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Draft presentation

Background and proposed scope and content of the draft United Nations Declaration on the Promotion, Protection and full Respect of the Human Rights of People of African Descent

Over the past seven decades since its establishment, the international community had made unremitting efforts in the fight against racism and racial discrimination, as demonstrated by the adoption of a series of instruments, notably the International Convention on the Elimination of All Forms of Racial Discrimination adopted in 1965 and the Durban Declaration and Programme of Action adopted in 2001. Guided by the two important principles of equality and non-discrimination embodied in the ICERD and the DDPA, progress had been made in terms of promoting and protecting human rights of people of African descent.

However, the principal objectives as laid out in the ICERD and the DDPA had not been attained due to slow and insufficient implementation. The legacy and consequences of slavery, colonialism and transatlantic trade of enslaved Africans remain and the lack of reparation hampers the equality and justice

for people of African descent. Millions of people of African descent across the world continue to be victims of racism, racial discrimination, xenophobia and related intolerance as manifested in multiple and intersecting forms. Stereotyping and racial profiling of people of African descent, which were created to justify the enslavement of Africans, continue to harm people of African descent and violate their human rights. Gaps between the South and the North is widening which has seen increasing socio-economic inequalities suffered by people of African descent. Statistics have shown that people of African descent are times more likely to suffer from inequality in access to education, employment, health care, housing and decision making in economic, social and political affairs in the countries they live. The world also witnessed an increase of racial superiority doctrine and hate crimes, while the alarming abuse of force by law enforcement agencies against people of African descent had caused the tragic killing of George Floyd in 2020.

Background and recent developments

Above mentioned are examples of the grim reality faced by people of African descent. There have been rising calls for equality, justice and dignity for people of African descent, including the call for a UN declaration on the promotion, protection and full respect of the human rights of People of African descent. This initiative aims at drawing the world's attention to the objectives of the ICERD, the DDPA and the International Decade of People of African descent and providing new momentum to the political commitment of member states and all relevant stakeholders to promote equality, dignity and well-being of people of African descent.

As an old Chinese saying goes, a journey of a thousand miles begins with a single step. In the past decade, Member States and civil society of people

of African descent and other relevant stakeholders have taken important steps towards the current stage of elaborating a UN declaration.

It can be recalled that in March 2012, the Committee on the Elimination of Racial Discrimination (CERD) adopted “Statement on the Contribution to the Programme of Action for the International Decade for People of African Descent” (A/67/18, Annex VII) in which it recommended “to propose the elaboration of a declaration regarding the promotion and full respect of the human rights of people of African descent”. This can be acknowledged as the origin of the initiative of the upcoming Declaration.

On 18 November 2014, the UN General Assembly adopted resolution A/RES/69/16 entitled "*Programme of activities for the implementation of the International Decade for People of African Descent*", which echoed A/67/18 with the provision “request States to consider adopting measures to further promote and protect the human rights of people of African descent as enshrined in international human rights instruments, including through the elaboration of a draft United Nations declaration on the promotion and full respect of human rights of people of African descent.” (A/RES/69/16, para 29h).

On the occasion of the first Regional Conference of the International Decade for People of African Descent held in Brazil in December 2015, the Latin American and Caribbean States reaffirmed the spirit of General Assembly resolution A/RES/69/16 and decided to “particularly support the elaboration of a draft United Nations declaration on the promotion and full respect of the human rights of people of African descent, underlining

the importance of starting work as soon as possible, and to offer substantive contributions to its drafting” (para. 6).

Subsequently, the Human Rights Council and the UN General Assembly adopted several resolutions on the subject. On 22 December, 2018, the General Assembly adopted resolution A/RES/73/262 in which it stipulated *“Recalls the draft programme of action for the International Decade for People of African Descent as an instructive framework in which all the initiatives aimed at improving the quality of life of people of African descent are anchored and which, if adopted, would complement the programme of activities for the implementation of the International Decade for People of African Descent, in which it recommended the establishment of a forum on people of African descent and giving consideration to the elaboration of a draft United Nations declaration on the promotion and full respect of human rights of people of African descent;”* (OP. 9).

On 2 August, 2021, the General Assembly adopted resolution 75/314 and decided to establish the Permanent Forum on People of African Descent. As outlined in 75/314, the Permanent Forum is mandated *“To consider the elaboration of a United Nations declaration on the promotion, protection and full respect of the human rights of people of African descent.”*

In resolution A/RES/76/226 adopted in December 2021, the General Assembly “requested the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (IGWG) to devote at least half of its annual session to the elaboration of the draft of the United Nations Declaration on the Promotion, Protection, and Full Respect of the human rights of People of

African descent (para. 10).”¹ Through the same resolution, the General Assembly invited the Permanent Forum to contribute to the elaboration of a draft United Nations Declaration on the promotion, protection, and full respect of the human rights of people of African descent.”²

At the request of the president of the IGWG, the Permanent Forum issued a call for viewpoints in advance of early discussions on the draft Declaration in August 2022.”³ Thus, our meeting today reflects the ongoing efforts of the Permanent Forum in fulfilling its mandate through consultation and collaboration with member states, civil society of people of African descent and relevant UN mechanisms to advance the process of the elaboration the Declaration.

Scope and Content

What is the Declaration about? What outcome do we expect? What key elements should be incorporated in the Declaration?

Fundamentally, it is envisaged that the declaration will reinforce the call for equality, dignity and justice for people of African descent and consolidate existing human rights standards and fundamental freedoms that will apply to the specific situation of people of African descent.

¹ See: <https://www.ohchr.org/sites/default/files/documents/issues/racism/wgwg-durban/session20/2022-10-04/Chair-IGWGs-Preparatory-Draft-UN-Declaration-Rights-people-African-descent.pdf>

² See: <https://www.ohchr.org/en/permanent-forum-people-african-descent/declaration-human-rights-people-african-descent>

³ See: <https://www.ohchr.org/en/permanent-forum-people-african-descent/declaration-human-rights-people-african-descent>

After preliminary consultations with civil society and relevant UN mechanisms, the Permanent Forum is keen to see the Declaration to be a comprehensive international instrument prescribing measures on the promotion, protection and full respect of human rights of people of African descent.

It is of utmost importance that the Declaration, in its scope and content, incorporates the concept of people of African descent. This has been proposed by various actors of the social movements of people of African descent in Latin America. It emphasises the collective rights of people of African descent and that the plurality of people of African descent often are ethnic and national groups with a long history in their countries.

To promote full and effective participation in all matters that concern people of African descent and their rights to maintain distinct and to pursue equality and dignity through economic and social development, the Declaration must:

1. pay attention to the interconnectivity of past and present by recognizing the legacy and consequences of slavery, colonialism and the transatlantic trade in enslaved Africans which had led to the present day victimization of people of African descent.
2. address prominent global challenges with a profound impact on the enjoyment of human rights of peoples of African descent – including, climate change and other environmental crises, pandemics, large-scale migration and its implications for international peace and security, the

deep structural inequities in the global economy and in the institutions of global governance.

3. reflect the fact that people of African descent across the world are subject to systemic racism, and that, notwithstanding an agreement to broad abstract statements of equality, discrimination against people of African descent continues to exist. For the Declaration to be effective, States should comprehensively address the systemic forms of racism, racial discrimination, xenophobia, and similar intolerances and closely monitor and document the specific development of the population of people of African descent so as to ensure their equality and full enjoyment of human rights.

4. recognise and develop the standards of the collective rights of people of African descent, as provided for in General Recommendation 34 of the Committee on the Elimination of Racial Discrimination (CERD), including the right to practice religions of African origin.

5. encourage States to establish a plan for the economic development of African people and people of African descent, through trade, investment, and other methods, with a view to achieving the SDGs.

6. address contemporary forms of racism and racial discrimination, including those derived from the use of automation tools and artificial intelligence – including algorithmic bias, in line with CERD General Recommendation 36 on preventing and combatting racial profiling, which also addresses algorithmic bias.

7. recognize and develop the rights of people of African descent to determine the use of their traditional knowledges associated with genetic resources (i.e. any material of plant, animal, microbial or other origin containing functional units of heredity) and the right to equitable

participation in the benefits derived from these, as provided for in Article 8.j. of the Convention on Biological Diversity.

8. shed light of the aspiration of people of African descent for reparation by underling that states, in particular former colonial powers, have a moral obligation to take appropriate and effective measures to reverse the lasting consequences of enslavement, the trade and trafficking in enslaved Africans and of people of African descent, apartheid, colonialism, and past tragedies.

9. send out a strong message underling the common responsibility of the international community in ensuring equality, safety and livelihoods of people of African descent, and task the member states, UN and other international and regional organizations, civil society and relevant stakeholders to take concrete and practical steps through the adoption and effective implementation of national and international legal frameworks, policies and programmes to combat racism, racial discrimination, xenophobia and related intolerance faced by people of African descent, taking into account the specific concerns of vulnerable groups such as women, girls, children, the elderly, the disabled and LGBTIQ.

Based on the provisions of the DDPA and the ICERD, it is important that the following rights of people of African descent be incorporated in the Declaration.

i. A set of principles including the reversal of the burden of proof and precaution in crimes of racial discrimination.

ii. The recognition of the collective rights of people of African descent as subjects within the framework of international law, including the right to be recognized as collective subjects of international law.

iii. The right of peoples of African descent in the Americas to recognition of their status as native and/or tribal peoples.

iv. The right of people of African descent to recognition and self-determination of peoples of African descent in ancestral territories. This includes the right to property and to the use, conservation and protection of lands traditionally occupied by people of African descent and to natural resources in cases where their ways of life and culture are linked to their use of lands and resources.

v. The right of people of African descent to sustainable development in particular in the areas of equal access to education, health care, housing, employment and digital development.

vi. The right of people of African descent to their cultural identity and cultural self-determination, to keep, maintain and foster their mode of life and forms of organisation, culture, languages, and religious expressions.

vii. The right to prior consultation with respect to decisions which may affect their rights, in accordance with international standards.

viii. The right of people of African descent to access justice and the adoption of special measures for people of African descent to protect, promote and fulfil this right.

ix. The prevention and combating of contemporary forms of racism and racial discrimination against people of African descent in the area of algorithmic biases (including, in artificial intelligence and information technology).

x. The right of people of African descent to benefit from the underwater cultural heritage and treasures carried by the galleons and ships carrying enslaved Africans and people of African descent.

xi. The right of people of African descent to expand and consolidate the areas of their own culture by strengthening the autonomous decision-making capacity of a culturally differentiated society to guide its own development and the exercise of self-determination – which implies an organisation of power that is equitable and respectful of this right.

xii. The right of people of African descent to special measures to combat systemic racism against people of African descent and to guarantee their full civil, political, economic, social, developmental and cultural inclusion.

xiii. The right of people of African descent to be free from marginalisation, violence and discrimination, including on the basis of disability, language, age, geographical location, and sexual orientation, gender identity, gender expression, and sex characteristics.

xiv. The right of people of African descent to have access to the United Nations to advocate that governments adopt and implement non-discriminatory laws or policies.

More importantly, actionable measures should be prioritized in the elaboration of the Declaration since there have been abundance of general ideas. It is critical to ensure that the Declaration calls for a Fund for the Development of People of African Descent, and a second International Decade of People of African Descent (from 2025 to 2034). The Declaration should invite the UN Secretary General and/or the High Commissioner for Human Rights to submit annual reports on the implementation of the present declaration and request a review every five years.

As Ms. MacDougall mentioned in her presentation, the efforts to draft United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) date back over several decades. There are arduous tasks ahead

which require reaffirmed political commitment and concerted efforts by the international community. Nevertheless, with solidarity and sense of urgency, it is our common expectation that elaboration of the UN Declaration on the promotion, protection and full respect of the human rights of people of African descent will be expedited and adopted within the first international decade for people of African descent.