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HUMAN RIGHTS COUNCIL

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Agenda item 9

**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND  
RELATED FORMS OF INTOLERANCE, FOLLOW-UP TO  
AND IMPLEMENTATION OF THE DURBAN DECLARATION  
AND PROGRAMME OF ACTION**

**Report of the Working Group of Experts on People  
of African Descent on its eighth session\***

**(Geneva, 12 January-16 January 2009)**

**Chairperson-Rapporteur: Mr. Joe Frans**

**Summary**

At its eighth session, the Working Group of Experts on People of African Descent reviewed the themes that it had discussed in previous sessions in order to identify gaps and topics that deserve revisiting. It also identified new themes that it will include in future sessions, all with a view to developing its work plan for the period 2009-2011. Similarly, it discussed the subjects of country visits by the Working Group and its continued engagement with the Durban Review process. It also held a thematic discussion on the situation of children of African descent.

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## **Introduction**

1. The Working Group of Experts on People of African Descent held its eighth session from 12 to 16 January 2009 at the United Nations Office at Geneva.
2. The Coordinator for the Durban Review Conference, Mr. Ibrahim Salama, opened the session. The Working Group elected Joe Frans as its Chairperson-Rapporteur.
3. The present report reflects the general course of the debate.

## **I. ORGANIZATION OF THE SESSION**

4. During the eighth session, the Working Group held eight public meetings and one private meeting. It was attended by the following members: Joe Frans, Monorama Biswas, Mirjana Najcevska, Ralston Nettleford, and Maya Sahli; 54 Member States and 1 non-Member State; 21 non-governmental organizations; 4 intergovernmental organizations; 1 national human rights institution, 1 observer; 1 academic and 3 invited panellists.<sup>1</sup>

## **II. SUMMARY OF DELIBERATIONS**

5. The Coordinator for the Durban Review Conference, Mr. Salama, delivered the opening address. He welcomed the four new members of the Working Group: Monorama Biswas (Bangladesh), Mirjana Najcevska (the former Yugoslav Republic of Macedonia), Ralston Nettleford (Jamaica) and Maya Sahli (Algeria). The Coordinator paid tribute to the work of the former members of the Working Group and in particular the Chairman Ambassador Peter Lesa Kasanda. The contributions that panellists will make to this session of the Working Group in the consideration of various thematic issues were also noted.
6. The importance of the Working Group in the fight against racism, racial discrimination, xenophobia and related intolerance was emphasized. The Coordinator encouraged Member States to accept invitations for country visits by the experts. It was noted that the active participation of victims is essential for the work of the experts.
7. The Coordinator congratulated the experts of the Working Group for their decision to address the situation of children of African descent during its eighth session as children are extremely vulnerable to racial discrimination. Quality education was underlined as an important instrument for combating prejudices and discrimination. It was also noted that special measures have to be adopted to ensure equal opportunities for historically disadvantaged groups, in particular people of African descent.
8. The President of the Human Rights Council, Martin Ihoeghian Uhomobhi addressed the Working Group. He also congratulated the new members of the Working Group and paid tribute to the work of the former members. The President pointed out that human rights are better

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<sup>1</sup> All working papers submitted by the experts and participants are available at the Secretariat or can be found on OHCHR website: <http://www2.ohchr.org/english/issues/racism/groups/african/4african.htm>.

understood, including the right to development, thanks to the work of human rights bodies. However, much more needs to be done in order to ensure that human rights are enjoyed by everybody. It was mentioned that nowadays challenges are posed, inter alia, by globalization, security threats and climate change. Poverty and disease undermine the full enjoyment of human rights in particular in developing countries. The need for improved synergy between United Nations human rights mechanisms, including special procedures mandate holders, was highlighted.

9. Following the statement of the President of the Human Rights Council, the Coordinator for the Durban Review Conference invited the members of the Working Group to present nominations for a Chairperson. Mr. Joe Frans was elected as Chairperson.

10. Mr. Frans thanked the other members for electing him. He noted that access to education, healthcare services, electricity and potable water and political participation are among the many areas where people of African descent experience unequal treatment. The Chairperson encouraged United Nations bodies to allocate more resources to developing countries.

11. The Chairperson recalled the valuable contribution of the Working Group to the Preparatory Committee for the Durban Review Conference. It was mentioned that the present session of the Working Group is the right time to plan for future activities as there are four new members. He noted that the Working Group needs to adopt a workplan for the forthcoming three years as conditions have changed since the adoption of the last workplan, including the renewal and update of the mandate of the Working Group as stipulated in Human Rights Council resolution 9/14. The Chairperson pointed out that country visits are essential for the work of the experts as they are valuable occasions to interact with victims.

12. With regard to the programmed discussion on the situation of children of African descent, Mr. Frans highlighted that they are greatly affected by discriminatory practices. Concerted efforts by all stakeholders are required in order to reduce the vulnerability of these children.

13. Following the statement of the Chairperson, the agenda and programme of work were adopted.

#### **Item 5: Review and discussion of the work of previous sessions of the Working Group of Experts on People of African Descent**

14. Mr. Frans introduced agenda item 5 by inviting the members of the Working Group to make brief presentations on certain particularly important themes that have been addressed in previous sessions of the Working Group.

15. Ms. Najcevska said that it was important that the Working Group adopt a practical approach. State institutions can have a direct impact on the situation of people of African descent and institutional changes can be perceived as positive changes. She proposed that the Working Group raise awareness on the issue of multiple forms of discrimination and multiple vulnerability. It was noted that enhanced cooperation with non governmental organizations (NGO) and special procedures is needed. The lack of disaggregated data was also identified as an important issue to be addressed in the future.

16. Ms. Biswas mentioned that it is not easy to find practical solutions. However the Working Group can assist in the collection of updated information and data on various issues.

17. Ms. Sahli pointed out that the Working Group should also address new forms of racism, to identify new themes. Particular attention needs to be paid to the vulnerability of women and children of African descent. It was mentioned that a particular problem is the implementation of the previous recommendations of the Working Group. Measures by governments play a vital role, therefore the Working Group needs to sensitize them. It can be encouraging to highlight positive measures adopted by States.

18. Mr. Nettleford noted that it is important to come up with the right language and approach in the recommendations and this may also help the Durban Review process. With regard to children of African descent, he highlighted that the twenty-first century needs a new approach to protecting children.

19. There was a general agreement that there is a need for mechanisms for implementation and monitoring of implementation of the recommendations of Working Group.

### **Cultural heritage of people of African descent**

20. Mr. Nettleford, member of the Working Group on People of African Descent, spoke about the cultural heritage of people of African descent. Mr. Nettleford began by expressing his preference to use the term people of African ancestry rather than people of African descent.

21. In his presentation Mr. Nettleford expressed the need to make the promotion and maintenance of the culture of People of African ancestry far more central to the issue of racial discrimination and racism, since it is of tremendous importance after the tragic experience of slavery and colonization. Cultural heritage is far more fundamental because it is a source of energy and of power. It is people's capability to make definitions about themselves, on their own terms, and to proceed to positive action, which allows them to have a sense of place and purpose. Culture here becomes a means of liberation and emancipation. In this sense, artistic manifestations are of the greatest importance for human development along with other cultural indices such as language, religion and ethnicity.

22. Mr. Nettleford recommended that any action taken should start at the micro level. He gave as examples changes urgently needed for the inclusion of cultural studies in the curricula of the educational system, one's heritage being among them.

23. People of African Descent demand recognition, the kind of respect and understanding to be able to produce out of their imagination and intellect the tools which are fundamental for human development and intrinsic in the human condition. The expert mentioned that the products of the exercise of the creative imagination are points of power. The problem with the acceptance of such products is that they are too often taken as a product merely for entertainment, rather than seen as profound elements of human living. The expert considered that sportsmen for example, gain recognition because they are able to offer immediate short-term appeal for the appetite of millions of people. This type of production still reflects the conventional performance offered by the servant for the appetite of the master.

24. The expert emphasized the importance of recognition, respect and understanding of the products of the creative imagination of people of African ancestry. Education here deserves special attention. We should however ask ourselves what kind of education is being offered. It should be an education which would seek not simply to allow us to enter into the mainstream but rather to have artistic creations that allow us to determine the mainstream. This also applies to indigenous peoples and other vulnerable groups, who are historically victims of discrimination and who have been relegated to a zone of silence by the dominant controlling group. But the victims of racism have become very noisy in all sorts of ways in that zone of silence. In this regard, Bollywood, like the performance arts of people of African ancestry in the Americas, is in fact producing things of universal importance as products of their collective imagination.

25. Mr. Nettleford further stressed that States have a responsibility to facilitate the creative endeavours of their citizens and have the obligation to adopt and implement active policies that safeguard artistic creations. Of equal importance is the recognition of the tremendous cultural contribution made by indigenous peoples and people of African descent in the Americas. He said that in any case we have all come to learn that all great achievements by any one people become the stock and capital of all peoples. Paradoxically, despite the achievements of people of African ancestry their creative manifestations are not usually regarded as achievements of quality.

26. Mr. Frans opened the floor to debate on the theme of cultural heritage. Several comments were made by participants highlighting the need to recognize the contribution of People of African descent had made to the progress of civilization, which should be considered as part of the common heritage of humanity. Other participants mentioned that people of African descent have the right to transmit to future generations their own histories written by themselves.

27. An issue was raised concerning the pervasive consequences of the colonization of the mind, which is a social construction based on a shared ignorance that perceives others as uncivilized. A sense of belonging and pride are important in combating social exclusion and racism and in the process of the emancipation of the mind.

28. A further comment was made regarding the important role the media plays in shaping public perception. In many cases the media represents certain cultures as inferior and misrepresents the images of people of African descent and other minorities. Another participant said that people of African descent have the right to establish their own media and to have access to all forms of media without discrimination.

29. Other commentators stressed that, people of African descent should have the right to establish and control their educational systems, in a manner appropriate to their cultural methods of teaching and learning.

### **Administration of justice**

30. Ms. Najcevska, expert of the Working Group, summarized former recommendations of the mechanism on the issue of administration of justice. She noted that people of African descent are detained more frequently, they are unevenly represented in law enforcement institutions, they are more often victims of violence by police officers, they are more vulnerable due to their poverty and young people of African descent are even more susceptible. Ms. Najcevska highlighted the

need for disaggregated data as an important tool for combating racial discrimination in all pertinent areas. She noted that it is important to create the previously proposed racial equality index. An increased number of special measures is also needed in order to ensure equal representation of all groups in the field of law enforcement. Ms. Najcevska pointed out that it is essential to identify mechanisms for implementation of the recommendations of the Working Group and respective monitoring. In this regard, certain national bodies can perform these functions.

31. The Chairperson of the Working Group opened the floor to debate on the theme of administration of justice.

32. With regard to the issue of the creation of a racial equality index, an observer mentioned that there is an index that is developed in the area of health and that the World Health Organization (WHO) issues reports that might be useful in this context. It was noted that such an index should be developed at an international level in order to avoid technical or methodological variations from one country to another. A permanent international body should be in charge of monitoring the implementation of such an index and assisting Member States to collect information. The Chairman of the Working Group noted that the development of the racial equality index is linked to the issue of good practices.

33. The need for specific training of lawyers and judges of African descent was identified as important due to the fact that they are not equally represented in the law enforcement systems.

### **Racism and health**

34. Ms. Biswas, expert of the Working Group, presented a summary of former recommendations of the Working Group on the issue of health of people of African Descent. She noted that in many developed countries people of African descent experience inferior health in comparison to other population groups. Their health is substantially affected by poverty, an inability to have proper medical insurance, a high rate of unemployment, lower levels of education and a lack of access to accurate information. Systematically collected and disaggregated data is needed in order to improve the health of people of African descent. Deteriorating socio-economic conditions need to be reversed, accurate information to be widely provided and special measures to be implemented in order to increase access to higher education and also to healthcare services.

35. The Chairperson of the Working Group opened the floor to debate on the theme of racism and health.

36. An observer noted that health reflects the extent of substantive equality. People of African descent can enjoy better health and can adopt healthier habits when socio-economic determinants of health are improved by governments.

37. A comment was made regarding the presence of institutionalized racism in some developed countries. It was noted that when certain epidemics and health problems affect people of African descent and/or Hispanic population groups, they do not enjoy the same access to healthcare services and information as other groups.

38. A delegate pointed out that health should be looked at in its entirety and governments need to address the root causes of health problems such as education, marginalization and access to schools and healthcare services.

39. A comment was made regarding linkages between crops, traditional healing and the health of some population groups. Forced displacement, disruption of social networks, violence and the imposition of crops for cultivation deplete resources and deteriorate people's health. Respect for culture and involvement of local communities in development projects need to be taken into consideration.

### **Racism and employment**

40. Ms. Sahli, expert of the Working Group, made a presentation on the issue of employment of women of African descent. She noted that women are victims of multiple forms of discrimination on the grounds of their descent, gender and level of education. They are also more marginalized in comparison to men and subject to harmful religious and cultural practices. Girls are less often sent to school and are the first ones to be withdrawn. Literacy programmes for women and girls of African descent are vital for their advancement. Women have to be accepted on an equal footing with men in the labor market and receive equal remuneration. Positive measures have to be adopted in order to achieve gender equality. Literacy campaigns and equal working opportunities are needed.

41. The Chairperson of the Working Group opened the floor to debate on the theme of employment of people of African descent.

42. A comment was made regarding the vulnerability and abuse of female domestic workers and the urgency to address their situation.

43. An observer noted that a more nuanced approach can be more efficient in some countries as there are cases when men of African descent suffer from a higher unemployment rate in comparison to women. In this regard, a study is needed on how the issue of gender works differently for people of African descent in the developed countries.

44. Another observer mentioned that a constructive approach focusing on achievements of women might also have a positive impact, increasing motivation and commitment.

45. A comment was made regarding the need for political will to promote dialogue between different population groups and institutions. In multiethnic societies governments have to be aware of the needs of the entire population.

46. A comment was made regarding the linkages between administration of justice and employment of people of African descent. It was noted that the disproportionate level of incarceration of young men of African descent has a detrimental impact on their career perspectives.

47. There was also a comment that in addition to the gendered approach to employment, the residence of the targeted groups should be also taken into considerations as employment opportunities for men and women vary between urban and rural areas.

48. Ms. Sahli, expert of the Working Group, pointed out that it can be useful to collect information on cases of employment exclusion regarding men and women, to encourage States to adopt special measures for women of African descent and to enhance partnerships among stakeholders. She noted that recommendations in this area have to be specific and to set priorities.

49. Ms. Najcevska, expert of the Working Group highlighted the need for education of law enforcement officials in order to reduce instances of racial profiling. The education of people of African descent also has to be enhanced, empowering them and reducing their vulnerability to become victims of discrimination.

50. Ms. Biswas, expert of the Working Group, concluded that women need to be more actively involved in the area of health. Educational opportunities can be increased for women through the provision of scholarships. Awareness-raising on women's health issues is also essential.

#### **Item 6: Programme of work for future sessions**

51. During the deliberations on the future work of the Working Group, several proposals were made. It was suggested to reschedule the sessions of the Working Group so that they can be held at a later time in the year. This would enable more stakeholders to attend the sessions and interact with the experts. It was also suggested that financial support is needed in order to increase participation of NGOs in the sessions of the Working Group, in particular those from the developing countries.

52. It was proposed that a conference on the transatlantic slave trade be organized under the auspices of the Working Group, addressing the impact of the phenomenon on contemporary practices of racial discrimination. Education on slavery and the slave trade is vital. More research and education efforts are needed and textbooks and other educational materials have to be revised accordingly.

53. It was suggested that the Working Group holds a session, where more days are dedicated to the theme of children and youth of African descent. Another proposal was made regarding a session of the Working Group on poverty due to its vital importance and cross-cutting nature. A suggestion was made to invite distinguished experts in the field of collecting and managing disaggregated data to participate in a session of the Working Group in order to assist the experts in addressing this issue.

54. It was proposed that the Working Group addresses more extensively the issue of criminal justice systems. Victims of hate crimes were also identified as a theme meriting attention by the Working Group. It was recommended that the Working Group focuses on identification of lessons learnt throughout its work.

55. It was also said that dialogue needs to be enhanced between the Working Group and stakeholders operating in the area of development. Information on their activities as they relate to racism against people of African descent is needed. It was agreed that the recommendations of the Working Group have to be practically oriented.

56. The need for the Working Group to hold public meetings with victims, Member-States, NGOs and other stakeholders was highlighted by several delegates. Such meeting will enable the Working Group to receive updated information from victims and act accordingly.

57. It was proposed that the Working Group liaises with the United Nations Development Group (UNDG) in order to ensure that people of African descent are addressed in the United Nations Development Assistance Framework (UNDAF). The incorporation of the recommendations of the Working Group in the respective UNDAF may ensure their implantation at the national level. Closer collaboration between the Working Group and financial institutions on specific projects would also be highly beneficial.

58. It was commented that the Working Group would benefit from working more closely with other human rights mechanisms, in particular treaty bodies and special procedures mandate holders of the Human Rights Council. It was also stated that the Working Group should ensure that it fulfills the entirety of its mandate as stipulated in Human Rights Council resolution 9/14, which includes the holding of public meetings and interacting with international financial institutions.

59. An observer suggested that the Working Group, in its future work, address the historic causes of racism, territorial autonomy and cultural autonomy, multiculturalism and interethnic identity, sustainable growth and intellectual property, equity and control of resources.

60. Other observers suggested that the Working Group address the issues of poverty, the Millennium Development Goals (MDGs), cultural heritage, social exclusion and data collection, including disaggregated data. Furthermore, the issues of impunity and remedies were highlighted. It was proposed that the Working Group holds a session on the transatlantic slave trade and its direct and indirect impact. It was also mentioned that a distinction should be made between the situation of people of African descent in developing and developed countries as they may face different constraints upon the full enjoyment of their rights.

61. It was proposed that the Working Group also organize a thematic discussion on men of African descent as in some situations they are more vulnerable to discriminatory practices, for instance in the areas of criminal justice and employment.

62. It was noted that technical assistance and cooperation projects need to address/incorporate the recommendations of the Working Group and that more technical assistance is needed for the improvement of the situation of people of African descent.

63. The issue of disaggregated data was extensively discussed. It was noted that research efforts are obstructed by the lack of availability of such data. In some cases where countries have such data, they do not release it. Other States are not keen on collecting disaggregated data as this is considered a violation of privacy and such data may trigger more discriminatory practices. It was commented that disaggregated data on gender, disabilities and indigenous peoples did not generate negative stereotypes or discriminatory practices; on the contrary they proved to be extremely useful.

64. The collaboration of State institutions and civil society are essential for the collection and distribution of such data. It was suggested that pilot projects on collection of disaggregated data

can be useful in paving a way towards wider support for this approach. Data collection of positive results can also encourage governments to adopt further measures and/or enhance existing ones.

#### **Item 7: Thematic discussion on the situations of children of African descent**

65. Before beginning the discussion under this item, Mr. Frans made some opening remarks, stressing the problem of hate crimes, an issue previously identified by the Working Group as a subject that deserved discussion and accompanying recommendations. He said that hate crimes are a daily reality all over the world and that governments have a responsibility to put an end to these shameful and serious crimes. Several studies demonstrate the danger of allowing prejudices against others to take root and spread. Unfortunately, the step from hate speech to hate crime is easily made. In most of the countries, the law is clear and sees such racist motives as an aggravating factor but this is not always borne out in the trials. Though governments may have spoken out against racism and violence, the problem remains. The seriousness of such crimes and the duty of governments to take action to stop them have also been underlined by several international human rights bodies, highlighting the importance of effective investigation in cases of racially motivated violence.

#### **Children of African descent and violence**

66. Ms. Najcevska presented her paper on “Children of African descent and Violence”. Children are 30 per cent of the world’s population today and 100 per cent of the population of tomorrow. What happens to children today is a projection of tomorrow. Children are a vulnerable group and violence against them has grown significantly over the last twenty years. Children have not been accorded enough significance as either historical or social actors.

67. The expert considered that the conjunction of violence and discrimination endured by children is an explosive combination that should be very carefully scrutinized. According to UNICEF, poverty aggravates the social exclusion that Afro-descendent peoples have endured for centuries. Afro-descendent communities live in high-risk conditions and generally the violence against children in these communities is both wider and deeper. In recent decades some extreme forms of violence against children, including sexual exploitation and trafficking, female genital mutilation, the worst forms of child labour and the impact of armed conflict have provoked international outcry and achieved a consensus of condemnation, although no rapid remedy.

68. The expert stated that by default, violence against children is invisible, while that directed against children of African descent is even more so. The problem is aggravated by a lack of reporting of cases and institutional violence. The reporting of violence is closely connected with the support and security that a child feels, the trust that he or she has in the relevant institutions and also with the education of the child. Only a small proportion of acts of violence against children is reported and investigated, and few perpetrators are held to account.

69. The expert also identified the following major issues of concern faced by children of African Descent: the disproportionate rate of expulsion, suspension and relegation to special programs for emotionally disturbed children; corporal punishment administered with greater severity; the large number placed under institutional care or detention centers charged with

minor or petty crimes; the death penalty and life imprisonment. Ms. Najcevska stressed that the conjunction between poverty, systematic and institutionalized discrimination and a lack of state interest result in a vicious circle in which children are trapped.

70. Finally, Ms Najcevska underlined the need for extended visibility of children of African descent by such means as birth registration, effective reporting systems on abuse and the development and implementation of systematic disaggregated national data. She also recommended the strengthening of international and national commitment and actions based on the clear recognition of the racial aspects of violence. Prevention, deinstitutionalisation of care (ensure institutionalisation is a last resort, and prioritise alternatives) should also be enhanced. Quality training of police, referral agencies, lawyers, judges, institution managers and staff should also be a priority so as to sensitize them to the issue of racism and violence as they affect children of African descent. Accessible and child-friendly reporting systems and services should be created and parents should have their capacity to care for their children supported.

71. Panellist Ms. Alma Jenkins, from the Regional Office of UNICEF Panama, made a presentation on “Children of African Descent, Violence and Discrimination in the Latin America and Caribbean Region”. She argued that the results of the World Conference against Racism, Racial Discrimination, Xenophobia and Related intolerance of 2001 were weakened by the fight against terrorism and the fact that development cooperation resources were scarce in middle income countries. The current development models do not cater properly to the fight against poverty and social exclusion. She also highlighted as new forms of racial discrimination the increase in hate crimes and the political instrumentalization and intellectual legitimization of racism.

72. Ms. Jenkins stated that 150 million Afro-descendants live in the region out of which 106 million are young people and 80 million are these are children. She also pointed out that the lack of disaggregated data disadvantages people of African descent, as neither a clear understanding of the state of affairs nor a viable and comprehensive solution can be arrived at without accurate disaggregate data.

73. The expert panelist underlined the importance of the application of international human rights law at the national level. She highlighted article 29 (c) of the Convention on the Rights of the Child according to which education of the child shall be directed to the development of respect for the child’s parents, his or her own cultural identity, language and values of the country in which the child is living, from the country from which he or she may originate, and for civilizations different from his or her own.

74. Ms. Jenkins also presented economic and social indicators, in particular those relating to income, resources, literacy, school attendance, education, employment, health and infant and maternal mortality that demonstrate that people of African descent are more severely affected in these areas than the average for the population in Latin America and Caribbean region.

75. Finally, Ms. Jenkins pointed out that not enough progress has been made towards the achievements of MDGs in the region. For instance, with regard to MDG 1 on halving extreme poverty, she said that there are still 194 million poor people in the region (36.5 per cent), and 71 million people in extreme poverty (13.4 per cent). The panellist emphasized that the failure to meet MDGs as regards people of African descent stems from the persistence of discrimination.

76. The Chairperson opened the floor for comments and questions.
77. One observer emphasised the importance of a rights based approach and that what children say must be taken into account. It was noted that children represent the present and not just the future. It was also stressed that the Convention on the Rights of the Child is the most comprehensive legal framework on child rights and must be the cornerstone for any action to further the protection of children. One observer stressed that States should take effective preventive measures with the aim of eliminating juvenile crimes.
78. Panellist Renato Roseno made a presentation on the situation of children of African descent in Brazil, with a focus on violence. It was noted that they face multiple forms of discrimination. The concept of intersectionality comprising the coexistence of different factors such as race, gender, social class, violence etc. helps us to understand the complexity of groups and situations. It was noted that discriminatory practices are acute, inter alia, in the realms of university education, employment and mortality rates. These children are more often victims of violent attacks. It was highlighted that isolated policies tend to be inefficient and that problems have to be addressed in an holistic manner. The need for differentiated education that respects and preserves cultural values, history and ethnic identity was noted.
79. It was suggested that the Working Group collaborate more closely with the Committee on the Rights of the Child and ensure participation of children in meetings that the Working Group carries out during country visits.
80. The Chairperson opened the floor for discussion.
81. An observer suggested that efforts should be made to reconstruct the image of people of African descent as this would have an impact on social attitudes towards them. It was also suggested that young people who are deprived of their history are apt to fill this gap with criminal figures as role models and points of reference.
82. The issue of children who are born and raised in a developed country and then deported, was mentioned as a concern. Furthermore, the so-called “zero tolerance” and “safe” policies at schools result in the expulsion of boys of African descent who end up in criminal gangs. It was also noted that a disproportionate number of children of African descent remain in the childcare system in developed countries as there are no foster parents for them, which results in a loss of identity.

### **Children of African descent and human rights mechanisms**

83. Panellist Veronica Birga made a presentation on the work of treaty monitoring bodies and special procedures mandate holders with regard to children of African descent. During the review of the respective recommendations, the issues of birth registration, nutrition, school attendance and drop out, mortality rates and access to healthcare services were highlighted, among others. It was noted that the Committee on the Rights of the Child also pointed out the need for disaggregated data. Race and ethnicity have been seen to affect vulnerability to sexual exploitation and trafficking. In schools, disciplinary measures are more often taken against children of African descent. The need for intersecting policies was emphasized.

84. It was recommended that the Working Group use a human rights approach based on the provisions of the CRC when it addresses the issue of children of African descent. It was also proposed that the Working Group endorses the recommendations contained within the United Nations United Nations Study on Violence Against Children. The Working Group was also encouraged to continue examining the situation of children of African descent, to strengthen collaboration with human rights mechanisms, to invite civil society to submit information on the situation of children of African descent, to take into consideration the issue of children during the forthcoming country visits and to contribute to awareness-raising on the subject.

### **Access to education by children of African descent**

85. Ms. Sahli, expert of the Working Group, made a presentation on access to education by children of African descent. She recalled that access to education is a fundamental human right. It was noted that apart from physical violence, a child's not being allowed to have an education constitutes moral violence. The right to education constitutes a chance for equal opportunities. Again, an intersectoral analysis was noted as important. For instance, girls of African descent face three kinds of vulnerability: they are children, they are of African descent and they are girls. Furthermore, access to education is linked to access to healthcare services, housing, poverty etc.

86. The importance of the quality of an education was underlined. The contents of the school curriculum, for instance history, can make a child feel excluded. Education has the potential to erase the roots of discriminatory attitudes and marginalization and promote respect and tolerance. States need to increase the effectiveness of national measures in this regard and fully implement the Convention on the Rights of the Child and the provisions of the Durban Declaration and Programme of Action.

87. The expert explained that a "zone by zone" approach takes into consideration the different conditions that determine access to education in rural and urban areas. A transversal approach focuses on the visibility of a child in the education system. Children who are excluded from educational systems are not visible. The bi-polar approach to education focuses on the situation of children of African descent in developed countries, where a certain dress code may become a reason for exclusion.

88. Ms. Sahli recalled the obligation of States to protect children without discrimination and to ensure equal access to education, taking into account the special vulnerability of children of African descent and the importance of education for their empowerment.

89. The expert made the difference between the right of access to education in developed and developing countries. Ms. Sahli mentioned that children of African descent in developing countries are subjected to discriminatory conditions with regard to access to education and that States should take measures to ensure that children enjoy the full protection and guarantees against all forms of discrimination and adopt national legislation in accordance with international human rights standards. On the other hand, although developed countries have recognized the right to education, the education system still involves segregation, whereby children of African descent are given access to education, but confined to separate or inferior schools. The expert said that the most challenging stage of implementing the right to access education requires that States adapt their education systems to enhance equal enjoyment by all.

90. Ms. Sahli recommended strengthening cooperation and partnerships with civil society representatives, schools, the media, and specialized agencies, particularly UNESCO and UNICEF while addressing the issue of discrimination faced by children of African descent and in data collection regarding access to education, in order to monitor and evaluate legislation and elaborate educational policies. Ms Sahli mentioned that the inevitable effect of exclusion from education is exclusion from the labour market.

91. The Chairperson opened the floor for discussion.

92. A comment was made regarding the fact that with far fewer resources and facing enormous problems of poverty some developing countries still ensured a quality education for all. Another participant mentioned that without education, people are impeded from accessing employment. Redressing the existing imbalance, as regards the opportunities that life offers, without the full recognition of the right to education is thus impossible. There are a large number of human rights problems that cannot be solved unless the right to education is addressed as it is the key to unlocking other human rights.

93. Other commentators highlighted the fact that literacy is at the heart of all subsequent education, training and learning and that literacy is essential for sustainable development. The commentator stressed the urgent need for the elimination of illiteracy. In this regard, literacy is a precondition of effective social participation and a tool of empowerment at individual and community levels.

94. There was also mention of the importance of access for all to free primary education and strengthening access to higher education through national programmes, including affirmative action policies. In this regard, political will is essential in order to implement effective measures.

95. An observed noted that more teachers of African descent need to be integrated into educational systems as they are also role models and can help children to preserve their identity. It was pointed out that the concept of multi-vulnerability should be used with caution; for instance poor children of African descent do not face the same problem as other poor children - a fact that reveals that the colour of their skin is the determining factor.

96. It was pointed out that multicultural education should start as early as possible, including in kindergarten and pre-school curricula, and that education should preserve children's identity and cultural values.

#### **Access to health for children of African descent**

97. Ms. Biswas, expert of the Working Group made a presentation on access to healthcare for children of African descent. She pointed out that unequal access to healthcare services has a detrimental impact on children. Lower birth weight and higher birth mortality are experienced by people of African descent in developed countries. They suffer disproportionately from mental diseases, chronic physical illness, stressful life events, poverty, single parenthood, abuse or neglect, family discord and depression. Factors such as inadequate resources, lack of a sufficient number of schools, violence in the community and poor housing in what amount to segregated

neighbourhoods also influence the health status of this population group. Larger numbers of people of African descent do not have medical insurance. The lack of sufficient resources also hampers medical check-ups and timely prevention. Ms. Biswas also pointed out that there is a lower life expectancy and a higher mortality rate in this population group.

98. Governments have to eradicate racial discrimination in health care and health research as well as eliminate environmental hazards in these communities. Efforts should be made to increase knowledge about the health of people of African descent and translate it into effective clinical practice. It was suggested that the Working Group collect information on the health of children of African descent. This would help meet the Millennium Development Goals (MDGs) with a view to reducing inequalities in health and thereby assist in improving the health of people of African descent, in particular children.

99. The Chairperson opened the floor for discussion.

100. An observer indicated that disparities need to be analyzed through a social determinant approach. Even when families have medical insurance, there is different care for children of African descent. Any disparities in healthcare should be determined as discrimination. It was commented that racism is the number one stressor for children of African descent in some developed countries, resulting in asthma, obesity and other stress related health problems.

101. It was highlighted that in the present economic crisis, governments should not reduce resources allocated to health and education due to their vital importance.

#### **Item 8: Country visits**

102. At the end of the discussion on the situation of children of African descent, the experts discussed country visits to be conducted in the coming three years. Observers suggested that the experts select countries with different profiles regarding the situation of people of African descent. Among the proposals for country visits were Brazil, Colombia and the United States of America. It was recommended that during the country visits, the experts should explore not only problems regarding the situation of people of African descent but also positive experiences that can be used as examples by other countries.

#### **Item 9: Durban Review Conference**

103. During the deliberations on item 9 of the agenda, a statement was read on behalf of several NGOs (African Canadian Legal Clinic, African Women's Movement in Europe "Sophiedela", Stichting National Monument the Netherlands, Tiye International, Pan-African Roots Organization, the University of Dayton, Afro Swedish National Association) noting with concern that some governments withdrew from the Durban Review Conference and called on all governments to participate. The issue of increased financial support for the participation of NGOs was also raised. Moreover, it was highlighted that during the Review Conference an assessment should be made of the extent to which governments have implemented the provisions of the Durban Declaration and Programme of Action. The Chairperson indicated that the Working Group will participate in the Review Conference with a particular focus on discussions that relate to the situation of people of African descent.

104. The Chairman announced that in the afternoon the experts will hold a private meeting to discuss and formulate their recommendations and conclusions, which will be presented and discussed the following morning.

105. The following morning, the Chairperson presented the draft conclusions and recommendations arrived at by the experts the day before, as well as the draft work plan of the Working Group for the period 2009-2011. He then adjourned the meeting for an hour so as to give participants the opportunity to review the documents and make consultations if necessary. When the meeting reconvened, a discussion of the draft documents took place and several small modifications were suggested. Several suggestions related to the need to reference the Convention on the Rights of the Child more explicitly in the conclusions and recommendations. Other comments related to education systems and the administration of justice, including detention, as regards children of African descent. At the end of the discussion, the experts met to consider the suggestions made.

#### **Item 10: Adoption of the conclusions and recommendations of the eighth session as well as the work plan 2009-2011**

106. The Chair opened the meeting with a brief presentation on the conclusions and recommendations and invited the other experts to make concluding remarks. Several Governments expressed their satisfaction with the session, the conclusions and recommendations and the work plan, as did other participants. A final amendment to one of the conclusions was suggested and agreed to by the experts and the conclusions and recommendations were adopted by the Working Group, along with its work plan for the period 2009-2011. The Chairperson then made his closing statement and the eighth session was concluded.

### **III. CONCLUSIONS AND RECOMMENDATIONS**

#### **A. Conclusions**

**107. The Working Group believes that it is important that it enhance its interaction with other human rights mechanisms insofar as they deal with the situation of people of African descent. Furthermore, the Working Group intends to engage with the United Nations Development Group to explore ways to enhance the effective implementation of its recommendations by States.**

**108. The Working Group similarly intends to engage with United Nations Country Teams regarding the establishment of a thematic group on diversity, ethnicity and exclusion. In order to more fully implement its mandate, the Working Group also intends to interact with international financial institutions to explore ways in which it might collaborate with them so as to improve the situation of people of African descent.**

**109. The Working Group stresses the importance of educational curricula that are designed to highlight the history, heritage and contributions of people of African descent.**

**110. In light of the special concern of the Working Group with the situation of children of African descent, it endorses and reiterates the recommendations contained in the United Nations Study on Violence Against Children and calls upon States to implement**

**them fully. It furthermore highlights the importance of the principles of non-discrimination and participation contained in the Convention on the Rights of the Child (articles 2 and 12).**

**111. Being an issue that particularly affects children of African descent, the Working Group recognizes the need for States to strengthen their legal regimes as regards the protection of children and to make all efforts to prevent the disproportionate representation of children of African descent in the juvenile justice system.**

**112. The Working Group considers that any disparity in healthcare delivery systems that exists in a State that impact negatively on children of African descent constitutes discrimination.**

**113. The Working Group identifies the issue of poverty as particularly important when analysing the situation of children of African descent and will include this subject in future sessions. The Working Group will also include the issues of social exclusion and marginalization, the right and access to housing, culture and development and the issue of hate crimes against people of African descent. With regard to the last issue, the Working Group intends to engage with the Inter-Parliamentary Union.**

#### **B. Recommendations**

**114. The Working Group emphasizes that the current global financial crisis must not be allowed to affect the enjoyment of social, economic and cultural rights by people of African descent, particularly children of African descent, and calls upon States to ensure that this does not occur.**

**115. The Working Group reiterates its request for OHCHR to establish a voluntary fund to be used to assist NGOs to participate in the sessions of the Working Group. The Working Group also calls upon States to contribute to this voluntary fund.**

**116. The Working Group reiterates its call upon those States that have not as yet elaborated national plans of action to combat racism, racial discrimination, xenophobia and related intolerance, to do so, preferably before the Durban Review Conference is held. Those States that have elaborated national plans of action are called upon to fully implement them and to inform upon such implementation at the Durban Review Conference.**

**117. The Working Group calls upon States to enhance their support of Groups of Women of African Descent and to adopt special measures to favour young women of African descent in the areas of access to healthcare, employment and education. As a factor that greatly enhances their economic emancipation, autonomy and social and political participation, the Working Group particularly encourages States to adopt measures that facilitate access to education for young women of African descent.**

**118. The Working Group calls upon OHCHR and States, in collaboration with civil society, to assist it in organizing an international conference on all aspects of the transatlantic slave trade.**

119. **The Working Group urges States to adopt special measures that address problems regarding access to education faced by children of African descent. The Working Group particularly underlines the obligation to provide free primary education as stipulated in the Convention on the Rights of the Child. The Working Group furthermore urges States to give particular attention to victims of racism while designing policies to attain the Millennium Development Goals.**
120. **The Working Group urges States to adopt special measures to address the problem of violence faced by children of African descent, in line with the provisions contained within the Convention on the Rights of the Child.**
121. **The Working Group calls upon States to ensure that children and youths are not held in detention centres where adults are held or given adult sentences, as this situation particularly affects children and youths of African descent. The Working Group also calls upon States to develop and implement a community-based restorative justice approach that ensures positive outcomes for youths and children of African descent.**
122. **The Working Group urges States to address disparities in healthcare delivery systems that may exist between children of African descent and the rest of the population. States should adopt special measures to address disadvantages faced by children of African descent regarding access to health care, in line with the provisions contained within the Convention on the Rights of the Child.**
123. **Underlining its importance in understanding the situation of children of African descent, the Working Group reiterates its recommendation that States implement mechanisms whereby disaggregated information may be effectively collected on health, education, access to housing, employment, treatment in the criminal justice system and political participation and representation of people of African descent. The Working Group, furthermore, requests OHCHR to assist it in holding an expert seminar to establish guidelines on the collection and dissemination of disaggregated data and guidelines for the creation of a Racial Equality Index.**
124. **Taking into account the often negative image of children and youths of African descent that is portrayed in the media, the Working Group reiterates its recommendation that, in association with the International Federation of Journalists, a code of conduct be drawn up that, while taking into account such fundamental issues as the right to freedom of expression, combats racial discrimination against people of African descent by elaborating standards that must be adhered to so as to eliminate the projection and perpetuation, through the traditional media and new technologies, of negative images and stereotypes of Africa and people of African descent. The Working Group, furthermore, calls upon States to develop and implement an information and education campaign to combat negative stereotyping of children and youths of African descent.**
125. **As a measure to address discrimination faced by children of African descent, the Working Group reiterates its recommendation that States and international and regional organizations establish independent bodies, where they do not already exist, to receive complaints by people of African descent of discrimination in accessing housing, education, health, employment and other fundamental rights.**

**Annex I**

**AGENDA**

1. Opening of the session.
2. Election of the Chairperson-Rapporteur of the Working Group.
3. Adoption of the agenda.
4. Organization of work.
5. Review and discussion of the work of previous sessions.
6. Programme of work for future sessions.
7. Discussion on and analysis of the situation of children of African descent.
8. Country visits.
9. Durban Review Conference.
10. Adoption of the report.

## **Annex II**

### **LIST OF PARTICIPANTS**

#### **A. Members**

Mr. Joe Frans (Chairperson-Rapporteur)

Mr. Ralston Nettleford

Ms. Najcevska Mirjana

Ms. Maya Fadel Sahli

Ms. Monorama Biswas

#### **B. States Members of the United Nations represented by observers**

Algeria, Angola, Austria, Azerbaijan, Bahrain, Barbados, Benin, , Bosnia and Herzegovina, Burkina Faso, Burundi, Chile, China, Colombia, Costa Rica, Cuba, Czech Republic, Djibouti, Dominican Republic, Ecuador, Egypt, Ethiopia, France, Germany, Ghana, Greece, Guatemala, Haiti, Iran (Islamic Republic of), Japan, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mexico, Nepal, Nigeria, Panama, Philippines, Portugal, Qatar, Saudi Arabia, Senegal, Serbia, Singapore, Slovakia, South Africa, Sri Lanka, Sweden, Switzerland, Thailand, the Former Yugoslav Republic of Macedonia, Uganda, Venezuela (Bolivarian Republic of), Zimbabwe.

#### **C. Non-Member States represented by observers**

Holy See.

#### **D. Intergovernmental organizations**

African Union, European Commission, European Council, Organisation internationale de la francophonie, Organization of the Islamic Conference.

#### **E. United Nations**

UNICEF.

#### **F. Non-governmental organizations in consultative status with the Economic and Social Council**

African-Canadian Legal Clinic, Association for the Protection of the Environment (APE), Association of World Citizens, CIVICUS-World Alliance for Citizen Participation, December Twelfth Movement International Secretariat, Dominicans for Justice and Peace, International Association against Torture, International Association for integration, dignity and economical advancement (IDEA), International Commission of Jurists, International Indian Treaty Council, Movement Against Racism and for Friendship among Peoples (MRAP),

Romanian Independent Society of Human Rights, International Save the Children Alliance, International Youth and Student Movement for the United Nations,, United Nations Watch.

**G. Non-governmental organizations not in consultative status  
with the Economic and Social Council**

Afro-Swedish National Association, Espacio Afroamericano, Land Center for Human Rights, Stichting Nationaal Monument Nederlands Slavernijverbden, Youth Against Racism.

**H. National Human Rights Institutions**

National Council of Human Rights Egypt.

**I. Other observers**

Palestine.

**J. Academics**

University of Dayton School of Law.

**K. Panellists and presenters**

Ms. Alma Jenkins, UNICEF

Ms. Veronica Birga, OHCHR

Mr. Renato Roseno de Oliveira, NGO Brazil

**Annex III**

**LIST OF DOCUMENTS**

Symbol	E	F	R	S	C	A	Title
A/HRC/10/AC.3/1	X	X	X	X	X	X	Agenda
A/HRC/10/AC.3/1/Add.1	X	X	X	X	X	X	Annotated agenda
A/HRC/10/AC.3/2	X	X	X	X	X	X	Modalities of the Working Group of Experts on People of African Descent and thematic analysis of the situation of children of African descent: note by the Secretariat.

## **Annex IV**

### **WORK PLAN 2009-2011**

#### **Annual sessions**

The Working Group intends to look at ways to encourage higher attendance and more active participation in its sessions. The Working Group also intends to explore ways and means of making its work more visible.

The Working Group recognizes that the holding of its sessions in January each year has not favoured the ability of many delegates and observers to participate. The Working Group shall consult with the Human Rights Council regarding the possibility of holding its sessions at a later time in the calendar.

The Working Group recognizes that it will need to revisit some of the themes already studied. It will however prioritize the following themes during the ensuing three years.

The Working Group identifies the dichotomy of rural versus urban as particularly impacting upon the situation of people of African descent and will include this analysis and a gender-specific analysis in future sessions. Other themes that it will discuss include poverty, social exclusion and marginalization, the right and access to housing, culture and development and hate crimes and inter and intracultural education, as related to people of African descent.

#### **Country visits**

The Working Group will endeavour to undertake at least one country visit every year over the next three years.

#### **Special reports and studies**

The Working Group may undertake or commission special thematic studies, collaborate on articles and if required, take part in public activities to present the work of the Working Group.

#### **Public meetings**

The Working Group requests OHCHR to assist it in holding a two-day public meeting with victims of racism and hate crimes against people of African descent, in order to better inform itself of the needs and opinions of these victims.

The Working Group will seek, in collaboration with others, to organize public meetings with specific groups, organize workshops on specific themes to produce practical guidelines and take part in debates and discussions. It will seek to take part in the Durban Review Conference.

#### **Seminars, workshops and conferences and colloquia**

The Working Group intends to organize relevant seminars, workshops, conferences and colloquia, according to the availability of funds, on themes such as gender, children and youth, the trans-Atlantic slave trade, poverty, social exclusion and hate crimes directed at people of African descent.

### **Consultations and interaction with other institutions**

The Working Group intends to request the following institutions to facilitate round table consultations with them in order to enhance its interaction and collaboration with them. The following members will be lead members for contacts with the following organizations:

International Financial Institutions including, the Organisation for Economic Co-operation and Development (OECD), the African Development Bank (ADB) and the World Bank	Mr. Frans
UNESCO	Mr. Nettleford (culture and development) Ms. Sahli (education)
UNICEF and Committee on the Rights of the Child	Ms. Najcevska
International Labour Organization	Ms. Najcevska
Inter-Parliamentary Union	Mr. Frans
UNDP/MDGs	Ms. Sahli and Ms. Najcevska
WHO	Ms. Biswas
International Federation of Journalists	Mr. Nettleford

### **Activities for 2009**

#### **Annual sessions**

Planning for 2010 session.

#### **Country visits**

2 country visits.

#### **Special reports and studies**

2 special reports.

2 articles.

#### **Public meetings**

To be held in collaboration with civil society in November.

#### **Consultations and interaction with other institutions**

Lead expert will consult and recommend activity.

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