system and through the use of new technologies, exchanges and other means;

217. *Urges* States to encourage and facilitate the establishment and maintenance of youth mechanisms, set up by youth organizations and young women and men themselves, in the spirit of combating racism, racial discrimination, xenophobia and related intolerance, through such activities as: disseminating and exchanging information and building networks to these ends; organizing awareness-raising campaigns and participating in multicultural education programmes; developing proposals and solutions, where possible and appropriate; cooperating and consulting regularly with non-governmental organizations and other actors in civil society in developing initiatives and programmes that promote intercultural exchange and dialogue;

218. *Urges* States, in cooperation with intergovernmental organizations, the International Olympic Committee and international and regional sports federations, to intensify the fight against racism in sport by, among other things, educating the youth of the world through sport practised without discrimination of any kind and in the Olympic spirit, which requires human understanding, tolerance, fair play and solidarity;

219. *Recognizes* that the success of this Programme of Action will require political will and adequate funding at the national, regional and international levels, and international cooperation.



NUMBERING REFERS TO THE PARAGRAPHS IN THE DECLARATION

A

advertising, 88
 Africa, 4, 5, 19
 African descent, 13, 14, 32, 33, 34, 35, 103
 African Diaspora, 33
 Africans, 13, 14, 32, 35, 103
 Americas, 33
 anti-Semitism, 61
 apartheid, 15, 28, 99, 100
 Arab, 61
 armed conflicts, 20
 Asian descent, 13, 14, 36, 37, 38, 103
 Asians, 13, 36, 38
 asylum-seekers, 16, 52, 53, 55

B

belief, 8, 59
 birth, 2
 burden-sharing, 55

C

Charter of the United Nations, 109, 122
 child labour, 74
 children, 30, 72, 74, 91, 97, 99, 100
 civil society, 116, 117, 122
 civilizations, 6, 82
 colonialism, 14, 99
 colour, 2, 111
 common heritage of humanity, 6
 common humanity, 11



communities, 59, 60, 61
Convention relating to the Status of Refugees, 55
countries in transition, 111
countries of origin, 46, 50, 52, 54
crimes against humanity, 13, 15, 28
cultural heritage, 32
cultural homogenization, 11
cultural superiority, 82
culture, 6, 34, 40, 42, 50, 73, 96
customs, 34, 50, 67

D

developing countries, 11, 19, 105, 111
development, 7, 11, 19, 21, 34, 40, 41, 42, 74, 76, 78, 80, 105, 107,
115, 120, 121
Dialogue among Civilizations, 82
dignity, 7, 8, 34, 39, 54, 65, 82, 92, 101, 103, 105
discrimination, 2, 10, 20, 22, 34, 35, 36, 38, 39, 42, 48, 51, 53, 56,
66, 69, 70, 72, 76, 77, 85, 91, 97, 104, 107, 109, 110, 111, 113,
116, 118
displaced persons, 53, 54, 55, 111
displacement, 52, 54
distribution of wealth, 9
diversity, 6, 11, 32, 40, 88, 95, 97
draft declaration on the rights of indigenous peoples, 42

E

economic disparities, 11, 18, 33
economic growth, 11, 74, 105
education, 31, 33, 51, 71, 76, 80, 95, 96, 97, 118
educational systems, 34, 42
enslavement, 34
equal rights, 82
equality, 11, 42, 62, 64, 68, 76, 77, 79, 91, 92, 105, 106, 107
exclusion, 9, 11, 18, 22

F

family reunification, 49



United Nations

Fourth World Conference on Women, 109
full participation, 32, 40, 119

G

gender perspective, 69
genocide, 15, 99, 100
girls, 69, 72
globalization, 11, 12, 105
governance, 21, 81, 85

H

harmony, 49
hatred, 86, 87, 91
heritage, 6, 34, 40
HIV/AIDS, 75
Holocaust, 58
human family, 6, 82
human rights and fundamental freedoms, 26, 41, 42, 66, 103
human rights violations, 16, 104

I

identity, 34, 39, 42, 66, 67, 71
immigration policies, 38
inclusive societies, 6, 96
indigenous, 13, 14, 22, 23, 24, 39, 40, 41, 42, 43, 73, 103
inequality, 14, 33, 105
integration, 32, 49, 54, 105, 108
intercultural exchange, 11
internal conflicts, 21
internally displaced persons, 53, 54, 55, 111
international community, 3, 20, 101, 105, 111
International Conference on Population and Development, 109
International Convention on the Elimination of All Forms of Racial
Discrimination, 77, 86, 87, 104
international cooperation, 11, 55, 107, 109, 122
International Decade of the World's Indigenous People, 44
international order, 10
Internet, 90, 91, 92



intolerance, 1, 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21,
25, 26, 30, 31, 33, 35, 36, 37, 39, 41, 47, 48, 51, 52, 53, 59, 60,
67, 68, 69, 70, 72, 75, 76, 78, 80, 81, 82, 83, 85, 88, 90, 91, 92,
93, 95, 97, 98, 99, 103, 104, 107, 108, 109, 110, 112, 113, 114,
116, 117, 118, 120, 121, 122

Islamophobia, 61

Israel, 63

J

Jewish, 61

L

land, 34, 42, 43, 108

language, 2, 34, 42, 50, 62, 73

law, 15, 20, 24, 25, 28, 43, 81, 86, 112

M

marginalization, 9, 11, 18, 105

measures, 3, 23, 29, 67, 72, 98, 102, 107, 108, 116

media, 88, 89, 90, 93, 94

Mestizo population, 56

migrant workers, 51

migrants, 16, 38, 46, 48, 49, 50, 51, 89

migration, 12, 47

Millennium Declaration, 105

minorities, 66, 71, 73

multiculturalism, 5

multi-ethnic, 22

Muslim, 61

N

nationalist ideologies, 84

neo-Fascism, 84

neo-Nazism, 84

non-discrimination, 20, 92

non-governmental organizations, 110, 115, 118, 119



United Nations

O

origin, 2, 39, 59, 60, 111

P

Palestinian people, 63
 peace process, 63
 Permanent Forum on Indigenous Issues, 44
 persecution, 28
 persons under detention or imprisoned, 25
 pluralism, 6, 40
 pluricultural, 22
 plurilingual, 22
 poverty, 11, 18, 19, 69, 74, 105
 principles of sovereignty and territorial integrity of States, 23
 Principles relating to the status of national institutions for the promotion and protection of human rights, 112
 Programme of Action, 1, 24, 69, 122
 property, 2

R

race, 2, 7, 19, 111
 racial discrimination, 1, 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 25, 26, 30, 31, 33, 34, 35, 36, 37, 39, 41, 47, 48, 51, 52, 53, 67, 68, 69, 70, 72, 74, 75, 76, 78, 79, 80, 81, 82, 83, 85, 88, 90, 91, 92, 93, 94, 95, 97, 98, 99, 103, 104, 107, 108, 109, 110, 112, 113, 114, 116, 117, 118, 120, 121, 122
 racial superiority, 7, 27, 85, 86, 87
 racism, 1, 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 25, 26, 27, 30, 31, 33, 34, 35, 36, 37, 39, 41, 47, 48, 49, 51, 52, 53, 61, 67, 68, 69, 70, 72, 75, 76, 78, 80, 81, 82, 83, 85, 88, 90, 91, 92, 93, 95, 97, 98, 99, 103, 104, 107, 108, 109, 110, 112, 113, 114, 116, 117, 118, 120, 121, 122
 reconciliation, 101, 106
 refugees, 16, 52, 53, 54, 55, 65, 89, 111
 related intolerance, 53, 69, 72, 76, 85, 109, 118
 religion, 2, 8, 73

religious, 34, 59, 60, 66, 67, 71, 73, 108
reparation, 100, 104
resettlement, 54
respect, 5, 6, 34, 42, 49, 55, 56, 62, 72, 78, 81, 82, 83, 90, 91, 92, 95,
96, 117, 120
returnees, 55
Roma/Gypsies/Sinti/Travellers, 68

S

self-determination, 63
sex, 2
slave trade, 13, 99, 100
slavery, 13, 29, 99, 100
social biases, 35, 36
solidarity, 4, 5, 55, 83, 96, 106, 122
Special Rapporteur on the situation of human rights and fundamental
freedoms of indigenous people, 45
spirituality, 8
strategies, 69, 79, 107, 116, 121, 122
sustainable development, 11

T

tolerance, 5, 6, 49, 56, 83, 91, 92, 95
trade, 11, 13, 99, 100
traditions, 34, 42, 67
trafficking in persons, 30
transatlantic, 13, 99, 100

U

underdevelopment, 11, 18, 19
United Nations Conference on Environment and Development, 109
United Nations Conference on Human Settlements (Habitat II), 109
United Nations system, 44
Universal Declaration of Human Rights, 86, 104

V

victims, 1, 2, 13, 14, 30, 34, 39, 72, 93, 99, 101, 104, 107, 108, 109, 110



Vienna Declaration and Programme of Action, 44
 violations of human rights, 21, 28, 29, 57
 violence, 59, 60, 68, 69, 87, 89
 voluntary return, 54

W

women, 8, 30, 69, 70, 71, 99, 100
 World Conference on Human Rights, 109
 World Food Summit, 109
 World Summit for Social Development, 109

X

xenophobia, 1, 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,
 21, 25, 26, 27, 30, 31, 33, 35, 36, 37, 39, 41, 47, 48, 49, 51, 52,
 53, 67, 68, 69, 70, 72, 75, 76, 78, 80, 81, 82, 83, 85, 88, 90, 91,
 92, 93, 95, 97, 98, 99, 103, 104, 107, 108, 109, 110, 112, 113,
 114, 116, 117, 118, 120, 121, 122

Y

youth, 17, 91, 120, 121



NUMBERING REFERS TO THE PARAGRAPHS IN THE PROGRAMME OF ACTION

A

Africa, 118
African, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 50, 157, 158, 159
African descent, 4, 7, 10, 11, 50
anti-Arabism, 150
anti-Semitism, 150
Asian, 45, 50
Asian descent, 50
assistance, 16, 30, 34, 41, 64, 74, 88, 112, 123, 144, 158, 160, 161,
162, 164, 185
asylum-seekers, 34, 138

B

banks, 104, 112, 114
business sector, 63, 107, 216

C

Caribbean region, 171
children, 10, 30, 39, 55, 56, 64, 69, 88, 97, 121, 123, 126, 129, 139,
158, 174, 176, 186, 202
civil society, 58, 139, 147, 152, 183, 191, 211, 213, 216, 218
colour, 72, 81, 123, 164, 171
Commission on Human Rights, 7, 191, 199, 200, 207
Committee on the Elimination of Racial Discrimination, 40, 75, 76,
177, 178, 195
conciliation, 164
conflict resolution, 164
Convention against Discrimination in Education, 78



Convention against Transnational Organized Crime, 78
 Convention against the Smuggling of Migrants by Land, Sea and Air,
 78
 Convention for the Suppression of the Traffic in Persons and of the
 Exploitation of the Prostitution of Others, 78
 Convention on Biological Diversity, 78
 Convention on the Elimination of All Forms of Discrimination against
 Women, 78
 Convention on the Prevention and Punishment of the Crime of
 Genocide, 78
 Convention on the Rights of the Child, 78
 Convention relating to the Status of Refugees, 35, 78
 cooperation, 1, 3, 5, 33, 34, 40, 41, 60, 62, 69, 91, 109, 126, 128, 135,
 139, 147, 169, 174, 175, 181, 187, 191, 197, 198, 203, 208,
 211, 212, 215, 219, 220
 countries in transition, 185
 countries of origin, 31, 158, 185
 credit facilities, 16
 crimes against humanity, 54, 153
 cultural diversity, 30, 58, 128, 132, 141, 142, 148, 179
 cultural identity, 30
 culture, 4, 13, 15, 42, 47, 117, 126, 142, 194, 196

D

data collection, 74, 93
 debt bondage, 69
 debt relief, 158
 Declaration and Programme of Action on a Culture of Peace, 203
 Declaration on Fundamental Principles and Rights at Work, 83
 Declaration on the Elimination of All Forms of Intolerance and of
 Discrimination Based on Religion or Belief, 79
 Department of Peacekeeping Operations of the Secretariat, 153
 descent, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 45, 72, 81, 123, 164, 171
 developing countries, 8, 157, 158, 185, 210
 development, 4, 6, 8, 10, 13, 17, 37, 50, 59, 92, 102, 104, 110, 112,
 114, 144, 158, 159, 164, 171, 176, 183, 190, 191, 205, 209,
 210, 211
 dialogue, 2, 99, 149, 170, 177, 212, 217, 218



Dialogue among Civilizations, 193
 Diaspora, 7, 158, 159
 dignity, 63, 126, 148, 180, 185, 202
 disabilities, 30, 57
 disabled people, 180
 Discrimination (Employment and Occupation) Convention, 78
 diseases, 3, 101
 displaced persons, 34
 diversity, 58, 61, 99, 110, 117, 121, 126, 130, 136, 144, 147
 domestic violence, 18, 30

E

education, 3, 5, 8, 10, 18, 27, 30, 33, 39, 48, 49, 58, 59, 74, 86, 90,
 92, 99, 100, 104, 117, 118, 121, 122, 123, 124, 125, 127, 128,
 129, 132, 136, 176, 218
 employment, 8, 16, 29, 48, 49, 51, 74, 92, 99, 104, 106
 enslavement, 2
 environmental control, 5, 8
 equal opportunities, 8, 136, 169, 174
 equality, 15, 29, 40, 46, 48, 58, 70, 99, 115, 136, 137, 148, 176, 191,
 213
 equity, 99, 148
 ethnicity, 18
 exclusion, 48, 60, 61, 97, 102, 148, 157, 158, 208
 exploitation, 69, 105

F

family reunification, 28
 fundamental freedoms, 15, 26, 44, 46, 48, 56, 92, 96, 98

G

gender, 18, 31, 50, 51, 52, 54, 59, 63, 66, 94, 133, 136, 139, 176, 213
 gender discrimination, 18, 31
 gender perspective, 50, 59, 94
 General Assembly, 79, 90, 180, 191, 199, 202
 genetic, 73
 Geneva Conventions, 87, 168



genocide, 153
girls, 18, 36, 39, 53, 54, 62, 64, 121, 186, 213
Global AIDS and Health Fund, 158
globalization, 96, 152, 209
Guiding Principles on Internal Displacement, 65

H

health, 5, 8, 18, 30, 33, 49, 81, 92, 99, 100, 101, 109, 110, 111, 133, 154, 158, 176
heritage, 4, 15
HIV/AIDS, 3, 101, 110, 154, 158
host countries, 31, 33, 35, 185
host societies, 27, 30
housing, 8, 33, 48, 49, 81, 92, 99, 100, 102
human rights, 3, 13, 15, 19, 25, 26, 27, 30, 31, 34, 35, 40, 44, 46, 48, 56, 57, 75, 82, 88, 90, 92, 96, 98, 121, 126, 127, 129, 130, 132, 133, 135, 136, 138, 139, 141, 145, 148, 149, 151, 153, 156, 177, 178, 179, 183, 188, 190, 191, 194, 195, 196, 197, 202

I

identity, 37, 172, 173
ill-treatment, 105, 161
immigration, 26, 30, 64, 80, 138, 139
impunity, 54, 82
Indigenous and Tribal Peoples Convention, 78
indigenous peoples, 15, 16, 17, 19, 20, 21, 22, 23, 117, 207, 209, 210
information campaigns, 27, 126
integration, 28, 30, 57, 102, 126, 170
International Convention on the Elimination of All Forms of Racial Discrimination, 68, 75, 134, 145, 164
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 78
International Covenant on Civil and Political Rights, 77
International Covenant on Economic, Social and Cultural Rights, 77
international criminal tribunals, 82
International Day for the Elimination of Racial Discrimination, 131
International Decade for a Culture of Peace and Non-Violence for the Children of the World, 203



International Decade of the World's Indigenous People, 204, 210
 International Labour Organization, 78, 83, 155
 International Monetary Fund, 114
 International Olympic Committee, 219
 International Year of Mobilization against Racism, Racial
 Discrimination, Xenophobia and Related Intolerance, 181
 Internet, 63, 140, 141, 143, 144, 145, 147
 Inter-Parliamentary Union, 116, 181
 Islamophobia, 150
 Israel, 151

J

justice, 11, 12, 36, 58, 74, 81, 82, 89, 99, 119, 133, 134, 148, 160,
 164

L

language, 47, 124, 171
 law, 29, 30, 34, 46, 48, 54, 56, 64, 69, 71, 72, 74, 82, 84, 89, 95, 122,
 133, 135, 139, 145, 147, 149, 151, 153, 164, 165, 166, 168,
 183, 191
 long-distance learning, 10

M

marginalization, 48, 61, 102, 118, 157, 158
 marginalized groups, 92
 media, 3, 43, 86, 117, 119, 136, 140, 142, 144, 146, 147
 mediation, 90, 164
 Middle East, 151
 migrant workers, 67, 81, 144, 182, 184, 197
 Migrant Workers (Supplementary Provisions) Convention, 78
 migrants, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 50, 69, 97, 105, 138,
 144, 182, 183, 184, 186, 197
 migration, 27, 96, 133, 175, 182, 183, 184
 Migration for Employment Convention, 78
 migratory flows, 96
 Minimum Age Convention, 78
 minorities, 46, 47, 49, 74, 124, 172
 multiple discrimination, 14, 49, 79, 104, 172, 213

N

national or ethnic origin, 72, 81, 123, 164, 171
nationality, 56
negotiations, 151, 207
New African Initiative, 157
non-discrimination, 15, 38, 58, 65, 75, 87, 99, 115, 129, 191, 216
non-discriminatory, 30, 107, 111, 164, 208
non-governmental organizations, 22, 25, 42, 57, 58, 69, 74, 93, 99,
104, 110, 119, 135, 139, 162, 164, 175, 191, 196, 211, 213,
214, 215, 217, 218

O

Office of the High Commissioner for Human Rights, 191, 194, 195,
196, 197, 198

P

Palestinians, 151
participation, 4, 15, 43, 50, 52, 53, 93, 98, 99, 112, 113, 114, 136,
190, 209, 217
Permanent Forum on Indigenous Issues, 205
police, 30, 71, 72, 74, 85, 138
poverty, 1, 52, 60, 92, 112, 157, 158, 174, 208
prevention, 59, 64, 110, 139
Principles relating to the status of national institutions for the promo-
tion and protection of human rights, 90
privacy guarantees, 44, 92, 98
private sector, 11, 57, 74, 93, 104, 110, 112, 113, 127, 135, 144, 216
prostitution, 63
protection, 25, 30, 34, 44, 55, 59, 64, 69, 88, 90, 92, 98, 105, 160,
162, 164, 165, 173, 183, 196
Protocol to Prevent, Suppress and Punish Trafficking in Persons,
Especially Women and Children, 78
public sector, 11

R

race, 51, 54, 72, 81, 123, 164, 171
racial discrimination, 1, 3, 7, 19, 22, 23, 29, 30, 35, 38, 42, 44, 45, 47,



48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 60, 63, 66, 67, 68, 70, 71, 73, 74, 75, 83, 84, 85, 86, 89, 90, 91, 92, 93, 94, 95, 97, 99, 100, 101, 103, 104, 107, 108, 109, 110, 111, 112, 113, 115, 116, 123, 124, 125, 126, 127, 131, 132, 134, 135, 136, 137, 138, 141, 143, 144, 146, 147, 148, 152, 154, 155, 156, 160, 161, 162, 163, 164, 165, 166, 167, 169, 170, 172, 174, 176, 177, 184, 187, 188, 189, 190, 191, 194, 197, 198, 199, 200, 208, 211, 212, 214, 216, 217, 218

racial hatred, 86, 144, 145, 147

racial profiling, 72

racial superiority, 130, 143, 144

racism, 1, 3, 9, 18, 19, 22, 23, 29, 30, 35, 38, 42, 44, 45, 47, 50, 51, 52, 53, 54, 55, 57, 58, 59, 60, 62, 66, 67, 68, 70, 71, 73, 74, 75, 83, 84, 85, 89, 90, 91, 92, 93, 94, 95, 97, 99, 101, 103, 104, 106, 107, 108, 109, 110, 111, 112, 113, 115, 116, 117, 123, 124, 125, 126, 127, 129, 131, 134, 136, 137, 138, 140, 141, 143, 144, 145, 146, 147, 148, 150, 152, 154, 155, 156, 160, 162, 163, 164, 165, 166, 167, 169, 170, 172, 174, 176, 177, 184, 187, 188, 189, 190, 191, 194, 196, 197, 198, 199, 200, 208, 209, 211, 212, 214, 216, 217, 218, 219

recognition, 20, 30, 154

reconciliation, 82, 212

refugees, 34, 35, 36, 138, 144, 185

registration of birth, 56

rehabilitation, 64

related intolerance, 1, 3, 19, 22, 23, 25, 29, 30, 35, 38, 42, 44, 45, 47, 50, 51, 52, 53, 54, 55, 57, 58, 59, 60, 66, 67, 68, 70, 71, 73, 74, 75, 83, 84, 85, 90, 91, 92, 93, 94, 95, 97, 99, 101, 103, 104, 107, 108, 109, 110, 111, 112, 113, 115, 116, 123, 124, 125, 126, 127, 131, 134, 136, 137, 138, 141, 143, 144, 146, 147, 148, 152, 154, 155, 156, 160, 162, 163, 164, 165, 166, 167, 169, 170, 172, 174, 176, 177, 184, 187, 188, 189, 190, 191, 194, 197, 198, 199, 200, 208, 211, 212, 214, 216, 217, 218

religion, 79

respect, 4, 15, 20, 30, 31, 42, 48, 49, 56, 58, 74, 80, 88, 89, 117, 121, 126, 128, 129, 130, 132, 136, 141, 144, 145, 148, 149, 151, 158, 179, 194

responsibility of States, 99



Roma/Gypsy/Sinti/ Traveller, 39
Rome Statute of the International Criminal Court, 78, 82

S

Secretary-General, 191, 204, 206
security, 30, 63, 133, 151, 158
self-determination, 151
sexual exploitation, 69
sexual violence, 54
Slave Route Project, 119, 120
slave trade, 119
slavery, 2, 69, 119
social services, 30, 33, 49, 99, 100
solidarity, 34, 115, 130, 158, 215, 219
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 199
Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, 206
sport, 86, 219
statistical data, 44, 92, 98, 100, 176

T

Third Decade to Combat Racism and Racial Discrimination, 201
tolerance, 30, 58, 74, 117, 121, 126, 129, 132, 144, 194, 219
torture, 161
trade unions, 107, 155, 216
trafficking, 37, 38, 63, 64, 69, 88, 139, 174, 175, 186, 202
training, 3, 16, 17, 29, 30, 64, 74, 89, 103, 110, 126, 133, 135, 136, 138, 139, 147, 156, 158

U

underdevelopment, 157, 158, 174
unemployment, 3, 30
United Nations, 98, 125, 184, 203, 206
United Nations Decade for Human Rights Education, 125
United Nations Educational, Scientific and Cultural Organization, 78, 119, 120, 126, 156, 179, 193, 196, 203



United Nations High Commissioner for Human Rights, 184, 206
 United Nations system, 65, 205, 217
 Universal Declaration of Human Rights, 26

V

victimization, 97, 162
 Vienna Convention on Consular Relations, 80
 violations, 31, 36, 54, 82, 87, 115, 153, 197
 violence, 3, 18, 30, 36, 54, 62, 67, 74, 85, 123, 147, 151

W

war crimes, 54, 153
 women, 9, 10, 18, 30, 31, 36, 50, 51, 52, 53, 54, 56, 59, 62, 64, 69,
 88, 97, 110, 137, 158, 174, 175, 186, 202, 213, 218
 workers, 29, 67, 104, 105, 106, 107
 World Bank, 112, 114
 World Health Organization, 154
 World Solidarity Fund for the Eradication of Poverty, 157
 World Summit for Social Development, 176
 World Trade Organization, 114
 World Youth Forum, 217
 Worst Forms of Child Labour Convention, 78

X

xenophobia, 1, 3, 19, 22, 23, 25, 29, 30, 35, 38, 42, 44, 45, 47, 50, 51,
 52, 53, 54, 55, 57, 58, 59, 60, 66, 67, 68, 70, 71, 73, 74, 75, 83,
 84, 85, 90, 91, 92, 93, 94, 95, 97, 99, 101, 103, 104, 106, 107,
 108, 109, 110, 111, 112, 113, 115, 116, 123, 124, 125, 126,
 127, 131, 134, 136, 137, 138, 141, 143, 144, 146, 147, 148,
 152, 154, 155, 156, 160, 162, 163, 164, 165, 166, 167, 169,
 170, 172, 174, 176, 177, 184, 187, 188, 189, 190, 191, 194,
 197, 198, 199, 200, 208, 211, 212, 214, 216, 217, 218
 xenophobic, 24, 82, 86, 89, 144, 147

Y

youth, 39, 128, 129, 202, 217, 218, 219



**INTER-AMERICAN CONVENTION AGAINST RACISM,
RACIAL DISCRIMINATION AND RELATED FORMS OF INTOLERANCE**

**INTER-AMERICAN CONVENTION AGAINST RACISM,
RACIAL DISCRIMINATION AND RELATED FORMS OF INTOLERANCE**

THE STATES PARTIES TO THIS CONVENTION,

CONSIDERING that the inherent dignity and equality of all members of the human family are basic principles of the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination;

REAFFIRMING the resolute commitment of the member states of the Organization of American States to the complete and unconditional eradication of racism, racial discrimination, and all forms of intolerance, and their conviction that such discriminatory attitudes are a negation of universal values and the inalienable and intransigent rights of the human person and the purposes and principles enshrined in the Charter of the Organization of American States, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Social Charter of the Americas, the Inter-American Democratic Charter, the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Universal Declaration on the Human Genome and Human Rights;

RECOGNIZING the duty of adopting national and regional measures to promote and encourage respect for and observance of the human rights and fundamental freedoms of all individuals and groups subject to their jurisdiction, without regard to race, color, lineage, or national or ethnic origin;

CONVINCED that the principles of equality and nondiscrimination among human persons are dynamic democratic concepts that foster the promotion of effective legal equality and presuppose an obligation on the State's part to adopt special measures to protect the rights of individuals or groups that may be victims of racial discrimination, in any area of human endeavor, whether public or private, with a view to cultivating equitable conditions for equal opportunity and to combating racial discrimination in all its individual, structural, and institutional manifestations;

AWARE that the phenomenon of racism has a dynamic capacity for renewal that enables it to assume new forms whereby it spreads and expresses itself politically, socially, culturally, and linguistically;

TAKING INTO ACCOUNT that the victims of racism, racial discrimination, and other related forms of intolerance in the Americas are, *inter alia*, people of African descent, indigenous peoples, and other racial and ethnic groups or minorities, or groups that by reason of their lineage or national or ethnic origin are affected by such manifestations;

CONVINCED that certain persons and groups experience multiple or extreme forms of racism, discrimination and intolerance, driven by a combination of factors such as race, color, lineage, national or ethnic origin, or others recognized in international instruments;

TAKING INTO ACCOUNT that a pluralistic and democratic society must respect the race, color, lineage, and national or ethnic origin of every person, whether belonging to a minority or not, and create suitable conditions that will enable that person to express, preserve, and develop his or her identity;

CONSIDERING that the individual and collective experience of discrimination must be taken into account to combat segregation and marginalization based on race, ethnicity, or nationality, and to protect the life plan of those individuals and communities at risk of such segregation and marginalization;

ALARMED by the surge in hate crimes motivated by race, color, lineage, and national or ethnic origin;

EMPHASIZING the basic role that education plays in promoting respect for human rights, equality, nondiscrimination, and tolerance; and

BEARING IN MIND that although the fight against racism and racial discrimination was brought to the forefront in an earlier international instrument, the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, the rights set forth therein must be reaffirmed, developed, improved, and protected, in order to consolidate in the Americas the democratic content of the principles of legal equality and nondiscrimination,

AGREE upon the following:

CHAPTER I **Definitions**

Article 1

For purposes of this Convention:

1. Racial discrimination shall mean any distinction, exclusion, restriction, or preference, in any area of public or private life, the purpose or effect of which is to nullify or curtail the equal recognition, enjoyment, or exercise of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties.

Racial discrimination may be based on race, color, lineage, or national or ethnic origin.

2. Indirect racial discrimination shall be taken to occur, in any realm of public and private life, when a seemingly neutral provision, criterion, or practice has the capacity to entail a particular disadvantage for persons belonging to a specific group based on the reasons set forth in Article 1.1, or puts them at a disadvantage, unless said provision, criterion, or practice has some reasonable and legitimate objective or justification under international human rights law.

3. Multiple or aggravated discrimination is any preference, distinction, exclusion, or restriction based simultaneously on two or more of the criteria set forth in Article 1.1, or others recognized in international instruments, the objective or result of which is to nullify or curtail, the equal recognition, enjoyment, or exercise of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties, in any area of public or private life.

4. Racism consists of any theory, doctrine, ideology, or sets of ideas that assert a causal link between the phenotypic or genotypic characteristics of individuals or groups and their intellectual, cultural, and personality traits, including the false concept of racial superiority.

Racism leads to racial inequalities, and to the idea that discriminatory relations between groups are morally and scientifically justified.

All the theories, doctrines, ideologies, and sets of racist ideas described in this article are scientifically false, morally reprehensible, socially unjust, and contrary to the basic principles of international law; they therefore seriously undermine international peace and security and, as such, receive the condemnation of the States Parties.

5. Special measures or affirmative action adopted for the purpose of ensuring equal enjoyment or exercise of one or more human rights and fundamental freedoms of groups requiring such protection shall not be deemed racial discrimination provided that such measures do not lead to the maintenance of separate rights for different groups and are not continued once their objectives have been achieved.

6. Intolerance is an action or set of actions or expressions that denote disrespect, rejection, or contempt for the dignity, characteristics, convictions, or opinions of persons for being different or contrary. It may manifest itself as marginalization and exclusion of vulnerable groups from participation in any sphere of public or private life or violence against them.

CHAPTER II

Protected Rights

Article 2

Every human being is equal under the law and has a right to equal protection against racism, racial discrimination, and related forms of intolerance in any sphere of life, public or private.

Article 3

Every human being has the right to the equal recognition, enjoyment, exercise, and protection, at both the individual and collective levels, of all human rights and fundamental freedoms enshrined in their domestic law and in international law applicable to the States Parties.

CHAPTER III

Duties of the State

Article 4

The states undertake to prevent, eliminate, prohibit, and punish, in accordance with their constitutional norms and the provisions of this Convention, all acts and manifestations of racism, racial discrimination, and related forms of intolerance, including:

- i. Public or private support provided to racially discriminatory and racist activities or that promote intolerance, including the financing thereof.
- ii. Publication, circulation or dissemination, by any form and/or means of communication, including the internet, of any racist or racially discriminatory materials that:
 - a. Advocate, promote, or incite hatred, discrimination, and intolerance.
 - b. Condone, justify, or defend acts that constitute or have constituted genocide or crimes against humanity as defined in international law, or promote or incite the commitment of such acts.
- iii. Violence motivated by any of the criteria set forth in Article 1.1.
- iv. Criminal activity in which the victim's property is chosen intentionally based on any of the criteria set forth in Article 1.1.
- v. Any repressive action based on any of the criteria set forth in Article 1.1 rather than on the person's behavior or on objective information identifying the individual as having been engaged in criminal activity.
- vi. Restricting, in an undue or unreasonable manner, the exercise of the individual rights of ownership, administration, and disposal of property of any kind based on any of the criteria set forth in Article 1.1.
- vii. Any distinction, exclusion, restriction, or preference applied to persons, because of their status as victims of multiple or aggravated discrimination, the purpose or result

of which is to deny or impair the equal recognition, enjoyment, exercise, or protection of rights and fundamental freedoms.

- viii. Any racially discriminatory restriction on the enjoyment of the human rights enshrined in applicable international and regional instruments and in the jurisprudence of international and regional human rights courts, particularly those applicable to minorities or groups that are in vulnerable situations and subject to racial discrimination.
- ix. Any restriction or limitation on the use of the language, traditions, customs, and culture of persons in public or private activities.
- x. Preparing and introducing teaching materials, methods, or tools that portray stereotypes or preconceptions, based on any of the criteria set forth in Article 1.1 of this Convention.
- xi. Denying access to public or private education, to fellowships, or to educational loan programs, based on any of the criteria set forth in Article 1.1 of this Convention.
- xii. Denying access to any social, economic, and cultural rights, based on any of the criteria set forth in Article 1.1 of this Convention.
- xiii. Conducting research or applying the findings of research into the human genome, particularly in the fields of biology, genetics, and medicine, aimed at human selection or cloning that prevails over respect for human rights, fundamental freedoms, and human dignity, generating any form of discrimination based on genetic characteristics.
- xiv. The restriction or limitation, based on any of the criteria set forth in Article 1.1 of this Convention, of the right of every person, to access and sustainably use water, natural resources, ecosystems, biodiversity, and ecological services that are part of each state's natural heritage, protected by the relevant international instruments and their own national laws.
- xv. The restriction of access to public and private places with access to the public, for the reasons set forth in Article 1.1 of this Convention.

Article 5

The States Parties undertake to adopt the special policies and affirmative actions needed to ensure the enjoyment or exercise of rights and fundamental freedoms of persons or groups that are subject to racism, racial discrimination, and related forms of intolerance for the purpose of promoting equitable conditions for equal opportunity, inclusion, and progress for such persons or groups. Such measures or policies shall not be considered discriminatory or incompatible with the purpose or intent of this Convention, shall not lead to maintaining separate rights for different groups, and shall not be continued beyond a reasonable period or after that objective has been achieved.

Article 6

The States Parties undertake to formulate and implement policies the purpose of which is to provide equitable treatment and generate equal opportunity for all persons in accordance with the scope of this Convention, including policies of an educational nature, labor or social measures, or any other kind of promotional policies and the dissemination of legislation on the subject by all possible means, including the mass media and the internet.

Article 7

The States Parties undertake to adopt legislation that clearly defines and prohibits racism, racial discrimination, and related forms of intolerance, applicable to all public authorities as well as to all individuals or natural and legal persons, both in the public and in the private sectors,

particularly in the areas of employment; participation in professional organizations; education; training; housing; health; social protection; exercise of economic activity; access to public services and other areas; and to repeal or amend any legislation that constitutes or produces racism, racial discrimination, and related forms of intolerance.

Article 8

The States Parties undertake to ensure that the adoption of measures of any kind, including those on security matters, does not discriminate directly or indirectly against persons or groups on the basis of any of the criteria mentioned in Article 1.1 of this Convention.

Article 9

The States Parties undertake to ensure that their political and legal systems appropriately reflect the diversity within their societies in order to meet the legitimate needs of all sectors of the population, in accordance with the scope of this Convention.

Article 10

The States Parties undertake to ensure that the victims of racism, racial discrimination, and related forms of intolerance receive equitable and non-discriminatory treatment, equal access to the justice system, expeditious and effective proceedings, and fair compensation in the civil or criminal sphere, as applicable.

Article 11

The States Parties undertake to consider as aggravating those acts that lead to multiple discrimination or acts of intolerance, i.e., any distinction, exclusion, or restriction based on two or more of the criteria set forth in Articles 1.1 and 1.3 of this Convention.

Article 12

The States Parties undertake to conduct research on the nature, causes, and manifestations of racism, racial discrimination, and related forms of intolerance in their respective countries, at the local, regional, and national levels, and to collect, compile, and disseminate data on the situation of groups or individuals that are victims of racism, racial discrimination, and related forms of intolerance.

Article 13

The States Parties undertake, in accordance with their internal legislation, to establish or designate a national institution that shall be responsible for monitoring compliance with this Convention, and shall inform the OAS General Secretariat of this institution.

Article 14

The States Parties undertake to promote international cooperation to exchange ideas and experiences; and to execute programs aimed at achieving the objectives of this Convention.

CHAPTER IV Protective Mechanisms and Monitoring of the Convention

Article 15

In order to monitor the implementation of the commitments assumed by the States Parties to this Convention:

- i. Any person or group of persons, or nongovernmental entity legally recognized in one or more member states of the Organization of American States may submit to the

Inter-American Commission on Human Rights petitions containing reports or complaints of violations of this Convention by a State Party. In addition, any State Party, when depositing its instrument of ratification of, or accession to, this Convention, or at any time thereafter, may declare that it recognizes the competence of the Commission to receive and examine communications in which a State Party alleges that another State Party has committed violations of the human rights established in this Convention. In such case, all the relevant procedural rules contained in the American Convention on Human Rights as well as the Statutes and the Rules of Procedure of the Commission shall be applicable.

- ii. States Parties may consult the Commission on questions related to the effective application of this Convention. They may also request the Commission's advisory assistance and technical cooperation to ensure effective application of any provision of this Convention. The Commission will, to the extent that it is able, provide the States Parties with the requested advisory services and assistance.
- iii. Any State Party may, when depositing its instrument of ratification of, or accession to, this Convention, or at any time thereafter, declare that it recognizes as binding, as a matter of law and without any special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of this Convention. In such case, all relevant procedural rules contained in the American Convention on Human Rights as well as the Statutes and Rules of Procedure of the Court shall be applicable.
- iv. An Inter-American Committee for the Prevention and Elimination of Racism, Racial Discrimination, and All Forms of Discrimination and Intolerance shall be established and shall be comprised of one expert appointed by each of the States Parties who shall execute his or her functions in an independent manner and shall monitor the commitments undertaken in this Convention. The Committee shall also be responsible for monitoring the commitments undertaken in the Inter-American Convention Against All Forms of Discrimination and Intolerance with respect to the states that are parties thereto.

The Committee shall be established when the first of the Conventions comes into force and its first meeting shall be convened by the General Secretariat of the OAS as soon as the tenth instrument of ratification of either Convention has been received. The first meeting of the Committee shall be held at the Headquarters of the Organization three months after its convocation for the purpose of declaring its establishment, approving its Rules of Procedure and its working method, and electing its officials. That meeting shall be presided over by the representative of the country that deposits the first instrument of ratification of the Convention which establishes the Committee.

- v. The Committee shall be the forum for the exchange of ideas and experience, as well as for examining progress made by the States Parties in implementing this Convention and any circumstance or difficulty affecting the extent of compliance therewith. Said Committee may recommend to the States Parties that they adopt the appropriate measures. For this purpose, the States Parties undertake to submit a report to the Committee, within one year of its first meeting, with respect to fulfillment of the obligations contained in this Convention. The reports that the States Parties submit to the Committee shall also contain disaggregated data and statistics on groups in situations of vulnerability. Thereafter, the States Parties shall submit reports every four years. The General Secretariat of the OAS shall give the Committee any support it requires for the performance of its functions.

CHAPTER V

General Provisions

Article 16. Interpretation

1. No provision of this Convention shall be interpreted as restricting or limiting a domestic law of any State Party that affords protections and guarantees equal to or greater than those established in this Convention.

2. Nothing in this Convention shall be interpreted as restricting or limiting international human rights conventions that afford equal or greater protections in this regard.

Article 17. Depositary

The original instrument of this Convention, of which the English, French, Portuguese, and Spanish texts are equally authentic, shall be deposited with the General Secretariat of the Organization of American States.

Article 18. Signature and Ratification

1. This Convention is open to signature and ratification by all member states of the Organization of American States. After its entry into force, this Convention shall be open to accession by all states that have not signed it.

2. This Convention is subject to ratification by the signatory states in accordance with the procedures set forth in their constitutions. The instruments of ratification or accession shall be deposited with the General Secretariat of the Organization of American States.

Article 19. Reservations

The States Parties may enter reservations to this Convention when signing, ratifying, or acceding to it, provided that such reservations are not incompatible with the aim and purpose of the Convention and relate to one or more specific provisions thereof.

Article 20. Entry into Force

1. This Convention shall enter into force on the thirtieth day following the date on which the second instrument of ratification of, or accession to, the Convention is deposited with the General Secretariat of the Organization of American States.

2. For each state that ratifies or accedes to the Convention after the second instrument of ratification or accession has been deposited, the Convention shall enter into force on the thirtieth day following deposit by that state of the corresponding instrument.

Article 21. Denunciation

This Convention shall remain in force indefinitely, but any State Party may denounce it through written notification addressed to the Secretary General of the Organization of American States. The Convention shall cease to have force and effect for the denouncing state one year after the date of deposit of the instrument of denunciation, and shall remain in force for the other States Parties. Such denunciation shall not exempt the State Party from the obligations imposed upon it under this Convention in respect of any action or omission prior to the date on which the denunciation takes effect.

Article 22. Additional Protocols

Any State Party may submit for the consideration of the States Parties gathered during the General Assembly draft protocols in addition to this Convention, with a view to gradually including other rights within its system of protection. Each protocol shall determine the manner of its entry into force and shall be applied only among the States Parties to it.



Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean



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Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean



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This publication contains the full text of Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean which was adopted in Escazú, Costa Rica, on 4 March 2018 and entered into force on 22 April 2021. This document is published for information purposes only and does not replace the original authentic texts of the Regional Agreement that are held by the Secretary-General of the United Nations in his capacity as depositary.

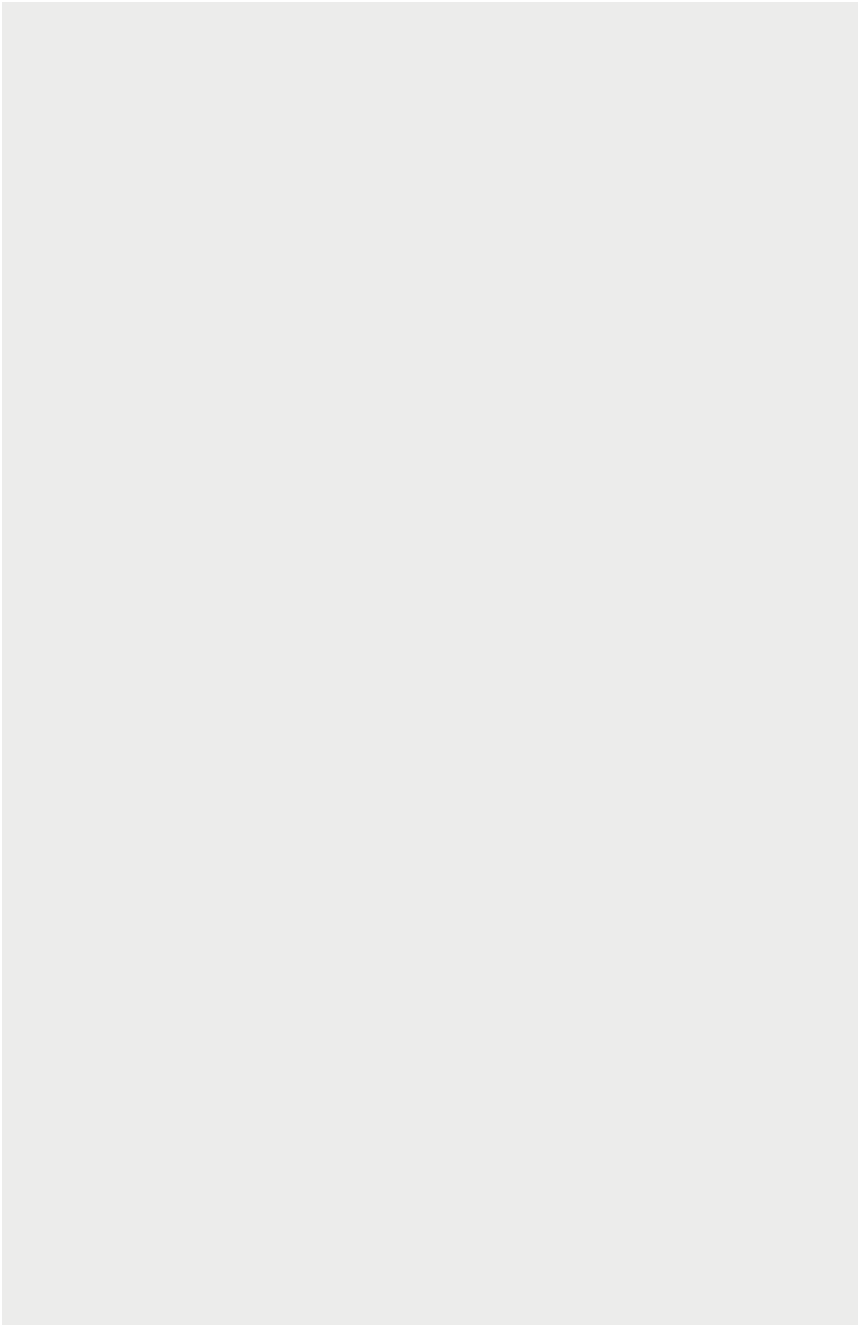
Updated information on the Regional Agreement and related activities can be found on the website <https://www.cepal.org/en/escazuagreement>.

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Contents

Foreword.....	5
Preface.....	7
Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.....	11





Foreword

In adopting the 2030 Agenda for Sustainable Development, the Member States of the United Nations charted a path towards greater dignity, prosperity and sustainability for people and planet, and pledged to leave no one behind.

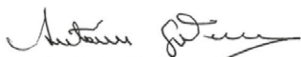
Latin American and Caribbean countries have played an important role in advancing this vision through multilateral efforts that have resulted in the only legally binding agreement stemming from the United Nations Conference on Sustainable Development (Rio+20), the region's first treaty on environmental matters and the world's first to include provisions on human rights defenders in environmental matters. Adopted at Escazú, Costa Rica, on 4 March 2018, and negotiated by States with the significant participation of civil society and the wider public, the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters affirms the value of the regional dimension of multilateralism for sustainable development. By linking global and national frameworks, the agreement sets regional standards, fosters capacity building —particularly through South-South cooperation— lays the foundations of a supporting institutional architecture and offers tools for improved policy- and decision-making.

Above all, this treaty aims to combat inequality and discrimination and to guarantee the rights of every person to a healthy environment and to sustainable development. In so doing, it devotes particular attention to persons and groups in vulnerable situations, and places equality at the core of sustainable development.

In this year in which we commemorate the seventieth anniversary of the Economic Commission for Latin America and the Caribbean and the Universal Declaration of Human Rights,

as well as the twentieth anniversary of the Declaration on Human Rights Defenders, this landmark agreement has the potential to unlock structural change and address key challenges of our times. It is a powerful instrument to prevent conflict, achieve informed, participatory and inclusive decision-making and deepen accountability, transparency and good governance.

I commend the adoption of the first agreement ever concluded under the auspices of the regional commission, and congratulate all who made it possible. It is now up to the countries of Latin America and the Caribbean to bring this agreement into effect, for the benefit of present generations and those to come.



António Guterres
Secretary-General of the United Nations

Preface

On 4 March 2018, the Latin American and Caribbean region made history when it adopted the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, at Escazú, Costa Rica.

Initiated at the United Nations Conference on Sustainable Development (Rio+20) and rooted in the tenets of Principle 10 of the 1992 Rio Declaration on Environment and Development, the Regional Agreement is the fruit of a two-year preparatory phase and nine intense meetings of its negotiating committee. Led by Chile and Costa Rica, as co-chairs, and five other Presiding Officers (Argentina, Mexico, Peru, Saint Vincent and the Grenadines, and Trinidad and Tobago), the negotiations brought together government delegates, representatives of the public, experts, academics and other interested stakeholders who participated actively on a collaborative basis and an equal footing.

The result of such an innovative process could not be more inspiring. At a time of increasing uncertainty and profound economic, social and environmental imbalances, and when multilateralism is under intense scrutiny, Latin American and Caribbean countries demonstrated the value of regional action. To advance towards greater environmental rights and protection at the local level, our countries decided to act in a regionally coordinated manner, putting capacity-building and cooperation at the service of greater collective goods and interests.

The Regional Agreement is a ground-breaking legal instrument for environmental protection, but it is also a human rights treaty. Its main beneficiaries are the people of our region, particularly the most vulnerable groups and communities. It aims to ensure

the right of all persons to have access to information in a timely and appropriate manner, to participate significantly in making the decisions that affect their lives and their environment, and to access justice when those rights have been infringed. The treaty recognizes the rights of all individuals, provides measures to facilitate their exercise and, most importantly, establishes mechanisms to render them effective.

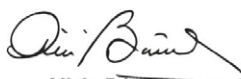
Visionary and unprecedented, it is an agreement reached by and for Latin America and the Caribbean, reflecting the ambition, priorities and particularities of our region. It addresses key aspects of environmental management and protection from a regional perspective, regulating access rights to information, public participation and justice in matters as important as the sustainable use of natural resources, biodiversity conservation, the fight against land degradation and climate change, and building resilience to disasters. It also includes the world's first binding provision on human rights defenders in environmental matters in a region where sadly they are all too often subject to attacks and intimidation.

From a rights-based approach, the Agreement recognizes core democratic principles and seeks to address the region's most important challenges, namely the scourge of inequality and a deep-rooted culture of privilege. Through transparency, openness and participation, the Regional Agreement contributes to the shift towards a new development model and tackles the region's inefficient and unsustainable culture of narrow, fragmented interests. In that vein, the Agreement vows to include those that have traditionally been underrepresented, excluded or marginalized and give a voice to the voiceless, leaving no one behind.

With this Agreement, our region is also setting a shining example of how to balance the three dimensions of sustainable development. By engaging the public in all decisions that affect them and establishing a new relationship between the State, the market and society, our countries are refuting the false dichotomy between environmental protection and economic development. Growth cannot take place at the expense of the environment and

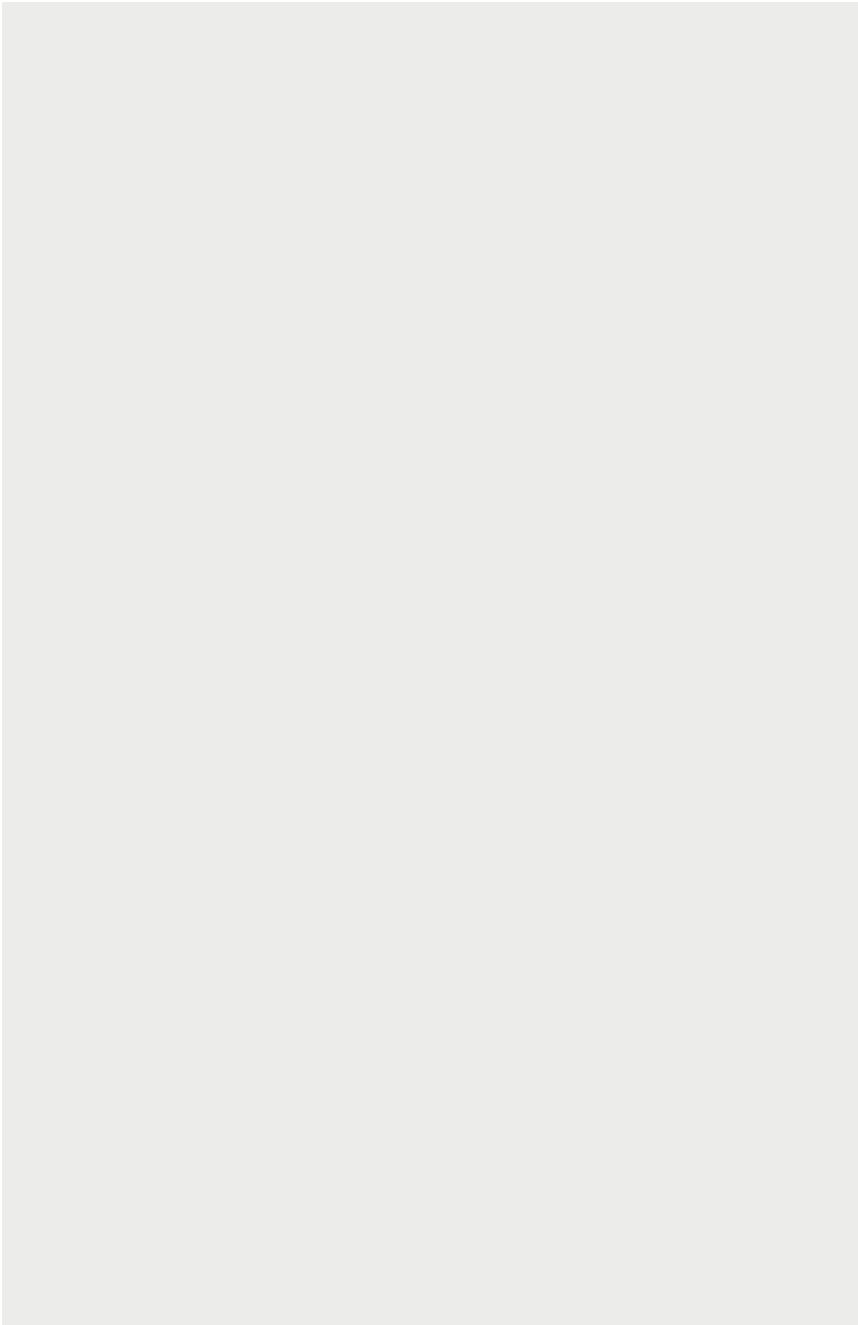
the environment cannot be managed if our economies and peoples are ignored. Legal certainty and trust in public institutions are also crucial to sustainable development. Such interlinkage and interdependence, recognized in the Regional Agreement, makes the first regional treaty of ECLAC an invaluable tool for achieving the 2030 Agenda for Sustainable Development.

The strong regional commitment to environmental protection and human rights is expected to lead to the Regional Agreement's prompt entry into force. By joining this landmark treaty, the 33 countries of Latin America and the Caribbean will not only continue to strengthen environmental democracy, but will also move a step closer towards making equality, sound economic growth and sustainable development for all a reality.



Alicia Bárcena

Executive Secretary
Economic Commission for Latin America
and the Caribbean (ECLAC)



Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean

Adopted at Escazú, Costa Rica, on 4 March 2018
Opening for signature at United Nations Headquarters
in New York on 27 September 2018

The Parties to the present Agreement,

Recalling the adoption, at the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in 2012, of the Declaration on the application of Principle 10 of the Rio Declaration, reaffirming the commitment to the rights of access to information, participation and justice regarding environmental issues, recognizing the need to make commitments to ensure proper fulfilment of those rights and declaring a willingness to launch a process for exploring the feasibility of adopting a regional instrument,

Reaffirming Principle 10 of the 1992 Rio Declaration on Environment and Development, which establishes the following: "Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided",

Emphasizing that access rights are interrelated and interdependent, and so each and every one of them should be promoted and implemented in an integrated and balanced manner,

Convinced that access rights contribute to the strengthening of, inter alia, democracy, sustainable development and human rights,

Reaffirming the importance of the Universal Declaration of Human Rights and recalling other international human rights instruments that underscore that all States have the responsibility to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind, including those related to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming also all the principles of the 1972 Declaration of the United Nations Conference on the Human Environment and of the 1992 Rio Declaration on Environment and Development,

Recalling the Declaration of the United Nations Conference on the Human Environment, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Declaration of Barbados and the Programme of Action for the Sustainable Development of Small Island Developing States, the Mauritius Declaration and the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, the Johannesburg Declaration on Sustainable Development, the Plan of Implementation of the World Summit on Sustainable Development and the SIDS Accelerated Modalities of Action (SAMOA) Pathway,

Recalling also that, in the outcome document of the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in 2012, entitled "The future we want", among the many provisions referring to Principle 10 of the Rio Declaration, the Heads of State and Government and high-level representatives acknowledged that democracy, good governance and the rule of law, at the national and international levels, as well as an enabling environment, were essential for sustainable development, including sustained and inclusive economic growth, social development,

environmental protection and eradication of poverty and hunger; underscored that broad public participation and access to information and judicial and administrative proceedings were essential to the promotion of sustainable development; and encouraged action at the regional, national, subnational and local levels to promote access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters, as appropriate,

Considering United Nations General Assembly resolution 70/1 of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development", by which it adopted a comprehensive, far-reaching and people-centred set of universal and transformative Sustainable Development Goals and targets, and reaffirmed its commitment to achieving sustainable development in its three dimensions—economic, social and environmental—in a balanced and integrated manner,

Recognizing the multiculturalism of Latin America and the Caribbean and of their peoples,

Recognizing also the important work of the public and of human rights defenders in environmental matters for strengthening democracy, access rights and sustainable development and their fundamental contributions in this regard,

Aware of the progress made in international and regional agreements, in domestic legislation and practice on rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters,

Convinced of the need to promote and strengthen dialogue, cooperation, technical assistance, education and awareness-raising as well as capacity-building for the full exercise of access rights at the international, regional, national, subnational and local levels,

Resolved to achieve the full implementation of the access rights provided for under the present Agreement, as well as the creation and strengthening of capacities and cooperation,

Have agreed as follows:

Article 1
Objective

The objective of the present Agreement is to guarantee the full and effective implementation in Latin America and the Caribbean of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters, and the creation and strengthening of capacities and cooperation, contributing to the protection of the right of every person of present and future generations to live in a healthy environment and to sustainable development.

Article 2
Definitions

For the purposes of the present Agreement:

- (a) "Access rights" means the right of access to environmental information, the right of public participation in the environmental decision-making process and the right of access to justice in environmental matters;
- (b) "Competent authority" means, for the purposes of articles 5 and 6 of the present Agreement, any public body that exercises the powers, authority and functions for access to information, including independent and autonomous bodies, organizations or entities owned or controlled by the government, whether by virtue of powers granted by the constitution or other laws, and, when appropriate, private organizations that receive public funds or benefits (directly or indirectly) or that perform public functions and services, but only with respect to the public funds or benefits received or to the public functions and services performed;
- (c) "Environmental information" means any information that is written, visual, audio, and electronic, or recorded in any other format, regarding the environment and its elements

and natural resources, including information related to environmental risks, and any possible adverse impacts affecting or likely to affect the environment and health, as well as to environmental protection and management;

- (d) "Public" means one or more natural or legal persons and the associations, organizations or groups established by those persons, that are nationals or that are subject to the national jurisdiction of the State Party;
- (e) "Persons or groups in vulnerable situations" means those persons or groups that face particular difficulties in fully exercising the access rights recognized in the present Agreement, because of circumstances or conditions identified within each Party's national context and in accordance with its international obligations.

Article 3

Principles

Each Party shall be guided by the following principles in implementing the present Agreement:

- (a) Principle of equality and principle of non-discrimination;
- (b) Principle of transparency and principle of accountability;
- (c) Principle of non-regression and principle of progressive realization;
- (d) Principle of good faith;
- (e) Preventive principle;
- (f) Precautionary principle;
- (g) Principle of intergenerational equity;
- (h) Principle of maximum disclosure;
- (i) Principle of permanent sovereignty of States over their natural resources;
- (j) Principle of sovereign equality of States; and
- (k) Principle of *pro persona*.

Article 4

General provisions

1. Each Party shall guarantee the right of every person to live in a healthy environment and any other universally-recognized human right related to the present Agreement.
2. Each Party shall ensure that the rights recognized in the present Agreement are freely exercised.
3. Each Party shall adopt the necessary measures, of a legislative, regulatory, administrative or any other nature, in the framework of its domestic provisions, to guarantee the implementation of the provisions of the present Agreement.
4. With the aim of contributing to the effective application of the present Agreement, each Party shall provide the public with information to facilitate the acquisition of knowledge on access rights.
5. Each Party shall ensure that guidance and assistance is provided to the public —particularly those persons or groups in vulnerable situations— in order to facilitate the exercise of their access rights.
6. Each Party shall guarantee an enabling environment for the work of persons, associations, organizations or groups that promote environmental protection, by recognizing and protecting them.
7. No provision in the present Agreement shall limit or repeal other more favourable rights and guarantees set forth, at present or in the future, in the legislation of a State Party or in any other international agreement to which a State is party, or prevent a State Party from granting broader access to environmental information, public participation in the environmental decision-making process and justice in environmental matters.
8. Each Party shall seek to adopt the most favourable interpretation for the full enjoyment of and respect for the access rights when implementing the present Agreement.
9. For the implementation of the present Agreement, each Party shall encourage the use of new information and communications

technologies, such as open data, in the different languages used in the country, as appropriate. In no circumstances shall the use of electronic media constrain or result in discrimination against the public.

10. The Parties may promote knowledge of the provisions of the present Agreement in other international forums related to environmental matters, in accordance with the rules of each forum.

Article 5

Access to environmental information

Accessibility of environmental information

1. Each Party shall ensure the public's right of access to environmental information in its possession, control or custody, in accordance with the principle of maximum disclosure.
2. The exercise of the right of access to environmental information includes:
 - (a) requesting and receiving information from competent authorities without mentioning any special interest or explaining the reasons for the request;
 - (b) being informed promptly whether the requested information is in possession or not of the competent authority receiving the request; and
 - (c) being informed of the right to challenge and appeal when information is not delivered, and of the requirements for exercising this right.
3. Each Party shall facilitate access to environmental information for persons or groups in vulnerable situations, establishing procedures for the provision of assistance, from the formulation of requests through to the delivery of the information, taking into account their conditions and specificities, for the purpose of promoting access and participation under equal conditions.
4. Each Party shall guarantee that the above-mentioned persons or groups in vulnerable situations, including indigenous peoples and ethnic groups, receive assistance in preparing their requests and obtain a response.

Refusal of access to environmental information

5. If the requested information or part thereof is not delivered to the applicant because it falls under the domestic legal regime of exceptions, the competent authority shall communicate its refusal in writing, including the legal provisions and the reasons justifying the decision in each case, and inform the applicant of the right to challenge and appeal.
6. Access to information may be refused in accordance with domestic legislation. In cases where a Party does not have a domestic legal regime of exceptions, that Party may apply the following exceptions:
 - (a) when disclosure would put at risk the life, safety or health of individuals;
 - (b) when disclosure would adversely affect national security, public safety or national defence;
 - (c) when disclosure would adversely affect the protection of the environment, including any endangered or threatened species; or
 - (d) when disclosure would create a clear, probable and specific risk of substantial harm to law enforcement, prevention, investigation and prosecution of crime.
7. The exception regimes shall take into account each Party's human rights obligations. Each Party shall encourage the adoption of exception regimes that favour the disclosure of information.
8. The reasons for refusal shall be legally established in advance and be clearly defined and regulated, taking into account the public interest, and shall thus be interpreted restrictively. The burden of proof will lie with the competent authority.
9. When applying the public interest test, the competent authorities shall weigh the interest of withholding the information against the public benefit of disclosing it, based on suitability, need and proportionality.

10. Where not all the information contained in a document is exempt under paragraph 6 of the present article, the non-exempt information shall be provided to the applicant.

Conditions applicable to the delivery of environmental information

11. The competent authorities shall guarantee that the environmental information is provided in the format requested by the applicant, if available. If such a format is not available, the environmental information shall be provided in the available format.
12. The competent authorities shall respond to requests for environmental information as quickly as possible and within a period not longer than 30 business days from the date of receipt of the request, or less if so stipulated in domestic legislation.
13. Where, in exceptional circumstances and in accordance with domestic legislation, the competent authority requires more time to respond to the request, it shall notify the applicant in writing of the justification for the extension prior to the expiration of the period established in paragraph 12 of the present article. Such an extension will not exceed 10 business days.
14. In the event that the competent authority does not respond within the periods established in paragraphs 12 and 13 of the present article, paragraph 2 of article 8 shall apply.
15. When the competent authority receiving the request does not have the requested information, it shall notify the applicant as quickly as possible, indicating, if it can determine it, which authority may be in possession of the information. The request shall be forwarded to the relevant authority, and the applicant so informed.
16. When the requested information does not exist or has not yet been generated, the applicant shall be so informed, with explanation, within the periods established in paragraphs 12 and 13 of the present article.
17. Environmental information shall be disclosed at no cost, insofar as its reproduction or delivery is not required. Reproduction and delivery costs shall be applied in accordance with the

procedures established by the competent authority. Such costs shall be reasonable and made known in advance, and payment can be waived in the event that the applicant is deemed to be in a vulnerable situation or to have special circumstances warranting such a waiver.

Independent oversight mechanisms

18. Each Party shall establish or designate one or more impartial entities or institutions with autonomy and independence to promote transparency in access to environmental information, to oversee compliance with rules, and monitor, report on and guarantee the right of access to information. Each Party may consider including or strengthening, as appropriate, sanctioning powers within the scope of the responsibilities of the aforementioned entities or institutions.

Article 6

Generation and dissemination of environmental information

1. Each Party shall guarantee, to the extent possible within available resources, that the competent authorities generate, collect, publicize and disseminate environmental information relevant to their functions in a systematic, proactive, timely, regular, accessible and comprehensible manner, and periodically update this information and encourage the disaggregation and decentralization of environmental information at the subnational and local levels. Each Party shall strengthen coordination between the different authorities of the State.
2. The competent authorities shall endeavour to ensure, to the extent possible, that environmental information is reusable, processable and available in formats that are accessible, and that no restrictions are placed on its reproduction or use, in accordance with domestic legislation.
3. Each Party shall have in place one or more up-to-date environmental information systems, which may include, inter alia:
 - (a) the texts of treaties and international agreements, as well as environmental laws, regulations and administrative acts;

- (b) reports on the state of the environment;
- (c) a list of public entities competent in environmental matters and, where possible, their respective areas of operation;
- (d) a list of polluted areas, by type of pollutant and location;
- (e) information on the use and conservation of natural resources and ecosystem services;
- (f) scientific, technical or technological reports, studies and information on environmental matters produced by academic and research institutions, whether public or private, national or foreign;
- (g) climate change sources aimed at building national capacities;
- (h) information on environmental impact assessment processes and on other environmental management instruments, where applicable, and environmental licences or permits granted by the public authorities;
- (i) an estimated list of waste by type and, when possible, by volume, location and year; and
- (j) information on the imposition of administrative sanctions in environmental matters.

Each Party shall guarantee that environmental information systems are duly organized, accessible to all persons and made progressively available through information technology and georeferenced media, where appropriate.

4. Each Party shall take steps to establish a pollutant release and transfer register covering air, water, soil and subsoil pollutants, as well as materials and waste in its jurisdiction. This register will be established progressively and updated periodically.
5. Each Party shall guarantee that in the case of an imminent threat to public health or the environment, the relevant competent authority shall immediately disclose and disseminate through the most effective means all pertinent information in its possession that could help the public take measures to prevent or limit

potential damage. Each Party shall develop and implement an early warning system using available mechanisms.

6. In order to facilitate access by persons or groups in vulnerable situations to information that particularly affects them, each Party shall endeavour, where applicable, to ensure that the competent authorities disseminate environmental information in the various languages used in the country, and prepare alternative formats that are comprehensible to those groups, using suitable channels of communication.
7. Each Party shall use its best endeavours to publish and disseminate at regular intervals, not exceeding five years, a national report on the state of the environment, which may contain:
 - (a) information on the state of the environment and natural resources, including quantitative data, where possible;
 - (b) national actions to fulfil environmental legal obligations;
 - (c) advances in the implementation of the access rights; and
 - (d) collaboration agreements among public, social and private sectors.

Such reports shall be drafted in an easily comprehensible manner and accessible to the public in different formats and disseminated through appropriate means, taking into account cultural realities. Each Party may invite the public to make contributions to these reports.

8. Each Party shall encourage independent environmental performance reviews that take into account nationally or internationally agreed criteria and guides and common indicators, with a view to evaluating the efficacy, effectiveness and progress of its national environmental policies in fulfilment of their national and international commitments. The reviews shall include participation by the various stakeholders.
9. Each Party shall promote access to environmental information contained in concessions, contracts, agreements or authorizations granted, which involve the use of public goods, services or resources, in accordance with domestic legislation.

10. Each Party shall ensure that consumers and users have official, relevant and clear information on the environmental qualities of goods and services and their effects on health, favouring sustainable production and consumption patterns.
11. Each Party shall create and keep regularly updated its archiving and document management systems in environmental matters in accordance with its applicable rules with the aim of facilitating access to information at all times.
12. Each Party shall take the necessary measures, through legal or administrative frameworks, among others, to promote access to environmental information in the possession of private entities, in particular information on their operations and the possible risks and effects on human health and the environment.
13. In accordance with its capacities, each Party shall encourage public and private companies, particularly large companies, to prepare sustainability reports that reflect their social and environmental performance.

Article 7

Public participation in the environmental decision-making process

1. Each Party shall ensure the public's right to participation and, for that purpose, commits to implement open and inclusive participation in environmental decision-making processes based on domestic and international normative frameworks.
2. Each Party shall guarantee mechanisms for the participation of the public in decision-making processes, revisions, re-examinations or updates with respect to projects and activities, and in other processes for granting environmental permits that have or may have a significant impact on the environment, including when they may affect health.
3. Each Party shall promote the participation of the public in decision-making processes, revisions, re-examinations or updates other than those referred to in paragraph 2 of the present article with respect to environmental matters of public

interest, such as land-use planning, policies, strategies, plans, programmes, rules and regulations, which have or may have a significant impact on the environment.

4. Each Party shall adopt measures to ensure that the public can participate in the decision-making process from the early stages, so that due consideration can be given to the observations of the public, thus contributing to the process. To that effect, each Party shall provide the public with the necessary information in a clear, timely and comprehensive manner, to give effect to its right to participate in the decision-making process.
5. The public participation procedure will provide for reasonable timeframes that allow sufficient time to inform the public and for its effective participation.
6. The public shall be informed, through appropriate means, such as in writing, electronically, orally and by customary methods, and in an effective, comprehensible and timely manner, as a minimum, of the following:
 - (a) the type or nature of the environmental decision under consideration and, where appropriate, in non-technical language;
 - (b) the authority responsible for making the decision and other authorities and bodies involved;
 - (c) the procedure foreseen for the participation of the public, including the date on which the procedure will begin and end, mechanisms for participation and, where applicable, the date and place of any public consultation or hearing; and
 - (d) the public authorities involved from which additional information on the environmental decision under consideration can be requested and the procedure for requesting information.
7. The public's right to participate in environmental decision-making processes shall include the opportunity to present observations through appropriate means available, according to

the circumstances of the process. Before adopting the decision, the relevant public authority shall give due consideration to the outcome of the participation process.

8. Each Party shall ensure that, once a decision has been made, the public is informed in a timely manner thereof and of the grounds and reasons underlying the decision, including how the observations of the public have been taken into consideration. The decision and its basis shall be made public and be accessible.
9. The dissemination of the decisions resulting from environmental impact assessments and other environmental decision-making processes in which the public has participated shall be carried out through appropriate means, which may include written, electronic or oral means and customary methods, in an effective and prompt manner. The information disseminated shall include the established procedure to allow the public to take the relevant administrative and judicial actions.
10. Each Party shall establish conditions that are favourable to public participation in environmental decision-making processes and that are adapted to the social, economic, cultural, geographical and gender characteristics of the public.
11. When the primary language of the directly affected public is different to the official languages, the public authority shall ensure that means are provided to facilitate their understanding and participation.
12. Each Party shall promote, where appropriate and in accordance with domestic legislation, public participation in international forums and negotiations on environmental matters or with an environmental impact, in accordance with the procedural rules on participation of each forum. The participation of the public at the national level on matters of international environmental forums shall also be promoted, where appropriate.
13. Each Party shall encourage the establishment of appropriate spaces for consultation on environmental matters or the use of those that are already in existence in which various groups and sectors are able to participate. Each Party shall promote

regard for local knowledge, dialogue and interaction of different views and knowledge, where appropriate.

14. The public authorities shall make efforts to identify and support persons or groups in vulnerable situations in order to engage them in an active, timely and effective manner in participation mechanisms. For these purposes, appropriate means and formats will be considered, in order to eliminate barriers to participation.
15. In the implementation of the present Agreement, each Party shall guarantee that its domestic legislation and international obligations in relation to the rights of indigenous peoples and local communities are observed.
16. The public authority shall make efforts to identify the public directly affected by the projects or activities that have or may have a significant impact on the environment and shall promote specific actions to facilitate their participation.
17. With respect to the environmental decision-making processes referred to in paragraph 2 of the present article, as a minimum, the following information shall be made public:
 - (a) a description of the area of influence and physical and technical characteristics of the proposed project or activity;
 - (b) a description of the main environmental impacts of the project or activity and, as appropriate, the cumulative environmental impact;
 - (c) a description of the measures foreseen with respect to those impacts;
 - (d) a summary of (a), (b) and (c) of the present paragraph in comprehensible, non-technical language;
 - (e) the public reports and opinions of the involved entities addressed to the public authority related to the project or activity under consideration;
 - (f) a description of the available technologies to be used and alternative locations for executing the project or activity subject to assessment, when the information is available; and

- (g) actions taken to monitor the implementation and results of environmental impact assessment measures.

The aforementioned information shall be made available free of charge to the public in accordance with paragraph 17 of article 5 of the present Agreement.

Article 8

Access to justice in environmental matters

1. Each Party shall guarantee the right of access to justice in environmental matters in accordance with the guarantees of due process.
2. Each Party shall ensure, in the framework of its domestic legislation, access to judicial and administrative mechanisms to challenge and appeal, with respect to substance and procedure:
 - (a) any decision, action or omission related to the access to environmental information;
 - (b) any decision, action or omission related to public participation in the decision-making process regarding environmental matters; and
 - (c) any other decision, action or omission that affects or could affect the environment adversely or violate laws and regulations related to the environment.
3. To guarantee the right of access to justice in environmental matters, each Party shall have, considering its circumstances:
 - (a) competent State entities with access to expertise in environmental matters;
 - (b) effective, timely, public, transparent and impartial procedures that are not prohibitively expensive;
 - (c) broad active legal standing in defence of the environment, in accordance with domestic legislation;
 - (d) the possibility of ordering precautionary and interim measures, inter alia, to prevent, halt, mitigate or rehabilitate damage to the environment;

- (e) measures to facilitate the production of evidence of environmental damage, when appropriate and as applicable, such as the reversal of the burden of proof and the dynamic burden of proof;
 - (f) mechanisms to execute and enforce judicial and administrative decisions in a timely manner; and
 - (g) mechanisms for redress, where applicable, such as restitution to the condition prior to the damage, restoration, compensation or payment of a financial penalty, satisfaction, guarantees of non-repetition, assistance for affected persons and financial instruments to support redress.
- 4. To facilitate access to justice in environmental matters for the public, each Party shall establish:
 - (a) measures to minimize or eliminate barriers to the exercise of the right of access to justice;
 - (b) means to publicize the right of access to justice and the procedures to ensure its effectiveness;
 - (c) mechanisms to systematize and disseminate judicial and administrative decisions, as appropriate; and
 - (d) the use of interpretation or translation of languages other than the official languages when necessary for the exercise of that right.
- 5. In order to give effect to the right of access to justice, each Party shall meet the needs of persons or groups in vulnerable situations by establishing support mechanisms, including, as appropriate, free technical and legal assistance.
- 6. Each Party shall ensure that the judicial and administrative decisions adopted in environmental matters and their legal grounds are set out in writing.
- 7. Each Party shall promote, where appropriate, alternative dispute resolution mechanisms in environmental matters, such as mediation, conciliation or other means that allow such disputes to be prevented or resolved.

Article 9**Human rights defenders in environmental matters**

1. Each Party shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity.
2. Each Party shall take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights, taking into account its international obligations in the field of human rights, its constitutional principles and the basic concepts of its legal system.
3. Each Party shall also take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the present Agreement.

Article 10**Capacity-building**

1. In order to contribute to the implementation of the provisions of the present Agreement, each Party undertakes to create and strengthen national capacities, based on its priorities and needs.
2. Each Party, in line with its capacities, may take, inter alia, the following measures:
 - (a) train authorities and civil servants on environmental access rights;
 - (b) develop and strengthen environmental law and access rights awareness-raising and capacity-building programmes for, inter alia, the public, judicial and administrative officials, national human rights institutions and jurists;

- (c) provide the competent institutions and entities with adequate equipment and resources;
- (d) promote education and training on, and raise public awareness of, environmental matters, through, inter alia, basic educational modules on access rights for students at all levels of education;
- (e) develop specific measures for persons or groups in vulnerable situations, such as providing interpreters or translators in languages other than official languages when necessary;
- (f) acknowledge the importance of associations, organizations or groups that train the public on or raise public awareness of access rights; and
- (g) strengthen capabilities to collect, retain and evaluate environmental information.

Article 11
Cooperation

1. The Parties shall cooperate to strengthen their national capacities with the aim of implementing the present Agreement in an effective manner.
2. The Parties shall give particular consideration to least developed countries, landlocked developing countries and small island developing States from Latin America and the Caribbean.
3. For the purposes of implementing paragraph 2 of the present article, the Parties shall promote activities and mechanisms, such as:
 - (a) discussions, workshops, expert exchanges, technical assistance, education and observatories;
 - (b) developing, sharing and implementing educational, training and awareness-raising materials and programmes;
 - (c) sharing experiences of voluntary codes of conduct, guidelines, good practices and standards; and

- (d) committees, councils and forums of multisectoral development stakeholders to address cooperation priorities and activities.
4. The Parties shall encourage partnerships with States from other regions, intergovernmental, non-governmental, academic and private organizations, as well as civil society organizations and other relevant stakeholders to implement the present Agreement.
 5. The Parties recognize that regional cooperation and information-sharing shall be promoted in relation to all aspects of illicit activities against the environment.

Article 12

Clearing house

The Parties shall have a virtual and universally accessible clearing house on access rights. The clearing house will be operated by the Economic Commission for Latin America and the Caribbean, in its capacity as Secretariat, and may include, inter alia, legislative, administrative and policy measures, codes of conduct and good practices.

Article 13

National implementation

Each Party, to the extent of its ability and in accordance with its national priorities, commits to provide the resources for national activities that are needed to fulfil the obligations derived from the present Agreement.

Article 14

Voluntary Fund

1. A Voluntary Fund is hereby established to support the financing of the implementation of the present Agreement, the functioning of which shall be defined by the Conference of the Parties.
2. Parties may make voluntary contributions to support the implementation of the present Agreement.

3. The Conference of the Parties may seek, in accordance with paragraph 5(g) of article 15 of the present Agreement, to obtain funds from other sources to support the implementation of the present Agreement.

Article 15

Conference of the Parties

1. A Conference of the Parties is hereby established.
2. The Executive Secretary of the Economic Commission for Latin America and the Caribbean shall convene the first meeting of the Conference of the Parties no later than one year after the entry into force of the present Agreement. Subsequently, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be decided by the Conference.
3. Extraordinary meetings of the Conference of the Parties shall be held when the Conference deems necessary.
4. At its first meeting, the Conference of the Parties shall:
 - (a) discuss and adopt by consensus its rules of procedure, including the modalities for significant participation by the public; and
 - (b) discuss and adopt by consensus the financial provisions that are necessary for the functioning and implementation of the present Agreement.
5. The Conference of the Parties shall examine and promote the implementation and effectiveness of the present Agreement. To that end:
 - (a) it shall establish by consensus such subsidiary bodies as it deems necessary for the implementation of the present Agreement;
 - (b) it shall receive and consider reports and recommendations from subsidiary bodies;
 - (c) it shall be informed by the Parties of the measures adopted to implement the present Agreement;
 - (d) it may formulate recommendations to the Parties on the implementation of the present Agreement;

- (e) it shall prepare and adopt, as applicable, protocols to the present Agreement for its subsequent signature, ratification, acceptance, approval and accession;
- (f) it shall examine and adopt proposals to amend the present Agreement in accordance with the provisions of article 20 of the present Agreement;
- (g) it shall establish guidelines and modalities for mobilizing financial and non-financial resources from various sources to facilitate the implementation of the present Agreement;
- (h) it shall examine and adopt any additional measures needed to achieve the objective of the present Agreement; and
- (i) it shall perform any other function assigned to it by the present Agreement.

Article 16

Right to vote

Each Party to the present Agreement shall have one vote.

Article 17

Secretariat

1. The Executive Secretary of the Economic Commission for Latin America and the Caribbean shall carry out the secretariat functions of the present Agreement.
2. The functions of the Secretariat shall be as follows:
 - (a) to convene and organize the meetings of the Conference of the Parties and its subsidiary bodies and provide the necessary services;
 - (b) to provide assistance to the Parties upon their request for capacity-building, including the sharing of experiences and information and the organization of activities in accordance with articles 10, 11 and 12 of the present Agreement;
 - (c) to determine, under the general guidance of the Conference of the Parties, the administrative and contractual arrangements needed to carry out its functions effectively; and

- (d) to perform any other secretariat functions specified in the present Agreement and any other functions as determined by the Conference of the Parties.

Article 18

Committee to Support Implementation and Compliance

1. A Committee to Support Implementation and Compliance is hereby established as a subsidiary body of the Conference of the Parties to promote the implementation of the present Agreement and to support the Parties in that regard. The rules relating to its structure and functions shall be determined by the Conference of the Parties at its first meeting.
2. The Committee shall be of a consultative and transparent nature, non-adversarial, non-judicial and non-punitive and shall review compliance of the provisions of the present Agreement and formulate recommendations, in accordance with the rules of procedure established by the Conference of the Parties, ensuring the significant participation of the public and paying particular attention to the national capacities and circumstances of the Parties.

Article 19

Settlement of disputes

1. If a dispute arises between two or more Parties about the interpretation or application of the present Agreement, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.
2. When signing, ratifying, accepting, approving or acceding to the present Agreement, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of the present article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
 - (a) submission of the dispute to the International Court of Justice;
 - (b) arbitration in accordance with the procedures that the Conference of the Parties will establish.

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of the present article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

Article 20

Amendments

1. Amendments to the present Agreement may be proposed by any Party.
2. Amendments to the present Agreement shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate the proposed amendment to the signatories to the present Agreement and, for information, to the Depositary.
3. The Parties shall make every effort to reach a consensus on any proposed amendment to the present Agreement. In the event that the efforts to reach a consensus fail, as a last resort, the amendment shall be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.
4. An adopted amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.
5. Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 of the present article shall enter into force for the Parties having consented to be bound by it on the ninetieth day after the date of deposit of the instruments of ratification, acceptance or approval by at least half of the number of Parties to the present Agreement at the time the amendment was adopted. Thereafter, the amendment shall enter into force for any other Party that consents to be bound by it on the ninetieth day after the date of deposit of its instrument of ratification, acceptance or approval of the amendment.

Article 21

Signature, ratification, acceptance, approval and accession

1. The present Agreement shall be open for signature by any of the countries of Latin America and the Caribbean included in annex 1 at United Nations Headquarters in New York from 27 September 2018 to 26 September 2020.
2. The present Agreement shall be subject to the ratification, acceptance or approval of the States that have signed it. It shall be open to accession by any country in Latin America and the Caribbean included in annex 1 that has not signed it from the day after the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 22

Entry into force

1. The present Agreement shall enter into force on the ninetieth day after the date of deposit of the eleventh instrument of ratification, acceptance, approval or accession.
2. For each State that ratifies, accepts or approves the present Agreement or accedes thereto after the deposit of the eleventh instrument of ratification, acceptance, approval or accession, the present Agreement shall enter into effect on the ninetieth day after the date of deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 23

Reservations

No reservations may be made to the present Agreement.

Article 24

Withdrawal

1. At any time after three years from the date on which the present Agreement has entered into force for a Party, that Party may withdraw from the present Agreement by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

Article 25

Depositary

The Secretary-General of the United Nations shall be the Depositary for the present Agreement.

Article 26

Authentic texts

The original of the present Agreement, the Spanish and English texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed the present Agreement.

DONE at Escazú, Costa Rica, on this fourth day of March, two thousand and eighteen.

Annex 1

- Antigua and Barbuda
- Argentina
- Bahamas
- Barbados
- Belize
- Bolivia (Plurinational State of)
- Brazil
- Chile
- Colombia
- Costa Rica
- Cuba
- Dominica
- Dominican Republic
- Ecuador
- El Salvador
- Grenada
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**Elimination of racism, racial discrimination, xenophobia
and related intolerance: comprehensive implementation of
and follow-up to the Durban Declaration and Programme
of Action**

**Contemporary forms of racism, racial discrimination,
xenophobia and racial intolerance****Note by the Secretary-General****

The Secretariat has the honour to transmit to the General Assembly the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Tendayi Achiume, prepared pursuant to General Assembly resolution 73/262.

* A/74/150.

** The present report was submitted after the deadline owing to the proximity of the deadline to earlier deadlines for the submission of the reports of the Special Rapporteur to the Human Rights Council, as well as the greater number of reports that the Special Rapporteur is required to submit relative to other special procedures mandate holders.

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**Report of the Special Rapporteur on contemporary forms of
racism, racial discrimination, xenophobia and racial intolerance**

Summary

In the present report, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and racial intolerance addresses the human rights obligations of Member States in relation to reparations for racial discrimination rooted in slavery and colonialism.

I. Activities of the Special Rapporteur

1. The present report is submitted pursuant to General Assembly resolution 73/262 on a global call for concrete action for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action.

A. Country visits

2. The Special Rapporteur made an official visit to the United Kingdom of Great Britain and Northern Ireland from 30 April to 11 May 2018¹ and to Morocco from 13 to 21 December 2018.² She presented her first country visit reports to the Human Rights Council at its forty-first session, on 8 July 2019.

3. The Special Rapporteur would like to thank the Governments of the Netherlands and Qatar for inviting her to conduct country visits from 30 September to 7 October 2019, and from 24 November to 1 December 2019, respectively. She also wishes to thank the Governments of Brazil, Malaysia and Poland for accepting her country visit requests and looks forward to their cooperation in scheduling dates for those visits in 2020–2021.

B. Other activities

4. The activities of the Special Rapporteur from July 2018 to April 2019 are listed in her report on global extractivism and racial equality presented to the Human Rights Council at its forty-first session.³ In the report, the Special Rapporteur highlighted racial discrimination in the global economy and natural resource extraction industries. Her subsequent activities included the convening of an expert group meeting on reparations, racial justice and racial equality on 29 May 2019 at the New York University Gallatin School of Individualized Study. In July 2019, the Special Rapporteur convened a civil society consultation in Geneva, in the margins of the forty-first session of the Human Rights Council, on the topic “Strengthening an international human rights anti-racism agenda, amplifying the knowledge of civil society organizations”. She also participated in an expert round table on the theme “Stand up for migrants: confronting hate in our societies and reshaping narratives on migration”, as well as a side event entitled “Intersectionality as politics and practice”.

5. In response to her call for submissions, the Special Rapporteur received 22 submissions that helped to inform the present report. She expresses her gratitude for those submissions and thanks in particular the participants of the expert group meeting for their invaluable contributions.

II. Introduction

6. In the present report, the Special Rapporteur addresses the obligations of Member States in relation to reparations for slavery and colonialism, which requires the following factors to be taken into consideration:

¹ A/HRC/41/54/Add.2.

² A/HRC/41/54/Add.1.

³ A/HRC/41/54.

(a) The historic racial injustices of slavery and colonialism that remain largely unaccounted for today, but which nevertheless require restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition;

(b) The contemporary racially discriminatory effects of structures of inequality and subordination resulting from failures to redress the racism of slavery and colonialism.

7. In that context, reparations for slavery and colonialism include not only justice and accountability for historic wrongs, but also the eradication of persisting structures of racial inequality, subordination and discrimination that were built under slavery and colonialism to deprive non-whites of their fundamental human rights. Slavery and colonialism denied persons equal protection before the law on the basis of their race. One of the persisting legacies of slavery and colonialism remains the unequal application of the law to descendants of historically enslaved and colonized peoples.

8. Reparations concern both our past and our present; the Durban Declaration clearly states that transatlantic slavery and colonialism remain among the root causes of racism, racial discrimination, xenophobia and related intolerance against Africans and people of African descent, people of Asian descent and indigenous peoples.⁴ States in the Americas have also recognized the existence of “a mestizo population of different ethnic and racial origins, to a large extent as the result of the history of colonization and slavery in the American continent, in which unequal relations of race and gender were joined”.⁵ In addition to implicating individual wrongful acts, reparations for slavery and colonialism implicate entire legal, economic, social and political structures that enabled slavery and colonialism, and which continue to sustain racial discrimination and inequality today. That means that the urgent project of providing reparations for slavery and colonialism requires States not only to fulfil remedial obligations resulting from specific historical wrongful acts, but also to transform contemporary structures of racial injustice, inequality, discrimination and subordination that are the product of the centuries of racial machinery built through slavery and colonialism.

9. Reparations for slavery and colonialism entail moral, economic, political and legal responsibilities.⁶ The present report outlines a structural approach to providing reparations for slavery and colonialism under public international law and international human rights law, according to which States must pursue a just and equitable international order as an urgent dimension of reparations for slavery and colonialism. Full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination must also be understood as a central pillar to achieving reparations for slavery and colonialism. The present report also provides detailed information on the duties of States in providing reparations for racial discrimination and injustice under public international law and international human rights law.

10. In the present report, the Special Rapporteur discusses legal hurdles to providing full reparations, while also highlighting legal obligations related to the provision of reparations for which States are fully liable today. In addition, the Special Rapporteur emphasizes that the pursuit and achievement of reparations for slavery and colonialism require a genuine “decolonization” of the doctrines of international law that remain barriers to reparations. In the face of the grave historic injustices of slavery and colonialism, as well as their continuing legacies, the use of legal doctrine by Member States to impede redress is distressing. The Special Rapporteur stresses that international legal doctrine has a longer history of justifying and enabling

⁴ A/CONF.189/12, chap. I, paras. 13–14.

⁵ A/CONF.189/PC.2/7, para. 41.

⁶ A/CONF.189/PC.2/8, para. 20.

colonial domination than it does of guaranteeing equal rights to all human beings. Law that perpetuates neocolonial dynamics – including the failure to eradicate the legacies of slavery and colonialism – must itself be recognized and condemned as neocolonial law. The impetus should be on developing legal doctrines that can ensure justice and equality for all, irrespective of race. Colonialism and slavery were legal once, but both were abolished. This then raises the question as to why defenders of liberal justice are not preoccupied with achieving the legal reform that would make comprehensive reparations compatible with international law.

11. In cases where States have pursued reparations for slavery and colonialism, they have often done so in a racially discriminatory fashion. Notable historical examples exist where whites who profited and benefited the most from chattel slavery and colonialism received monetary compensation, while non-whites and their nations were partially or wholly left without redress or were forced to make payment to former colonizers or enslavers. For example, after slavery was abolished in the colonies of the United Kingdom in 1833, about 3,000 families received £20 million, valued at over £16 billion today, for their loss of “property”, in other words, enslaved Africans.⁷ At the time, those payments accounted for 40 per cent of the annual expenditure budget of the United Kingdom Treasury.⁸ In 1862, the President of the United States of America, Abraham Lincoln, signed the District of Columbia Compensated Emancipation Act, requiring the immediate emancipation of enslaved people in exchange for US\$ 300 for each freed person payable to former slave owners.⁹ In less than a year, 930 petitions for compensation were wholly or partially approved, resulting in the freedom of nearly 3,000 enslaved people.¹⁰ The Compensated Emancipation Act also authorized the payment of US\$ 100 to formerly enslaved people but only if they were willing to repatriate to Africa.¹¹ In 1825, newly independent Haiti was forced into an agreement to pay 150 million gold francs to France in order to compensate French planters for “lost property” (land and enslaved people), an amount that was well in excess of the planters’ actual financial losses.¹² In short, racial discrimination has historically pervaded the consideration and implementation of reparative justice; the discriminatory pursuit of reparations is itself a product of the cemented and continuing legacy of colonialism and slavery.

12. In the present report, the Special Rapporteur also considers the interplay between political and legal resistance to reparations. For example, in the early 1900s in Namibia, Germany committed genocide against the Ovaherero and Nama peoples.¹³ As recounted by the Working Group of Experts on People of African Descent, German authorities killed over 65,000 Ovaherero and 10,000 Nama,¹⁴ including

thousands who died of starvation and thirst after being driven into the desert without food or water. Many Ovaherero and Nama who survived the initial slaughter of their people died in the notorious concentration camps; they were decapitated and their skulls were then sent to Germany at the request of medical

⁷ Sanchez Manning, “Britain’s colonial shame: slave-owners given huge payouts after abolition”, *Independent*, 24 February 2013; Ahmed N. Reid, “Data for reparation”, paper presented at the twenty-fourth session of the Working Group of Experts on People of African Descent, Geneva, March 2019, p. 9.

⁸ Reid, “Data for reparation”.

⁹ United States of America, District of Columbia Compensated Emancipation Act, 16 April 1862.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² Reid, “Data for reparation”, p. 8.

¹³ A/HRC/36/60/Add.2, paras. 7–8 and 53.

¹⁴ *Ibid.*, para. 7.

researchers to help prove the racial superiority of white people over black people.¹⁵

Germany has acknowledged that it has a moral and historical responsibility to Namibia¹⁶ and has conducted “targeted development projects”.¹⁷ Although Germany now refers to the Ovaherero massacre as a genocide, it reportedly does so in a non-legal sense and refuses to acknowledge a legal obligation for the massacre.¹⁸ Furthermore, the Working Group, in its report on its mission to Germany of 2017, noted that Germany had thus far not consulted seriously with the lawful representatives of the minority and indigenous victims of that genocide to discuss reparations.¹⁹

13. The Ovaherero and Nama are owed full reparations for the German genocide and, although development aid can be part of a comprehensive approach to reparations, it cannot be a substitute for a full accounting of the historic and ongoing racially discriminatory human rights violations resulting from the genocide. The Ovaherero and Nama must themselves be permitted to shape the process of repairing the harm their communities have endured. The extensive measures that Germany has taken to provide reparations for the atrocities of the Holocaust are acknowledged and commended in chapter V below. A similar commitment to reparations is necessary in the case of the Ovaherero and Nama genocide, which occurred in the same half-century as the Holocaust.

14. Reparations alone cannot achieve the eradication of racial discrimination. Nevertheless, they are a vital aspect of a global order genuinely committed to the inherent dignity of all, irrespective of race, ethnicity or national origin. An important first step towards achieving reparations is raising awareness as to the full extent of the racially discriminatory evils of slavery and colonialism, which are an unavoidable reality of global history,²⁰ but which are regularly erased from the history books and the national consciousness of the nations that bear the greatest guilt for perpetrating such evils.

15. Ultimately, the difficult truth is that the greatest barrier to reparations for colonialism and slavery is that the biggest beneficiaries of both lack the political will and moral courage to pursue such reparations.

III. Slavery, colonialism and racial discrimination

16. The transatlantic slave trade has been described as the first system of globalization.²¹ At the core of transatlantic slavery and the slave trade was the dehumanization of persons on the basis of “race”; a social construct that to this day shapes access to fundamental human rights.²² Slavery and the slave trade embodied and entrenched extreme forms of racial discrimination, relying on domestic and international legal frameworks to institute and protect racial hierarchy in the various parts of the world affected by transatlantic slavery. For example, by the mid-seventeenth century, black people were recognized as chattel slaves in law – as

¹⁵ Ibid.

¹⁶ Germany, Federal Parliament, Official Record No. 17/6813, 18 August 2011.

¹⁷ A/HRC/36/60/Add.2, para. 53.

¹⁸ Daniel Pelz, “Berlin unruffled by US lawsuit on colonial-era genocide”, *Deutsche Welle*, 6 January 2017; Kate Brady, “Germany officially refers to Herero massacre as genocide”, *Deutsche Welle*, 13 July 2016.

¹⁹ A/HRC/36/60/Add.2, para. 53.

²⁰ A/69/272, para. 83.

²¹ See www.unesco.org/new/en/social-and-human-sciences/themes/slave-route/transatlantic-slave-trade/.

²² A/HRC/41/54, para. 12.

property, rather than humans – in the American colonies. “‘Black’ racial identity marked who was subject to enslavement; ‘white’ racial identity marked who was ‘free’ or, at minimum, not a slave.”²³ As a legal institution, slavery used race to determine which humans would face treatment as property to be bought, sold, inherited and even used as collateral.²⁴

17. In the Durban Declaration and Programme of Action, adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001, and endorsed by the General Assembly in its resolution 56/266 in 2002, Member States denounced “slavery and the slave trade, including the transatlantic slave trade, [as] appalling tragedies in the history of humanity not only because of their abhorrent barbarism but also in terms of their magnitude, organized nature and especially their negation of the essence of the victims”.²⁵ They further declared that “slavery and the slave trade are a crime against humanity and should always have been so, especially the transatlantic slave trade”.²⁶ The international prohibition of slavery is also articulated in the Universal Declaration of Human Rights,²⁷ the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery,²⁸ and the International Covenant on Civil and Political Rights.²⁹

18. Racial discrimination was also at the core of European colonialism. As the Special Rapporteur has previously noted,³⁰ European colonial domination, first in the Americas and then in Asia and Africa, eventually constructed race as “a supposedly different biological structure that placed some in a natural situation of inferiority to the others”.³¹ Colonialism consolidated “race and racial identity” as “instruments of basic social classification”³² and made the former “the fundamental criterion for the distribution of the world population into ranks, places, and roles in the new [colonial] society’s structure of power”.³³ For centuries, colonialism justified and relied upon brutal regimes of slavery and indentured servitude to establish and sustain transnational extractivist processes in exploitation and settler colonies.³⁴ Colonialism, including through its use of national and international law, also allocated human rights on a racial basis; colonial powers used the now-discredited “scientific” theories of biological races to justify laws prohibiting non-whites from enjoying the most fundamental of human rights. Under colonialism, law, including international law, played a central role in consolidating and furthering global structures of racial domination and discrimination.³⁵

19. At the World Conference against Racism in Durban, Member States denounced the brutality of colonialism, calling for its condemnation and for the prevention of its reoccurrence.³⁶ Member States have also rejected colonialism as incompatible with

²³ Cheryl I. Harris, “Whiteness as property”, *Harvard Law Review*, vol. 106, No. 8 (June 1993), p. 1,718.

²⁴ *Ibid.*, p. 1,720.

²⁵ A/CONF.189/12, chap. I, para. 13.

²⁶ *Ibid.*

²⁷ Resolution 217 (III).

²⁸ United Nations, *Treaty Series*, vol. 266, No. 3822.

²⁹ Resolution 2200 A (XXI), annex, art. 8.

³⁰ A/HRC/41/54, para. 25.

³¹ Anibal Quijano and Michael Ennis, “Coloniality of power, Eurocentrism and Latin America”, *Nepantla: Views from South*, vol. 1, No. 3 (2000), p. 533.

³² *Ibid.*, p. 534.

³³ *Ibid.*, p. 535.

³⁴ A/HRC/41/54.

³⁵ Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge, Cambridge University Press, 2005).

³⁶ A/CONF.189/12, chap. I, para. 14.

fundamental human rights, self-determination, and development.³⁷ The United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples states that “the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation”.³⁸ At the core of decolonization was the fundamental affirmation, including in the Declaration, that “all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”.³⁹ The General Assembly has since enshrined that condemnation of colonialism in its human rights system, including in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination,⁴⁰ the International Convention on the Elimination of All Forms of Racial Discrimination,⁴¹ and the Declaration on the Right to Development.⁴²

Contemporary racially discriminatory legacies of transatlantic slavery and colonialism

20. Although slavery and colonialism are the object of international condemnation, they still occur and require urgent action from Member States.⁴³ Furthermore, the formal abolition of slavery and colonialism has not addressed the ongoing racially discriminatory structures built by those practices. In other words, many contemporary manifestations of racial discrimination must be understood as a continuation of insufficiently remediated historical forms and structures of racial injustice and inequality.⁴⁴ Accordingly, United Nations Member States and organs have rightly emphasized that colonialism and the transatlantic slave trade are a cause of numerous contemporary harms and human rights violations. The Durban Declaration identifies both colonialism and transatlantic slavery as evils that remain contemporary sources of racial discrimination and persistent inequality.⁴⁵ The Sub-Commission on the Promotion and Protection of Human Rights also emphasized that the harmful effects of those practices continue into the twenty-first century.⁴⁶

21. Preceding the conclusions dating from the early twenty-first century are numerous United Nations documents that express a similar conclusion, including the Declaration on the Establishment of a New International Economic Order⁴⁷ and the United Nations Educational, Scientific and Cultural Organization Declaration on Race and Racial Prejudice.⁴⁸ The preamble to the Abuja Proclamation of the Organization of African Unity, adopted at the first Pan-African Conference on Reparations for African Enslavement, Colonization and Neo-colonization in 1993, also emphasizes the ongoing nature of those “historical” violations.⁴⁹ Over the past few decades, United Nations special procedure mandate holders have also concluded

³⁷ A/CN.4/SER.A/1976/Add.1 (Part II), pp. 106–108; A/31/10.

³⁸ Resolution 1514 (XV).

³⁹ Ibid.

⁴⁰ Resolution 1904 (XVIII), preamble.

⁴¹ Resolution 2106 A (XX), annex.

⁴² Resolution 41/128, annex, preamble and art. 5.

⁴³ Human Rights Council resolutions 33/1 and 40/22.

⁴⁴ A/CONF.189/PC.2/7.

⁴⁵ A/CONF.189/12, chap. I, preamble and paras. 13–20.

⁴⁶ Sub-Commission on the Promotion and Protection of Human Rights, resolutions 2001/1 and 2002/5.

⁴⁷ Resolution 3201 (S-VI).

⁴⁸ United Nations Educational, Scientific and Cultural Organization, Declaration on Race and Racial Prejudice, 27 November 1978.

⁴⁹ Organization of African Unity, Abuja Proclamation, adopted at the first Pan-African Conference on Reparations for African Enslavement, Colonization and Neo-colonization, held in Abuja, 27–29 April 1993.

that colonialism and the slave trade have entrenched racial discrimination and continue to be a root cause of contemporary manifestations of racism and racially discriminatory violations of human rights.⁵⁰

22. Examples from the United States illustrate the long legacy of chattel slavery, notwithstanding its abolition. After emancipation, southern states implemented segregationist laws and practices and whites were effectively granted a licence to terrorize black communities.⁵¹ Approximately 5,000 black people were lynched by white mobs⁵² and many others were beaten or sexually assaulted.⁵³ The judicial system did not protect black people from violence; instead, white people found refuge in the complicity of the legal system.⁵⁴ Even today, black people are killed and brutalized at alarming rates by law enforcement authorities and vigilantes, who have little to no accountability.⁵⁵ Currently, 2.2 million people are incarcerated in jails and prisons in the United States,⁵⁶ which extract free or low-wage labour from those behind bars.⁵⁷ Black adults are 5.9 times more likely to be incarcerated than white adults.⁵⁸ Such racial disparities do not occur by accident: mass incarceration is a vestige of slavery and the “Jim Crow” era of racial segregation that followed.⁵⁹

23. Even after freedom from enslavement, black people continued to face economic exploitation and were forced into debt peonage through sharecropping.⁶⁰ After emancipation, many worked on the same plantations on which they had previously been enslaved, and were crippled by debts to former slave masters. In addition, black people were prevented from obtaining wealth through property ownership. Those fleeing the southern United States in search of better opportunities in the north were forced into segregated communities by way of racially restrictive covenants, which were agreements written into property deeds prohibiting sale to black people.⁶¹ Predatory lending practices also robbed black people of the benefits of home ownership.⁶² Black communities that thrived in spite of economic discrimination faced violence that devastated their opportunities for economic uplift and stability. The Tulsa race massacre of 1921 is a prime example: white mobs descended upon the Greenwood District in Tulsa, Oklahoma, which was one of the wealthiest black communities in the United States at the time and known as “Black Wall Street”.⁶³ Over 800 people were injured, and as many as 300 people were killed, while 35 square blocks of commercial and residential property were destroyed.⁶⁴ The racial

⁵⁰ E/CN.4/1995/78/Add.1, paras. 21–36; A/HRC/33/61/Add.2, paras. 68 and 91.

⁵¹ E/CN.4/1995/78/Add.1, paras. 26–29.

⁵² *Ibid.*, para. 29.

⁵³ See <https://ejl.org/history-racial-injustice-sexual-exploitation-black-women>; Jasmine Sankofa, “Mapping the blank: centering black women’s vulnerability to police sexual violence to upend mainstream police reform”, *Howard Law Journal*, vol. 59, no. 3 (Spring 2016), pp. 673–678.

⁵⁴ Jasmine Sankofa, “Mapping the blank”.

⁵⁵ See <https://ejl.org/history-racial-injustice-sexual-exploitation-black-women>.

⁵⁶ The Sentencing Project, “Report of The Sentencing Project to the United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance: regarding racial disparities in the United States criminal justice system”, March 2018, p. 1.

⁵⁷ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York, The New Press, 2010).

⁵⁸ The Sentencing Project, “Report of The Sentencing Project to the United Nations Special Rapporteur”, p. 1.

⁵⁹ Michelle Alexander, *The New Jim Crow*.

⁶⁰ N. Gordon Carper, “Slavery revisited: peonage in the south”, *Phylon*, vol. 37, No. 1 (1976).

⁶¹ Nancy H. Welsh, “Racially restrictive covenants in the United States: a call to action”, *Agora Journal of Urban Planning and Design*, vol. 12 (2018), p. 131.

⁶² Ta-Nehisi Coates, “The case for reparations”, *The Atlantic*, June 2014.

⁶³ See www.tulsahistory.org/exhibit/1921-tulsa-race-massacre/.

⁶⁴ *Ibid.*

subordination of black people, consolidated during the peak of chattel slavery, persisted for generations, and remains in effect today. Around 21 per cent of black people live in poverty in the United States, which is more than double the rate for white people (8.8 per cent).⁶⁵ Given the current pace of growth in wealth among black families, it is estimated that it will take nearly 230 years for black families to obtain the same amount of wealth that white families currently have.⁶⁶ As researchers have noted, “these wealth disparities are rooted in historic injustices and carried forward by practices and policies that fail to reverse inequitable trends”.⁶⁷

24. Brazil offers another example of the contemporary racially discriminatory legacies of colonialism and slavery. It is not possible to determine the exact number of enslaved Africans that were transported to the Americas. Contemporary research places the estimate at about 12 million, 46 per cent of whom were taken to Brazil⁶⁸ and experienced the grossest forms of human rights violations. After the abolition of slavery, racial segregation, “whitening” policies and other forms of institutionalized discrimination against Brazilians of African descent preserved the racial hierarchies created by slavery.⁶⁹ Although the Government of Brazil has attempted to address the issue of structural racism against Brazilians of African descent, the lingering unremedied effects of slavery and colonialization still permeate Brazilian society. Although Brazilians of African descent constitute a demographic majority, their inherited subordinate social status has deprived them of political power.⁷⁰ Brazilians of African descent face ongoing racial discrimination and institutional exclusion, and remain at the bottom of the socioeconomic ladder.⁷¹ Compared with Brazilians of European descent, Brazilians of African descent endure poorer social and economic conditions, including lower average income, lower life expectancy, inadequate education and housing, higher rates of unemployment and greater food insecurity.⁷² Furthermore, as a result of entrenched and State-sponsored discrimination, the State continues to criminalize and disproportionately subject Brazilians of African descent to imprisonment and brutal violence, including extrajudicial executions.⁷³

25. In sum, contemporary structures of racial discrimination, inequality and subordination are among the most salient legacies of slavery and colonialism. Those structures require urgent attention in the context of reparations.

⁶⁵ Kayla Fontenot, Jessica Semega and Melissa Kollar, *Income and Poverty in the United States: 2017*, U.S. Census Bureau, Current Population Reports, P60-263 (Washington, D.C., U.S. Government Printing Office, 2018), p. 12.

⁶⁶ Dedrick Asante-Muhammed and others, “The ever-growing gap”, Institute for Policy Studies and CFED, 21 June 2016, p. 5.

⁶⁷ Laura Sullivan and others, “The racial wealth gap: why policy matters”, Demos and Institute for Assets and Social Policy, 2016, p. 5.

⁶⁸ Myrian Sepúlveda Santos, “The legacy of slavery in contemporary Brazil”, in *African Heritage and Memory of Slavery in Brazil and the South Atlantic World*, Ana Lucia Araujo, ed. (New York, Cambria Press, 2015).

⁶⁹ A/HRC/27/68/Add.1, para. 5.

⁷⁰ A/HRC/31/56/Add.1, para. 17.

⁷¹ Ibid., para. 89; Inter-American Commission on Human Rights, “Preliminary observations of IACHR’s in loco visit to Brazil”, visit from 5–12 November 2018.

⁷² Ibid.

⁷³ Ibid.

IV. Duties of States to provide reparations for racial discrimination under international human rights law

A. Structural approach to reparations for slavery and colonialism under public international law and international human rights law

26. In 1974, the General Assembly recognized that the establishment of a new international economic order, based on equity, sovereign equality, interdependence, common interest and cooperation among all States, was essential to correcting inequalities and redressing injustices rooted in colonialism.⁷⁴ It stated that “the remaining vestiges of alien and colonial domination, foreign occupation, racial discrimination, apartheid and neo-colonialism in all its forms continue to be among the greatest obstacles to the full emancipation and progress of the developing countries and all the peoples involved”.⁷⁵ The Declaration on the Establishment of a New International Economic Order provided a blueprint for the structural reform of the international system (and international law) that remains vital to repairing the structures of inequality and discrimination that were built predominantly from the legacies of colonialism and slavery. In the Declaration and other instruments, the United Nations has recognized that the right to self-determination, and to social progress more generally, requires States to eliminate colonialism, slavery and all its consequences.⁷⁶ Recognizing that the yoke of those historical violations continues to impede the enjoyment of human rights, States must treat the pursuit of a just and equitable international order as an urgent dimension of reparations for slavery and colonialism.

27. In a similar vein, the Expert Mechanism on the Rights of Indigenous Peoples has stated that:

indigenous people view recognition, reparation and reconciliation as a means of addressing colonization and its long-term effects and of overcoming challenges with deep historical roots. In this regard, recognition of the right of indigenous peoples to self-determination (including free, prior and informed consent), their rights to autonomy and political participation, their claims to their lands and the recognition of indigenous juridical systems and customary laws should be considered an essential part of recognition, reparation and reconciliation.⁷⁷

28. Full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination must also be understood as an essential means of achieving reparations for slavery and colonialism. In a direct repudiation of colonial-era biological theories of race, States parties to the Convention affirmed their belief that “any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere”.⁷⁸ Furthermore, with the adoption of the Convention, States parties explicitly recalled the racial discrimination endemic in colonialism.⁷⁹ The Convention provides a solid blueprint for dismantling racially discriminatory structures, including those rooted in historical racial injustices. The effective protection of individuals from forms of racial discrimination requires access to justice, pursuit of accountability, reparations, guarantees of

⁷⁴ Resolution 3201 (S-VI).

⁷⁵ *Ibid.*

⁷⁶ Resolutions 1514 (XV) and 41/128, annex, art. 5.

⁷⁷ A/HRC/EMRIP/2019/3, para. 73.

⁷⁸ Resolution 2106 A (XX), annex, preamble.

⁷⁹ *Ibid.*

non-recurrence, and the elimination of impunity.⁸⁰ Furthermore, the Convention requires States parties “to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms”⁸¹ and anticipates the necessity of special measures or affirmative action “taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms”.⁸² The Special Rapporteur has emphasized the obligation of States to undertake special measures to correct historical violations and harms.⁸³

B. Duty to provide reparations (including for racial discrimination) under public international law and international human rights law

29. International practices, tribunal decisions and other sources of international law have long held that State breaches of legal obligations entail a responsibility on the part of States to provide full reparations.⁸⁴ As the Permanent Court of International Justice concluded in 1927, “it is a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form. Reparation therefore is the indispensable complement of a [breach]”.⁸⁵

30. Traditionally, reparations in international law involved restitution or compensation from one State to another State.⁸⁶ Notwithstanding the long history of gross racially discriminatory human rights violations by European colonial powers (including genocide), it was the unconscionable acts of Germany during the Holocaust that gave momentum to an important shift in international reparations. Although the dominant conception of international reparations had been almost exclusively inter-State, by the early 1950s the emergent concept of international reparations included direct State-to-individual and State-to-society reparations.⁸⁷

31. The draft articles on responsibility of States for internationally wrongful acts, with commentaries, adopted by the General Assembly in 2001,⁸⁸ outline a contemporary understanding of the obligation of States to make reparations. Drawing on existing international law, article 31 of the draft articles codifies the basic reparative obligation of States: “to make full reparation for the injury caused by the internationally wrongful act” where “injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State”.⁸⁹ In the commentary to the draft articles, it is noted that two of the elements of article 31 correspond to principles enshrined in international law.⁹⁰ It is also noted in the commentary that

⁸⁰ Ibid., art. 6; E/CN.4/Sub.2/2005/7, summary and para. 31; A/55/18, annex V, sect. C, para. 12; Committee on the Elimination of Racial Discrimination, general recommendation No. 34 (2011), paras. 27–28 and 58; Human Rights Committee, general comment No. 31 (2004), paras. 8 and 15–19.

⁸¹ Resolution 2106 A (XX), art. 2.

⁸² Ibid., art. 1 (4); Committee on the Elimination of Racial Discrimination, general recommendation No. 32 (2009).

⁸³ A/68/333.

⁸⁴ *Case Concerning the Factory at Chorzów*, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17, p. 47.

⁸⁵ Ibid., Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9, p. 21.

⁸⁶ Dinah Shelton, “Righting wrongs: reparations in the articles on State responsibility”, *American Journal of International Law*, vol. 96, No. 4 (October 2002), p. 839.

⁸⁷ Richard M. Buxbaum, “A legal history of international reparations”, *Berkeley Journal of International Law*, vol. 23, No. 2 (2005), p. 314.

⁸⁸ A/56/10.

⁸⁹ Ibid., pp. 223–231.

⁹⁰ Ibid., pp. 223–231.

article 31 requires a responsible State to endeavour to “wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed”⁹¹ through the provision of one or more of the forms of reparation.

32. In accordance with the draft articles on responsibility of States for internationally wrongful acts, States owe obligations to make reparations for a wide range of violations of international law, including violations of treaty law, as well as crimes against humanity, human rights violations and violations *erga omnes*.⁹² However, the draft articles codify a fairly strict standard regarding a State’s international responsibility and the associated obligation to make reparations.⁹³ The draft articles decline to discuss the obligations of States to repair harms caused by legal acts,⁹⁴ concluding instead that States only incur international responsibility for acts that are both internationally wrongful and attributable to the State.⁹⁵ Similarly, the widely recognized intertemporal principle limits State responsibility for reparations to those acts that were internationally wrongful at the time the State committed them.⁹⁶ However, the intertemporal principle is not an absolute bar. Extensions in time for international responsibility apply when: (a) an act is ongoing and continues to a time when international law considered the act to be a violation;⁹⁷ or (b) the direct ongoing consequences of the wrongful act extend to a time when the act and its consequences are considered internationally wrongful.⁹⁸ Both of those exceptions are vital to the context of reparations related to transatlantic slavery and colonialism, given the continuing legacies of racial discrimination discussed above.

33. Over the past several years, the International Law Commission has worked on draft articles defining crimes against humanity and discussing State obligations to refrain from, prevent and redress such crimes.⁹⁹ Similar to the obligations under international human rights law, the current draft of article 12 (3) envisions State obligations to ensure that individuals enjoy “the right to obtain reparation for material and moral damages, on an individual or collective basis, consisting, as appropriate, of one or more of the following or other forms: restitution; compensation; satisfaction; rehabilitation; cessation and guarantees of non-repetition”.¹⁰⁰

34. The emergence of international human rights systems in the 1940s and the post-Second World War conceptual shift in international reparations are synergistic. The international human rights system operates on the fundamental premise that violations of international human rights law incur an obligation on violators to provide adequate and effective reparations to victims of those violations.¹⁰¹ Victims of human rights violations, including racially discriminatory violations, hold a corresponding right to full reparations. Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination is clear in that regard:

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his

⁹¹ Ibid., pp. 223–231.

⁹² Ibid., pp. 63–67.

⁹³ Ibid., arts. 12–15.

⁹⁴ Ibid., p. 62.

⁹⁵ Ibid., art. 2.

⁹⁶ Ibid., art. 13.

⁹⁷ Ibid., art. 14.

⁹⁸ Ibid., art. 15.

⁹⁹ International Law Commission, Analytical Guide to the Work of the International Law Commission – Crimes Against Humanity. Available at http://legal.un.org/ilc/guide/7_7.shtml.

¹⁰⁰ A/CN.4/L.935, art. 12 (3).

¹⁰¹ Resolutions 2200 A (XXI), annex, art. 2, and 2106 A (XX), annex, art. 6.

human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

35. That requirement arises because, for rights to have meaning, effective remedies must be available to redress violations,¹⁰² and reparations form a central element of full remediation. Members of the United Nations human rights system also note that effective remedies, reparations and redress are necessary for ensuring rights to access justice¹⁰³ and to protection against possible violations,¹⁰⁴ as well as for ensuring the cessation and non-recurrence of violations¹⁰⁵ and for combating impunity.¹⁰⁶ Similar to the United Nations human rights system, the European, inter-American and African human rights systems seek to ensure remedies for violations of human rights and associated wrongful acts.¹⁰⁷

C. Comprehensive approach to understanding forms of reparations under international law

36. Public international law, as articulated by the draft articles on responsibility of States for internationally wrongful acts, provides for a fairly broad conception of reparations for internationally wrongful acts.¹⁰⁸ Full reparations entail restitution, compensation and satisfaction, as appropriate. States are required, if possible, to pursue restitution, that is, restoration to the status quo before the internationally wrongful act was committed.¹⁰⁹ If full restitution is not materially possible or is out of proportion to the harm suffered,¹¹⁰ States should supplement their restitution efforts with compensation.¹¹¹ Should restitution and compensation fail to result in full reparations, States have an obligation to implement forms of satisfaction.¹¹² Forms of satisfaction may include an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality,¹¹³ such as a prevention of non-repetition.¹¹⁴

37. The United Nations human rights system follows a more detailed and expansive approach to types of remedies and reparations than the three-pronged approach set out in the draft articles on responsibility of States for internationally wrongful acts. The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law¹¹⁵ ("the Basic Principles and Guidelines"), adopted by the General Assembly in 2005, aim to consolidate rights and

¹⁰² Committee on the Rights of the Child, general comment No. 5 (2003), paras. 6 and 24; Human Rights Committee, general comment No. 31 (2004), paras. 15–19; A/69/518, para. 15.

¹⁰³ A/60/18, para. 217; Human Rights Committee, general comment No. 31 (2004), para. 15.

¹⁰⁴ Resolution 2106 A (XX), art. 6; A/60/18, para. 460; Human Rights Committee, general comment No. 31 (2004), para. 16.

¹⁰⁵ Human Rights Committee, general comment No. 31 (2004), paras. 15–19.

¹⁰⁶ A/55/18, annex V, sect. C., para. 12; Human Rights Committee, general comment No. 31 (2004), para. 18.

¹⁰⁷ American Convention on Human Rights, art. 25; European Convention on Human Rights, art. 13; African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, sect. C.

¹⁰⁸ A/56/10, pp. 223–231.

¹⁰⁹ Ibid., art. 35.

¹¹⁰ Ibid., art. 35.

¹¹¹ Ibid., art. 36.

¹¹² Ibid., art. 37.

¹¹³ Ibid., art. 37 (2).

¹¹⁴ Ibid., p. 221, para. 11.

¹¹⁵ Resolution 60/147.

best practices for remedies and reparations recognized within the United Nations human rights system.¹¹⁶ The Basic Principles and Guidelines set out five forms of remedy and reparations for violations: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.¹¹⁷ Each of those forms plays a different role in ensuring a holistic and effective remedy, one closely related to the notion of transitional justice.¹¹⁸ Restitution aims to “restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred”.¹¹⁹ Compensation entails payment for economically assessable damage, including physical and mental harm, lost social benefits, material damages, moral damage and costs incurred.¹²⁰ Rehabilitation includes the provision of “medical and psychological care as well as legal and social services”.¹²¹ Satisfaction is a wide-ranging element of reparations and remedies. Where appropriate, satisfaction may encompass measures to stop violations, disclose the truth, restore dignity, accept responsibility, commemorate or pay tribute to victims, and ensure sanctions against responsible parties.¹²² Lastly, guarantees of non-repetition involve measures that contribute to non-recurrence and are most closely associated with the structural reform and strengthening of State institutions, as well as ensuring sufficient civilian oversight and proper respect for human rights.¹²³

38. In addition to outlining those five forms of remedy and reparations, the Basic Principles and Guidelines address several other topics, including the role of reparations in the promotion of justice, the proper treatment of victims, and ensuring widespread access to information on reparations mechanisms. The Basic Principles and Guidelines now constitute an important element of the United Nations human rights system.¹²⁴ At the same time, the Basic Principles and Guidelines do not capture the full range of views on reparations and remedies in the United Nations human rights system. Even during the drafting of a background report that would inform those principles, some actors within the United Nations human rights system expressed concern over insufficient incorporation of other views of the United Nations, especially on reparations for historical violations and on definitions of victims.¹²⁵ The Basic Principles and Guidelines should therefore be understood as non-exhaustive, and as leaving room for relevant bodies, including United Nations treaty bodies, to suggest appropriate, effective and victim-specific reparations.

39. The work of the Special Rapporteurs on the promotion of truth, justice, reparation and guarantees of non-recurrence has been critical to understanding implementation by States of their human rights obligations to provide reparations. In a report from 2014, the Special Rapporteur discussed widespread failures by States to ensure reparations for gross violations of human rights and humanitarian law.¹²⁶ Among several other topics, the Special Rapporteur: (a) stressed the obligation to ensure that the magnitude of reparation programmes is commensurate with the gravity of the violations;¹²⁷ (b) explained why complex reparation programmes (those providing both individual and collective forms of material reparation and symbolic

¹¹⁶ A/69/518, para. 18.

¹¹⁷ Resolution 60/147, annex, para. 18.

¹¹⁸ A/69/518, para. 20.

¹¹⁹ Resolution 60/147, annex, para. 19.

¹²⁰ *Ibid.*, para. 20.

¹²¹ *Ibid.*, para. 21.

¹²² *Ibid.*, para. 22.

¹²³ *Ibid.*, para. 23.

¹²⁴ CRC/C/MOZ/CO/2, para. 78; A/HRC/34/73, para. 93.

¹²⁵ E/CN.4/Sub.2/1992/SR.27, para. 46; E/CN.4/Sub.2/1992/SR.31, paras. 1–3;

E/CN.4/Sub.2/1993/8, para. 24.

¹²⁶ A/69/518.

¹²⁷ *Ibid.*, para. 47.

measures) may better suit the needs of victims;¹²⁸ (c) articulated that the positive consequences of well-designed reparation programmes may have important spillover effects for non-victims;¹²⁹ (d) discussed how providing reparations for certain violations and not others harms marginalized groups and ensures that States will face ongoing calls to make reparations;¹³⁰ (e) explained the reason why development and reparation programmes should be viewed as distinct;¹³¹ (f) critiqued State reluctance to acknowledge violations;¹³² (g) challenged State claims that reparation programmes are unaffordable, noting that political constraints often hinder reparation efforts to a greater degree than socioeconomic development;¹³³ and (h) called on the international community to play a larger role and be more responsive in supporting reparation initiatives.¹³⁴

40. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, in his report of 2016, made important observations on victim participation in reparations and transitional justice processes. He explained several ways in which victim participation strengthens efforts to achieve transitional justice.¹³⁵ On the topic of reparations, the Special Rapporteur observed that victim participation can help to improve the fit between the benefits available to, and the expectations of, victims.¹³⁶ In addition, the Special Rapporteur observed that,

given that large-scale programmes fall short of full compensation, the adequacy of the benefits they offer depends on complicated judgments concerning the appropriateness of the whole complex of benefits, the process of distribution and the relationship between the reparation benefits and other redress measures, including criminal justice, truth and guarantees of non-recurrence, judgments that are also for the victims to make.¹³⁷

41. The report of the Expert Mechanism on the Rights of Indigenous Peoples on recognition, reparation and reconciliation¹³⁸ submitted in 2019 is an important contribution to the United Nations human rights system's understanding of the obligation to provide reparations and effective, victim-centred remedies. In the report, the Expert Mechanism provided details on numerous efforts by indigenous peoples around the world to achieve recognition, reparation and reconciliation. The Expert Mechanism also helpfully discussed the important but potentially challenging overlap of reparation and reconciliation.¹³⁹

V. Reparations for slavery and colonialism: overcoming barriers

42. Reparations for racial injustice, although elusive for many, are possible and have been achieved in some cases. For example, beginning in the late 1940s, the Federal Republic of Germany (known informally as "West Germany" at the time) commenced restitution for Nazi-era crimes.¹⁴⁰ Soon thereafter, Germany supplemented its

¹²⁸ Ibid., para. 32.

¹²⁹ Ibid., paras. 11, 72 and 82.

¹³⁰ Ibid., para. 27.

¹³¹ Ibid., paras. 40–42.

¹³² Ibid., paras. 62–63.

¹³³ Ibid., paras. 51–61.

¹³⁴ Ibid., para. 58.

¹³⁵ A/HRC/34/62, para. 53.

¹³⁶ Ibid., para. 57.

¹³⁷ Ibid.

¹³⁸ A/HRC/EMRIP/2019/3.

¹³⁹ Ibid., paras. 39–47.

¹⁴⁰ Germany, Federal Ministry of Finance, Compensation for National Socialist Injustice: Indemnification Provisions, 21 May 2019.

restitution programmes with compensation for individual suffering, loss of life, health and liberty inflicted by the Nazi regime.¹⁴¹ By the early 1950s, Germany had concluded the "Luxembourg Agreement", in which the country agreed to pay DM 3 billion to the State of Israel and DM 450 million to the Conference on Jewish Material Claims against Germany.¹⁴² The overall compensation by Germany for victims of the Nazi regime has been wide-ranging. Among other programmes, Germany also implemented several comprehensive agreements with European States whose nationals suffered National Socialist persecution.¹⁴³ Germany has also provided compensation for the Nazi regime's use of slave labour.¹⁴⁴ Current total compensation paid by Germany to the victims of the Nazi regime exceeds €76.659 million.¹⁴⁵

43. With regard to colonialism, in April 2011 veterans of the Mau Mau movement filed suit in the United Kingdom, requesting compensation for assault, battery and negligence. The claimants were tortured, castrated and sexually abused while held in detention camps by the Government of the United Kingdom in the 1950s.¹⁴⁶ Some 1.5 million Kenyans were held in detention camps and confined to villages and subjected to systematic torture and abuse during the repression of the Mau Mau independence movement by the British colonial Government.¹⁴⁷ The High Court of Justice granted the Mau Mau the right to sue, permitting the case to move forward.¹⁴⁸ The Government ultimately settled the suit and agreed to pay £19.9 million in damages to 5,228 survivors of abuse. The Government also issued an apology, admitting that:

Kenyans were subject to torture and other forms of ill treatment at the hands of the colonial administration. The British government sincerely regrets that these abuses took place, and that they marred Kenya's progress towards independence. Torture and ill treatment are abhorrent violations of human dignity which we unreservedly condemn.¹⁴⁹

44. There are numerous examples of detailed proposals for reparations for slavery and colonial injustices, and only a few are highlighted here as illustrations.¹⁵⁰ Among the most significant is the Ten-Point Plan for Reparatory Justice adopted in 2014 by the Caribbean Community (CARICOM), which aims to "achieve reparatory justice for the victims of genocide, slavery, slave trading and racial apartheid".¹⁵¹ The Ten-Point Plan is informed by the previous discussions between African and CARICOM

¹⁴¹ Ibid., pp. 6, 28.

¹⁴² Ibid., pp. 6–7.

¹⁴³ Ibid., pp. 10–12 and 31.

¹⁴⁴ Ibid., pp. 12–13.

¹⁴⁵ Ibid., p. 25.

¹⁴⁶ High Court of Justice, *Ndiki Mutua, Paulo Nzili, Wambugu Wa Nyinyi, Jane Muthoni Mara, Susan Ngondi v. The Foreign and Commonwealth Office*, Case No. 11Q09X02666, Approved Judgment, 21 May 2011.

¹⁴⁷ Colin Prescod, "Archives, race, class and rage", *Race & Class*, vol. 58, No. 4 (April–June 2017), p. 76.

¹⁴⁸ High Court of Justice, *Ndiki Mutua, Paulo Nzili, Wambugu Wa Nyinyi, Jane Muthoni Mara, Susan Ngondi v. The Foreign and Commonwealth Office*, Case No. HQ09X02666, Approved Judgment, 10 October 2012.

¹⁴⁹ Press Association, "UK to compensate Kenya's Mau Mau torture victims", *Guardian*, 6 June 2013.

¹⁵⁰ Thomas Craemer, "International reparations for slavery and the slave trade", *Journal of Black Studies*, vol. 49, No. 7 (October 2018), p. 694; William Darity, Jr., "Forty acres and a mule in the 21st century", *Social Science Quarterly*, vol. 89, No. 3 (February 2008), p. 656; William Darity, Jr. and Dania Frank, "The economics of reparations", *American Economic Review*, vol. 93, No. 2 (May 2003); Kitty B. Dumont and Sven Waldzus, "Reparation demands and collective guilt assignment of Black South Africans", *Journal of Black Psychology*, vol. 43, No. 1 (2017), p. 27.

¹⁵¹ Leigh Day, "CARICOM nations unanimously approve 10 point plan for slavery reparations", 11 March 2014.

States on reparations that began in Abuja at the first Pan-African Conference on Reparations in 1993 and continued at the World Conference against Racism held in Durban in 2001.¹⁵² The Ten-Point Plan forms part of a broader CARICOM Reparatory Justice Programme, in which CARICOM nations have worked to engage former colonial European nations. The CARICOM Reparations Commission provides important context for understanding contemporary movements for reparations, noting that the issue is not only historic racial injustice, but also the need to address the contemporary human rights violations and socioeconomic deprivation for which slavery and colonialism are among the root causes.¹⁵³

Political and legal resistance to reparations

45. Serious political opposition to reparations for colonialism and slavery remains among the countries that benefited the most from both. For example, during both the lead-up to and at the World Conference against Racism held in Durban in 2001, certain former colonial powers remained staunchly resistant to formal apologies for slavery and colonialism, and to any acknowledgment of the pressing need for reparations. At the Regional Conference of the Americas in preparation for the World Conference against Racism, participating States adopted the following strong statement acknowledging that:

the enslavement and other forms of servitude of Africans and their descendants and of the indigenous peoples of the Americas, as well as the slave trade, were morally reprehensible, in some cases constituted crimes under domestic law and, if they occurred today, would constitute crimes under international law. [And that] these practices have resulted in substantial and lasting economic, political and cultural damage to these peoples and that justice now requires that substantial national and international efforts be made to repair such damage. Such reparation should be in the form of policies, programmes and measures to be adopted by the States which benefited materially from these practices, and designed to rectify the economic, cultural and political damage which has been inflicted on the affected communities and peoples.¹⁵⁴

46. Canada and the United States opposed the inclusion of this important paragraph in the report of the Regional Conference.¹⁵⁵ The European Conference against Racism failed to sufficiently underscore the persisting discriminatory legacies of slavery and colonialism, and the urgency of reparations for those historical injustices.¹⁵⁶ The report of the European Conference did not even mention peoples of African or Asian descent.

47. Political opposition to the subject of reparations in some countries is so deep that even attempts to study the issue have been consistently blocked at the legislative level. For example, between 1989 and 2017, United States Congressman John Conyers repeatedly introduced bill H.R. 40, entitled “Commission to Study and Develop Reparation Proposals for African-Americans Act”, to the House of Representatives.¹⁵⁷ During that period Congress blocked the progress of the initiative – which sought only to advance understanding of the issue of reparations, and did not even authorize any actual measures for reparations. That sort of political

¹⁵² CARICOM, “CARICOM ten point plan for reparatory justice”.

¹⁵³ *Ibid.*

¹⁵⁴ A/CONF.189/PC.2/7.

¹⁵⁵ *Ibid.*, annex IV.

¹⁵⁶ A/CONF.189/PC.2/6.

¹⁵⁷ United States, “Commission to Study and Develop Reparation Proposals for African-Americans Act”, H.R. 40, 115th Congress (2017–2018).

resistance to the very production of knowledge on reparations is incompatible with the international human rights principles and standards canvassed above.

48. Conventional analysis of international law, including by former colonial nations, identifies a number of legal hurdles to the pursuit of claims for reparations for slavery and colonialism. Among the most salient legal hurdles identified is the intertemporal principle in international law, codified in article 13 of the articles on responsibility of States for internationally wrongful acts. The intertemporal principle stresses that a State is responsible for violations of international law only if, at the time of the violation or its continuing effects, the State was bound by the legal provisions it transgressed. Numerous States have appealed to the non-retroactive application of international law to deny that they have a legal obligation to provide reparations. For example, with regard to its genocide of the Ovaherero and Nama peoples of Namibia, Germany has stressed the intertemporal principle as a barrier to its international responsibility for both the genocide and reparations.¹⁵⁸ Rather than accepting that it has a legal obligation to provide reparations, Germany has argued that its obligations are “historical” and “moral”.¹⁵⁹

49. First, the intertemporal principle is subject to exception, including when (a) an act is ongoing and continues into a time when international law considered the act a violation,¹⁶⁰ or (b) the wrongful act’s direct ongoing consequences extend into a time when the act and its consequences are considered internationally wrongful.¹⁶¹ That means that racial discrimination rooted in or caused by colonialism and slavery that occurred after each had been outlawed cannot be subject to the intertemporal bar. Second, the intertemporal principle does not apply to present-day racially discriminatory effects of slavery and colonialism, which States are obligated to remediate, including through reparations. The intertemporal principle cannot be said, per se, to bar all claims for reparations for racial discrimination rooted in the events and structures of slavery and colonialism. Member States, and international lawyers involved in the interpretation and articulation of international law, must do more to explore the application of the intertemporal principle’s exceptions, especially as a mechanism for overcoming overstated legal hurdles to the pursuit of racial justice.

50. To the extent that the intertemporal principle is understood to bar reparations for colonialism and slavery, States must recognize that the very same international law that provides for the intertemporal principle has a long history of service to both slavery and colonialism. As mentioned above, international law itself played an important role in consolidating the structures of racial discrimination and subordination throughout the colonial period, including through customary international law, which was co-constitutive with colonialism.¹⁶² Part of the problem, then, is that international law has not fully been “decolonized” and remains replete with doctrines that prevent the reparation and remediation of the inequality and injustice entrenched in the colonial era.¹⁶³ When Member States and even international lawyers insist on the application of the intertemporal principle as a bar to pursuing reparation and remediation of racial injustice and inequality, they are, in effect, insisting on the application of neocolonial law. Legal efforts are more appropriately directed at developing international doctrine that can ensure the equal

¹⁵⁸ Germany, Federal Parliament, Official Record No. 17/6813.

¹⁵⁹ Ibid.

¹⁶⁰ A/56/10, art. 14.

¹⁶¹ Ibid., art. 15.

¹⁶² B. S. Chimni, “Customary international law: a third world perspective”, *American Journal of International Law*, vol. 12, No. 1 (2018).

¹⁶³ Antony Anghie, *Imperialism, Sovereignty and the Making of International Law*, pp. 196–244.

treatment and recognition of all human beings irrespective of race, and that is, in part, what is at stake in debates on reparations for slavery and colonialism.

51. Other legal concerns involve the difficulties in potential matters of responsibility and causality, especially with regard to the time that has passed since the transatlantic slave trade and colonialism. The concern is that determining the individuals responsible for horrific acts, the identities of the victims, the descendants of the victims and how much is owed poses insurmountable legal difficulties.¹⁶⁴ The legal complexity that would be and is involved in pursuit of individually and even class-based legal claims for reparations are genuine. However, such difficulties cannot be the basis for nullifying the existence of underlying legal obligations. Even if judicial bodies are constrained under applicable law, nothing prevents legislative and executive bodies from reforming the law and taking the sort of measures that ensured that slave owners and colonizing powers received reparations, as discussed in chapter II of the present report. The intention of the Special Rapporteur is not to trivialize the practical hurdles to the legal determination of reparations; her intention is instead to insist that, with the requisite political will and moral courage, much more could be done through legal and political channels to pursue meaningful reparations for colonialism and slavery.

52. An example of reparations for colonial harm that persisted well into the twentieth century offers an example of what can be achieved when the requisite political will, mobilization and creativity is present. From the late 1800s to 1996, the Government of Canada operated the Indian Residential School System with the goal of assimilating indigenous children by stripping them of their traditions, customs, values and languages. As part of the System, “deliberate and often brutal strategies were used to destroy family and community bonds”.¹⁶⁵ Approximately one in three children were subjected to physical, sexual and emotional abuse.¹⁶⁶ In the early 1990s, former students sought redress for the abuses they suffered while in the System by launching class-action lawsuits against the Government and the churches involved. The persistent efforts of the Assembly of First Nations, among others, resulted in the Indian Residential Schools Settlement Agreement of 2006, which was an out-of-court settlement of a lawsuit involving almost 15,000 former students. It was signed by more than 70 parties, including the Government of Canada, most major churches, as well as indigenous organizations and legal counsel. With an estimated worth of about Can\$ 5 billion, it was the largest class action settlement in Canada.¹⁶⁷ Reparations in that context included acknowledgment of past wrongs, compensation, rehabilitative measures including physical and psychological health services, legal services, educational support and the establishment of the Truth and Reconciliation

¹⁶⁴ Max du Plessis, “Reparations and international law: how are reparations to be determined (past wrong or current effects), against whom, and what form should they take”, *Windsor Yearbook of Access to Justice*, vol. 22, No. 41 (2003); Luke Moffett and Katarina Schwarz, “Reparations for the transatlantic slave trade and historical enslavement: linking past atrocities with contemporary victim populations”, *Netherlands Quarterly of Human Rights*, vol. 36, No. 4 (2018), p. 247; Robert Westley, “The accursed share: genealogy, temporality, and the problem of value in black reparations discourse”, *Representations*, vol. 92, No. 1 (2005), p. 98; United States Court of Appeals for the Seventh Circuit, *In re African-American Slave Descendants Litigation*, Case No. 471 F.3d 754 (7th Cir. 2006), 13 December 2006.

¹⁶⁵ Kathleen Mahoney, “The untold story: how indigenous legal principles informed the largest settlement in Canadian legal history”, *University of New Brunswick Law Journal*, vol. 69 (January 2018), p. 199.

¹⁶⁶ Ibid.; Konstantin Petukhov, “Recognition, redistribution, and representation: assessing the transformative potential of reparations for the Indian Residential Schools experience”, *McGill Sociological Review*, vol. 3 (2013), p. 73.

¹⁶⁷ Mayo Moran, “The role of reparative justice in responding to the legacy of Indian Residential Schools”, *University of Toronto Law Journal*, vol. 64, No. 4 (2014), pp. 529–565.

Commission of Canada.¹⁶⁸ The chief negotiator involved in the settlement has explained that it was only made possible by setting aside conventional liberal legal frameworks of tort and civil law in favour of indigenous law and legal traditions.¹⁶⁹

53. Several States have refused to issue a formal apology for their roles in slavery and colonialism, instead issuing expressions of remorse or regret.¹⁷⁰ States appear to be driven by concern that formal apologies could be construed as an admission of legal responsibility, generating lengthy legal claims and financial compensation.¹⁷¹ Such concerns not only put the adoption by the General Assembly of the basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law on hold,¹⁷² but also drove the dilution of the strong calls for apologies and reparations articulated in the reports of the Regional Conference for Africa and the Asian Preparatory Meeting held in 2001 during the lead-up to the World Conference on Racism.¹⁷³ The then Director General of the European Commission noted that States of the European Union pursued statements of condemnation and regret in an effort to ensure that they remained free of concrete commitments.¹⁷⁴ In negotiating the Durban Declaration, the United States also resisted calls for an apology.¹⁷⁵ Instead, it said that it was ready to express regret for historic injustices and then focus on the present, including through development aid and national reforms.¹⁷⁶ That position was similar to the reported position of the United Kingdom on reparations.¹⁷⁷

54. Development aid and national reform can certainly form part of the suite of reparatory measures for slavery and colonialism. However, if pursued in a manner that completely denies the connection between contemporary problems and their historical origins, such initiatives cannot do the necessary work of repairing structures of racial inequality and discrimination rooted in historic injustice. Such ahistorical and uncontextualized development aid similarly fails to fulfil specific international human rights obligations relating to the contemporary manifestations of historic racial discrimination and injustice. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence has criticized expressions of remorse or regret that lack acknowledgement of responsibility for violations.¹⁷⁸ The current Chair of the Working Group of Experts on People of African Descent has documented the importance of a historicized account of the genuine pursuit of the Sustainable Development Goals in the Caribbean. His insights are applicable to other regions whose destinies were fundamentally shaped by slavery and colonialism. He

¹⁶⁸ Luke Moffett and Katarina Schwarz, "Reparations for the transatlantic slave trade and historical enslavement".

¹⁶⁹ Kathleen Mahoney, "The untold story".

¹⁷⁰ Anthony J. Sebok, "Slavery, reparations, and potential legal liability: the hidden legal issue behind the U.N. Racism Conference," *FindLaw*, 10 September 2001; BBC News, "Mixed emotions as Durban winds up", 8 September 2001.

¹⁷¹ M. Cherif Bassiouni, "International recognition of victims' rights", *Human Rights Law Review*, vol. 6, No. 2 (2006), p. 249.

¹⁷² Ibid.

¹⁷³ Compare adopted language in the Durban Declaration with the reports of the Regional Conference for Africa (A/CONF.189/PC.2/8) and the Asian Preparatory Meeting (A/CONF.189/PC.2/9).

¹⁷⁴ Chris McGreal, "Britain blocks EU apology for slave trade", *Guardian*, 3 September 2001.

¹⁷⁵ Michelle E. Lyons, "World conference against racism: new avenues for slavery reparations?", *Vanderbilt Journal of Transnational Law*, vol. 35, No. 4 (October 2002), pp. 1,235–1,268.

¹⁷⁶ William B. Wood, Acting Assistant Secretary for International Organization Affairs, statement to the House International Relations Committee, Subcommittee on International Operations and Human Rights, Washington, D.C., 31 July 2001.

¹⁷⁷ Owen Bowcott and Ian Cobain, "UK sternly resists paying reparations for slave trade atrocities and injustice", *Guardian*, 24 February 2014.

¹⁷⁸ A/69/518, paras. 62–63.

points out that, in much development discourse regarding the Caribbean, “there is no acknowledgment that the lack of social and economic growth that confront the Caribbean, and which are so visible in the [Human Development Index], are structurally linked to the region’s colonial past”.¹⁷⁹

VI. Recommendations for reparations for colonialism and slavery

55. Ensure the momentum of the commitments made in the Durban Declaration and Programme of Action: The Durban Declaration and Programme of Action remain a profound milestone in articulating the harms of colonialism and slavery, both historically and in the present, with an important emphasis on the structural forms of racism and racial discrimination that to this day require urgent attention. Member States must ensure momentum in the implementation of the commitments made in Durban.

56. Fully implement international human rights legal obligations to provide reparations for racially discriminatory violations of human rights: Member States should fully implement international human rights legal obligations to provide reparations for racially discriminatory violations of human rights. States should also ensure the ratification and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.

57. Adopt a structural and comprehensive approach to reparations: Member States should adopt an approach to reparations that accounts for not only historical individual and group wrongs, but also the persisting structures of racial inequality, discrimination and subordination that have slavery and colonialism as their root causes. Reparations entail accountability, including the transformation and rehabilitation of those structures and relations fundamentally distorted by slavery and colonialism, and that sustain contemporary racial inequality, discrimination and subordination. States should also adopt a comprehensive approach to reparations, pursuing the range of forms identified in the present report according to the respective context. A comprehensive approach entails an intersectional approach to understanding and fighting racial discrimination by accounting for gender, class, disability status and other social categories. It also entails reparations for violations of socioeconomic rights as well as civil and political rights.

58. Decolonize international and national approaches to reparations: Member States should decolonize the very laws applicable to reparations for slavery and colonialism. In other words, States should reform existing laws where necessary to make them fit for the purposes of undoing the legacies of historical racial discrimination and injustice, including by looking to indigenous and other value and legal systems to inform the process. International lawyers and judges must play their parts to ensure the decolonization of the applicable legal doctrines.

59. Adopt a survivor- and victim-centred approach to reparations: Member States must place victims and survivors (including descendants where appropriate) of the historic and contemporary racial injustice associated with colonialism and slavery at the centre of processes designed to achieve reparations. Reparations cannot be achieved unless those groups have a meaningful seat at the decision-making table.

¹⁷⁹ Reid, “Data for reparations”.

60. Pursue educational measures to ensure national and international consciousness of the scale, scope and contemporary legacies of racial discrimination, rooted slavery and colonialism: A serious barrier to reparations is ignorance and the lack of awareness among the public and even among national leaders regarding the persisting racially discriminatory legacies of slavery and colonialism. In many countries, educational curricula include partial histories that erase the fundamental role that enslavement and colonial domination played in securing the past and present prosperity of enslaving and colonial powers. Those histories may sometimes refer to the past brutalities of colonialism and slavery, but very rarely do they make explicit the public and private beneficiaries of slavery and colonialism. Member States must take urgent steps to ensure representative and accurate accounts of slavery, colonialism and their contemporary legacies, including in their education systems. Ensuring historical and political consciousness, especially among contemporary beneficiaries of slavery and colonialism, is an important step towards building the requisite political will to make reparations a reality. Ahistorical understandings of the present operate as a barrier to achieving reparations.

61. Create a well-funded global platform for the sustained study of paths forward for international action to achieve reparations: Slavery and colonialism were global projects, and reparations for both require global intervention. Member States should create a platform devoted to the serious consideration of reparations for slavery and colonialism and provide the requisite resources to ensure the success of that platform.

62. Initiatives by non-State actors: Reparations require the participation and initiative of non-State actors, especially, for example, churches, universities, financial institutions and other corporations that benefited directly or indirectly from slavery and colonialism. For example, in 2016, the University of Glasgow, which was founded in 1451, commissioned a study to investigate the financial benefits it received from historical slavery.¹⁸⁰ The University itself never owned slaves and indeed supported abolition, but received sizeable donations and contributions derived from the profits of enslavement.¹⁸¹ The reparative justice programme associated with the report the University eventually published focuses on increasing the racial diversity of the student body and the staff at the University, reducing educational attainment gaps in Scottish society and building educational partnerships with the University of the West Indies.¹⁸² The United Church of Canada and the United Church of Christ have taken steps to provide reparations for its role in racial subordination rooted in historic injustice, and the Episcopal Church has worked to confront its complicity in the same.

63. International Decade for People of African Descent: Member States should work within the framework of the International Decade for People of African Descent to pursue the cause of reparations for colonialism and slavery for peoples of African descent.

¹⁸⁰ Stephen Mullen and Simon Newman, "Slavery, abolition, and the University of Glasgow", report and recommendations of the University of Glasgow History of Slavery Steering Committee, September 2018.

¹⁸¹ Submission, Sir Geoff Palmer, Professor Emeritus, Heriot-Watt University in Edinburgh, United Kingdom.

¹⁸² "Glasgow University funds £20m programme of 'reparative justice' over historical links to slave trade", *Independent*, 2 August 2019.

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At no time in recent history has it been so essential to develop and implement a foreign policy in the environmental and climate fields that takes into account the structural and transversal characteristics of racism and racial discrimination. Its legitimacy will increase with the broadening of the bases for dialogue with civil society, especially entities representing sectors particularly affected by the climate emergency and environmental damage.

