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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 related 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, E. Tendayi Achiume, prepared pursuant to General Assembly resolution [75/237](#).

* The present report was submitted after the deadline in order to reflect the most recent developments.



Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Summary

In the present report, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance commemorates the twentieth anniversary of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa. The Special Rapporteur explains the significant human rights achievements of the Conference and the continuing relevance and urgency of the full implementation of the Durban Declaration and Programme of Action. She addresses the continuing disinformation campaign that seeks to undermine the blueprint for action against systemic racism, racial discrimination, xenophobia and related intolerance provided in the Durban Declaration and Programme of Action and offers recommendations for overcoming barriers to its implementation.

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I. Introduction

1. Twenty years after the historic World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001 in Durban, South Africa, the global fight against racism, racial discrimination, xenophobia and related intolerance remains as urgent and daunting as ever. The ongoing effects of coronavirus disease (COVID-19) pandemic illustrate this viscerally.

2. In the United States of America, Native American, Latino and Black people have a COVID-19 mortality rate that is double the rate of white Americans.¹ In Brazil, Afro-Brazilians are 1.5 times more likely to die of the disease.² In the United Kingdom of Great Britain and Northern Ireland, women of African descent and men of African descent were 4.3 and 4.2 times more likely to die of COVID-19, respectively, than white people, reflecting “the largest disparity of any ethnic group” (A/HRC/45/44, para. 37). Although studies have shown racialized impacts of the pandemic in Spain and Sweden, States throughout much of mainland Europe do not collect disaggregated data on COVID-19 outcomes, so racial and ethnic differences in mortality are rendered invisible.³ On a transnational scale, wealthier countries in the global North have received the majority of COVID-19 vaccinations, while exploited and predominantly non-white countries in the global South disproportionately lag behind in access to life-saving vaccines.⁴

3. Historically, the racial categorization of human beings was used during European colonialism to distribute rights and resources among peoples (A/HRC/41/54, paras. 22–26). The concept of race was used to naturalize inequality and monumental injustice on biological grounds. At the Conference, States Members of the United Nations reiterated their rejection of “any doctrine of racial superiority”, along with theories that “attempt to determine the existence of so-called distinct human races”.⁵ At the same time, throughout the Conference outcome document, the Durban Declaration and Programme of Action, Member States also sought to confront the reality that, as social constructions, race, ethnicity, national origin and other related categories continued to determine access to and enjoyment of fundamental rights. The blatantly disproportionate structural impacts of the COVID-19 pandemic on people of different racial, ethnic and national origins show the persistence of these and other categories as enforcing hierarchies among human beings and across borders.

4. At the Conference, the international community reached a historic and near-universal consensus on a blueprint for implementing human rights commitments in pursuit of the total elimination of racism, racial discrimination, xenophobia and related intolerance.

5. In the Durban Declaration and Programme of Action, Member States addressed racism, racial discrimination, xenophobia and related intolerance as historically and structurally rooted phenomena. In that respect, the document falls within the tradition of pivotal anti-racism instruments such as the Declaration on the Granting of Independence to Colonial Countries and Peoples, the United Nations Declaration on

¹ Centers for Disease Control and Prevention, “Risk for COVID-19 infection, hospitalization and death by race/ethnicity”, COVID-19 database. Available at www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html.

² Paulo Ricardo Martins-Filho and others, “Racial disparities in COVID-19-related deaths in Brazil: Black lives matter?”, *Journal of Epidemiology*, vol. 31, No. 3 (January 2021), p. 239.

³ Maria Melchor and others, “Migrant status, ethnicity and COVID-19: more accurate European data are greatly needed”, *Clinical Microbiology and Infection*, vol. 27, No. 2 (February 2021), p. 161.

⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR), “UN experts: G7 Governments must ensure vaccines’ access in developing countries”, 9 June 2021.

⁵ Declaration, thirtieth preambular paragraph and para. 7.

the Establishment of a New International Economic Order and the International Convention on the Elimination of All Forms of Racial Discrimination.

6. In the present report, the Special Rapporteur highlights significant developments in the international promotion of formal and substantive racial equality that can be attributed to the influence of the Durban Declaration and Programme of Action and the Durban process. In the document, the relevant scope for addressing racism, racial discrimination, xenophobia and related intolerance was expanded to take into account historical precedents. It contains actionable recommendations for how States, non-State actors and civil society can challenge racism as it manifests in individual relations, in legal systems and in societal structures at the local, national, regional and transnational levels. It serves to highlight unequal economic and political structures as being essentially connected to the problems of racism, racial discrimination, xenophobia and related intolerance. In doing all of this, the Durban Declaration and Programme of Action is a groundbreaking document, in which decolonial, anti-racist and anti-xenophobic commitments have been explicitly fused into a single human rights instrument. It is also unique in that it is the outcome of sustained and transnational advocacy by civil society actors and advocacy groups that are traditionally excluded from human rights norm creation.

7. The Durban process has been especially important for organizing and promoting efforts to ensure human rights for people of African descent, building solidarity between Africans and the African diaspora and energizing the movement for reparations for slavery and the transatlantic slave trade. The Durban Declaration and Programme of Action has encouraged the collection of data on people of African descent and indigenous peoples, especially in Latin America, and led to the creation of national action plans, national equality bodies and regional human rights instruments against racial discrimination. It has served to enhance recognition of racism against people of African descent, people of Asian descent, migrants, indigenous peoples, Roma and religious minorities. It was also one of the first international human rights instruments to utilize the concept of intersectional discrimination to consider how gender, class and other social categories mediated lived experiences of racism. And, although caste is not mentioned in the document, the Conference was a key catalyst in organizing an international solidarity movement against caste-based discrimination that yielded important results.⁶

8. The interpretation of racial equality and non-discrimination human rights standards has, in many places, tended to be skewed in favour of the vindication of individual claims where racial or xenophobic hatred was explicit. Although in some cases international human rights law has addressed contexts of societal violence, redress and reparation for human rights violations are still often centred around individualized remedies rather than community-based or societal reparation. In this regard, one of the most positive contributions of the Durban Declaration and Programme of Action has been the centring of societal reparations within the international human rights framework.

9. Notwithstanding these and other contributions, the Conference and its outcome document have also been the subject of persistent controversy, which has been used to thwart engagement with its commitments. According to some States and civil society actors, the Declaration and Programme of Action is itself a “racist document” that needs to be discarded. Nothing could be further from the truth, and false assertions such as this are part of a disinformation campaign dedicated to erasing the document’s legacy from the human rights system. The Special Rapporteur strongly

⁶ Submission by the International Dalit Solidarity Network; and Clifford Bob, “‘Dalit rights are human rights’: caste discrimination, international activism and the construction of a new human rights issue”, *Human Rights Quarterly*, vol. 29, No. 1 (February 2007), p. 185.

condemns these and other efforts to discard the powerful human rights equality and racial justice principles and commitments reflected in the document.

10. As discussed in more detail below, it is well known that, amid the vast majority of racial justice advocates at the Conference, a small minority of groups advanced antisemitic statements, in particular through the NGO Forum. But this vocal minority failed to influence the outcome document, namely, the Durban Declaration and Programme of Action. The document as it stands thus reflects an international consensus that affirms the rights of Israelis and Palestinians, deplores antisemitism, neo-Nazism and other forms of intolerance and calls for an end to violence against both Israelis and Palestinians.⁷ It runs counter to the foundational principles of human rights to condemn the Durban Declaration and Programme of Action for its recognition of the fundamental human rights of Palestinians, including their right as a people to self-determination. It also runs counter to the foundational principles of human rights to equate the rejection of the racial subordination of Palestinians with antisemitism.

11. The General Assembly has made clear that the Durban Declaration and Programme of Action is “the only instructive outcome” of the Conference (Assembly resolution 75/237, fourth preambular paragraph). The controversy that was overcome by the rejection of intolerance should not continue to poison the international consensus that was decades in the making and forged out of racial justice advocacy that spanned continents.⁸

12. Nevertheless, rather than using the Durban Declaration and Programme of Action to advance the transnational fight against racism and offering momentum for new and improved versions of the framework, several States, including those most implicated by its analysis of the historical roots of racism, have instead signalled their intent to abandon the Durban process. In a troubling continuation of action against the Durban Declaration and Programme of Action, a number of Member States boycotted the United Nations high-level commemoration of the twentieth anniversary of the adoption of the document. Those States are among some of the greatest beneficiaries of colonialism, slavery and the transatlantic slave trade. The Special Rapporteur calls on States participating in any form of boycott of the Durban Declaration and Programme of Action to demonstrate a genuine commitment to racial justice and equality by implementing it instead.

13. In 2020, the world witnessed an unprecedented, transnational racial justice uprising. Following the murder of George Floyd in Minneapolis, Minnesota, in the United States, solidarity protests spread around the world under the banner of the Black Lives Matter social movement, as people connected their own experiences of systemic racism with a broader global movement. The Black Lives Matter movement represents the most significant momentum for racial justice since the grass-roots advocacy and transnational coordination that paved the way for the Conference. The demands of those who took to the streets in 2020 echoed the demands of those who had mobilized to make the Conference and the Durban Declaration and Programme of Action a reality. In the historic urgent debate of the Human Rights Council that followed the event, Member States acknowledged and condemned the existence of systemic racism, pledging to redouble their efforts for justice and equality. Fulfilling those commitments, dismantling systemic racism and racial injustice and combating

⁷ Declaration, para. 84; and Programme of Action, paras. 150–151.

⁸ It is noteworthy that, immediately following the adoption of the Durban Declaration and Programme of Action, media in Israel publicized an official statement from the country’s Ministry of Foreign Affairs, which read: “Israel is satisfied that the clauses full of hate and incitement against it and the Jewish nation were removed from the conference’s final document.” See Yair Sheleg and Nitzan Horowitz, “Israel welcomes Durban Declaration”, *Haaretz*, 9 September 2001.

xenophobia and related forms of intolerance require the full implementation of the document.

II. Historical significance of the third world conference against racism

14. The international human rights framework has progressively evolved to combat racism, racial discrimination, xenophobia and related intolerance. At its first session, the General Assembly produced two resolutions against racism: one in which it called for an end to religious and so-called racial persecution and discrimination (Assembly resolution 103 (I)) and another in which it specifically highlighted the treatment of Indian nationals in South Africa (Assembly resolution 44 (I)).

15. In 1949, the United Nations Educational, Scientific and Cultural Organization (UNESCO) began a campaign to challenge pseudo-intellectual ideologies of racial superiority.⁹ In the ensuing decades, UNESCO was a prominent early advocate for anti-racist discourse and programmes, most notably through its Declaration on Race and Racial Prejudice and its scientific and standard-setting projects, as well as the groundbreaking special programme against apartheid and the Slave Route Project.¹⁰

16. The early momentum of the international community's struggle against racism culminated in the creation of the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in 1965 and became effective in 1969. In fact, the Convention was the first major international human rights treaty, preceding even the International Covenant on Civil and Political Rights, adopted in 1966, with entry into force in 1979. Newly decolonized States were among the chief proponents of the Convention and offered the impetus behind its adoption.

17. While the International Convention on the Elimination of All Forms of Racial Discrimination is the most prominent instrument of the United Nations anti-racism architecture, other treaties have also served to enshrine equality and non-discrimination principles in international human rights law. For example, the non-discrimination principle is explicitly enshrined in both the International Covenant on Civil and Political Rights (art. 2 (1)) and the International Covenant on Economic, Social and Cultural Rights (art. 2 (2)). The United Nations system also includes other anti-racist instruments, such as the International Convention on the Suppression and Punishment of the Crime of Apartheid.

18. Racism, racial discrimination, xenophobia and related intolerance are also the products of unequal transnational power relations. They are the mechanisms through which certain nations and peoples dominate other nations and peoples. The United Nations system has acknowledged this phenomenon, especially through resolutions of the General Assembly.

19. At the same time the United Nations was fighting racial discrimination and apartheid through international human rights law, the General Assembly was also the site of momentous decolonial efforts to ensure an equitable international order. Such efforts included declarations in support of new international economic arrangements to remedy the history of exploitation, which had been enabled in part through

⁹ Poul Duedahl, "Anti-racism: UNESCO's early mental engineering", *UNESCO Courier* (n.d.).

¹⁰ The Slave Route Project was "designed to raise awareness about the transatlantic slave trade" and has helped to "bring about greater understanding of the tragedy of the slave trade and the ideological foundations of racism". See UNESCO, "Development of an integrated strategy to combat racism, discrimination, xenophobia and related intolerance", document 32 C/13, para. 9.

international law and institutions.¹¹ Although rarely treated as such, the Declaration on the Establishment of a New International Economic Order, adopted in 1974, and the Declaration on the Right to Development, adopted in 1986, for example, are instrumental pillars for combating racism, racial discrimination, xenophobia and related intolerance. Through these instruments, the Assembly recognized and condemned racial domination rooted in colonialism as part of their call for international economic and political equity.¹²

20. The Expert Mechanism on the Right to Development has recently highlighted that racial discrimination directly affects development at national and international levels: “On an international level, racism and racial discrimination can result in the deprivation of transnational economic opportunities for individuals and of foreign direct investment and relief from debt for poor countries.”¹³

21. The Durban Declaration and Programme of Action is a central pillar of the broader anti-racism and decolonial framework referenced above. The General Assembly’s mandate for the Conference – which was the third world conference against racism – was sweeping. In that mandate, Member States set out several objectives, including calls to review the political, historical, economic, social, cultural and other factors leading to racism, racial discrimination, xenophobia and related intolerance and to formulate concrete recommendations to further action-oriented national, regional and international measures (Assembly resolution 52/111, para. 28). The specific invocation of historical factors was a significant break from earlier resolutions containing calls for a conference and in which only contemporary manifestations of racism had been emphasized.¹⁴

22. Unlike prior world conferences, which had largely failed to include civil society, the Conference held in 2001 was dominated by broad participation of civil society actors from the beginning.¹⁵ The eventual choice to hold it in Durban, South Africa, rather than Geneva contributed to that accessibility, as it moved the locus of efforts out of Europe and to a venue with deep symbolic importance for the global anti-racism movement – and for people of African descent specifically.

23. The Conference itself saw widespread buy-in from States, United Nations entities and non-governmental actors. More than 4,000 representatives of non-governmental organizations (NGOs) were accredited to participate in the official conference, and the parallel NGO Forum, also held in Durban, hosted more than 7,000 representatives. In all, 163 States were represented, with 16 Heads of State, 58 foreign ministers and 2,300 other delegates. Altogether, the Office of the United Nations High Commissioner for Human Rights (OHCHR) estimated that 18,800 people had assembled in Durban to participate in the Conference.¹⁶

24. Of course, the Durban Declaration and Programme of Action is not the final word on racism, racial discrimination, xenophobia and related intolerance. But it is a

¹¹ Steven L. B. Jensen, *The Making of International Human Rights* (Cambridge, United Kingdom of Great Britain and Northern Ireland, Cambridge University Press, 2016), pp. 54–56.

¹² Declaration on the Establishment of a New International Economic Order, paras. 1 and 4 (h)–(i); and Declaration on the Right to Development, art. 5.

¹³ A/HRC/EMRTD/3/CRP.2, para. 9. Available at www.ohchr.org/Documents/Issues/Development/EMD/Session3/A_HRC_EMRTD_3_CRP.2.pdf.

¹⁴ J. A. Lindgren Alves, “The Durban conference against racism and everyone’s responsibilities”, *University of San Francisco Law Review*, vol. 37, No. 4 (2002), pp. 978–979.

¹⁵ Accredited non-governmental organizations “were able to participate in virtually all of the preparatory processes as observers, offering them important political opportunities to encourage States to include civil society recommendations in the draft texts”. Corinne Lennox, “Reviewing Durban: examining the outputs and review of the 2001 World Conference against Racism”, *Netherlands Quarterly of Human Rights*, vol. 27, No. 2 (June 2009), p. 199.

¹⁶ *Ibid.*, p. 200.

monumental milestone in the trajectory of global mobilization for substantive equality.

III. Legacy: a comprehensive, intersectional and concrete plan of action for eradicating racism, racial discrimination, xenophobia and related intolerance

25. In this section, the Special Rapporteur highlights the transformative contributions made by the Durban Declaration and Programme of Action. Although the document is not, on its own, a legally binding instrument, it is unique in that it provides a concrete action plan for achieving the legally binding commitments that States have undertaken regarding equality and non-discrimination, across a range of treaties and as a matter of customary international law. The Declaration “represents the commitments arising from the complex global dialogue” that took place, whereas the Programme of Action “is a road map illustrating how the international community will follow up on” those commitments.¹⁷ As a comprehensive nexus of anti-racism commitments, the document as a whole is a resource that allows States to implement racial equality measures and monitor that implementation in a standardized manner.

A. Recognition of the roots, victims and manifestations of racism

26. The Durban Declaration and Programme of Action provides the first global consensus that slavery and the slave trade are crimes against humanity and “should always have been so”.¹⁸ In it, Member States recognized that those histories posed significant sources of racism, racial discrimination, xenophobia and related intolerance, with impacts on Africans and people of African descent, Asians and people of Asian descent and indigenous peoples.¹⁹ They also identified colonialism, apartheid, migration and inequality as root causes of racism.²⁰

27. In the Durban Declaration and Programme of Action, Member States condemned systems of colonialism and neocolonialism for their persisting effects on the international system, which included “contributing to lasting social and economic inequalities in many parts of the world today”.²¹ It contains unique calls for legal reforms²² and for economic and financial redistribution that would advance substantive racial equality.²³ If a human rights legacy of the twentieth century was the divergence of the rights codified in the Universal Declaration of Human Rights into two separate legal regimes,²⁴ namely, civil and political rights versus economic, social and cultural rights, then the document should be recognized for relaunching the human rights agenda of the twenty-first century by building on the Vienna Declaration and Programme of Action and reconverging those sets of rights into a comprehensive and concrete document for combating racism and xenophobia.

¹⁷ Mary Robinson, “Foreword by the High Commissioner for Human Rights”, in *World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Durban Declaration and Programme of Action* (United Nations publication, 2002).

¹⁸ Declaration, para. 13.

¹⁹ Ibid.

²⁰ Declaration, paras. 14–16 and 18.

²¹ Declaration, para. 14.

²² See, for example, Programme of Action, para. 108.

²³ Ibid., para. 158.

²⁴ Albie Sachs, “Social and economic rights: can they be made justiciable?”, *SMU Law Review*, vol. 53, No. 4 (2000), pp. 1383–1384.

28. This comprehensive understanding of racism extends to the recognition of the victims of racism in the Durban Declaration and Programme of Action. The following groups are all included within its scope:²⁵

- (a) Indigenous peoples;
- (b) Victims of trafficking;
- (c) Africans and people of African descent;
- (d) Asians and people of Asian descent;
- (e) Migrants;
- (f) Refugees, asylum seekers and internally displaced persons;
- (g) Mestizo populations of mixed ethnic and racial origins;
- (h) Religious communities;
- (i) Jewish communities;
- (j) Muslim communities;
- (k) Arab communities;
- (l) Palestinian people;
- (m) Ethnic, cultural, linguistic and religious minorities;
- (n) Roma, Gypsies, Sinti and Travellers;
- (o) Women and girls;
- (p) Children and young people;
- (q) People infected or affected by HIV/AIDS;
- (r) Persons with disabilities.

29. The exclusion of any mention of caste or descent-based discrimination was a major blow to Dalit and other groups that had been mobilized by the Conference to fight caste-based discrimination.²⁶ However, despite this blow, groups fighting caste discrimination were able to use the Durban process to forge a solidarity movement that successfully promoted the recognition of descent-based discrimination in other forums.²⁷

30. In addition to Member States' recognition of discrete victim groups, the Durban Declaration and Programme of Action is also groundbreaking for their consideration therein of "multiple discrimination",²⁸ where experiences of racism are mediated through gender, youth, religion, migration status, ethnic, cultural or linguistic identity, class, disability and other social categories. This consideration of intersectional discrimination shows how the document was generative of the gender-mainstreaming projects and migration-sensitive policies that have been integrated into the non-discrimination framework. The recognition of multiple discrimination is also key for underscoring the need for disaggregated data, which can reveal both interracial and ethnic inequalities and intraracial and ethnic inequity.

²⁵ Declaration, paras. 22, 30, 35–36, 48, 53, 56, 60–61, 63, 66, 68–69, 72 and 75; and Programme of Action, para. 57.

²⁶ See Bob, "Dalit rights are human rights", p. 185; and submission by the International Dalit Solidarity Network.

²⁷ Ibid.

²⁸ See, for example, Programme of Action, para. 104 (c).

31. With respect to manifestations of racism, the Durban Declaration and Programme of Action is an important document because it offers a structural account of racism and its role in shaping profound societal issues, including armed conflict, criminal justice, housing, employment, health care, environmental degradation and natural resource exploitation, migration and displacement, digital technologies and the Internet, and the proliferation of hate speech and ideologies of racial superiority.²⁹

32. In the Durban Declaration and Programme of Action, the international community also took the important step of including xenophobia and conditions confronting migrants as part of the broader landscape of racism and intolerance. Specifically, it contains an acknowledgement of xenophobia as a notable manifestation of modern racism and as a direct result of displacement and inequality rooted in globalization.³⁰ As a result, the document serves to set human rights standards of great significance to the implementation of the Global Compact for Safe, Orderly and Regular Migration and the global compact on refugees.

33. The Durban Declaration and Programme of Action further adds to the international equality framework by providing recognition for non-legal mechanisms for advancing racial equality. Economic and financial initiatives, political commitments and contributions by private actors and NGOs are all highlighted as key parts of the Programme of Action.³¹ While the international community emphasized in the document that States hold the ultimate responsibility for its implementation, it also recognized the importance of all stakeholders in addressing racism at the economic, social, political, educational and cultural levels.³²

34. The Special Rapporteur received a diverse array of civil society contributions, for which she is grateful. She notes that the diversity of the submissions illustrates one of the great strengths of the Durban Declaration and Programme of Action: that its comprehensive nature allows for attention to a combination of legal, social, political, economic, educational and cultural issues as they relate to racism.

35. For example, although persons with albinism are not mentioned in the Durban Declaration and Programme of Action, it is an instrument of great relevance for protecting their equality and non-discrimination rights. In its submission, the Africa Albinism Alliance noted the following: “Despite experiencing racial discrimination on the basis of colour, persons with albinism in Africa have not effectively benefited from the Durban Declaration and Programme of Action and the accompanying legislative, policy, programmatic frameworks at the country level that give effect to this declaration.” The Alliance also noted that persons with albinism faced stigma, not only because of their skin colour, but also because of their age, their gender and the disabilities that are more common among people with albinism.³³ The racism experienced by persons with albinism is thus recognized in the document, not only through the singular lens of skin colour, but also by considering multiple discrimination on the basis of race and disability. In it, States, international and regional organizations, civil society and the private sector are urged to protect the human rights of persons with albinism and other individuals who experience multiple discrimination on the basis of skin colour, disability and other social categories. As such, the framework it provides is vital for structuring broadly inclusive racial justice programmes, such as those that can protect and empower persons with albinism.

36. The Global Campaign for Equal Nationality Rights and members of its coalition, as well as the Haitian Bridge Alliance, the Research Center on Issues of Koreans in

²⁹ Declaration, paras. 20, 25, 33, 42, 47 and 90; and Programme of Action, paras. 111 and 147.

³⁰ Alves, “The Durban conference against racism”, p. 977.

³¹ See, for example, Programme of Action, para. 152.

³² See, for example, Declaration, para. 116.

³³ Submission by the Africa Albinism Alliance.

Japan and the Center for Minority Issues and Mission, provided examples of racial injustice relating to xenophobia and prior histories of colonialism. The Global Campaign for Equal Nationality Rights noted ongoing gender inequality rooted in nationality laws, highlighting discrimination on the basis of migration status and gender as key manifestations of racism.³⁴ The Haitian Bridge Alliance explained that Haitian migrants and refugees were subjected to racialized discrimination and violence at the hands of law enforcement, border officials and non-State actors throughout the Americas. In its submission, the Alliance noted that States had not taken the steps necessary to counter the root causes of displacement, such as underdevelopment and neocolonial imperialism, which have affected Haiti especially.³⁵ The Research Center on Issues of Koreans in Japan and the Center for Minority Issues and Mission reported xenophobia targeting Koreans, noting that the Durban Declaration and Programme of Action helped to call attention to the roots of that discrimination in the prior imperial relationship between Japan and the Korean nation.³⁶ Repairing past injustice requires addressing this contemporary discrimination.

37. In one submission, it was reported that the temporary occupation by the Russian Federation of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, had engendered discrimination against certain ethnic groups, including Crimean Tatars. In the submission, the relevant human rights violations are identified as relating to minority protection, anti-colonialism and self-determination, and the framework of the Durban Declaration and Programme of Action is used to analyse the harms of the occupation through the legal nexus provided by the document.³⁷

38. In another submission, it was reported that the Government of Canada continued to violate a 2016 ruling that found that the First Nations Child and Family Services Program was discriminating on the basis of race and national or ethnic origin. Furthermore, in 2018, the Office of the Auditor General of Canada found that the country had not taken preliminary steps to eliminate socioeconomic gaps between First Nations people and other Canadians; the Office urged Canada to gather data to report on the socioeconomic well-being of First Nations people. According to the submission, this has not occurred.³⁸ The concerns raised in the submission illustrate the importance of the emphasis placed in the Durban Declaration and Programme of Action on the rights of indigenous peoples; those concerns can also be framed through reparative justice frameworks for colonialism, the recommendation to collect disaggregated data, the call to provide development resources to indigenous groups, action steps to achieve substantive equality and Member States' endorsement of the "best interests of the child" standard.³⁹

39. In Louisiana, United States, grass-roots activists have shown how environmental degradation is not just putting Black lives at risk, but also destroying historical African-American cemeteries. In the Durban Declaration and Programme of Action, such degradation is recognized not only as a violation of the right to health, but also as a violation of residents' rights to sustainable development and of the call to celebrate, honour and protect Black heritage and cultural life.⁴⁰

³⁴ Submission by the Global Campaign for Equal Nationality Rights and others.

³⁵ Submission by the Haitian Bridge Alliance.

³⁶ Submission by the Research Center on Issues of Koreans in Japan and the Center for Minority Issues and Mission.

³⁷ Submission by the Association of Reintegration of Crimea.

³⁸ Submission by the First Nations Child and Family Caring Society of Canada.

³⁹ Declaration, para. 72.

⁴⁰ Submission by Forensic Architecture; and Declaration, para. 34.

40. In Kuwait, reported violations against of migrant workers, stateless persons and women⁴¹ fall within the lens of multiple discrimination outlined in the Durban Declaration and Programme of Action and can be addressed through the concrete remedial guidance provided in the document. Similarly, NGO reports on and condemnation of discrimination against religious minorities and the addition of exclusionary material to textbooks in Pakistan also fall within the scope of the document, in which racism is linked to religious discrimination and educational curriculums.⁴²

41. Lastly, religious institutions have reported on how they work towards achieving anti-racism objectives and how they can actively contribute to reparatory practices,⁴³ in recognition of the acknowledgment in the Durban Declaration and Programme of Action that religious leaders should fully participate in anti-racism efforts.⁴⁴

42. While not exhaustive, this review of civil society submissions shows how the Durban Declaration and Programme of Action can enable victims of racism to articulate their experiences in terms that are grounded in history and linked to broader struggles for equality and justice.

B. Individual and structural redress and reparation for racial discrimination, xenophobia and related intolerance

43. As the Special Rapporteur has noted in her prior report on reparations for colonialism and slavery (A/74/321), the Durban Declaration and Programme of Action has strengthened the call for reparations for racism, slavery and colonialism. In the Declaration, it is clearly stated 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, Asians and people of Asian descent and indigenous peoples.

44. The recognition of the ongoing effects of colonialism and slavery outlined in the Durban Declaration and Programme of Action⁴⁵ serves to highlight the need to create reparatory frameworks that account for historical wrongs. Insofar as the starting point for such reparations is acknowledgement and apology by beneficiary States, the document offers a key framework for both apologizing for slavery and colonialism through historical recognition⁴⁶ and for creating structures and systems that do the work of reparatory justice.⁴⁷

C. Comprehensive mechanisms for implementation of equality and non-discrimination principles

45. Among the most important contributions of the Durban Declaration and Programme of Action is the depth and scope of its implementation mechanisms and recommendations. Three levels of activity are set out in the document: national, regional and international. The role of civil society, academia and the private sector are also considered in the Programme of Action, all of which contribute at each level.

⁴¹ Submission by the Kuwait Society of Human Rights.

⁴² Submission by the Centre for Social Justice Pakistan.

⁴³ Submissions by the United Church of Canada and the General Board of Church and Society of the United Methodist Church.

⁴⁴ Declaration, para. 8.

⁴⁵ Declaration, paras. 13–14.

⁴⁶ Declaration, paras. 99–101; and Programme of Action, paras. 119 and 158.

⁴⁷ See, for example, Declaration, paras. 99–101; and Programme of Action, para. 158.

46. Although Member States have lagged in implementing the Durban Declaration and Programme of Action, some progress has been made. According to OHCHR, since 2001, 42 States have adopted or amended legislation prohibiting racial discrimination; 35 States have established national equality bodies for combating racial discrimination and promoting equality; 23 States and regional institutions have adopted national and regional policies against racism; and 26 more States have ratified the International Convention on the Elimination of All Forms of Racial Discrimination, bringing the total number of States parties to 182.⁴⁸

47. In part as a result of the Durban Declaration and Programme of Action, the term “Afrodescendants” has played an integral role in boosting data collection, legal recognition and political will to combat racism in Latin America. Several Latin American nations have created national action plans against racism in response to the document, and Brazil has been highlighted as a nation that radically changed its approach to racial justice policies owing to the influence of the Conference, including by engaging in affirmative action programmes.⁴⁹ Even while acknowledging those developments, it is crucial to note the persistence of extreme human rights violations in the region against people of African descent and indigenous peoples.

48. Several States credit the Durban Declaration and Programme of Action with prompting recognition and action on racial discrimination in their national legal systems. In one submission, the national human rights institution of Argentina noted that the document was “an essential engine” for instilling the issue of racial discrimination and xenophobia into the State’s institutional agenda.⁵⁰ The Government of Mexico noted that the document had “contributed to the consolidation, implementation and articulation of” its anti-discrimination policy.⁵¹ Namibia reported that the document had inspired its Office of the Ombudsman to conduct a national inquiry on the matter in 2017. The ensuing report, entitled “A nation divided: why do racism and other forms of discrimination still persist after twenty-seven years of Namibian independence?”, has played a key role in guiding the country’s subsequent racial justice programme.⁵²

49. Another key area of national implementation has been the creation of national action plans against racism, racial discrimination, xenophobia and related intolerance.⁵³

50. Argentina created a national plan against racism in 2004 and collected data on Afrodescendants for the first time in its 2010 census.⁵⁴ Ecuador reported that, in 2009, it adopted a “plurinational plan” in response to the Durban Declaration and Programme of Action. The country has also created several institutional frameworks, including the National Council for the Equality of Peoples and Nationalities and an agenda for the equal rights of indigenous nationalities and peoples, Afro-Ecuadorian people and Montubio people for the period 2019–2021.⁵⁵ The National Council for the Prevention of Discrimination of Mexico is currently developing a national programme for equality and non-discrimination for the period 2021–2024, within the

⁴⁸ Data taken from OHCHR, “Fighting racism and discrimination: the Durban Declaration and Programme of Action at 20”, 2021. In its submission, the International Movement against All Forms of Discrimination and Racism reported that only 59 States parties to the Convention had accepted the individual communications procedure set out in article 14 thereof, while 123 States parties had not.

⁴⁹ Lennox, “Reviewing Durban”, p. 209.

⁵⁰ Submission by the Defensoría del Pueblo de la Nación (Argentina).

⁵¹ Submission by Mexico.

⁵² Submission by Namibia.

⁵³ Programme of Action, para. 99.

⁵⁴ Submission by the Defensoría del Pueblo de la Nación (Argentina).

⁵⁵ Submission by Ecuador.

framework of its national development programme for 2019–2024.⁵⁶ This framing of equality and non-discrimination through development clearly mirrors the framing set out in the Durban outcome document.⁵⁷

51. In its submission, Peru highlighted its national development plan for the Afro-Peruvian population. The influence of Durban Declaration and Programme of Action can be seen in the emphasis placed on multiple discrimination; under the plan, discrimination is prohibited against “a person or group of people for racial, religious, sexual, genetic factor, filiation, age, disability, language, ethnic and cultural identity”. Peru also reports that it is currently in the public consultation phase of implementing its national policy on indigenous or native peoples to 2030.⁵⁸

52. The Swiss Federal Office of Culture set up a working group on Travellers in 2015, and the Federal Council has implemented the working group’s 2016 draft action plan. In addition, Switzerland reported that Swiss cantonal integration programmes were analogous to national action plans and provided legal support and protection against structural discrimination within institutions, including through measures aimed at increasing migrants’ access to work, training, housing, leisure and other areas of life.⁵⁹

53. In one submission, it was reported that, despite long delays, Belgium had recently begun the process of creating a national plan of action, but had not completed its consultations with civil society.⁶⁰

54. North Macedonia reported that it was evaluating its strategy for equality and non-discrimination for the period 2016–2020 and was developing a new strategy for 2022–2024, as well as a specific strategy for Roma up to 2030 and a national action plan for Roma women up to 2025.⁶¹

55. National equality bodies, such as the National Council for the Prevention of Discrimination of Mexico⁶² and the National Council for the Equality of Peoples and Nationalities of Ecuador,⁶³ play integral roles in monitoring and shaping national action plans. These bodies may also provide legal assistance or information to victims of racial discrimination,⁶⁴ coordinate anti-racism programmes,⁶⁵ combat hate crimes⁶⁶ and/or carry out research on racism in the country.⁶⁷ For example, the Service for Combating Racism of the Federal Department of Home Affairs of Switzerland publishes a report on racial discrimination in Switzerland every two years.⁶⁸

56. Several Governments noted in their submissions how the Durban Declaration and Programme of Action had inspired their countries to collect disaggregated data on race through national censuses or specific surveys on discrimination. In its national action plan, Peru places emphasis, in part, on the statistical measurement of the Afro-Peruvian population.⁶⁹ Mexico carried out a national survey on discrimination

⁵⁶ Submission by Mexico.

⁵⁷ Programme of Action, para. 158.

⁵⁸ Submission by Peru.

⁵⁹ Submission by Switzerland.

⁶⁰ Submission by Unia.

⁶¹ Submission by North Macedonia.

⁶² Submission by Mexico.

⁶³ Submission by Ecuador.

⁶⁴ Submission by the national human rights institution of Nicaragua, the Procuraduría para la Defensa de los Derechos Humanos.

⁶⁵ Submission by the Defensoría del Pueblo de la Nación (Argentina).

⁶⁶ Submission by Spain.

⁶⁷ Submission by Namibia.

⁶⁸ Submission by Switzerland.

⁶⁹ Submission by Peru.

in 2017, in which people of African descent and indigenous people were among the populations specifically investigated. The country's National Council for the Prevention of Discrimination also created a database on incidents of discrimination, the National System on Discrimination, in which to collect all the information compiled by the National Council and other State institutions.⁷⁰

57. The difficulty with and sensitive nature of data collection was a common obstacle reported by States. Spain noted difficulties in collecting data on ethnic origin, owing to the reluctance of some groups to provide information because of fears relating to data protection and anonymity.⁷¹ These are valid concerns, and, in this regard, the Special Rapporteur recalls that, in the Durban Declaration and Programme of Action, emphasis was placed on the importance of embedding human rights and privacy protections in the collection of disaggregated data.⁷² States can benefit from the OHCHR guidance document on taking a human rights-based approach to data⁷³ and the report of the Working Group of Experts on People of African Descent on the theme "Data for racial justice" (A/HRC/42/59), in which key research is outlined and recommendations provided on the collection of disaggregated data pursuant to the Durban outcome document.

58. Several States also noted that lack of public awareness and recognition of racism were barriers to effective policymaking. Some States, like Mexico, noted that the public still struggled to understand racism and oppression as they manifested themselves in society.⁷⁴ Spain noted that inadequate information on contesting racial discrimination and protecting human rights presented problems for victims of racism, and that it had highlighted the importance of national awareness-raising campaigns to reach "people suffering from racism in areas such as housing, employment, health [and] education".⁷⁵

59. States also noted several initiatives that had been advanced through regional organizations. The Inter-American Convention against All Forms of Discrimination and Intolerance and the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance are two leading examples of binding legal instruments implemented at the regional level to combat racism and intolerance.⁷⁶ Spain highlighted the progress made by the European Union on a code of conduct on illegal incitement to hatred on the Internet and on other anti-discrimination programmes.⁷⁷

60. The Ten-Point Plan for Reparatory Justice adopted by the Caribbean Community (CARICOM) is also closely linked to the legacy of the Durban Declaration and Programme of Action. During the high-level event commemorating the twentieth anniversary of the Conference, the Prime Minister of Barbados observed that not only did the Conference "deal with issues ultimately pertaining to historical slavery, the transatlantic slave trade and reparations", but its outcome document "established a solid foundation upon which significant progress of the issue of reparations for

⁷⁰ Submission by Mexico.

⁷¹ Submission by Spain.

⁷² Programme of Action, para. 92 (a)–(b). See also A/HRC/44/57.

⁷³ OHCHR, "A human rights-based approach to data: leaving no one behind in the 2030 Agenda for Sustainable Development", 2018.

⁷⁴ Submission by Mexico.

⁷⁵ Submission by Spain.

⁷⁶ Submission by Mexico.

⁷⁷ Submission by Spain.

Africans and people of African descent has since been built". She noted that the CARICOM Plan was a "direct descendant" of that document.⁷⁸

61. At the international level, several States noted the importance of continued technical assistance on and publicization of the Durban Declaration and Programme of Action by United Nations institutions,⁷⁹ and many States structured their implementation activities around the International Decade for People of African Descent.⁸⁰

62. Institutionally, in the Durban Declaration and Programme of Action, Member States directly called for two international follow-up mechanisms: the Group of Independent Eminent Experts on the Implementation of the Durban Declaration and Programme of Action and the Working Group of Experts on People of African Descent. Both have carried out vital work towards realizing the commitments set out in the document. Since the creation of those mechanisms, the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination have also been established.

63. As set out in paragraph 191 (c) of the Programme of Action, the Anti-Racial Discrimination Section of OHCHR is tasked with essential responsibility for monitoring the implementation of the Durban Declaration and Programme of Action and providing relevant technical support thereon to States and other actors (see also [A/CONF.211/PC.4/5](#), paras. 13–16; and [A/69/186](#)). The Section serves as the secretariat to the four Durban follow-up mechanisms. The Section is also responsible for the anti-discrimination database, which was created by OHCHR in 2013 to fulfil the call set out in paragraph 191 (d) of the Programme of Action. The Section's activities, as well as other OHCHR operations that involve the Durban Declaration and Programme of Action, are reported on in the annual report of the Secretariat on the implementation of the document, the most recent of which was [A/76/287](#).

64. The International Day for People of African Descent and the International Decade for People of African Descent are two United Nations programmes that are the outcome of Durban follow-up mechanisms. The International Decade (2015–2024) is integrally linked to the Durban conference; one of the main objectives of the Decade is to raise awareness of and disseminate the Durban Declaration and Programme of Action (General Assembly resolution [69/16](#), annex, para. 2).

65. The International Decade for People of African Descent has been a key framework for State action on implementing the specific recommendations relating to Africans and people of African descent set out in the Durban Declaration and Programme of Action. In Argentina, the International Decade has reportedly inspired the implementation of several programmes, including a national programme for the implementation of the International Decade, an interministerial table for public policies for people of African descent, and a national commission for the historical recognition of the Afro-Argentine community.⁸¹ Ecuador, Peru and Spain reported that they have also used the International Decade as an impetus for recognizing and directing resources to their Afrodescendent populations.⁸² The recent creation of the Permanent Forum on People of African Descent provides additional opportunities to

⁷⁸ Mia Mottley, Prime Minister of Barbados, statement at the high-level meeting to commemorate the twentieth anniversary of the adoption of the Durban Declaration and Programme of Action, 22 September 2021.

⁷⁹ Submission by Namibia.

⁸⁰ Submission by Ecuador.

⁸¹ Submission by the Defensoría del Pueblo de la Nación (Argentina).

⁸² Submissions by Ecuador, Peru and Spain.

monitor implementation of the document (General Assembly resolution [75/314](#), para. 1 (d)).

66. Several civil society organizations, however, have raised concerns that the International Decade for People of African Descent has not been fully implemented by the United Nations human rights machinery. These groups have pointed to the lack of full publicization of the programme of activities of the International Decade, including the publication of the Programme and its translation into other languages by Member States.⁸³ In addition, the coalition noted delays in the midterm review of the Decade and raised concerns that the International Decade and the Permanent Forum were moving away from the normative agenda set out in the Durban Declaration and Programme of Action.⁸⁴

67. Several international institutions were directly addressed by recommendations in the Programme of Action, including the Department for Peacekeeping Operations (now the Department of Peace Operations) of the Secretariat, the World Health Organization, the World Bank, the International Monetary Fund, the World Trade Organization, the International Labour Organization and UNESCO.⁸⁵

68. UNESCO, in particular, has played an important role in follow-up initiatives of the Durban Declaration and Programme of Action. Its Slave Route Project has been frequently cited with regard to recognizing the historic roots of racism,⁸⁶ and, in developing its Integrated strategy to combat racism, racial discrimination, xenophobia and related intolerance, adopted in 2003, UNESCO was directly inspired by the document.⁸⁷ UNESCO has also been a frequent participant in the sessions of Durban follow-up mechanisms, because education has been a thematic focus of the implementation of the document (see [A/HRC/19/77](#)).

69. Institutionalization of the Durban Declaration and Programme of Action at the United Nations requires consistent and transparent monitoring of international implementation. In this regard, the Islamic Republic of Iran called for the holding of a world conference against racism on a biannual basis and hailed the Permanent Forum for People of African Descent as a “positive development” that helped to “channel specific issues” and to “maintain necessary perspective for” the document.⁸⁸

IV. Barriers to the effective implementation of the Durban Declaration and Programme of Action

70. Notwithstanding the progress described above, significant barriers to effective implementation of the Durban Declaration and Programme of Action remain. Among them are continued efforts by some States to actively discard the document as a source of international racial justice commitments. There have also been financial, bureaucratic and logistical obstacles that have hindered its full implementation.

⁸³ Submission on the international civil society round table on people of African descent, held on 7 August 2021.

⁸⁴ Ibid.

⁸⁵ Programme of Action, paras. 112, 114 and 153–156.

⁸⁶ Ibid., paras. 119–120. See, for example, [A/HRC/14/18](#), para. 93.

⁸⁷ UNESCO, document 32 C/13. See also UNESCO 32 C/Resolution 28.

⁸⁸ Submission by the Islamic Republic of Iran.

A. Declining engagement

71. Observers of the Durban process have raised several concerns over the years relating to its marginalization at all levels of the United Nations.⁸⁹

72. According to OHCHR, only 23 States and regional institutions have adopted national and regional policies against racism in the past 20 years.⁹⁰ Furthermore, with no international body in place to evaluate action plans, it is difficult to determine their levels of implementation.

73. State participation in the Durban follow-up mechanisms has also steadily declined over the years. There were only 12 State submissions received in 2020 for the annual report of the Secretariat on the implementation of and follow-up to the Durban Declaration and Programme of Action (A/75/561), which is less than half the 26 submissions sent in by States in 2011 (see A/66/328).⁹¹ State participation in the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action has also declined from its peak of 105 States in 2010 (A/HRC/16/64, annex I). Only 53 States participated in the sessions of the Intergovernmental Working Group in 2019, and 46 in 2020 (A/HRC/43/73, annex; and A/HRC/46/66, annex).

74. Independent monitoring of progress on the implementation of the Durban Declaration and Programme of Action is also a logistical obstacle, owing to the sheer complexity of the manifestations and modalities of racism in different national contexts. For several years, the Group of Independent Eminent Experts and the Intergovernmental Working Group have highlighted the need for a racial equality index (A/HRC/26/56, para. 11; E/CN.4/2005/125 and E/CN.4/2005/125/Corr.1, para. 23; and E/CN.4/2006/18, para. 97),⁹² which could provide an objective and standardized measure of racial equality across the world, but little progress has been made in standardizing the monitoring of racial discrimination. The Special Rapporteur highlights the recent report of the Human Rights Council Advisory Committee (A/HRC/48/72) as a key to developing future mechanisms to monitor racial discrimination pursuant to the Durban outcome document.

75. Declining engagement in the document can also be attributed to a lack of publicity. Over the years, NGO observers have consistently noted that it was unknown in national contexts and had not been promoted outside the United Nations (A/73/98/Add.1, para. 17; and A/74/173, paras. 59–63); the Chair of the Group of Independent Eminent Experts has stated that the “lack of public awareness about the actual content of the Durban Declaration and Programme of Action constituted a major obstacle towards generating political will for its full and effective implementation” (A/HRC/46/66, para. 39). In submissions for the Special Rapporteur’s report, several civil society actors urged greater publicization of the document and suggested that the text be made more accessible.⁹³

B. Marginalization within the United Nations

76. According to some accounts, the United Nations itself has played a role in the marginalization of the Durban process. According to submissions and even the reports

⁸⁹ Submission by Unia.

⁹⁰ OHCHR, “Fighting racism and discrimination”.

⁹¹ In 2021, however, the number of State submissions for the report of the Secretariat rose to 18, reflecting, it is to be hoped, an upward trend in engagement. See A/76/287.

⁹² In 2006, OHCHR released a draft document on developing a racial equality index. See E/CN.4/2006/14.

⁹³ Submission by Unia.

of the Durban follow-up mechanisms, there have been shortcomings in the financial support for and organizational commitment to the follow-up to Durban within the United Nations (see [A/73/98/Add.1](#), para. 5). For example, the Group of Independent Eminent Experts on the Implementation of the Durban Declaration and Programme of Action has faced difficulties in coordinating its activities over the past 20 years, including a period of several years in which it held no official meetings. At one point, the Group had only two members (see [A/HRC/29/54](#)). Although some of its members remained active participants in the Durban follow-up process,⁹⁴ the Group has noted the confusion regarding its mandate and the lack of adequate financial support therefor ([A/HRC/26/56](#), para. 6), and the mechanism still does not have a representative from the Group of Western European and other States. In another example, the immensely helpful guidance produced by OHCHR for States creating national plans of action against racism was not published until 2014 – nearly 13 years after the Durban Declaration was first adopted. And the OHCHR database on anti-racism practices, which was called for in the Programme of Action, was not operational until 2013 ([A/69/354](#), para. 92).

77. Although OHCHR, in particular through its Anti-Racial Discrimination Section, has dedicated itself to advancing the Durban Declaration and Programme of Action through technical support, concerns were raised in one submission that the document had not yet been widely translated into non-official United Nations languages.⁹⁵ Groups also expressed concerns with delays in publicizing and promoting the meetings of the Durban Review Conference, and observed that promotion of the document was not a priority at all levels of OHCHR. They contended that the United Nations had never made a recognizable or impactful effort to provide information on the clarity of the document and advocate its full implementation, despite the adoption of many resolutions thereon.⁹⁶ In 2009, the United Nations High Commissioner for Human Rights observed that human and financial resources available to the Section (previously referred to as the Anti-Discrimination Unit) had been very limited, which had negatively affected the implementation of its activities to support the mechanisms ([A/CONF.211/PC.4/5](#), para. 15).

78. In many ways, this organizational marginalization is unsurprising. United Nations institutions are stretched for resources as it is, and the politicized environment surrounding the Durban Declaration and Programme of Action creates incentives to deprioritize its implementation and publicization. Countering the marginalization of the document within the United Nations thus requires sustained re-engagement by the Organization's leaders, as well as overcoming systemic disengagement by powerful States from the Durban process.

C. Coordinated efforts to discard the Durban Declaration and Programme of Action

79. Some States and NGOs have advocated purposeful boycotts of the Durban Declaration and Programme of Action and Durban review events. Boycotts occurred at the Durban Review Conference, the high-level event held to commemorate the tenth anniversary of the adoption of the document and the high-level event held in commemoration of its twentieth, with the number of States not participating increasing each time. Unfortunately, this has also included several States who had voiced support for the document at the Conference and had initially voted to endorse

⁹⁴ For example, the Group of Independent Eminent Experts was represented at the meetings of other Durban mechanisms. See [A/HRC/16/64](#), paras. 61–64; and [A/HRC/4/39](#), para. 46.

⁹⁵ Submission on the international round table on people of African descent.

⁹⁶ Ibid.

it in General Assembly resolution [56/266](#). There is thus a growing trend of States disengaging from Durban follow-up.

80. As mentioned above, some States and NGOs allege that the Conference was not anti-racist and similarly condemn its outcome document. Such assertions are false.

81. Paragraph 63 of the Declaration reads as follows: “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.” Paragraph 64 reads as follows: “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.” As with all other peoples, Palestinians deserve the full recognition of their fundamental human rights.

82. In paragraph 151 of the Programme of Action, with regard to the situation in the Middle East, Member States called “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”. Despite the arguments of its critics, the Programme of Action is not focused only on violence against Palestinians; the above language is most clearly interpreted as calling for the end of suffering on both sides.

83. The Durban Declaration and Programme of Action paragraphs relating to the Middle East conflict were “consistent with what the United States had agreed to in the past”, and with the post-Conference policies of the administration of the President of the United States, George W. Bush, regarding the conflict.⁹⁷ In the months after the Conference, the recognition of Palestinians’ right to an independent State was endorsed by President Bush and by the United Nations in a Security Council resolution backed by the United States, and the concern for the plight of the Palestinian people under occupation reflected widespread understanding of the legal status of the West Bank and the Gaza Strip.⁹⁸ While many critics of the Conference questioned why other geopolitical conflicts were not considered in document, the fact that the second intifada was ongoing at the time provides key context. News media

⁹⁷ Gay McDougall, “The World Conference against Racism: through a wider lens”, *Fletcher Forum of World Affairs*, vol. 26, No. 2 (Summer/Fall 2002), p. 148.

⁹⁸ Ibid. A White House press secretary stated that Mr. Bush considered a Palestinian State to be “part of the vision” for the Middle East and that it was “important to respect Israel’s right to exist in security”, adding that the United States believed that Palestinians and Israelis should each be able to live “peacefully and securely in their own State”; Security Council resolution [1397 \(2002\)](#) was adopted by a vote of 14–0; and the Minister for Foreign Affairs of Israel, Shimon Peres, called the conference in South Africa a “great success” for Israel and expressed “satisfaction that hateful chapters against the Jewish people were withdrawn from the final declaration”. See Ari Fleischer, Press Secretary, United States of America, White House press briefing, 2 October 2001; Council resolution [1397 \(2002\)](#), second and third preambular paragraphs, and [S/PV.4489](#); and Agence France-Presse, “UN conference success for Israel says Peres”, *The Irish Times*, 9 September 2001. In addition, the mention of “foreign occupation” in the Durban Declaration and Programme of Action, and the support expressed therein for the human rights of the Palestinians more broadly, is consistent with international law and consensus, including the positions later adopted by several States that boycotted the Durban follow-up events. See Council resolution [2334 \(2016\)](#); and John Kerry, Secretary of State, United States, remarks on Middle East peace, 28 December 2016.

images of the violence were ever-present and made it difficult to ignore the human cost of the conflict.⁹⁹

84. The mention of the conflict between Israel and the State of Palestine in the Durban Declaration and Programme of Action should not be equated with an antisemitic preoccupation with Israel, as is done by some commentators. In the two mentions of Israel in the document, Member States affirmed Israel's right to security and its capacity to resume the peace process and to "develop and prosper in security and freedom".¹⁰⁰

85. Although a minority of Conference participants engaged in antisemitic rhetoric and actions, objectionable language was discarded owing to the dedicated engagement of the vast majority of participants, and the Durban Declaration and Programme of Action was created as a mutually acceptable compromise. The document reflected international consensus, and, within its paragraphs, Member States denounced all forms of intolerance.¹⁰¹ Future engagement with the document should be focused on the actual content of the document, not debates about language that never made it into an adopted text.

86. Some commentators and civil society actors have suggested that the disengagement of certain States was driven not just by their stated concerns of anti-Israel bias, but also by a deep discomfort with the discussions of reparatory justice inspired by the Durban Declaration and Programme of Action.¹⁰² While this reasoning has never been confirmed, it is true that the disengagement of a vast majority of the world's former colonial and slave-trading powers has deeply affected the momentum for reparatory justice for the victims of these structures and their descendants.¹⁰³

87. Efforts to abandon the Durban Declaration and Programme of Action contradict the strong consensus that was reached at the conference and weaken the human rights framework devoted to combating racism, racial discrimination, xenophobia and related intolerance.

V. Recommendations

88. **The Special Rapporteur calls on Member States:**

(a) **To re-engage with the Durban process and avoid taking positions calculated to erode the importance of the Durban Declaration and Programme of Action as a global anti-racism framework. The Special Rapporteur encourages all actors to refamiliarize themselves with the content of the document and to use it as a starting point for further development of anti-racism commitments. She emphasizes that efforts to discard the document only detract from the global momentum for racial equality;**

(b) **To adopt a structural and comprehensive approach to countering racism, which entails not only individual and group wrongs, but also the**

⁹⁹ McDougall, "The World Conference against Racism", p. 135.

¹⁰⁰ Declaration, para. 63; and Programme of Action, para. 151.

¹⁰¹ E. Tendayi Achiume, "Governing xenophobia", *Vanderbilt Journal of Transnational Law*, vol. 51, No. 2 (March 2018), p. 349.

¹⁰² Submission on the international round table on people of African descent; and Abigail B. Bakan and Yasmeen Abu-Laban, "The Israel/Palestine racial contract and the challenge of anti-racism: a case study of the United Nations World Conference against Racism", *Ethnic and Racial Studies*, vol. 44, No. 12 (2021), pp. 2180–2181, quoting interviews with Durban participants.

¹⁰³ Abigail B. Bakan and Yasmeen Abu-Laban, "The Israel/Palestine racial contract and the challenge of anti-racism", p. 2182.

persisting structures of racial inequality, discrimination and subordination rooted in slavery and colonialism. The Durban Declaration and Programme of Action contains calls for the transformation and rehabilitation of those structures and relations, which sustain contemporary racial inequality, discrimination and subordination. A comprehensive approach to countering racism entails an intersectional approach to understanding and fighting racial discrimination by accounting for gender, class, migration status, religion, disability status and other social categories;

(c) To support events dedicated to commemorating the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, with an eye to using such events to monitor implementation of its outcome document, the Durban Declaration and Programme of Action and to make a constructive contribution to the improvement of the Durban framework;

(d) To fully implement the Special Rapporteur's recommendations set out in her report on reparations for racial discrimination rooted in slavery and colonialism ([A/74/321](#)), including through recognition of historic wrongdoings related to slavery, the transatlantic slave trade and colonialism;

(e) To fully implement the Special Rapporteur's recommendations set out in her report on racial discrimination and emerging digital technologies ([A/HRC/44/57](#)), in recognition of the groundbreaking consideration of emerging technologies seen in the Durban Declaration and Programme of Action;

(f) To dedicate political and financial support towards implementing the recommendations of the Durban follow-up mechanisms, for example, through the study of tools for monitoring racial discrimination and the implementation of other action steps recommended in their reports;

(g) To use legal, political, educational and cultural frameworks to combat doctrines of racial superiority and other ideologies of intolerance enumerated by target groups in the Durban Declaration and Programme of Action, including antisemitism, Islamophobia, xenophobia, the glorification of Nazism and other racist political platforms;

(h) To adopt the recommendations set out in the Durban Declaration and Programme of Action relating to the recognition of historical atrocities, including slavery, the slave trade, the transatlantic slave trade, apartheid, colonialism and genocide. In the same vein, educational materials should celebrate the autonomous histories, cultures and contributions of Africans and people of African descent, Asians and people of Asian descent, indigenous peoples, Roma and other national or ethnic, religious and linguistic minorities;

(i) To ensure their laws and policies conform with equality and non-discrimination principles, fully abide by their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and other international human rights instruments, and ratify any international human rights conventions to which they have not committed;

(j) To refrain from the selective application and implementation of the Durban Declaration and Programme of Action;

(k) To expedite the creation of national action plans against racism, as well as national equality bodies and other anti-racism institutions, and ensure that such development is done in full consultation with affected groups and civil society, as laid out in the 2014 document by OHCHR entitled, *Developing National Action Plans Against Racial Discrimination: A Practical Guide*. States and national human rights institutions that produce such policies and practices

should promptly share them with OHCHR so that best practices can be publicized through the anti-discrimination database;

(l) To increase their participation in the Durban follow-up mechanisms and provide adequate financial support so that those mechanisms can continue their operations with efficiency, transparency and adequate resources. Particular emphasis should be placed on facilitating civil society access to the Durban process, including by financing the participation of civil society representatives from the global South or providing resources to host sessions in the global South;

(m) To ensure that, in addition to their legal reforms, their economic, cultural, political, humanitarian and development practices conform with the Durban Declaration and Programme of Action. The Special Rapporteur reiterates that racism operates through inequalities within and among States, and all States, in particular those that benefit the most from current economic and political arrangements, have the responsibility to contribute to a more just and equitable international order;

(n) To collect, compile, analyse, disseminate and publish reliable statistical data disaggregated on racial or ethnic grounds, in order to address individual and group racial inequities associated with the design and use of emerging digital technologies. The Special Rapporteur urges States to adopt an approach to data that is grounded in human rights, by ensuring disaggregation, self-identification, transparency, privacy, participation and accountability in the collection and storage of data.

89. The Special Rapporteur notes the special importance of the provisions of the Durban Declaration and Programme of Action relating to the protection of migrants, refugees, asylum seekers, stateless persons and displaced persons. Those groups are recognized in the document as major victims of transnational systemic racism; furthermore, it contains calls for commitments by all States to protect them from racism, racial discrimination, xenophobia and related intolerance. In that regard, the document is vitally important for elucidating State responsibilities to non-citizens.

90. Regional bodies and other international organizations should:

(a) Continue the codification of racial equality and non-discrimination principles in human rights frameworks, and ensure that these frameworks meet or exceed the comprehensive nature of the Durban Declaration and Programme of Action;

(b) Develop regional plans of action against racism, regional equality bodies and institutions that can effectively monitor the implementation of the Durban Declaration and Programme of Action and other human rights commitments;

(c) Plan inclusive, transparent and consistent follow-up events for assessing the implementation of the Durban Declaration and Programme of Action in a variety of contexts. Such events should enable the participation of States, civil society and grass-roots advocates.

91. United Nations institutions should:

(a) Emphasize the Durban process as a central piece of the United Nations human rights system and grant the Durban Declaration and Programme of Action the publicity, political will and financial and organizational resources commensurate with its importance, while integrating it into institutional

practices, and create a well-resourced outreach programme for information and advocacy with regard to the document;

(b) Fully support and participate in the important work of the Durban follow-up mechanisms, including the Group of Independent Eminent Experts on the Implementation of the Durban Declaration and Programme of Action, the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Working Group of Experts on People of African Descent and the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination;

(c) Publicize the Durban Declaration and Programme of Action and its follow-up processes, including by publishing the document in additional languages, producing a shorter and more accessible summary of it and promoting the work of its follow-up mechanisms;

(d) Use the International Decade for People of African Descent and the Permanent Forum for People of African Descent to encourage the implementation of the Durban Declaration and Programme of Action and the development of the United Nations anti-racism framework. In so doing, ensure that these programmes are not used to move away from the historically informed and structurally grounded framing of the document and that these institutions are transparent and accessible to people of African descent, in particular groups who are usually excluded from human rights norm creation;

(e) Seek opportunities for collaboration between mechanisms dedicated to the various groups mentioned in the Durban Declaration and Programme of Action, including Human Rights Council special procedures on matters pertaining to racism, indigenous peoples, people of African descent, women, trafficking in persons, contemporary forms of slavery, persons with disabilities, migrants and other issues;

(f) Reinvigorate efforts to involve youth in Durban Declaration and Programme of Action implementation and recognition efforts, including by convening follow-up events focused on experiences of racism among young people;

(g) Ensure that United Nations entities outside the human rights system, including United Nations humanitarian, environmental, development, financial and health agencies, develop racial justice strategies in which racism is recognized as operating within and between States, and ensure that those entities work to dismantle economic, political, environmental and cultural systems that reinforce racist and neocolonial structures.

92. Civil society and other private actors should:

(a) Fully comply with the provisions of the Durban Declaration and Programme of Action that expressly mention non-State actors as important contributors to the fight against racism;

(b) Participate constructively, when able, in national, regional and international Durban follow-up activities;

(c) Adopt the Durban Declaration and Programme of Action as a framework for combating racism, racial discrimination, xenophobia and related intolerance, promote it and support efforts to translate and publicize its content, and use the framework to monitor national, regional and international conditions of racism;

(d) **Adopt codes of conduct and other measures to prevent the promotion of doctrines of racial superiority and racist hate speech by private organizations, including political parties.**

93. **Academics should implement the recommendations for research and study contained in the Durban Declaration and Programme of Action and develop networks to study the implementation of the document and compliance with the international racial equality framework.**
