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COUNCIL UPDATE – ITEM 9, RACISM, RACIAL DISCRIMINATION AND RELATED INTOLERANCE HUMAN RIGHTS COUNCIL, 10TH SESSION 24 MARCH 2009

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Overview

The Human Rights Council (the Council) discussed the reports of the Ad Hoc Committee on the Elaboration of Complementary Standards, the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action and the Working Group of experts on people of African descent. States continue to be divided on the need for new complementary standards to fight racism and racial discrimination. However, most of the discussion focused on the preparations for the Durban Review Conference to be held in April 2009 in Geneva.

Report of the Ad Hoc Committee on the Elaboration of Complementary Standards

Presentation of report

The Chairperson of the Ad Hoc Committee on the Elaboration of Complementary Standards, Mr Idriss Jazairy, presented the report on its first session.¹ The Ad Hoc Committee met from 11 to 21 February 2008 and from 15 to 19 December 2008. It considered all contributions made to it, including by the five experts on the content and scope of substantive gaps in the existing international instruments to combat racism and by the Committee on the Elimination of All forms of Racial Discrimination on possible measures to strengthen implementation through optional recommendations or the update of its monitoring procedures. In response to a lack of concrete proposals from interested delegations on possible areas requiring attention, the Chairperson drafted a non-paper to provide a comprehensive overview of the issue and to elicit reactions from delegations. The non-paper dealt with the purpose, scope and parameters of the issue as well as specific themes. The Chairperson-Rapporteur acknowledged

¹ A/HRC/10/88.

that the deliberations had often been difficult and reflected divergent views. Nevertheless, the Committee had completed its first session in a consensual spirit by adopting a road map for the preparation of complementary standards whose ‘scope, form and nature’ could vary according to the gap to be filled. The road map sets out the next steps of the process leading up to the next session of the Committee in October 2009.

Debate

The debate that followed again demonstrated the deep divisions among States on this issue. Several States reiterated their reservations about the need to develop complementary standards to fight racism.² They argued that the full ratification and implementation of the *International Convention on the Elimination of All forms of Racial Discrimination* (ICERD) is key and provides a sufficient basis for combating racism. The Republic of Korea stated that new standards should not duplicate existing instruments. Many other States spoke in favor of new international standards.³ South Africa (on behalf of the African Group) stated that the development of complementary standards needs ‘fast tracking’. It underlined that there is a need for new standards on incitement to religious hatred. Syria argued that the new standards should cover racist practices during foreign occupation. South Africa (on behalf of the African Group) encouraged States to provide support and input to the Chairperson. The Russian Federation stated that the work should continue in the same constructive spirit, while Algeria urged all stakeholders to participate in the process.

Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action

Presentation of report

The Chairperson-Rapporteur of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, Mr Dayan Jayatilleka, presented the report of the Intergovernmental Working Group’s sixth session.⁴

Mr Jayatilleka explained that the Working Group held its 6th session in two parts namely in February and in December 2008. The discussion during the first part of the session focused on the programme of work and the election of the Chairperson-Rapporteur. Although the EU asked for a suspension of the session until after the Durban Review Conference, this motion was not accepted by other delegations. The second part of the session prepared the Working Group’s contribution to the Durban Review Conference.⁵ No programme of work was adopted at the second part of the session due to the non-availability of full conference services.

Debate

Very few States referred to the Working Group’s report during the ensuing debate. South Africa, Venezuela, Yemen (on behalf of the Arab Group), Algeria, the Russian Federation and Burkina Faso welcomed the work of the Working Group and Algeria qualified it as essential. Nevertheless the Algerian delegation regretted that the Working Group has not yet been able to consider the effective implementation of some provisions of the DDPA. Syria and Yemen (on behalf of the Arab Group) acknowledged the efforts to ensuring that the Working Group carries out its mandate and contributes to the Durban Review Conference. South Africa recognised the progress made in dealing with thematic issues identified by the Working Group despite challenges met. Algeria stated that

² Czech Republic (on behalf of the EU), Slovenia.

³ Egypt, Pakistan, Yemen (on behalf of the Arab Group), South Africa (on behalf of the African Group), Malaysia, Russian Federation, Singapore, Algeria, Syria, Venezuela.

⁴ A/HRC/10/87.

⁵ Contained in a document entitled ‘Compilation of conclusions and recommendations adopted by the Intergovernmental Working Group of the Effective Implementation of the Durban Declaration and Programme of Action’.

the mandate remains relevant and should not be undermined. They also wished that recommendations and conclusions were action-oriented. South Africa regretted the lack of decisions on future areas of work.

Working Group on people of African descent

Presentation of report

The Chairperson-Rapporteur of the Working Group of Experts on People of African Descent, Mr Joe Frans, presented the report of the Working Group's 8th session.⁶ Mr Frans announced that at its 8th session the Working Group welcomed four new members and thus it was considered an appropriate time to take stock of the work so far and to plan its future work.

He outlined that during the session themes were identified that should be addressed in the future work of the Working Group as well as themes that need to be further investigated. **New themes** that should be covered in future sessions are the dichotomy of rural versus urban and a gender-specific analysis as regards the situation of people of African descent; poverty, social exclusion and marginalisation; culture and development; and hate crimes against people of African descent. The **main themes that need to be investigated further** are the administration of justice, the right and access to housing, and racism and health.

Mr Frans explained that the Working Group continued to follow its methodology of examining a theme of particular relevance to people of African descent. At the 8th session the **situation of children of African descent** was examined. The Working Group invited expert panellists to assist the examination on specific aspects of the broader theme. As this methodology proved to be successful the Working Group will continue to use this methodology in the future. The sub-themes that were reviewed were: children of African descent and violence; children of African descent and human rights mechanisms; and access to education and health.

The Working Group also **reviewed** its **methodologies** and identified a need for disaggregated data. The Working Group acknowledged the difficulty for some States to collect data disaggregated by race but underscored the great importance of this data for the formulation and implementation of policies to address successfully the problems faced by people of African descent.

Moreover, the Working Group presented its **work plan for 2009 to 2011**. The work plan provides for the continuation of thematic discussions and identifies important themes that need to be addressed. The work plan includes at least one country visit per year, the commissioning of thematic studies, the production of articles, and participation in relevant activities. The Working Group also intends to organise seminars, workshops, conferences and colloquia on themes relevant to its mandate. In order to maximise the participation of all stakeholders in its sessions Mr Frans proposed to hold the annual session at a later time of the year as in January many delegations are not able to attend. He concluded that the work plan laid a foundation for more structured and effective work of the Working Group in the future.

Debate

South Africa (on behalf of the African Group), Algeria, Venezuela and China and the International Student and Youth Movement for the United Nations welcomed the work of the Working Group and urged the international community to support the ambitious work plan. Brazil welcomed the conclusions and recommendations of the Working Group and recognised the elaboration of national plans of action and the collection of data as essential tools to help fight racism and racial discrimination. It called on all States to cooperate with this mechanism. Brazil recalled its support for a UN permanent forum on people of African descent.⁷ Yemen (on behalf of the Arab Group) stated that efforts have been made to ensure a balanced analysis on the injustices that people of African

⁶ A/HRC/10/66.

⁷ Article 86 Outcome Document of the Regional Conference for Latin America and the Caribbean Preparatory to the Durban Review Conference

descent experienced. It argued that there is however a lack of political will to implement the recommendations of the Working Group to increase the representation in the judicial systems and to correct inequalities in the areas of housing, education, health, employment, and political participation. Yemen recommended a code of conduct for journalists to end racial profiling in the media. Syria also urged an end to racial profiling in the media. Yemen and Syria also pointed to Article 164 of the DDPA concerning compensation. Defence for Children International (DCI) welcomed the focus of the Working Group on the situation of children and urged it to continue systematically examining the rights of the child in its future reports, using the framework of the *Convention on the Rights of the Child*. It pointed out that children of African descent are overrepresented as victims of murder and other forms of extreme violence. DCI endorsed the recommendation that disaggregated data be collected. It further recommended that the Working Group should investigate practices of racial profiling within the police forces and urged States to collect disaggregated data on the number of children stopped by police.

Durban Review Conference

Many States used the opportunity to comment on the preparations for the upcoming Durban Review Conference.

Several speakers reaffirmed the Durban Declaration and Programme of Action (DDPA) as the basis for the Review Conference. Egypt stressed that all States should reaffirm the DDPA. The US has made it clear that it will not be able to join the Review Conference if it unequivocally reaffirms the DDPA. The Czech Republic (on behalf of the EU), Egypt and the African Union stated that efforts should focus on ensuring its full implementation. The African Union noted that little progress in implementation has been made so far. The Czech Republic (on behalf of the EU) cautioned that the DDPA should not be reopened while Amnesty International states that the Review Conference should build on the DDPA.

Commenting on the **draft outcome document**, several States⁸ noted that they are carefully reviewing the revised and latest draft, the so-called rolling text.⁹ Cuba (on behalf of the Non-Aligned Movement) stated that the draft was an attempt at constructively advancing the negotiations. Many other States also acknowledged it as a ‘good’ and ‘sound’ basis for a positive outcome of the Review Conference.¹⁰ Amnesty International stated that while the text was a good basis, it should be more action oriented. The *Mouvement contre le racisme et pour l’amitié entre les peuples* argued that improvements to the text still had to be made in the areas of acknowledging the colonial past and the right to self-determination.

States also reaffirmed the need for a **consensual outcome** to the Review Conference¹¹ and for it to be a successful event¹² with a positive outcome.¹³ India underlined the need for flexibility while Switzerland spoke of willingness to compromise. The Czech Republic (on behalf of the EU) and India stated that the outcome should send a strong message.

Cuba (on behalf of the NAM), Pakistan (on behalf of the OIC), Morocco and Algeria urged that all States be represented at the Review Conference at the highest political level. Switzerland, Morocco and Syria encouraged all States to become involved in the process. So far, Canada, Israel and the US have stated that they will not participate actively. Pakistan (on behalf of the OIC) and Turkey underlined the importance of civil society participation.

Although most of the comments made were general and focused on the process, some speakers also addressed more **substantive issues** related to the Review Conference. Notably, several States argued that new and

⁸ Czech Republic (on behalf of the EU), Cuba (on behalf of the NAM), Pakistan (on behalf of the OIC), Angola,

⁹ Available at <http://www.un.org/durbanreview2009/pdf/Rolling%20text%20YB.%2017-3-2009.pdf>

¹⁰ Brazil, Turkey, Slovakia, Morocco, India.

¹¹ Republic of Korea, Czech Republic (on behalf of the EU), Egypt, India, Qatar, Malaysia, Senegal, Kuwait, Algeria.

¹² Slovakia, China, Russian Federation, Senegal, Turkey, FIDH.

¹³ Brazil, India, Pakistan, Cuba (on behalf of the NAM).

contemporary forms of racism should be addressed.¹⁴ FIDH and the Beckett Fund for Religious Liberty welcomed the exclusion of the concept of ‘defamation of religions’ from the draft outcome document.

States also discussed briefly the future of the various mechanisms to follow up on the DDPA. The Czech Republic (on behalf of the EU) and Slovakia argued in favour of the streamlining and rationalisation of existing follow-up mechanisms. The Russian Federation stated that there was a need to ensure synergies and cooperation between the mechanisms, while Egypt, Brazil and Burkina Faso underlined the need to ensure their effectiveness and enhance their performance, including through the provision of adequate resources.¹⁵ Egypt noted that it is ready to consider the idea of creating an observatory on racism within OHCHR.¹⁶

Further information

For further information on the Council, please consult the following resources:

- Web site of the International Service for Human Rights, providing up-to-date information before, during and after sessions of the Council: <http://www.ishr.ch/council>. During the session, ISHR will provide information about the Council’s proceedings on a regular but not daily basis. You can subscribe to receive alerts of our publications by sending an email to information@ishr.ch.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 10th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/10session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>.
- More informal documents and draft resolutions are available on the ‘OHCHR extranet’ at <http://portal.ohchr.org/portal/page/portal/HRCExtranet>. Username: ‘hrc extranet’ Password: ‘1session’.

NGOs and human rights defenders seeking more specific information or individual advice on the Council session, please contact the ISHR secretariat by email or phone at +41 (0) 22 919 71 00.

¹⁴ Indonesia, Yemen (on behalf of the Arab Group), Qatar, Angola, Iran, Algeria, African Union, Libya.

¹⁵ Burkina Faso.

¹⁶ See paragraph 131 of the rolling text.

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