



University of Dayton

**Human Rights  
Center**

**SUBMISSION TO THE UN INTERGOVERNMENTAL WORKING GROUP ON  
THE EFFECTIVE IMPLEMENTATION OF THE DURBAN DECLARATION AND  
PROGRAMME OF ACTION**

**COLLABORATIVE INPUT TO THE DRAFT UN DECLARATION ON THE  
PROMOTION AND FULL RESPECT OF THE HUMAN RIGHTS OF PEOPLE OF  
AFRICAN DESCENT**

February 2024

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Editors: Satang Nabaneh, Chianaraekpere Ike, Susan Weaver, and Joel R. Pruce

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Overview

The University of Dayton Human Rights Center, in collaboration with the Centre for Human Rights of the Faculty of Law, University of Pretoria, and the Free State Centre for Human Rights of the Faculty of Law, University of the Free State, hosted a joint convening, bringing together the 2023 Social Practice of Human Rights Conference and the 6<sup>th</sup> International Conference on the Right to Development, held for the first time outside of the African continent. The Joint Convening brought together scholars and practitioners to reflect on social justice and human rights research, to foster potential collaborations and initiatives, and to provide a space where interdisciplinary perspectives can be shared on current human rights and development discourses.

In addition to typical conference modes, we utilized action research methodologies and interactive design to facilitate participatory knowledge production. A central focus point was a World Café program centered on a draft text of the Declaration on the Promotion and Full Respect of the Human Rights of People of African Descent, which Pastor Murillo, a member of the Permanent Forum on People of African Descent, graciously shared with us for this purpose. Additional members of the Permanent Forum, Gaynel Curry and Justin Hansford, participated in the event along with over seventy conference attendees. Below, we present the results of this open and deeply collaborative effort.

Methodology

We designed the session to gather feedback on the draft document for the purpose of sharing our findings with the Intergovernmental Working Group as it pursues its charge authorized by Resolution A/RES/76/226. We sought to harness the brilliance and diverse experiences of conference attendees and facilitate a session whereby participants engage in rich and intimate dialogue that generates insights about the draft declaration text. World Café is an action research methodology for producing knowledge through iterative



exchanges well suited to structure this session. We intended for this to be an effort toward opening the drafting process and shaping the content of the Declaration through the direct involvement of students, scholars, lawyers, practitioners, and activists from around the world.

The [text of the declaration as of 10 October 2023](#) was printed into posters and hung on the walls around the room. Conference hosts intentionally designed the space to set the tone of informal conversations around café tables while establishing stations around the room to compel movement and motion. As prompted, participants circulated in groups discussing the text as they encountered it for the first time on the walls. Using markers, they directly captured their reactions and responses to the draft on the posters.

Participants saw the text without the preamble and without notation labeling what language had already been adopted by the Intergovernmental Working Group prior to their encounter. This was an intentional choice to permit the attendees to ignore the reality of how persuasive their proposals may be to geopolitical actors and purely focus on the substance of the text itself. We are aware that the October draft has been superseded by revisions produced in meetings in November 2023. We hoped to cultivate a sense in which individuals felt they were providing direct, in-line comments and suggestions on the text. To honor that design, we share those findings faithfully below.

### General Recommendations

1. Consistent terminology usage throughout the declaration, particularly in categorizations like “Afrophobia,” to encompass various discriminatory systems effectively.
2. Replace the term “consider” with stronger language, such as “States shall,” which emphasizes the imperative need for affirmative action to redress the injustices inflicted upon all victims of “racism, racial discrimination, xenophobia, Afrophobia, and related intolerance.”
3. Recognize both implicit and explicit forms of racism, which allows for the sustenance of racist structures, provides stronger legal grounding and acknowledges their varying impacts and complexities.
4. It is important to acknowledge the ongoing power imbalance that contributes to the disadvantage of people of African descent. This is due to the existence of neocolonialism, which extends far beyond the formal end of colonialism. Ongoing neocolonial dynamics, often involving continued economic and political control,



exacerbate these challenges and perpetuate power imbalances. The inclusion of the phrase “neocolonialism” adds crucial context and amplifies the call for correcting and redressing these detrimental structures. We need to create a more inclusive globalized economy that does not further marginalize already disadvantaged communities.

A rights-based approach to addressing racism and related intolerance and restoring the dignity of all people should be rooted in the frameworks of intersectionality and decoloniality, which serve as fundamental pillars for further grounding the declaration:

5. *Intersectionality*: It’s crucial to dismantle discriminatory and interconnected systems rooted in racism, sexism, and classism to establish a fair and equitable world for all, particularly women and girls. However, a genuinely inclusive approach acknowledges the diversity of experiences and needs of different subgroups, including migrants and asylum seekers, people living with HIV, people living with disabilities, lesbian, gay, bisexual, transgender, and gender-diverse persons, older persons, and people living in poverty. Single-axis models of discrimination fail to address the lived experiences of individuals who experience multiple intersections of oppression,
6. *Substantive equality*: Distinguishing between equity and equality involves recognizing the need for systemic change that goes beyond formal equal rights. While equality means treating everyone the same, equity acknowledges the importance of accommodating differences among individuals to ensure that everyone achieves substantive equality, resulting in true equality in outcomes. This approach recognizes that substantive equality aims to address structural and indirect discrimination while considering power dynamics within society. If deemed appropriate, we suggest replacing the term “equality” with “equity.”
7. *Decolonial approach*: Adopting a decolonial approach to science, research, and ways of knowing involves recognizing that Western and traditional indigenous knowledge systems are complementary to each other. This approach aims to address epistemic injustice by acknowledging the need to challenge the entrenched Western perspectives and dismantle their dominance in knowledge creation, especially concerning data collection, as outlined in the declaration. It also requires the reshaping of research practices to prioritize and celebrate diverse ways of knowing that go beyond these limitations.

Additional Observations:



8. Racial profiling, discriminatory stop-and-search tactics, police harassment, verbal abuse, and excessive use of force disproportionately impact individuals of African descent. These actions not only violate human rights but also result in significant health consequences, including fatalities and injuries from police encounters, increased prevalence of infectious diseases in correctional facilities, and heightened levels of trauma, anxiety, and stress within heavily policed neighborhoods. The impunity associated with these violations exacerbates and perpetuates such harms, underscoring the urgent need to dismantle systemic racism and safeguard the rights of all individuals.
9. While participants acknowledged the significance of the declaration, concerns over implementation and evaluation emerged. Skepticism exists regarding states' commitment to fulfilling their obligations, with concerns raised about minimal effort or actions contradicting the declaration's spirit. Two key issues were highlighted:

1. *Defining Adequate State Action*: The lack of clarity around what constitutes sufficient state action under the declaration creates uncertainty. This ambiguity could lead to states interpreting their obligations minimally, potentially undermining the document's intended impact.

2. *Measurement, Assessment, and Knowledge*: Participants questioned how states will determine when specific actions are necessary under the declaration. Relying solely on voluntary criteria could result in states choosing insufficient or inadequate policies, hindering the declaration's effectiveness.

In essence, the observation highlights the need for robust implementation mechanisms and clear evaluation frameworks to ensure states uphold their commitments and effectively achieve the declaration's objectives.

Declaration Text [suggested edits noted in red]

### **Article 1. People of African descent**

The present Declaration applies to all [peoples] who identify themselves as people of African descent. Self-identification [encompassing both individual and collective identities] for persons, populations and communities of African descent, shall be regarded as a fundamental criterion for determining the subjects of the rights recognized in the present Declaration.

### **Article 2. Equality and non-discrimination**



1. All human beings are born free and equal in dignity and rights. Everyone is entitled to all the rights and freedoms set forth in the present Declaration, without distinction of any kind, such as [race, color, sex, gender, sexual orientation, religion, language, political or other opinion, national or social origin, birth, property, source of income, age, ability, neurodiversity, immigration, and other status.]
2. Special measures where appropriate, to address structural disparities and de facto inequalities affecting the rights of people of African descent shall not be considered discrimination under the present Declaration.

### **Article 3. Right to a life free from racism and racial discrimination**

1. People of African descent have the [inalienable] right to be free from any kind of racism, [explicit and implicit forms,] racial discrimination, xenophobia and related forms of intolerance in the exercise of their rights, in any sphere of life, public or private, both online and offline.
2. To this end, States shall take appropriate measures:
  - (a) To correct and redress [and eliminate] the legacies and impacts of colonialism, [neocolonialism,] and enslavement;
  - (b) To prevent, combat and eliminate racism, racial discrimination, xenophobia, and other forms of related intolerance, with a view to promoting racial equality and justice, paying special attention to multiple forms of discrimination and racist violence, as well as racial profiling, racial stereotyping and algorithmic bias;
  - (c) To ensure, in conjunction with people of African descent, that women and girls, [transgender, non-binary, and third gender people] of African descent enjoy the full protection and guarantees against all forms of violence and discrimination.

### **Article 4. State obligations to promote full and effective equality and to prevent, combat and eliminate racism, racial discrimination, xenophobia and other forms of intolerance and violence.**

1. States [will] fully and effectively [and immediately] implement the International Convention on the Elimination of All Forms of Racial Discrimination and the Durban Declaration and Programme of Action, as the main international instruments and guidance for the elimination of racism, racial discrimination, xenophobia and related



intolerance faced by people of African descent, as well as implement the programme of activities for the International Decade for People of African Descent, and consider implementing the agenda towards transformative change for racial justice and equality presented by the United Nations High Commissioner for Human Rights.

2. States shall take concrete actions to guarantee the enjoyment of all human rights of people of African descent in full equality, de jure and de facto, such as the following:
  - (a) Remove all obstacles that prevent the equal enjoyment of all civil, political, economic, social and cultural rights, including the right to development and the right to a clean, healthy and sustainable environment, by people of African descent;
  - (b) Consider withdrawing, as a matter of urgency, their reservations on article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination and other reservations that are incompatible with the object and purpose of the Convention;
  - (c) Consider ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, if they have not done so;
  - (d) Undertake a comprehensive review of domestic legislation with a view to identifying, amending and abolishing provisions in order to effectively combat direct or indirect discrimination;
  - (e) Adopt or strengthen anti-discrimination legislation to make it comprehensive and ensure its effective implementation;
  - (f) Provide effective protection for people of African descent, and review and repeal all laws that have a discriminatory effect on people of African descent facing multiple, aggravated or intersecting forms of discrimination;
  - (g) Promote the effective implementation of national and international legal frameworks against racism, racial discrimination, xenophobia, and other forms of violence and intolerance, including measures to acknowledge, correct and redress the lasting consequences of colonialism, slavery and the transatlantic slave trade **[through reparations and other institutional support mechanisms]**;
  - (h) Adopt, strengthen and implement action-oriented policies, programmes and projects to combat racism, racial discrimination, xenophobia, and related



intolerance, designed to ensure the full and equal enjoyment of human rights and fundamental freedoms by people of African descent;

- (i) Adopt special measures, such as affirmative action policies, where appropriate, to alleviate and remedy disparities and structural disadvantages in the enjoyment of human rights and fundamental freedoms affecting people of African descent, protecting them from discrimination and overcoming persistent structural disparities and de facto inequalities resulting from historical circumstances;
- (j) Elaborate and implement national plans of action to promote diversity, equality, equity, social justice, equality of opportunity and the participation of all;
- (k) Establish and/or strengthen national mechanisms or institutions with a view to formulating, monitoring and implementing policies to combat racism, racial discrimination, xenophobia and related intolerance and promoting racial equality, with the participation of representatives of people of African descent;
- (l) Establish and/or strengthen independent national human rights institutions, as appropriate, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and/or similar mechanisms with the participation of civil society, and provide them with adequate financial resources, competence and capacity for protection, promotion and monitoring to combat racism, racial discrimination, xenophobia, Afrophobia, and related intolerance.

#### **Article 5. Preventing and combating racism and hate speech**

1. States shall develop comprehensive strategies to ensure the right to freedom of opinion and expression, while taking all measures necessary to prevent and combat the dissemination of racist messages and those that result in racial discrimination, xenophobia, or any form of intolerance and discrimination.
2. States shall adopt and implement legal frameworks that allow for prosecuting those responsible for incitement to racial hatred and hate crimes and for disseminating racist materials, including through new information technologies and social media.
3. States shall take effective and appropriate measures, including legal, **[institutional and other]** measures, as appropriate to combat all acts of racism, in particular the dissemination of ideas based on racial superiority or hatred, incitement to racial





hatred, or violence, as well as racist propaganda activities and participation in racist organizations.

4. States shall address contemporary forms of racism and racial discrimination, including those derived from the use of [surveillance practices,] automation tools, artificial intelligence and information technology – including algorithmic bias, with a view to preventing and combating racial profiling.
5. States shall take appropriate measures to ensure all people equal and affordable access to and use of the Internet as an international and equal forum, and promote participation and representation of different segments within societies in media organizations.

#### **Article 6. Promotion and recognition of, and respect for, the culture, history and heritage of people of African descent**

1. States shall promote greater knowledge and recognition of, and respect for the historical contributions of people of African descent to the growth and development of [humanity] ~~the global economy~~; their historical contribution to the conservation of biological diversity, and development of the sustainable use of genetic resources; and the contribution of their traditional knowledge and languages to scientific knowledge.
2. States shall recognize the domestic and international histories and heritages, and cultural and other contributions to societies, of people of African descent. States shall also raise awareness of and take educational measures on the histories, heritages and cultural and other contributions to societies of people of African descent.
3. States shall adopt and implement comprehensive programmes to recognize, disseminate and promote knowledge about the cultures, histories and heritages of people of African descent, including but not limited to research and education programmes, with a view to restoring the dignity of people of African descent.
4. States should ensure that textbooks and other educational materials [accessibly] reflect historical facts accurately [on a continuous and evolving basis] as they relate to past tragedies and atrocities, in particular slavery, the slave trade, the transatlantic slave trade and colonialism [, so as to avoid stereotypes and the distortion or falsification of these historical facts, which may lead to racism, racial



discrimination, xenophobia and related intolerance, including the role of respective countries therein.

## Article 7. Right to equal access to education

1. States shall commit themselves to ensuring access to [quality, universally accessible,] free primary education for all ~~girls and boys~~ [youth], and access for adults to lifelong learning and education, based on respect for diversity and tolerance, without discrimination of any kind, [an understanding of the power of education to restructure economies,] and oriented toward the future through subjects that include STEM, sustainability, and human rights education.
2. States shall ensure that quality education is accessible and available in areas where communities of African descent live, particularly in rural and marginalized communities, with attention to improving the quality of public education;
3. States shall ensure access to education and promote access to new technologies that would offer Africans and people of African descent, in particular women and children, adequate resources for education, technological development and long-distance learning in [rural] communities. States are also urged to promote the full and accurate inclusion of the histories and contributions of Africans and people of African descent in the education curriculum.
4. States shall ensure equal access to education for all in law and in practice, and refrain from any legal or any other measures leading to imposed racial segregation in any form in access to schooling.
5. States should take measures to ensure that public and private education systems do not discriminate against or exclude children of African descent, and that they are protected from direct or indirect discrimination, negative stereotyping, stigmatization, bullying and violence from peers or teachers; to this end, training and sensitization [programmes designed by people of African descent] should be provided to teachers and measures should be taken to increase the number of teachers of African descent working in educational institutions.
6. States shall take further measures by:
  - (a) Establishing and implementing [non-discriminatory] standardized methods to measure and track the educational performance of disadvantaged children and young people;



- (b) Committing resources [and seeking input] to eliminate, where they exist, inequalities in educational outcomes for children and young people;
  - (c) Supporting efforts to ensure safe school environments, free from violence and harassment motivated by racism, racial discrimination, xenophobia or related intolerance; and
  - (d) Establishing [non-discriminatory and universally accessible] financial assistance programmes designed to enable all students, ~~regardless of race, colour, descent or ethnic or national origin~~, to attend institutions of higher education, [conscious to constrain the potential harms posed by private financial actors in the education sector];
7. States shall take appropriate measures to ensure equal opportunities for and access to higher education by students of African descent through, inter alia, positive or affirmative action measures, mentorship programmes and university curricula that reflect their needs and interests, paying particular attention to the rights and special needs of women, children and persons with disabilities of African descent.
8. Urges States to adopt, where applicable, appropriate measures to ensure that people of African descent have [equitable] access to education without discrimination of any kind and, where possible, have an opportunity to learn their own language in order to protect them from any form of racism, racial discrimination, xenophobia and related intolerance that they may be subjected to;

#### **Article 8. Data collection, analysis and use**

1. States shall collect, compile, analyse, disseminate and publish [credible and] reliable statistical data at the national and local levels and undertake all other related measures that are necessary to regularly assess the situation of people of African descent, bearing in mind that:
- (a) Such statistical data should be disaggregated in accordance with national legislation. Any such information shall, as appropriate, be collected with the explicit consent of the individuals, based on their self-identification and in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees. This information must not be misused;



- (b) The statistical data and information should be collected with the objective of monitoring the situation of people of African descent, and the development and evaluation of legislation, policies, practices and other measures aimed at preventing and combating racism, racial discrimination, xenophobia and related intolerance, as well as for the purpose of determining whether any measures have an unintentional disparate impact on victims. To that end, it recommends the development of voluntary, consensual and participatory strategies in the process of collecting, designing and using information;
- (c) The information should reflect economic and social indicators related to people of African descent, including, where appropriate, health and health status, infant and maternal mortality, life expectancy, literacy, education, employment, housing, land ownership, mental and physical health care, water, sanitation, energy and communications services, poverty and average disposable income, in order to facilitate the elaboration of social and economic development policies with a view to closing the existing gaps in social and economic conditions.

#### **Article 9. Right to development and measures against poverty**

1. Consistent with the Declaration on the Right to Development [and in accordance with the African Charter on Human and Peoples' Rights], States should adopt measures aimed at guaranteeing active, free and meaningful participation by all individuals, including people of African descent, in development and decision making related thereto and in the fair distribution [and procedural justice] of benefits resulting therefrom.
2. Recognizing that [impoverishment] is both a cause and a consequence of discrimination, States should, as appropriate, adopt or strengthen national programmes for eradicating poverty and reducing social exclusion that take account of the specific needs and experiences of people of African descent, and should also expand their efforts to foster bilateral, regional, and international cooperation in implementing those programmes.
3. States should implement actions to protect ancestral groups [and indigenous people] of people of African descent.

#### **Article 10. Right to participation**

1. States should adopt measures to enable the full, equal and effective participation of people of African descent in public and political affairs without discrimination, in



accordance with international human rights law [and positive, human-centered African cultural practices].

## Article 11. Right to employment

1. States should take concrete measures to eliminate racism, racial discrimination, xenophobia and related intolerance in the workplace against all workers, in particular people of African descent, including migrants, and ensure the full equality of all before the law, including labour law, and eliminate barriers, where appropriate, to participation in vocational training, collective bargaining, employment, contracts and trade union activity; access to judicial and administrative tribunals dealing with grievances; seeking employment in different parts of their country of residence; and working in safe and healthy conditions [and to identify and address gender-based violence in occupational safety and health.]
2. Urges States and encourages non-governmental organizations and the private sector:
  - (a) To support the creation of workplaces free of discrimination through a multifaceted strategy that includes civil rights enforcement, public education and communication within the workplace, and to promote and protect the rights of workers who are subject to racism, racial discrimination, xenophobia and related intolerance;
  - (b) To foster the creation, growth and expansion of businesses dedicated to improving economic and educational conditions in underserved and disadvantaged areas, by increasing access to capital through, inter alia, community development banks, recognizing that new businesses can have a positive, dynamic impact on communities in need, and to work with the private sector to create jobs, help retain existing jobs and stimulate industrial and commercial growth in economically distressed areas; [Preferential support should be given to locally-led social enterprises that foster community accountability and collective ownership.]
  - (c) To improve the prospects of targeted groups facing, inter alia, the greatest obstacles in finding, keeping or regaining work, including skilled employment. Particular attention should be paid to persons subject to multiple discrimination;

## Article 12. Right to health



1. States should take measures to improve access to quality, [culturally appropriate] health services [including sexual and reproductive health rights and ensure food and nutritional security] for people of African descent;
2. States shall adopt measures to fulfill the right of people of African descent to the enjoyment of the highest attainable standard of physical and mental health, with a view to eliminating disparities in health status [for particular population groups, including those living in rural localities], as indicated in standard health indexes, which might result from racism, racial discrimination, xenophobia and related intolerance;
3. States are encouraged to work with non-governmental organizations and the private sector:
  - (a) To provide effective mechanisms for monitoring and eliminating racism, racial discrimination, xenophobia and related intolerance faced by people of African descent in the health-care system, such as the development and enforcement of effective anti discrimination laws;
  - (b) To take steps to ensure equal access to comprehensive, quality health care affordable for people of African descent, including primary health care for medically underserved people, [protection of fair access to pharmaceuticals,] facilitate the training of a health workforce that is both diverse and motivated to work in underserved communities, and work to increase diversity in the health-care profession by recruiting on merit and potential women and men from all groups [and gender identities], representing the diversity of their societies, for health-care careers and by retaining them in the health professions;
  - (c) To [create mechanisms for people of African Descent to provide input and] work with health-care professionals, community-based health providers, non-governmental organizations, scientific researchers and private industry as a means of improving the health status [including sexual and reproductive health and rights] of marginalized communities of people of African descent, in particular victims of racism, racial discrimination, xenophobia and related intolerance;
  - (d) To work with health professionals, scientific researchers and international and regional health organizations to study the differential impact of medical treatments and health strategies on people of African descent [and to understand



and support the integration of traditional medicine into the provision of primary health service];

- (e) To adopt and implement policies and programmes to improve HIV/AIDS prevention efforts in high-risk communities and work to expand availability of HIV/AIDS care, treatment and other support services;

### **Article 13. Right to housing**

1. Recognizing the poor and insecure housing conditions in which many people of African descent live, States should develop and implement policies and projects as appropriate aimed at, inter alia, ensuring that they gain and sustain a safe and secure home and community in which to live in peace and dignity.

### **Article 14. Children of African descent's rights**

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

### **Article 15. Intersectional discrimination**

1. States should adopt and implement policies and programmes that provide effective protection for, and review and repeal all policies and laws that could discriminate against, people of African descent facing multiple, aggravated or intersecting forms of discrimination based on other related grounds, such as [race, color, sex, gender, sexual orientation, religion, language, political or other opinion, national or social origin, birth, property, source of income, age, ability, neurodiversity, immigration, and other status.]
2. States should mainstream a gender perspective when designing and monitoring public policies, taking into account the specific needs and realities of women and girls of African descent, including in the area of sexual and reproductive health and reproductive rights in accordance with the Programme of activities for the implementation of the International Decade for People of African Descent, the Conference on Population and Development, the Beijing Platform for Action and the



outcome documents of their review conferences, and ensure adequate access to maternal health care.

3. States shall incorporate a gender perspective in all programmes of action against racism, racial discrimination, xenophobia and related intolerance and to consider the burden of such discrimination which falls particularly on women of African descent, ensuring their access to the resources of production on an equal footing with men, as a means of promoting their participation in the economic and productive development of their communities;
4. States shall adopt all necessary measures to address specifically, through policies and programmes, racism and racially motivated violence against women and girls of African descent and to increase cooperation, policy responses and effective implementation of national legislation and of their obligations under relevant international instruments, and other protective and preventive measures aimed at the elimination of all forms of racially motivated discrimination and violence against women and girls;
5. States shall involve women, especially women of African descent, in decision-making at all levels when working towards the eradication of racism, racial discrimination, xenophobia and related intolerance, and to develop concrete measures to incorporate race and gender analysis in the implementation of all measures, particularly in the fields of employment programmes and services and resource allocation;

#### **Article 16. Migrants of African descent**

1. States shall guarantee the elimination racial discrimination against migrants of African descent, including migrant workers, in relation to issues such as [stigma,] employment, social services, including education and health, as well as access to justice, [reduction in bureaucracy, elimination of the use of incarceration,] and that their treatment must be in accordance with international human rights instruments, free from racism, racial discrimination, xenophobia and related intolerance.
2. Host countries of migrants of African descent should [ensure that migrant status does not serve as a barrier to] consider the provision of adequate social services, in particular in the areas of health, education and adequate housing, as a matter of priority, in cooperation with United Nations agencies, regional organizations and international financial bodies; also these agencies should provide [legal protections and] an adequate response to requests for such services.





3. States shall take measures to address the root causes of displacement and of finding durable solutions for refugees and displaced persons of African descent, in particular voluntary return in safety and dignity to the countries of origins, as well as resettlement in third countries and local integration, when and where appropriate and feasible

### **Article 17. Right to Equality Before the Law and Equal Protection of the Law**

1. States should take concrete actions, by:
  - (a) Introducing measures to ensure equality before the law, notably in the enjoyment of the right to equal treatment before the tribunals and all other organs administering justice;
  - (b) Designing, implementing and enforcing effective measures to eliminate the phenomenon popularly known as “racial profiling”;
  - (c) Eliminating institutionalized stereotypes concerning people of African descent and applying appropriate sanctions against law enforcement officials who act on the basis of racial profiling;
  - (d) Ensuring that people of African descent have full access to effective protection and remedies through the competent national tribunals and other State institutions against any acts of racial discrimination, and the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination;
  - (e) Adopting effective and appropriate measures, including legal [and psychosocial] measures as appropriate, to combat all acts of racism in particular the dissemination of ideas based on racial superiority or hatred, incitement to racial hatred, violence or incitement to racial violence, as well as racist propaganda activities and participation in racist organizations; States are also encouraged to ensure that such motivations are considered an aggravating factor for the purpose of sentencing;
  - (f) Facilitating access to justice [reparations and rehabilitation] for people of African descent who are victims of racism [and other related intolerance] by providing the requisite legal information about their rights, and providing legal [economic and psychosocial] assistance when appropriate;



- (g) Preventing and punishing all human rights violations affecting people of African descent, including violence, acts of torture and inhuman or degrading treatment, including those committed by State officials;
- (h) Ensuring for people of African descent who are victims of racial discrimination [and other related intolerance], including victims of torture and ill-treatment, access to all appropriate legal [and psychosocial] procedures and free legal assistance in a manner adapted to their specific needs and vulnerability, including through legal representation;
- (i) Ensuring the protection against victimization of complainants and witnesses of acts of racism, racial discrimination, xenophobia and related intolerance, and to consider measures such as, where appropriate, making legal assistance, including legal aid, [and psychological support] available to complainants seeking a legal remedy and, if possible, affording the possibility for non-governmental organizations to support complainants of racism, with their consent, in legal procedures;
- (j) Ensuring that people of African descent, like all other persons, enjoy all the guarantees of a fair trial and equality before the law as enshrined in relevant international human rights instruments, and specifically the right to the presumption of innocence, the right to assistance of counsel and to an interpreter, the right to an independent and impartial tribunal, guarantees of justice, and all the rights to which prisoners are entitled;
- (k) Adopting special measures to facilitate increased participation of people of African descent in the judiciary and in law enforcement;

#### **Article 18. Special measures**

1. States shall adopt and implement special measures, such as affirmative action, where appropriate, for alleviating and remedying disparities in the enjoyment of human rights and fundamental freedoms affecting people of African descent, protecting them from discrimination and overcoming persistent or structural disparities and de facto inequalities resulting from historical circumstances. As such, States should develop or elaborate [and implement] national plans of action to promote diversity, equality, social justice, equality of opportunity and the participation of all. By means of, inter alia, affirmative or positive actions and strategies, these plans should aim at creating conditions for all to participate



effectively in decision-making and to realize civil, cultural, economic, political and social rights in all spheres of life on the basis of non-discrimination.

2. States are encouraged to adopt special measures or positive actions for the victims of racism, racial discrimination, xenophobia and related intolerance [toward] people of African descent in order to promote their full integration into society. Those measures for effective action, including social measures, should aim at correcting the conditions that impair the enjoyment of rights and the introduction of special measures to encourage equal participation of all racial and cultural, linguistic and religious groups in all sectors of society and to bring all onto an equal footing. Those measures should include measures to achieve appropriate representation in educational institutions, housing, political parties, parliaments and employment, especially in the judiciary, police, army and other civil services, which in some cases might involve electoral reforms, land reforms and campaigns for equal participation;

#### **Article 19. Right to remedy and reparation for racial discrimination rooted in slavery**

1. Acknowledging that slavery and the slave trade, including the transatlantic slave trade, were appalling tragedies in the history of humanity not only because of their abhorrent [cruelty] barbarism but also in terms of their magnitude, organized nature and especially their negation of the essence of the victims, and further acknowledge that slavery and the slave trade are a crime against humanity and should always have been so, especially the transatlantic slave trade, and are among the major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance, and that people of African descent were victims of these acts and continue to be [survivors] of their consequences;
2. Recognizing that colonialism has led to racism, racial discrimination, xenophobia, and related intolerance, and that people of African descent were victims of colonialism and continue to be victims of its consequences. Acknowledging the suffering caused by colonialism and affirm that, wherever and whenever it occurred, it must be condemned and its reoccurrence prevented. Further regrets that the effects and persistence of these structures and practices have been among the factors contributing to lasting social and economic inequalities in many parts of the world today;
3. [...] Victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of

international humanitarian law. Where appropriate, and in accordance with domestic law, the terms “victim” [and “survivor”] also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

4. Urges States to reinforce protection against racism, racial discrimination, xenophobia and related intolerance by ensuring that all persons have access to effective and adequate remedies and enjoy the right to seek from competent national tribunals and other national institutions just and adequate reparation and satisfaction for any damage as a result of such discrimination. It further underlines the importance of access to the law and to the courts for complainants of racism and racial discrimination and draws attention to the need for judicial and other remedies to be made widely known, easily accessible, expeditious and not unduly complicated;
5. People of African descent have the individual and collective right to an effective remedy and adequate reparation for the impacts and lasting effects of enslavement, the transatlantic trade and trafficking in enslaved Africans and people of African descent, as recognized in article 8 of the Universal Declaration of Human Rights (UDHR), in article 2 numeral 3 of the International Covenant on Civil and Political Rights, article 6 of the International Convention on the Elimination of Racial Discrimination (ICERD), and in the Durban Declaration and Programme of Action, on the enjoyment of their rights.
6. States have the obligation to [...] provide effective remedies, including reparation, to people of African descent, individual and collective for the impacts of enslavement, the transatlantic trade and trafficking in enslaved Africans as they constitute crimes against humanity under international law, as described in the Basic Principles and Guidelines on the right to a Remedy and Reparation for Victims of Gross Violations [of] International Human Rights Law and Serious Violations of International Humanitarian Law.
7. Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its ~~domestic laws and~~ international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for



reparation to a victim, such party [shall] provide reparation to the victim or compensate the State [even] if the State has already provided reparation to the victim.

8. In accordance with domestic law and international law, and taking account of individual [and collective] circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, which include [but are not limited to] the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
9. Where so provided for in an applicable treaty or contained in other international legal obligations, statutes of limitations shall not apply to gross violations of international human rights law and serious violations of international humanitarian law which constitute crimes under international law.
10. Domestic statutes of limitations for other types of violations that do not constitute crimes under international law, including those time limitations applicable to civil claims and other procedures, should not be unduly restrictive.

## **Article 20. Land rights over ancestral lands**

1. People of African descent, ~~where appropriate,~~ have the right to exercise the right to property [through individual and collective ownership] ~~and~~ to the use, conservation and protection of lands traditionally occupied by them [and from which they have been displaced, ]and to natural resources in cases where their ways of life and culture are linked to their utilization of lands and resources [regardless of legal recognition, and the right to resist displacement by States and multinational corporations.]