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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights and international solidarity

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor, in accordance with Human Rights Council resolution [35/3](#).**

* [A/75/150](#).

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Report of the Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor

Summary

The present report is the third one prepared for the General Assembly by the Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor. In the present report, submitted pursuant to Human Rights Council resolution [35/3](#), the Independent Expert discusses the link between certain forms of contemporary populism and the enjoyment or lack thereof of human rights-based international solidarity. The negative impacts of such brands of populism on the building and maintenance of international solidarity are emphasized in the report in aid of the realization of human rights for everyone around the world.

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I. Introduction

1. After reporting to the General Assembly in October 2019, the Independent Expert on human rights and international solidarity, Obiora Chinedu Okafor, presented his third thematic report to the Human Rights Council ([A/HRC/44/44](#)), in which he discussed human rights-based international solidarity in the context of climate change, in June 2020. The Independent Expert thanks Bolivia (Plurinational State of) and Costa Rica for their positive replies to his requests for visits and hopes to be able to undertake them as soon as possible, taking into account the current worldwide pandemic and travel restrictions. He reminds other States of the need for positive replies to his requests to visit.

2. In his first report ([A/HRC/38/40](#)), presented to the Human Rights Council pursuant to resolution [35/3](#), the Independent Expert provided background information, as well as a brief history of the mandate. Information was also provided in that report on the intended activities of the Independent Expert, the goals and objectives of the mandate and the methods of work that the Independent Expert intended to apply in order to fulfil the objectives of the mandate. The thematic priorities that the Independent Expert intended to pursue during his tenure were articulated in the report.

3. The Independent Expert identified the threat that populism poses to the principle of international solidarity and its ability to contribute to the realization of human rights as one such thematic priority. He noted the serious threat that the rise in populism in far too many parts of the world poses to the enjoyment or realization of the human rights of vulnerable individuals and groups, including migrants, refugees and asylum seekers, persons of African descent, ethnic and religious minorities, women, girls and lesbian, bisexual and transgender women and intersex persons. Specifically, the Independent Expert undertook to (a) analyse the nature and causes of the rise and coming to power of certain populist movements that have a negative impact on the enjoyment of human rights-based international solidarity; (b) underscore the accountability of States and their institutions, as well as of political leaders, trade unions, the media, religious organizations and civil society, in countering the worrying trend of the operation of, and rise in, such populism; and (c) present examples of good practices and measures taken to counter populism as a way of enhancing the enjoyment by all individuals and peoples of human rights-based international solidarity, including as provided for in the draft declaration on the right to international solidarity ([A/HRC/35/35](#), annex).

4. The work of the Independent Expert on this topic aligns with the concern of the United Nations as a whole regarding the negative impact on the enjoyment of human rights of a set of developments in our time that the Secretary-General has referred to as “the perverse phenomenon of populism and extremism”,¹ which he has correctly identified as “feeding off each other in a frenzy of growing racism, xenophobia, antisemitism, anti-Muslim hatred and other forms of intolerance”.² In its resolution [73/262](#), the General Assembly noted that it was alarmed at the spread in many parts of the world of various racist extremist movements based on ideologies that sought to promote populist, nationalist, right-wing agendas and racial superiority, and stressed that those practices fuelled racism, racial discrimination, xenophobia and related intolerance.

5. The General Assembly therefore correctly emphasized, also in resolution [73/262](#), the need to promote tolerance, inclusion and respect for diversity and the need

¹ United Nations News, “In Geneva, United Nations urges upholding human rights amid rising populism and extremism”, 27 February 2017.

² Ibid.

to seek common ground among and within civilizations in order to address common challenges to humanity that threaten shared values, universal human rights and the fight against racism, racial discrimination, xenophobia and related intolerance, through cooperation, partnership and inclusion.

6. It is against this background that the report is submitted. It is divided into nine sections, including the present introduction. In section II, the concept of populism and its meanings and recent rise, yet again, in global politics are analysed. In the third section, the various dimensions of contemporary populist agitation, as well as the question of whether any tangible human rights benefits could ever be derived from such ideologies, are explored. In section IV, the report delves into the link between populism and the enjoyment or lack thereof of human rights-based international solidarity. In section V, the harmful impacts of certain contemporary forms of populism on the enjoyment of international solidarity in the human rights field are explored. In section VI, some of the actions already being taken by States and regions in response to the harmful consequences of populism are articulated and highlighted. In section VII, norms of international law that could be utilized to combat populism are examined. In section VIII, concluding thoughts are provided. Section IX, the last section, contains recommendations.

II. Concept, meaning and rise of populism in global discourse and practice

7. There is a strong sense these days that liberal democracy is under siege by populist revolt.³ Across the world, a so-called tide of populism is threatening to sweep aside, or is actually sweeping aside, long-held notions of the value of governance under the regime of the rule of law.⁴ Instead, there is a growing authoritarian shift to governments held in thrall to populist leaders untethered from the restraints often imposed by the liberal or constitutional order.⁵ Such leaders have pounced on, and too often merely alleged, “economic anxiety, existential insecurity and a growing culture of fear”⁶ to fan the embers of bigotry and intolerance, whose rhetoric they manipulated to attain political power in the first place.

8. Despite its currency at this moment in global history, populism is not a new phenomenon. However, to present a fair account of its historical trajectory, it is important to understand what populism is and what it is not. Scholars are agreed that there is no single definition capable of accommodating the various ways that populism manifests itself and its specific nuances within states and across geographic regions.⁷ As populism grows throughout the world, conceptual clarity regarding its

³ See, for example, “The rise of populists in Asia: democracies under siege”, *Socdem Asia Quarterly*, vol. 6, No. 3 (December 2017), p. 1; see also Matthew David Ordoñez and Anthony Lawrence Borja, “Philippine liberal democracy under siege: the ideological underpinnings of Duterte’s populist challenge”, *Philippine Political Science Journal*, vol. 39, No. 2 (October 2018); and Dambisa Moyo, “Ten warning signs that democracies are under siege”, Aspen Institute, 11 June 2018.

⁴ See Daniel Stockemer, “Introduction”, in *Populism Around the World: A Comparative Perspective*, Daniel Stockemer, ed. (Cham, Switzerland: Springer, 2019), p. 1.

⁵ See Kurt Weyland, “Populism’s threat to democracy: comparative lessons for the United States”, *Perspectives on Politics*, vol. 18, No. 2 (June 2020).

⁶ *Ibid.*

⁷ Yasmeen Serhan, “Populism is meaningless: by reducing the term to a political pejorative, we risk rendering it worthless”, *The Atlantic*, 14 March 2020; see also Lucie Calléja, “The rise of populism: a threat to civil society?”, E-International Relations, 9 February 2020, available at www.e-ir.info/2020/02/09/the-rise-of-populism-a-threat-to-civil-society/; and Neil Walker, “Populism and constitutional tension”, *International Journal of Constitutional Law*, vol. 17, No. 2 (April 2019).

nature and characteristics will be of substantial significance in designing strategies to tackle it. On the other hand, a lack of clarity will only undermine those efforts. For example, it is unclear if populist rhetoric is merely discourse, a strategy for political, cultural and economic mobilization or something that goes farther, such that it is more permanent as a form of political or nationalistic ideology.⁸ To Michael Kazin, populism is “a creed, a style, a political strategy, a marketing ploy, or some combination of the above”.⁹ On the other hand, Cas Mudde defines populism as “an ideology that considers society to be ultimately separated into two homogeneous and antagonistic groups, ‘the pure people’ versus ‘the corrupt elite’, and which argues that politics should be an expression of the *volonté générale* (general will) of the people”.¹⁰

9. Populism has historically been implicated in the rise of authoritarian figures at various times in various parts of the world. While the concept often has negative social and political connotations, including negative impacts on the enjoyment of international solidarity and human rights by many, it is well known that some notable historical figures considered more honourable in reputation than their authoritarian peers have also tapped into populist inclinations and characteristics as a means of gaining public support and approval.

10. The word *populism* seems to have first been used to describe specific nineteenth-century political movements.¹¹ They included the agrarian movement in the United States of America in the 1890s, which eventually became the People’s Party.¹² Populism was formed to oppose the demonetization of silver and championed the rise of popular scepticism about the railways, banks and political elites.¹³ The second noted movement in the historical evolution of populism was the Russian *narodnichestvo* of the 1860s and 1870s.¹⁴ It was a movement of revolutionary students and intellectuals who idealized rural peasants and believed that they should form the basis of a revolution to overturn tsarist rule.¹⁵

11. Not to be ignored or forgotten is the role that populism played in catalysing the events that culminated in the Second World War, which some authors tend to exclude from the historical account of populism’s negative transformation of many societies. While Hitler and Stalin are described in history as totalitarians – and not so much as populists – there seems to be an uncanny connection between populism and totalitarianism. Some authors go so far as to note the “blatant” nexus between the two – they are both steeped in racist discourse and include such gravely invidious goals as “firing orders against refugees”, “stopping world Judaism” and the “stigmatization of Muslims”.¹⁶ This reality was presciently articulated by Hannah Arendt in her characterization of “pan movements” and “ethnic nationalism”,¹⁷ which are all

⁸ Weyland, “Populism’s Threat to Democracy”, p. 2.

⁹ Michael Kazin, “Trump and American populism: old wine, new bottles”, *Foreign Affairs*, vol. 95, No. 5 (November/December 2016).

¹⁰ Cas Mudde, “The populist Zeitgeist”, *Government and Opposition*, vol. 39, No. 4 (September 2004), p. 543.

¹¹ Cristóbal Rovira Kaltwasser and others, “Populism: an overview of the concept and the state of the art”, in *The Oxford Handbook of Populism*, Cristóbal Rovira Kaltwasser and others, eds. (Oxford, Oxford University Press, 2017), p. 2.

¹² Jordan Kyle and Limor Gultchin, “Populism in power around the world”, paper (London, Tony Blair Institute for Global Change, November 2018).

¹³ *Ibid.*, p. 5.

¹⁴ *Ibid.*, p. 6.

¹⁵ *Ibid.*; see also Stockemer, “Introduction”, in *Populism Around the World*, p. 3.

¹⁶ See Camille Nessel, “Populism through the eyes of Hannah Arendt: now and then”, *Eyes on Europe – The Student Magazine*, 21 October 2016. Available at www.eyes-on-europe.eu/populism-through-the-eyes-of-hannah-arendt-now-and-then/.

¹⁷ See Hannah Arendt, *The Origins of Totalitarianism* (New York, Meridian Books, 1958), pp. 241–242.

variants of populism, even though she never used that word herself. In her view, these concepts defined the totalitarians who drove the world into the Second World War and one of whom was responsible for the Holocaust.¹⁸ To Arendt, the characteristics of such movements, in addition to their racism and antisemitism, included “open disregard for law and legal institutions [and their conception] of government and power in terms of arbitrary decisions from above”.¹⁹

12. However, it was only in the 1950s that the word *populism* came into broader use. According to Kyle and Gultchin, it “became attached to phenomena as varied as political movements supporting charismatic leaders in certain Latin American States (for example, Juan Perón in Argentina or Getúlio Vargas in Brazil), military coups in Africa championing social revolution (such as Jerry Rawlings in Ghana) and McCarthyism in the United States”.²⁰ In addition, a prominent theme of the early literature on populism was to see it as a reaction to modernization. For example, Seymour Martin Lipset, a leading modernization theorist, once described it as “a political expression of the anxieties and anger of those wishing to return to a simpler, premodern life”.²¹

13. Populism is a concept that has been used to describe political movements deriving from “accelerated social transformation processes and economic crisis. The movements are characteristically led by [more or less] charismatic leaders, who have a sound grasp of problems and wishes of the people. These leaders understand how to mobilize masses in order to achieve certain goals”.²² In the circumstances, populist propaganda targets those in society “who don’t feel represented in the established political system”.²³ In such political contexts, those targeted by populist rhetoric “are voters without strong political views, providing a perfect target for propaganda. Further, populists gather masses without any concrete political programs. Instead, they gravitate around broad slogans, based on racial or class ideologies”.²⁴

14. Stalinist Russia and Nazi Germany are often given as examples of societies that were overtaken by populist rage and turned into extremist-totalitarian systems.²⁵ As with the contemporary iterations of populism, charismatic figures grew in reputation and manipulated “broad slogans, based on racial or class ideologies” to capture the political space. In most of the cases, the rise of these leaders was quickened by two significant factors. The first is that they tapped into extremist ideology already latent in the consciousness of those buying into their stated goals, slogans and approaches, such as the above-mentioned “firing orders against refugees” and “stopping world Judaism”, as well as stigmatizing Muslims, persons of African descent, Latinas and Latinos and others as barbarians.²⁶ The second factor is that the leaders tapped into the concern among some in relevant societies that there was no longer any structure

¹⁸ Ibid.

¹⁹ Ibid., p. 243.

²⁰ Kyle and Gultchin, “Populism in Power Around the World”, p. 6.

²¹ Ibid.

²² Nessel, “Populism through the eyes of Hannah Arendt”.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid. See also Chip Berlet, “Taking tea parties seriously: corporate globalization, populism and resentment”, *Perspectives on Global Development and Technology*, vol. 10, No. 1 (2011). “Right-wing populism in the United States historically has scapegoated indigenous peoples, African slaves, people of color, immigrants, Jews, and radicals—especially socialists and anarchists. More recently Muslims have been added to the list of scapegoats, along with feminists, reproductive justice advocates, gay people and folks who support women’s rights and gay rights”.

within these societies, as well as into the concomitant feeling – real or imagined – that the world around the concerned persons was falling apart.²⁷

15. The feeling that the world is falling apart is seen by some as “a distinctive reaction to the social dislocations of globalisation”.²⁸ Significantly, some have claimed that the more recent iterations of populism have heightened as a result of, first, “frustration with the nature of political representation and participation” and, second, “the emergence of new kinds of social marginalisation, precarious existence and disenchantment with the broken promises of liberal modernity”. The second case includes a sense of “broken promises ...[regarding] social mobility and improved material circumstances through the pursuit of education, new skills and sheer hard work”. However, despite this link with disenchantment, the formative and kinetic impact on certain brands of populism of historically continuous and deeply entrenched racism in certain States and among certain populations cannot be discounted, despite its ebbs and flows.²⁹

III. Forms of populism: negative and positive populism?

16. While contemporary forms of populism are all too often intertwined with right-wing political motivations, to leave it at that would present a skewed and incomplete account of the phenomenon. In fact, there are many different shades of populism. According to David Molloy, “Populist parties can be anywhere on the political spectrum ... [and some of] these are on the left” of the political spectrum.³⁰ Mudde adds, however, that the “most successful populists today are on the right, particularly the radical right”.³¹ Thus, apart from the more popularly known radical right-wing populism of, say, the Tea Party movement in the United States, there have also been constitutional populism³² and left-wing populism.³³ Several other varieties of populism, for example, agrarian, socioeconomic, xenophobic, reactionary, authoritarian and progressive populism, also exist.³⁴ A thread that holds these types of populism together tends to be hostility towards elites, which is sometimes vague, a vagueness that could make it “quite easily instrumentalized by almost any type of ideology, both left and right”.³⁵ Thus, following Paul Taggart’s definition, it is often argued that “populism is chameleon-like, ever adapting to the colours of its environment”. There is therefore a sense that populism per se has no core values and a very thin ideology.

17. However, according to Jordan Kyle and Limor Gultchin, populism has two essential features.³⁶ In the first, “the true people” are locked into conflict with

²⁷ Ibid.

²⁸ See Vedi R. Hadiz and Angelos Chrysosgelos, “Populism in world politics: a comparative cross-regional perspective”, *International Political Science Review*, vol. 38, No. 4 (2017), p. 400.

²⁹ For example, see Serge Ricard, “The Trump phenomenon and the racialization of American politics”, *Revue LISA*, vol. 16, No. 2 (2018), pp. 1–28.

³⁰ See David Molloy, “What is populism, and what does the term actually mean?”, BBC News, 6 March 2018.

³¹ Ibid.

³² David Landau, “Populist constitutions”, *The University of Chicago Law Review*, vol. 85, No. 2 (2018), p. 521; and Theunis Roux, “Constitutional populism in South Africa”, case study, Constitutional Populism Project, 31 March 2020.

³³ See Giorgos Venizelos, “Left-wing populism? In Europe? Yes, please!”, *European Political Science* (2020).

³⁴ Bojan Bugarić, “The two faces of populism: between authoritarian and democratic populism”, *German Law Journal*, vol. 20 (3) (2019), p. 392.

³⁵ Ibid.

³⁶ Kyle and Gultchin, “Populism in Power Around the World”.

“outsiders”.³⁷ Here, the word *outsiders* is not necessarily limited to immigrants or persons of foreign origin. In the second, nothing, or at least little, should constrain the will of the true people.³⁸ Within these two related “us” versus “them” claims are then embedded the major characteristics of populists and their messages, beliefs and strategies for mobilization. The first strategy is to divide the people into insiders and outsiders.³⁹ Populists then go on to create a political style in which they identify with the true people.⁴⁰ Having isolated the true people from the outsiders and identified with the true people, populists move forward by using all available means to define and delegitimize those whom they consider the outsiders.⁴¹ Thereafter or simultaneously, populists sharpen the divisions between their ideologically and socially constructed true people and outsiders by dramatizing the divisions using the rhetoric of crisis of one kind or the other. At every turn in this process, populists sound it loud and clear that nothing should constrain the will of the people.⁴²

18. Kyle and Gultchin also highlight the three ways that populists create and sustain the “us” versus “them” conflict narrative, a characterization that in turn provides a near-complete picture of populism’s typologies and characteristics. To them, there are three kinds of populism: cultural, socioeconomic and anti-establishment.⁴³ The key people in cultural populism are the so-called “native” members of a nation State to whom the “others” are non-natives, criminals, ethnic and religious minorities and/or cosmopolitan elites. The key themes that cultural populists emphasize are religious traditionalism, law and order, national sovereignty and the targeting of migrants as enemies.⁴⁴

19. The main protagonists of socioeconomic populism see themselves as hard-working, honest members of the working class who are not necessarily confined within national boundaries.⁴⁵ The “others”, in the understanding of socioeconomic populists, are big business, capital owners and foreign or “imperial” forces, which prop up the international capitalist system, while their main themes are anti-capitalism, working-class solidarity, and a view of foreign business interests as enemies.⁴⁶ Lastly, anti-establishment populists see themselves as the honest and hard-working direct and collateral victims of states run by special interests. Political elites, in particular of prior regimes, are the “others” in the perspective of anti-establishment populists, while their rallying cry is purging the state of corruption and installing strong leadership to carry out reforms.⁴⁷

20. These various types of populism have different messages, and it seems that the message that each of them is aimed at delivering, and the manner in which they is delivered, are critical to how each type of populism affects the enjoyment of human rights-based international solidarity, both in their States and around the world. Populism that is consequential in this sense should also be differentiated from what

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid., p. 13.

⁴⁴ Ibid.

⁴⁵ In Argentina, for example, Peronism (named after the country’s former President, Juan Perón) is a strain of populism whose backbone was the unions and organized workers. See Wolfgang Muno, “Populism in Argentina”, in Stockemer, ed., *Populism Around the World*, p. 12.

⁴⁶ Ibid.

⁴⁷ Ibid.

David Molloy calls “shorthand political insult”,⁴⁸ which is one of the uses to which the word *populist* could be put.

21. To be clear, populism as a concept is also often wrongly used as similar to, or interchangeable with, nationalism. While both concepts reflect a tendency to be exclusionary, at least to some degree, scholars have pointed to some marked distinctions between them. Benjamin De Cleen, for example, defines nationalism as “a discourse structured around ‘the nation’, envisaged as a limited and sovereign community that exists through time and is tied to a certain space, and that is constructed through an in/out (member/non-member) opposition”.⁴⁹ Populism, he says, is, by contrast, “structured around a down/up antagonism between ‘the people’ as a large powerless group and ‘the elite’ as a small and illegitimately powerful group, with populists claiming to represent ‘the people’”.⁵⁰ De Cleen’s position is that, when elements of nationalism are included in the definition of populism, such inclusion “hinders the application of the concept to other (non-nationalist) forms of populism”.⁵¹ The two concepts can, however, overlap, albeit only to some extent.

22. In analysis of contemporary forms of populism, the phenomenon tends to be seen in fairly negative terms, especially when viewed from the perspective of its radical right-wing political form; left-wing populism is often viewed more favourably. Canadian author Preston Manning has described populism as “a bottom-up boiling-up of energy from ordinary people who are discontent about something and alienated from their establishment and looking for alternatives”⁵² and recounted the “many positive developments [in Canadian history] that came about through populist movements”.⁵³ Manning seems to agree that, while populism could be destructive, it could also be harnessed to positive objectives.⁵⁴ What he seems to avoid highlighting, though, is evident in reality: in far too many States, the rise or persistence of such populist discontent, especially of the type that favours or leads to the targeting of vulnerable groups, has been partly grounded in and driven by social backlash against attempts to correct historical injustices and reverse long-standing and systemic racism in such societies.⁵⁵

23. In order to understand why certain forms of populism (especially negative ones) have been on the rise in recent years, it is necessary to recall and factor in the fact that, since the 1990s, the world has experienced massive economic and financial globalization, along with the liberalization of trade and commerce, which has resulted in a more interconnected and interdependent world. In the global capitalist system, information, money, goods and services, as well as some categories of persons, have been moving across borders at a speed and on a scale without precedent in human history.⁵⁶ While this system has enabled millions of persons in the global South to rise above poverty and increased the standard of living for many, it has come with serious vulnerabilities affecting those left behind, mostly in the global South. This globalized economic system has also created an unequal distribution of wealth and income that is becoming more and more polarized, even in the global North.⁵⁷ One example is the fact that the world’s top 1 per cent is getting richer at a very fast rate and with more

⁴⁸ See David Molloy, “What is populism, and what does the term actually mean?”.

⁴⁹ Benjamin De Cleen, “Populism and nationalism”, in *The Oxford Handbook of Populism*, p. 242.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² Eric Bombicino, “#onpoli: can populism be a force for good?”, TVO, 3 October 2019.

⁵³ *Ibid.*

⁵⁴ *Ibid.* See also Indu Ratra, “Case for progressive populism: a fresh Indian initiative”, *Socdem Asia Quarterly*, vol. 6, No. 3 (December 2017), p. 14.

⁵⁵ See Serge Ricard, “The Trump phenomenon and the racialization of American politics”.

⁵⁶ See Joseph E. Stiglitz, *Globalization and Its Discontents* (New York, W.W. Norton, 2002), pp. 1–282.

⁵⁷ *Ibid.* See also Boaventura de Sousa Santos, “Globalizations”, *Theory, Culture and Society*, vol. 23, Nos. 2–3 (2006), p. 393.

and more concentrated wealth, while the developed world's middle class has experienced a loss of its income growth, and the developing world is seeing the emergence of a middle class.⁵⁸ This situation of inequality could be further aggravated by the current coronavirus disease (COVID-19), pandemic amplifying the already alarming economic and wealth discrepancies.

24. The economic crisis (mostly in Europe and North America) that began in 2008, together with the continuing economic and financial slowdown, the technological evolution leading to automation and the loss of employment in many countries, made the grounds more fertile for the exacerbation of already existing populism on the two continents as its rhetoric managed to channel the disillusion of those left behind. The demise of the working and middle classes has created a “cultural anxiety” in many nation States, where many citizens have become even more anxious as a result of seeing the social fabric jeopardized by sudden changes, well recuperated by the populist discourse, whether left-wing or right-wing.⁵⁹ Nevertheless, it is important to stress again that, despite the role that economic downturns have played in the augmentation of negative and other forms of populism in our time, the role that long-standing and deeply entrenched racism, as well as negative reactions to efforts to reform systemic racism, has played in the exacerbation of populism in relevant societies cannot be overlooked.

IV. Intersection of populism and human rights-based international solidarity

25. Many negative evaluations of the more recent forms of populism are focused on showing or articulating how they are bad for democracy, in part because populists too often ride to political prominence by essentially manipulating the structures and institutions of democracy.⁶⁰ Since many populist forces like to endorse popular sovereignty – which they too often understand as absolute majoritarianism – at any cost, it is the case that “populism can have a negative impact on the liberal democratic regime, particularly when it comes to defending minority rights and independent constitutional bodies”.⁶¹ At the same time, it should be kept in mind that certain forms of “populism can also have a positive impact on the liberal democratic regime, because it can help to integrate the ideas and interests of marginalized sections of the electorate into the political agenda”.⁶²

26. As things now stand globally, the kind of populism that poses the most real danger to the enjoyment of human rights and human rights-based international solidarity in certain States and around the globe seems to be the one that is focused on electing political “representatives that stand in stark contrast to those that pushed for globalization and international cooperation two decades earlier”.⁶³ This invariably is populism of a right-wing character. It poses a danger to the enjoyment of human rights and human rights-based international solidarity to the extent that its adherents “share xenophobic, [excessively] nationalistic traits, [and] a tendency toward authoritarianism, aggressive leadership, and an [exaggerated] anti-elitist message”.⁶⁴ It is this form of populism that the remainder of the present report is focused on, for

⁵⁸ Ian Bremmer, *Us vs. Them: The Failure of Globalism* (New York, Portfolio Penguin, 2018), p. 27.

⁵⁹ *Ibid.*, pp. 20–21.

⁶⁰ *Ibid.*

⁶¹ Cristóbal Rovira Kaltwasser, “Scholars should not just assume that populism is bad for democracy, but should instead concentrate on explaining populism’s positive and negative effects”. Available at <https://blogs.lse.ac.uk/europpblog/2012/10/15/populism-and-liberal-democracy/>.

⁶² *Ibid.*

⁶³ See Annalisa Merelli, “The state of global right-wing populism in 2019”, Quartz, 30 December 2019.

⁶⁴ *Ibid.*

the simple reason that it presents the greatest threat to human rights, human rights-based international solidarity and a rule-based and multilateral global order.

27. In his first report to the Human Rights Council, the Independent Expert referred to an extensive body of work already performed by his predecessors since the establishment of the mandate, in 2005. That work culminated in the preparation by the Independent Expert's immediate predecessor, Virginia Dandan, of a draft declaration on the right to international solidarity. According to the Independent Expert, it is recognized in the draft declaration "that international solidarity underlies the duty of States to cooperate with one another in accordance with the Charter of the United Nations, and is reflected in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, as well as throughout international law".⁶⁵

28. In the draft declaration, international solidarity is defined as the expression of a spirit of unity among individuals, peoples, States and international organizations, encompassing the union of interests, purposes and actions and the recognition of different needs and rights to achieve common goals.⁶⁶ In the draft declaration, therefore, international solidarity is divided into two components: preventive solidarity, through which stakeholders act proactively to address shared challenges, and reactive solidarity, which harnesses the collective actions of the international community to respond in situations of crisis.⁶⁷

29. International solidarity in the context of the draft declaration also includes international cooperation. The duty of international cooperation requires States that possess the capacity to provide international assistance, separately or jointly, and to contribute to the fulfilment of human rights in other States in a manner consistent with the fundamental principles of international law and international human rights law.⁶⁸

30. If human rights-based international solidarity is coterminous with the alignment and joint action of State and non-State actors alike to address potential or existing global crises and challenges, it is the opposite of reactionary populism, which is committed to erecting even more borders that separate peoples, and to pulling peoples apart on the basis of pre-determined distinctions, including race, religion and ethnic origin.⁶⁹ Moreover, populism of this reactionary kind is antithetical to international cooperation because there is abundant and now well-known evidence showing that contemporary reactionary or negative populists tend to disdain globalization and are "nations first" ideologues who view international solidarity, and the cooperation that it entails, as problems to be solved, rather than as a source of solutions to global human rights challenges.

31. In the 1990s in particular, many States and international lawyers shared a certain expectation that the cooperative enunciation and implementation of certain legal concepts and international law, including the rule of law and the right to democratic governance, were important and essential to the creation of a just and pro-human rights world.⁷⁰ Thus, despite their problems, globally agreed and universal human rights standards and institutions were widely seen as regimes that either promoted or could promote the global community's interests on the basis of a shared understanding

⁶⁵ A/HRC/38/40, para. 14.

⁶⁶ A/HRC/35/35, annex, article 1.

⁶⁷ Ibid., article 2 (a) and (b).

⁶⁸ Ibid., article 2 (c). See also Articles 55 and 56 of the Charter of the United Nations.

⁶⁹ See, for example, Hannes Swoboda and Jan Marinus Wiersma, eds., *Democracy, Populism and Minority Rights*, PSE Socialist Group in the European Parliament and the Renner Institute (2008).

⁷⁰ See Heike Krieger, "Populist governments and governments and international law", KFG Working Paper No. 29 (2019), Berlin Potsdam Research Group, "The international rule of law – rise or decline?" Published in *European Journal of International Law*, vol. 30, No. 3 (2019).

of international solidarity.⁷¹ In recent times, this seeming near-consensus on the actual or possible utility of globally agreed human rights, as well as on the importance of international solidarity in the effort to realize them, appears to be in decline, even in the societies in which it was hitherto strongest.

32. A major reason for that decline is growing reactionary populism, which stands in stark contrast to the very virtues that human rights and human rights-based international solidarity are intended to achieve, including respect for international law, international cooperation and the rejection of actions that could bring about threats to, or the actual disruption of, international peace and security. If these virtues are to return to their prior positions of greater pre-eminence in international law and relations, there must be sustained international action to push back against the reactionary populism to the extent that it involves the rejection of, or serious disregard for, internationally agreed human rights standards and the undermining of human rights-based international solidarity.

33. Remarkably, the countries that are currently ruled by right-wing populist regimes have also been the ones that have tended to reject or defund important global multilateral institutions. In so doing, they have tended to disavow, to varying extents, the international solidarity that has always sustained global efforts to build a more peaceful and secure world, which is a desideratum of the fuller realization of all human rights for everyone in the world.

34. The Independent Expert is concerned that the rise of reactionary populism represents a threat to human rights-based international solidarity because countries governed by populist leaders tend to focus excessively on their national audience and its well-being, forgetting about the principles encompassed by the Charter of the United Nations and other instruments and by the draft declaration on the right to international solidarity, especially when the need to address potential or existing global crises and challenges requires concerted and common action. The present global situation generated by the COVID-19 pandemic clearly demonstrates that only common international action and solidarity will enable humanity to pull through the challenges that it currently faces. The Independent Expert is especially preoccupied by the fact that many donor countries where populist leaders are in charge have reduced both their development assistance and their international cooperation significantly. Similarly, global rights-attentive agendas, such as the Sustainable Development Goals, adopted by the United Nations in 2016, could also be threatened by such regressive movements.⁷²

35. In one North American country, since the election of a right-wing populist Government, the current administration has proposed a 21 per cent cut in foreign assistance spending.⁷³ In a Western European country that was governed by a populist coalition between 2018 and 2019, foreign assistance spending during that period declined, with a similar cut made to assistance for refugees and migrants,⁷⁴ although the trend ended with the resignation of the coalition. The same situation existed in a neighbouring European country, which was governed by a short-lived populist coalition Government at the same time.⁷⁵ In an Eastern European country ruled for several years by a right-wing populist Government, development assistance decreased

⁷¹ Ibid., p. 9.

⁷² See, for example, Amanda Shendruk and others, "Funding the United Nations: what impact do United States contributions have on United Nations agencies and programs?", Council on Foreign Relations, 8 June 2020.

⁷³ See Carol Morello, "Trump administration again proposes slashing foreign aid", *Washington Post*, 10 February 2020.

⁷⁴ See www.sdgwatcheurope.org/wp-content/uploads/2019/06/8.1.a-factsheets-IT.pdf.

⁷⁵ See www.sdgwatcheurope.org/wp-content/uploads/2019/06/1.3.a-report-AT-1.pdf.

by 29.7 per cent between 2016 and 2017.⁷⁶ For a more focused discussion on the negative impacts of these movements on human rights-based international solidarity, see section V below.

V. Negative impact of reactionary populism on the enjoyment of human rights-based international solidarity

36. One of the most significant impacts of contemporary reactionary populism is the negative effect that it has had on building greater, as well as maintaining existing levels of, multilateral consensus on international solidarity, including international cooperation, to hold political office holders – especially those of the reactionary populist variety – to account for the human rights situations in their respective countries. As a result, right-wing populism in some Member States has become one of the most serious challenges to the protection and promotion of the human rights of vulnerable persons around the world, including persons of African descent, migrants, asylum seekers and refugees, and the expression of human rights-based international solidarity towards them.⁷⁷

37. The negative impact that right-wing populism has had, and can have, on the enjoyment of human rights-based international solidarity around the world has recently become especially noticeable in the posture and actions of one North American State, which for a long time favoured the development of multilateral international institutions built on the understanding that solving global problems required unity and solidarity among the countries of the world, regardless of their social, economic or developmental conditions. Its president has even gone so far as to withdraw his State from the Human Rights Council and the World Health Organization, forums in which it had previously been very active.⁷⁸

38. The current, and generally negative, attitude of the Government of this North American State towards multilateral human rights action, an important requirement for the practice and enjoyment of human rights-based international solidarity, appears to have sent the wrong signal, emboldening certain other reactionary populist Governments to attack multilateral human rights institutions, such as the Human Rights Council, as well as some of its special procedure mandate holders. For example, after the Council approved a resolution in July 2019 to investigate the alleged human rights violations of the president of one Asian State, that country's Foreign Minister referred to the human rights experts charged with conducting that investigation as "bastards" and vowed to deny them entry into the country.⁷⁹ At that time, that State's "war on drugs" had led to an estimated 6,700 extrajudicial killings.⁸⁰

39. In one South American State, emboldened in part by its close alliance with the above-mentioned North American reactionary populist Government, the Government has displayed a similarly negative attitude towards the fulfilment of the country's

⁷⁶ See Organization for Economic Cooperation and Development, *Development Co-operation Report 2018: Joining Forces to Leave No One Behind* (Paris, OECD Publishing, 2018), pp. 331–332.

⁷⁷ See, for example, the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/73/305), in particular, paras. 11–13.

⁷⁸ See "United States Withdraws from the United Nations Human Rights Council, shortly after receiving criticism about its border policy", *American Journal of International Law*, vol. 112, No. 4 (17 October 2018), pp. 745–751; and Robbie Gramer and others, "Trump cuts United States ties with World Health Organization amid pandemic", *Foreign Policy*, 29 May 2020.

⁷⁹ See "Duterte minister scoffs at United Nations desire to investigate drug war in Philippines", CBC, 11 September 2019.

⁸⁰ Ibid. See also United Nations News, "United Nations rights chief denounces 'unacceptable' charges of terrorism by Philippine's Duterte against United Nations expert", 9 March 2018.

international commitments, especially in the field of human rights.⁸¹ The Government is alleged to have abandoned the Global Compact for Safe, Orderly and Regular Migration and cancelled the climate conference that should have been held in its capital city.⁸² It is also alleged to have violated the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by weakening that State's National Mechanism on Prevention and Combat of Torture, as well as violated the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) by intervening in the work of its national human rights institution.⁸³

40. In 2018, the reactionary populist Government in one Eastern European State presented three bills to its parliament that would have penalized and restricted the freedom and number of groups working on asylum and migration issues.⁸⁴ The bills were intended to achieve three objectives. First, they were meant to declare those helping persons fleeing persecution to obtain asylum in that State as threats to national security.⁸⁵ Second, in accordance with the bills, anyone working with, or advocating for, the rights of migrants, refugees and asylum seekers would have been forced to undergo a national security clearance and pay additional tax on any foreign funding.⁸⁶ Third, the laws would have given the Government the authority to bar its nationals working on behalf of migrants and asylum seekers from the border areas where the authorities were known to too often act abusively towards those groups. Moreover, foreigners working on migration and refugee issues in that State were prevented from entering its territory.⁸⁷ Such attempts to curtail the rights of migrants and those who expressed solidarity with them were clearly designed to have a negative impact on the enjoyment of human rights and human rights-based international solidarity. By contributing to a chilling effect on the protection within that State and throughout the world of the enjoyment of human rights by vulnerable migrant populations and those who would assist them, the attempts had an actual negative impact in both connections.⁸⁸

41. In a speech to the Human Rights Council in 2018, the President of that same Eastern European country denounced immigration and "race-mixing".⁸⁹ His speech was denounced as racist and xenophobic at the thirty-seventh session of the Human Rights Council by the then United Nations High Commissioner for Human Rights. The denunciation led the Foreign Minister of the State to describe the High Commissioner as "unfit and unworthy of the fulfilment of his responsibilities and of his position", in essence calling for his resignation.⁹⁰ The actions on the part of the President and Foreign Minister of the State were clearly bold frontal attacks on the human rights of migrants and ethnic minorities, as well as on the expression by the High Commissioner of human rights-based international solidarity in their favour.

42. In March 2018, the Government of the above-mentioned State took strong exception to the Global Compact for Safe, Orderly and Regular Migration, a

⁸¹ See Pierre Albouy, "In elections to the United Nations Human Rights Council, Brazil is not suitable", *Conectas Human Rights*, 1 October 2019.

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ See Human Rights Watch, "Hungary: bills seek to block migrant support", 17 February 2018.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

⁸⁸ See Zack Beauchamp, "Hungary just passed a 'Stop Soros' law that makes it illegal to help undocumented migrants", *Vox Media*, 22 June 2018 and *The Guardian*, "Hungary passes anti-immigrant 'Stop Soros' laws", 20 June 2018.

⁸⁹ Todor Gardos, "Hungary's Government turns on the United Nations", *Human Rights Watch Dispatches*, 15 March 2018.

⁹⁰ Ministry of Foreign Affairs and Trade of Hungary, "United Nations High Commissioner for Human Rights unfit and unworthy of his position", 27 February 2018.

non-binding global policy that was being negotiated at that time, in part to help to improve the status of migrants around the world.⁹¹ That Government mounted a negative “information campaign” against the Compact and blocked negotiations of the policy at the European Union level.⁹²

43. While it could be argued that no State in the world is free of accusations of human rights violations, the policies and practices of such reactionary and far-right populist governments predisposes and pushes them to more pervasive and egregious violations of human rights and human rights-based international solidarity, especially with regard to vulnerable migrant and ethnic minority populations both within and outside their territories. Such policies and practices make these vulnerable groups scapegoats for the ill effects of economic crises in their States and constructs them into so-called threats to the social and cultural heritage of the concerned countries. It also predisposes and pushes the States towards acting in a more hostile manner towards multilateral human rights international institutions.⁹³ For example, not only did one North American⁹⁴ State withdraw from the Human Rights Council, it has also been unsparing in its criticisms of the Council. The response of the then President of the Council, Vojislav Šuc, of Slovenia, to the withdrawal of that State from the Council could not have been more prescient. “In times when the value and strength of multilateralism and human rights are being challenged on a daily basis”, he said, “it is essential that we uphold a strong and vibrant Council recognizing it as a central part of the United Nations for the twenty-first century”.⁹⁵

44. The Independent Expert is concerned that, in countries where reactionary populists have managed to seize power, either in a majority government or through a coalition, the internal consequences have also led to a decrease in solidarity within and by that country because the consequences have been a further exacerbation of the social and economic disparities between the top income earners and the most vulnerable citizens.⁹⁶ Similarly, through massive programmes of tax cuts benefiting the richest segment of the population, as well as decreases in the funding of social programmes, the countries led by populist governments or coalitions have further widened the gap between the haves and the have-nots and unravelled the principles of solidarity and common citizenship that held these societies together.⁹⁷

45. In one North American country, statistics have confirmed that income inequality reached its highest level after the implementation of massive tax cuts that benefited the richest segment of the population, while social spending was cut.⁹⁸ In that same State, the richest 1 per cent of the population owns one third of the total net worth of wealth, while the bottom 50 per cent owns only 1.2 per cent.⁹⁹ In a Western European country that had a reactionary populist government in 2018 and 2019, cuts in social services led to women becoming more vulnerable because the decrease in benefits disproportionately affected them.¹⁰⁰ In one South American country already known for

⁹¹ See Pierre Albouy, “In elections to the United Nations Human Rights Council, Brazil is not suitable”.

⁹² Ibid.

⁹³ See David Bosco, “For the United Nations, a rise in populism reveals an old challenge”, *The Wilson Quarterly*, fall 2018.

⁹⁴ See “United States withdraws from the United Nations Human Rights Council, shortly after receiving criticism about its border policy”, *American Journal of International Law*, vol. 112, No. 4 (17 October 2018), p. 745.

⁹⁵ Vojislav Šuc (Slovenia), President of the Human Rights Council, press statement, Geneva, 19 June 2018.

⁹⁶ David Ricci, *A Political Science Manifesto for the Age of Populism: Challenging Growth, Markets, Inequality and Resentment* (Cambridge, United Kingdom, Cambridge University Press, 2020).

⁹⁷ See <https://time.com/5859209/donald-trump-administration-inequality/>.

⁹⁸ See <https://inequality.org/research/trump-tax-cuts-inequality/>.

⁹⁹ See www.fastcompany.com/90427855/while-trump-boasts-of-economic-growth-inequality-deepens.

¹⁰⁰ See www.sdgwatcheurope.org/wp-content/uploads/2019/06/1.3.a-report-AT-1.pdf.

the huge economic discrepancies between persons at the bottom and those at the top of its wealth segments, the current reactionary populist government has, in cutting social welfare programmes, exacerbated these economic discrepancies, pushing millions of families, including persons of African descent, asylum seekers and refugees, back into poverty or greater immiseration.¹⁰¹ This stands in contrast to the great success of previous governments in ameliorating economic vulnerability in the country.¹⁰²

VI. State, regional and global responses to the negative impact of rising reactionary populism on human rights-based international solidarity

46. One of the reasons that reactionary populism presents such a serious challenge to the effort to protect the human rights of everyone (especially those of vulnerable ethnic minorities and migrant populations) and to advance human rights-based international solidarity is that those responsible for its rise are also expected to participate in the multilateral effort to end it or at least minimize its more harmful consequences. Quartz counts no fewer than 23 countries in the world where right-wing populist parties are in power and another 13 where right-wing populist parties are influential in the opposition.¹⁰³ Many of these States are represented on the Human Rights Council, and all have seats in the General Assembly.

47. There are four segments of national and international society whose actions and fate over time would determine when, and if, the struggle against reactionary populism of the sort that negatively affects the enjoyment of human rights and human rights-based international solidarity, could be won or lost. The first segment comprises the very reactionary populists who are already in political power in specific States around the world. The second segment are reactionary populists who form opposition political parties and movements that are poised, or have the potential, to take political power in certain States. The third segment are those parts of national society that have serious concerns about the negative impact of reactionary populism on the enjoyment of human rights and human rights-based international solidarity. The last segment comprises international actors and institutions who may, under certain conditions, be able to bring enough pressure to bear on reactionary populist regimes to curtail many or all of the impugned policies and practices. It includes the United Nations as an institution and its specialized agencies.

48. The fate of reactionary populism, and its capacity and ability to have a negative impact on the enjoyment of human rights and human rights-based international solidarity, will depend on the efforts made or not made by this range of actors. As shown in section VII below, there is an adequate body of international legal norms to support such an effort to counter the negative effects of reactionary populism on human rights and human rights-based international solidarity. However, the effectiveness of these norms will depend on the actions taken or not taken by the range of the above-mentioned actors.

49. At the national level, it is futile to expect that populist regimes would cure or mitigate the social tensions that they themselves have created and, in all too many cases, profited from politically. There is evidence that, rather than temper their authoritarianism and human rights abuses once they gain political power, populist regimes tend to double down on their more authoritarian impulses, often driving society further down the path of

¹⁰¹ See www.theatlantic.com/international/archive/2019/01/heres-how-jair-bolsonaro-wants-to-transform-brazil/580207/.

¹⁰² See www.irishtimes.com/news/world/how-the-bolsonaro-government-is-waging-war-on-brazil-s-poor-1.4191695.

¹⁰³ See Annalisa Merelli, "The state of global right-wing populism in 2019".

crisis.¹⁰⁴ Thus, the best way to respond to reactionary populism at the national level would therefore be to ensure that such populists are rejected by democratic means and prevented from gaining political power.¹⁰⁵ This is not always possible, however.

50. At the regional level, it is important that economic and political integration communities and other groups set standards of membership and participation that respect the values of international human rights and global solidarity. The European Union has set a good example for how this could, ideally, be accomplished by establishing measures to ensure that political parties receiving funding from the Union abide by its principles regarding human rights and fundamental freedoms. In 2014, the European Union issued regulation 1141 on the statute and funding of European political parties and European political foundations. This regulation was amended by another, regulation 673 of 2018.¹⁰⁶

51. It was reconfirmed in the regulation that European political parties and European political foundations can receive funding from the European Union if, and as long as, they respect article 2 of the Treaty on European Union. The compliance verification possibilities for this existing obligation were strengthened considerably in the regulation through the setting up of an independent agency to register, monitor and sanction European Union political parties and political foundations, as well as a committee of independent eminent persons to help it with research on compliance with European Union values.¹⁰⁷

52. Article 2 of the Treaty on European Union provides that the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.¹⁰⁸ This is a clear message to political parties and foundations in Europe that reactionary populism in their objectives and activities would not be tolerated by the European Union.

53. Apart from this European Union initiative, there are no other visible, similarly articulated, regional strategies for countering reactionary populism that the Independent Expert is aware of. However, as shown in the section VII below, other regional human rights institutions have advanced norms that could be applied towards mitigating or eradicating reactionary populism in all its guises.

54. At the global level, the Secretariat has adopted the United Nations Strategy and Plan of Action on Hate Speech.¹⁰⁹ That document contains certain key commitments, namely to the collection of relevant data and the monitoring and analysing of hate speech; addressing the root cause, drivers and actors of hate speech; the engagement and support of the victims of hate speech; the convening of key actors to reframe problems, find solutions and build coalitions; establishing partnerships with new and traditional media; keeping up with technological innovation; using education to address and counter hate speech; fostering peaceful, just and inclusive societies; undertaking advocacy; and leveraging partnerships with stakeholders, including governments.

¹⁰⁴ See, generally Ernst Hillebrand and others, *Right Wing Populism in Europe: How do we Respond?* (Berlin, Friedrich-Ebert-Stiftung, 2014); see also Natalie Nougayrède, “The far right didn’t sweep the European Union elections. Europe’s centre is holding”, *The Guardian*, 27 May 2019.

¹⁰⁵ *Ibid.*

¹⁰⁶ See John Morijn, “Responding to ‘populist’ politics at the European Union level: regulation 1141/2014 and beyond”, *International Journal of Constitutional Law*, vol. 17, No. 2 (April 2019), p. 617.

¹⁰⁷ *Ibid.*

¹⁰⁸ See Regulation (European Union, Euratom) No. 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R1141>.

¹⁰⁹ *A/74/285*, para. 35.

VII. Populism and contemporary international law

55. International law contains a set of norms that, inter alia, are capable of regulating populist sentiments, policies and actions. This should not be surprising, given that reactionary populism and nationalism were at the core of the sentiments, policies and actions that drove the world into the First and Second World Wars. This intimate connection has already been acknowledged in section II above.

56. It must also be kept in mind that the international legal order established after that war, including through the United Nations, was aimed at creating conditions that would make it unlikely for the political situations that fed that war to thrive in our own time. The starting position was the Universal Declaration of Human Rights of 1948, which described itself as “a common standard of achievement for all peoples and all nations”.¹¹⁰ Also highlighted in the declaration is that “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people”.¹¹¹

57. Since the Universal Declaration of Human Rights was adopted, primarily through the efforts of the United Nations, numerous other international instruments and documents have also become a part of the body of international law that is aimed at ensuring that the rights of all individuals and peoples are jointly and severally promoted and protected as a first step towards maintaining domestic and international peace and security.

58. Some of the other relevant international human rights instruments include the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; the Convention on the Rights of the Child; and the Convention relating to the Status of Refugees. Earlier, in 1926, the Slavery Convention was adopted.

59. Specifically, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights impose limitations on the propagation of racist and xenophobic expression and outlaw the advocacy of national, racial or religious prejudice that amounts to incitement to discrimination, hostility or violence. The Committee on the Elimination of Racial Discrimination, in its general recommendation No. 35 (2013), explained how States parties should approach the regulation of racist speech under that convention. Similarly, article 19 of the International Covenant on Civil and Political Rights protects freedom of opinion and expression, which may, however, be restricted in law when such restrictions are necessary for the respect of the rights or reputations of others and the protection of national security or of public order or of public health or morals. Any restriction on freedom of speech must not only be a matter of necessity, but must be proportionately tailored to achieve the legitimate end that warrants the restriction. It is stated specifically in article 20 of the Covenant that States parties must prohibit “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”.

60. At the regional level, various human rights instruments designed to achieve goals that are similar to those set by the United Nations have been adopted. African countries have done this through the provisions of the African Charter on Human and

¹¹⁰ Preamble to the Universal Declaration of Human Rights, General Assembly resolution 217 A (III).

¹¹¹ Ibid.

People's Rights.¹¹² In Europe, the member countries of the Council of Europe adopted the Convention for the Protection of Human Rights and Fundamental Freedoms.¹¹³ In the Americas, the American Convention on Human Rights was adopted.¹¹⁴ Like the United Nations instruments, it is recognized in these regional human rights treaties that the joint and several protection of human rights is a strong basis for regional and international peace and security.

61. While many of these instruments may not have been adopted with the current wave of reactionary populism in mind, they cover and are directed towards most of the behavioural traits that reactionary populists have in common, including racism, antisemitism, xenophobia and other forms of bigotry, discrimination, mistreatment of refugees and minorities (ethnic, cultural and religious) and so on. Consequently, if applied effectively, the norms are strong enough to at least discourage reactionary populist policies and actions and their many harmful impacts on the enjoyment of human rights and human rights-based international solidarity.

62. Importantly, the United Nations has begun to work on countering reactionary populism and extremist and supremacist ideologies and their negative impact on the enjoyment of human rights and human rights-based international solidarity. In early 2019, the Human Rights Council held a debate on this very topic.¹¹⁵ In a February 2019 address to the Inter-Parliamentary Union-United Nations annual parliamentary hearing, on the theme "Emerging challenges to multilateralism: a parliamentary response", the Secretary-General identified three major challenges to global multilateralism. These, he said, included populist and nationalistic voices.¹¹⁶

VIII. Conclusions

63. Populism, especially in its reactionary form, represents a considerable threat to human rights-based international solidarity, the multilateral human rights system and the realization of human rights for all, as they are under constant attack in the rhetoric and practice of its practitioners.

64. Human rights-based international solidarity, so important historically to globally inclusive human rights advances, is under even greater threat today owing to the worldwide COVID-19 pandemic, which has led to severe restrictions on human rights in many States affected by the pandemic, as well as a degree of withdrawal from the practice of international solidarity. This is in addition to the pre-existing threats posed by reactionary populism to the enjoyment of such solidarity.

65. It is therefore both prescient and distressing that the present report is being prepared amid the background of the worldwide COVID-19 pandemic. It is prescient because the pandemic, more than any other single event in recent world history, demonstrates the importance of international solidarity in overcoming global and transnational human rights challenges. It is distressing because it exemplifies the extent to which the enjoyment of various human rights guaranteed by international law could be compromised even more significantly

¹¹² Available at www.achpr.org/legalinstruments/detail?id=49.

¹¹³ See www.echr.coe.int/Pages/home.aspx?p=basictexts/convention.

¹¹⁴ See www.cidh.oas.org/basicos/english/basic3.american%20convention.htm.

¹¹⁵ See Office of the United Nations High Commissioner for Human Rights, News and Events, "Human Rights Council holds debate on the mitigation and countering of rising nationalist populism and extreme supremacist ideologies", 15 March 2019.

¹¹⁶ See United Nations, "Amid growing populism, multilateralism key to overcome global challenges, rebuild trust in government, Secretary-General tells annual parliamentarians hearing", 21 February 2019. Available at www.un.org/press/en/2019/sgsm19468.doc.htm.

at the national and international levels under conditions of heightened lack of solidarity, even during a serious pandemic.¹¹⁷

IX. Recommendations

66. Against this background, the Independent Expert recommends that the Human Rights Council, States and other relevant stakeholders:

(a) Recognize even more prominently and forcefully the relationship between reactionary populism, the decrease in human rights-based international solidarity and the inability of States and other stakeholders to promote and protect human rights around the world. Recent events have shown that, more than at any other time in recent history, only human rights-based international solidarity can catalyse the needed resources and action that are needed when the world has to confront serious human rights issues or fill important human rights gaps;

(b) Recall that Member States are obliged to take action to combat the threat of reactionary populism, as parties to such binding instruments as the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights, which impose limitations on the propagation of racist and xenophobic expression and outlaw the advocacy of national, racial or religious prejudice that amounts to incitement to discrimination, hostility or violence;

(c) Remind political parties and their leadership of the role they play in combating the threat of nationalist and reactionary populism, given their significant influence on the political climate. Condemnation of such reactionary populism must be swift and unequivocal by all public actors, including multilateral agencies and regional bodies;

(d) Call upon the media to play its important role in tackling reactionary populist expressions and encourage journalists to observe codes of conduct on the basis of the principles of truth and accuracy, independence, fairness and impartiality, humanity and accountability;

(e) Consider adopting, at the regional and global levels, a regime similar to that instituted by the European Union to discourage reactionary populism by political parties, as well as the broader application of the United Nations Strategy and Plan of Action on Hate Speech, in order to help to counter nationalist and reactionary populist discourse;

(f) Consider adopting the draft declaration on the right to international solidarity. In the human rights arena in particular, little can be achieved over the shorter or longer run without maintaining international solidarity among States, peoples and civil society groups, as well as with one another. The recent pandemic has cast into bold relief the reality of the importance of human rights-based international solidarity to the globally inclusive human rights system.

¹¹⁷ See Obiora Chinedu Okafor, "Solidarity key to post COVID-19 response", OpenGlobalRights, 28 April 2020.