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## Human Rights Council

### **Eighteenth session**

Agenda item 9

**Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action**

## **Report of the Working Group of Experts on People of African Descent on its tenth session (Geneva, 28 March – 1 April 2011)**

*Chairperson-Rapporteur:* Mirjana Najchevska

### *Summary*

At its tenth session, the Working Group of Experts on People of African Descent engaged in a thematic discussion on the situation of people of African descent in the context of the International Year for People of African Descent 2011, as proclaimed by the General Assembly in its resolution 64/169. The members of the Working Group and invited expert panellists made presentations on the topics of Durban +10; an overview of the current situation faced by people of African descent; positive action to combat discrimination against people of African descent; the contribution made by people of African descent in global development; and the lack of knowledge of the culture, history and traditions of people of African descent by themselves and others.

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## **I. Introduction**

1. The Working Group of Experts on People of African Descent held its tenth session from 28 March to 1 April 2011 at the United Nations Office at Geneva.
2. The Chief of the Rule of Law, Equality and Non-Discrimination Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR) opened the session.
3. The Working Group elected Mirjana Najchevska as its Chairperson-Rapporteur.
4. The present report reflects the general course of the debate.

## **II. Organization of the session**

5. During its tenth session, the Working Group held nine public meetings and one private meeting. It was attended by the members Mirjana Najchevska, Maya Sahli, Linos-Alexander Sicilianos, Monorama Biswas and Verene Shepherd, as well as by observers from 41 Member States and one non-Member State, 18 non-governmental organizations, three international organizations, two intergovernmental organizations, six invited panellists and a keynote speaker.<sup>1</sup>

### **A. Opening of the session**

6. The United Nations High Commissioner for Human Rights delivered the opening address. She welcomed the decision of the Working Group to focus its tenth session on the International Year for People of African Descent and reiterated the pivotal role of the Working Group in achieving the objectives of the Year. She stressed that one of the most important goals of the Year was to raise awareness of the continuing problems facing people of African descent, especially those stemming from racism and racial discrimination. The High Commissioner noted that the Year was also an opportunity to recognize and celebrate the many contributions that Afro-descendants had made to the societies in which they live.

7. The High Commissioner reported that, in preparation for the International Year, OHCHR had drawn up a framework for action to combat discrimination against people of African descent providing a conceptual structure for the current activities of OHCHR regarding people of African descent, as well as the initiatives that would be carried out to mark the Year. She stressed that the framework set in motion an ongoing, coordinated programme designed to produce concrete results and strengthen her Office's leadership in combating discrimination against people of African descent.

8. The High Commissioner stated that OHCHR had organized and serviced thematic panel discussions at the sixteenth session of the Human Rights Council and at the seventy-eighth session of the Committee on the Elimination of Racial Discrimination. She also reported that people of African descent was made the theme of the commemoration in 2011 of the International Day for the Elimination of Racial Discrimination. She stressed that a number of other activities would follow throughout the year, including cultural side events

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<sup>1</sup> All working papers submitted by the experts and participants are available from the secretariat and on the website of the Office of the High Commissioner at <http://www2.ohchr.org/english/issues/racism/groups/african/4african.htm>.

during the sessions of the Human Rights Council and the creation of a fellowship programme for young people of African descent to come to Geneva and learn about human rights and how the different United Nations human rights mechanisms work. The High Commissioner highlighted that, in planning these activities, OHCHR had adopted the theme of “Recognition, justice and development” proposed by the Working Group for the Year.

## **B. Election of the Chairperson-Rapporteur**

9. During the 1st meeting, on 28 March, the experts of the Working Group elected Mirjana Najchevska as Chairperson-Rapporteur.

10. In accepting the role of Chairperson, Ms. Najchevska pointed out that great achievements had been made in 2001 at the World Conference against Racism, where States recognized, *inter alia*, that people of African descent had suffered greatly from racism and racial discrimination and committed to taking measures to address this situation. She stated that the International Year for People of African Descent provided States and other stakeholders with a unique opportunity to manifest their commitment further, in the form of activities, programmes and other actions that combat discrimination against people of African descent and address the other daily challenges that they face.

11. The Chairperson noted with appreciation that the slogan “People of African descent: recognition, justice and development” adopted by the Working Group as its “mantra” for the International Year during its previous session had also been adopted by OHCHR and that it was already being used as a leading title for announcing the Year and activities related to it by some non-governmental organizations and forums. She invited all other actors to do the same, stressing that real and positive change in the lives of people of African descent could be achieved if actions to combat discrimination against this vulnerable group were consolidated around these three important ideas.

12. The Chairperson stated that, in its discussions during the session, the Working Group would seek to clarify the situation of people of African descent and arrive at recommendations for action addressing the continuing challenges.

## **C. Organization of work**

13. At the 1st meeting, the Chairperson presented the agenda and programme of work and suggested that they be modified in order to accommodate the keynote address being made on the third day instead of the first, and that the order of discussion on two topics be reversed so as to accommodate a presentation to be made via a video link from Panama. The revised agenda and programme of work, as orally amended by the Chairperson, were adopted accordingly.

## **D. Keynote address under agenda item 5**

14. Professor Sir Hilary Beckles was invited to give the keynote address at the tenth session of the Working Group.

15. Mr. Beckles provided an historical overview of slavery and the transatlantic slave trade. He emphasized that it was essential to place the present and the future in the context of historical past, as they were all interlinked. For centuries, Africa had been at the centre of mineral resources interests; nowadays, even countries that had not been involved in slavery and the slave trade had been trying to gain access to such mineral resources.

16. Mr. Beckles also referred to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in 2001. In this regard, he highlighted the refusal of Western countries to address the issue of reparations.

17. The keynote speaker pointed out that the denial of historic truth was unacceptable and that many families of victims of the slave trade, in different countries, continued to face the consequences of this crime. The reason why Haiti continued to be one of the poorest countries in the world was mainly due to the fact that it was forced to pay reparations to France following its independence.

18. The speaker noted that slavery and the slave trade had a dreadful impact on national health care, education and infrastructure, and that they led to massive illiteracy and poverty. Nowadays, the same countries that suffered from slavery were very often defined as “failed States” and considered a threat to democracy and security as a lack of rule of law and democracy provided a fertile ground for terrorism.

19. In response to the keynote address, a representative of civil society suggested that the Human Rights Council should recognize, in a resolution, the importance of the Haitian, French and American revolutions as contributions to the development of human rights. These events could also be acknowledged in the context of the tenth anniversary of the Durban Declaration and Programme of Action.

20. A delegate emphasized that remedies were linked to the acknowledgment of responsibilities and that issuing statements of regret for the past by some States did not necessarily mean an apology and an acknowledgment of their responsibilities.

21. Mr. Sicilianos pointed out that reparations had to be in a credible form. It was difficult to calculate such human suffering in financial terms. He noted that historical monuments were important forms of reparations, because they demonstrated that States accepted responsibility for their acts of the past, which in general terms improved dialogue among States. Symbolic acts and the adoption of measures guaranteeing non-repetition of such tragedies were also essential.

22. In response, Mr. Beckles noted that the concept of aid empowered the giver, whose act was triggered by sympathy. He emphasized that the nature of reparations is completely different as it is an act of justice, returning what was taken from the countries and the victims. Reparations were not about confrontation. It is a healing process and a step towards the future.

23. Mr. Beckles pointed out that special measures should not be confused with reparations. He noted that, while special measures were implemented at the national level by a Government towards its own population, reparations addressed international responsibilities and were made at the international level.

24. The keynote speaker emphasized that reparations should be in the form of financial redress. Legal practitioners already addressed issues and practices relating to reparations for victims of the Holocaust; this could be a good starting point for transferring knowledge and applying it to the victims of slavery and the slave trade. He suggested that an international, intergovernmental reparation agency be established so that individual countries did not have to bear individually the financial burden. Another possibility was to create reparation agencies or committees at the regional level, for example one in the Caribbean, one in Africa one, and so on, which could negotiate on behalf of their respective communities. He also suggested establishing a reparation fund at the international level, which would finance specific projects addressing the consequences of slavery and the slave trade, such as research on health and assistance for health care and education.

25. The speaker also highlighted the existence of academic racism, which led to the perpetuation of racist philosophies. He pointed out that it was important to reflect historical

facts correctly in school curricula. Moreover, he encouraged States where slavery and the slave trade took place to build museums to preserve the past and give visibility to historical acts that would facilitate the reparation process.

### **III. Summary of deliberations**

#### **A. Briefings by members of the Working Group under agenda item 6**

##### **1. Participation in the Forum on Minority Issues**

26. Ms. Sahli provided an overview of the third session of the Forum on Minority Issues, where the focus was put on effective participation of minorities in economic activities. She commended the work of the independent expert on minority issues, Gay McDougall, who had guided the Forum. The participants, of whom there were more than 500, included representatives of Governments, treaty bodies, United Nations specialized agencies, regional intergovernmental bodies and civil society. Ms. Sahli stressed that, importantly, the participants included representatives of minority communities from all regions of the world.

27. The speaker reported that the continuing challenges and problems pertaining to the effective participation of minorities in economic life and their full access to justice, health care and education had been discussed thoroughly by United Nations specialized agencies and civil society. Economic exclusion was a cause, a manifestation and a consequence of discrimination against persons belonging to minorities, many of which had historically been excluded from full and effective participation in economic life in both the developed and the developing world.

28. The speaker called on all stakeholders, including Member States, specialized institutions and civil society, to take further action to give more visibility to minorities, notably to women and children, who remained largely marginalized. Ms. Sahli also stressed the need to incorporate the multicultural aspect of societies in the national Constitution.

29. The speaker added that the debate on people of African descent was particularly fruitful, and reiterated the importance of special measures and the inclusion of people of African descent in economic activities as an effective means to combat the discrimination they faced. Ms. Sahli reaffirmed the need for Member States to ratify all relevant international legislation pertaining to minorities.

30. It was noted that, despite their growing number, people of African descent remained invisible in Europe and that more action was needed to address this issue.

##### **2. Visit to Washington, D.C. by the Chairperson**

31. The Chairperson provided an overview of her visit to Washington, D.C. in September 2010, where she met with representatives of the Organization of American States (OAS), the World Bank, the Inter-American Development Bank and civil society organizations with a view to promoting activities for the International Year.

32. The Chairperson announced that the Director of the Department of International Law of OAS had briefed her on the activities of the Organization with regard to people of African descent, including the draft inter-American convention against racism and all forms of discrimination and intolerance, emphasizing that the issue of Afro-descendants remained crucial for OAS, but that more still needed to be achieved. The Director had confirmed that regional conferences would be held by the Department in 2011, and invited the Working Group to participate.

33. The Chairperson also reported that a representative of the World Bank had given an overview of relevant activities pertaining to people of African descent carried out by the Bank, such as income-generating projects and a project assisting the national censuses that had been conducted in the Americas in 2010. The representative had suggested that any conferences held in the context of the International Year would benefit from preparatory videoconferences involving non-governmental organizations, as this would generate greater interest in the main conference itself.

34. A representative of the Inter-American Development Bank had provided an overview of the work of the Bank pertaining to Afro-descendants and the projects that it was funding, including one examining race and the collection of data in the context of the many censuses conducted in the region in 2010. Another initiative was the creation of an inventory of projects relating to people of African descent that had been funded by the Bank over the years. This initiative would involve a public meeting in Washington, D.C. The Chairperson stated that the Bank was also considering developing a project with Prolead, a fund within the Bank that promotes the leadership of women, for women of African descent. Ms. Morrison suggested that the Bank could carry out such a project in partnership with OHCHR as a side event to the session of the Human Rights Council.

35. The two meetings held with non-governmental organizations revealed that there was a dearth of knowledge about the 2011 International Year for People of African Descent among American non-governmental organizations. For most, the visit by the Chairperson was the first time they had heard about the Year. It was agreed that information on the Year would be sent to the non-governmental organizations so that they could raise awareness about it with other non-governmental organizations with which they had contact.

36. The Chairperson stressed that all institutions and non-governmental organizations had demonstrated great interest in the work of the Working Group and in engaging actively in activities to mark the International Year.

### **3. Participation in the Human Rights Day event in New York**

37. The Chairperson briefed attendees on her participation in the launching of the International Year for People of African Descent, which was held in December 2010 in New York. The Year had been launched by the Secretary-General and by the Assistant Secretary-General for Human Rights on the occasion of Human Rights Day, on 10 December.

38. The Chairperson expressed her disappointment, which was echoed by a number of experts and delegates in the room, at the weak interest shown by Member States in the event launched by the Secretary-General, where few delegations were present. She also stressed that the theme of "Recognition, justice and development" proposed by the Working Group had not been endorsed but only welcomed by the General Assembly. Several participants commented that significant financial means would be required to implement activities within the framework of the International Year, and that this would be an indication of the political will of States with regard to the Year.

## **B. Discussion under item 7 on Durban + 10 on developments regarding people of African descent**

39. The Chairperson gave a presentation on the achievements of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. She stressed that at no other conference had racially motivated colonialism and slavery been examined in such detail, and recalled that never before had these practices been condemned as crimes against humanity in such clear terms.

40. The Chairperson pointed out that, despite the controversies that had tainted it, the conference became the starting point of a far-reaching process whereby States were able to come together to reaffirm their commitment to prevent, combat and eradicate all forms of racism, racial discrimination, xenophobia and related intolerance.

41. The Chairperson stressed that both the 2001 Durban Conference and the 2009 Review Conference had contributed to a greater degree of attention being paid to new challenges of racism and related intolerance, including the discrimination facing people of African descent as a group. The conference had expressly acknowledged that discriminatory, xenophobic and racist practices were particularly used against people of African descent, that generations of Africans had been oppressed by racism, colonialism and slavery, and that many still suffered from the consequences. The countries in the southern hemisphere used the 2001 and 2009 conferences to introduce their collective experience of injustice to the international human rights debate.

42. The Chairperson also reported that, while the Durban agenda had triggered new initiatives and action, racism, discrimination, xenophobia and other forms of intolerance persisted in most developed democratic States, particularly against people of African descent. She referred to a recent survey conducted by the European Union Agency for Fundamental Rights, which concluded that Roma and people of African descent were at the top of 10 groups with the highest rates of discrimination, and that thousands of cases of racist crime and discrimination remained invisible because they were not reported.

43. The Chairperson noted that neither the Durban Declaration and Programme of Action nor the Outcome Document referred to the term “Afrophobia” and called for its introduction.

44. One State observer thanked the Chairperson for her presentation, and commented that a comparison of Roma with people of African descent in the presentation was problematic. The Chairperson replied that it was not to compare roots of discrimination against Roma with those of people of African descent, but rather to show similarities in the situation of the two groups in Europe. It was important to note that there were many programmes for Roma, but none for people of African descent. Therefore, an important role of the Working Group was to raise awareness of the issue of people of African descent to the same level as the issue of Roma.

45. A member of the Working Group, Maya Sahli, stated in her presentation that the main achievement of the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was that it recognized slavery as a crime against humanity and emphasized the importance of social, economic and political perspectives in order to understand contemporary manifestations of racism and all forms of exclusion in the areas of health care, housing and education. While progress had been made by States since the Conference, including through constitutional reform and the adoption of new legislation to combat racism, many countries still lacked the political will to tackle racial discrimination efficiently.

46. Ms. Sahli reiterated the crucial importance of collecting disaggregated data to address the structural discrimination faced by people of African origin. She called for the international community to cooperate to ensure that the rights of this vulnerable group are protected and that they are made more visible. She stressed that the Durban Conference had been a starting point and that the Working Group would continue to be actively involved in the protection of the rights of people of African descent.

47. A representative from a State asked the member to explain more specifically what she thought would be the role of the Working Group in the future process. Ms. Sahli replied that the Working Group was a bridge between the United Nations and the international



community that encouraged both to take long-term action in favour of people of African descent and to strengthen cooperation among different actors.

48. Following the presentations, Ms. Shepherd noted that the country visits of the Working Group permitted efficient monitoring of the implementation of the Durban Programme of Action. Mr. Sicilianos stated that, despite the controversies, it ought to be noted that many States had ratified the International Convention on the Elimination of All Forms of Racial Discrimination since 2001, thus showing a greater interest in the fight against racism. Several panellists and representatives from non-governmental organizations stressed that, while the Durban Declaration and Programme of Action was opening a door for people of African descent, more needed to be done to make it more effective.

49. One civil society observer noted that one of the difficulties that the Durban process faced was the lack of political will to implement the Durban Declaration and Programme of Action. The observer also noted that reparation and compensation were important issues, but only a few States, such as Belgium, had made any reparations for people of African descent. The observer added that European States should acknowledge that they had benefited from the hard labour of the ancestors of people of African descent.

50. One observer from a non-governmental organization pointed out that the rising number of suicides among immigrants, regardless of their legal status, was not always recorded and thus not included in statistics. She also mentioned that immigrants from Africa in Europe often had higher qualification than locals, but their qualifications were often not recognized and nationals were preferred in the job market. Action was also needed on the issues of access to housing and medical treatment, including language support.

51. A representative from a non-governmental organization reported that the constitutional reform that followed the Durban Conference in Ecuador helped bring more visibility to Afro-Ecuadorians and enabled them to participate actively in policy discussion. The importance of reparations, notably the return of ancestral lands, was also noted.

52. Diego Moreno of the OAS Department of International Law provided an overview of what had been achieved over the past 10 years, since the World Conference against Racism, regarding the fight against discrimination affecting people of African descent in Latin America. There were 170 to 200 million Afro-descendants in the region, and OAS was mainstreaming the issue of people of African descent in order to make the group more visible and to ensure their inclusion in all sectors of society. Activities of OAS included the organization of conferences, the drafting of manuals for technical cooperation, the holding of capacity-building workshops and the drafting of various legal documents relating to people of African descent, including summaries of good practices and public policies.

53. Mr. Moreno also mentioned a project aimed at disseminating standards of protection for people of African descent that identified 19 protection standards, including rights to participation, identity, education and religion. He pointed out that OAS had established a working group in charge of the drafting of the Inter-American convention against racism and racial discrimination, which prohibits 28 grounds of discrimination and indicates factors of discrimination. The Organization was currently increasing its partnerships with various United Nations bodies, including with the Working Group and the Anti-Discrimination Section of OHCHR in order to achieve the full inclusion of people of African descent in all sectors of society.

54. An expert and an observer from civil society commented that the focus on people of African descent in the region tended to exclude Caribbean countries, despite their significant Afro-descendant population, and suggested that there should be activities devoted to these groups in the Caribbean.

55. Mr. Paixao stated that, although racism was criminalized in Brazil, this was not the case in other countries in the Americas. He raised the question of whether a normative benchmark established by OAS concerning racism should reflect this high watermark or be lower so as to be more readily attainable by the rest of the American States.

56. A representative from a State stated that his country was fully committed to contribute to the full recognition of people of African descent, and had been undertaking several activities, including the production of publications on people of African descent, awareness-raising campaigns led by students, the promotion of self-identification of people of African descent throughout the country, and the inclusion of the Afro-descendant variable in the national census.

57. Mr. Wareham of the International Secretariat of the December 12th Movement provided an extensive overview of the perspective of several non-governmental organizations on the legacy of the World Conference against Racism in 2001 and on the actions undertaken by civil society organizations since then to maintain the focus on the fight against racism and racial discrimination. In his presentation, Mr. Wareham stressed that racism was rooted in economics and that, as a consequence, people of African descent remained largely excluded from development.

58. Mr. Wareham stressed again the importance of reparation as a healing process to address the wrongs of the past. He also called for a decade for people of African descent, with the theme of “recognition, justice and development” and with Haiti at the forefront. He suggested the creation of a permanent forum for people of African descent, and appealed for funds to be allocated to ensure the participation of grass-roots non-governmental organizations in all United Nations meetings related to the fight against racism affecting people of African descent. Mr. Wareham also called for extensive mobilization to ensure that all Member States were involved at the highest levels in the high-level segment that would commemorate the tenth anniversary of the Durban Declaration and Programme of Action.

59. The discussions following Mr. Wareham’s presentation focused on the pivotal role of reparations.

## **C. Thematic discussion under item 8 on the situation of people of African descent**

### **1. Overview of the current situation facing people of African descent**

60. Mr. Linos-Alexander Sicilianos made a presentation on the current situation of people of African descent, and focused on the work of the Committee on the Elimination of Racial Discrimination in that area. He stressed that the issue of people of African descent was on the agenda of the review of periodic reports from States and in the recommendations of the Committee that followed the examination of the reports. In this context, the Committee reported that the enjoyment by people of African descent of their economic, social and cultural rights remained disproportionately lower than for most other sectors of society, and referred more specifically to the higher unemployment rate of young people of African origin in Europe.

61. Mr. Sicilianos pointed out that the discrimination faced by people of African descent was based on their race and on the colour of their skin, and that people of African descent were subject to systematic racial profiling and anti-terrorism measures. He highlighted the difficult situation endured by women of African descent, who are often victims of multiple forms of discrimination.

62. Mr. Sicilianos emphasized that people of African descent remained invisible in many countries, especially in Europe, and reiterated, *inter alia*, the importance of disaggregated data as a tool to address the marginalization of people of African descent. He stressed in that regard that the lack of data had to be resolved in order to measure and assess the vulnerability of this group and to advocate for special measures that would counter *de facto* inequalities. He specified that such data should be anonymous, as some people of African descent do not want to appear as belonging to this specific group, precisely because of the stigma attached to it.

63. The speaker stated that the Committee on the Elimination of Racial Discrimination systematically solicited disaggregated data from States, but that some countries were reluctant to collect such data because of privacy issues. Mr. Sicilianos also referred to the discrimination against people of African descent in the field of the administration of the criminal justice system, as well as in relation to the effective enjoyment of political rights and participation in the conduct of public affairs.

64. Following Mr. Sicilianos' presentation, Murillo Martinez, member of the Committee on the Elimination of Racial Discrimination, stated that the situation of people of African descent was receiving increasing attention from the Committee. He pointed out that during its upcoming session, the Committee would discuss a draft general recommendation on people of African descent and called for the experts of the Working Group to contribute to it.

65. Experts and panellists reiterated the importance of harmonizing the already existing statistical data and strongly reaffirmed that States had to gather disaggregated data in order to be able to monitor efficiently the situation of people of African descent.

66. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai, was invited by the Working Group as an expert panellist to make a presentation on the current situation of people of African descent. According to the Special Rapporteur, the issue of racial discrimination against this group was a permanent item of consideration in the activities of his mandate. He reported that the issue had been the focus of a number of his visits to countries and of several reports on, *inter alia*, structural discrimination, racism and poverty, the need for ethnically disaggregated data and statistics, the importance of the Millennium Development Goals and the impact of historical imbalances on the full enjoyment of human rights of certain vulnerable groups.

67. In his presentation, the Special Rapporteur focused on the poverty and socio-economic marginalization that people of African descent face daily, as well as on the multiple forms of discrimination faced by women and girls of African descent. He emphasized the crucial role played by education and economic empowerment in changing attitudes.

68. The Special Rapporteur also stressed the need for further cooperation and discussion between the different United Nations human rights mechanisms in order to better identify issues of concern faced by this vulnerable group and to exchange best practices aimed at protecting the rights of people of African descent at the national, regional and international levels.

## **2. Discussion on positive action to combat discrimination against people of African descent**

69. The Chairperson provided an overview of the current situation of people of African descent through a reflection on positive action. She stressed that, despite the general agreement that discrimination towards people of African descent persisted, there was systematic denial of the uniqueness of the discrimination towards this specific group, which

remained invisible in most societies. Ms. Najchevska pointed out the need to abandon the view that fighting discrimination by reacting post facto is the only approach, and called instead for the shifting of the focus from a mostly negative approach towards a positive one, that is, enabling equality. She stressed that cumulative and historical disadvantages made it difficult for members of a disadvantaged group ever to attain equal rights and to achieve legal redress, and argued that an approach based on equality would create a responsibility for Governments to build institutions and to develop policies that would prevent discrimination through specific tools aimed at enabling the equal enjoyment of rights and freedoms. She reiterated the need to implement a systematic approach in the promotion and implementation of positive action based on the use of compensatory, corrective and redistributive methods. She added that international mechanisms should play a leading role in enabling special measures directed at people of African descent, referring to the already existing developments in the cases of indigenous peoples and ethnic minorities. Ms. Najchevska insisted that people of African descent should be recognized as a group exposed to a unique form of discrimination, and called for the identification of measures designed to address the specific inequity traps that people of African descent were caught in. She reiterated her call for the establishment of a decade for people of African descent.

70. Commenting on the Chairperson's presentation, Mr. Paixao noted that positive action measures needed to be broader and inclusive in order to ensure that minorities benefited from better living conditions. Ms. Sahli noted that the three approaches introduced in the presentation – compensatory, corrective and redistributive – should be used cumulatively rather than alternatively.

71. A member of the Working Group, Monorama Biswas, gave a presentation on the perspective of the Working Group on positive action. She stressed that minorities, particularly people of African descent, found it harder to have access to decent employment and that too many of them encountered discrimination at least once at work. In order to overcome this structural discrimination, Ms. Biswas called on States to put in place national action plans that would include special measures, such as legislative, executive, administrative, budgetary and regulatory instruments, at every level of the State apparatus. They should also develop plans, policies, programmes and preferential regimes in areas such as employment, housing, education, culture and participation in public life for disadvantaged groups, devised and implemented on the basis of such instruments. She added that States should include special measures in their legal systems, whether through general legislation or legislation directed to specific sectors, as well as through plans, programmes and other policy initiatives at national, regional and local levels. Referring to the model in North America, the member pointed out that, despite the controversy that tainted it, affirmative action had produced a legacy of tangible successes, including a revolution in recruiting and hiring, and had helped to redress the country's long history of racial discrimination. She stressed that rethinking affirmative action in terms of structural inequality, exclusionary institutional practices, trans-generational disadvantages and even unconscious biases were effective ways to engage people, individual Governments and the international community on the issue.

72. Following the presentation, discussions were held on the issues of self-identification in censuses and the ever-growing problem of discrimination faced by African migrants in Europe, including in the area of employment.

73. Ms. Biswas noted that it was for each country to take into consideration the difference between vulnerable groups and to take appropriate and specific measures to tackle discrimination efficiently. She stressed that the Working Group could contribute through collecting data and country visits.

74. Ms. Sahli also mentioned the importance of identifying a common platform for people of African descent to convince States to revise legislation and constitutions in order to establish appropriate measures of affirmative action.

75. Pastor Murillo, a member of the Committee on the Elimination of Racial Discrimination, made a presentation on affirmative action and special measures. He emphasized the progress made in North America and in Europe owing to awareness-raising and positive action measures, as well as the temporary nature of affirmative action and a need for a continuous follow-up system on the application and results of these measures. This included the obligation of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to provide information in their periodic review about special measures taken. While measures of affirmative action were sometimes criticized for being “positive discrimination” and violating the right to equality, Mr. Murillo stated that the use of the term “positive discrimination” should be avoided since it causes conceptual confusion. Contrary to opinions against affirmative action measures, he stated, they ensure representation of minorities and neutralize prejudices. Quotas were a suitable way to foster fairness. States needed to endorse affirmative action but very often lacked the political will to do so.

76. Mr. Sicilianos commented that there is a question as to whether preferential treatment of a vulnerable group should be stopped when equality is achieved. He also noted that further discussion might be necessary on the conceptual framework of ‘affirmative action measures’.

77. One observer from a non-governmental organization noted the particular importance of affirmative action in the area of education, stressing that education was the most appropriate means to combat rampant discrimination against people of African descent.

78. Mr. Murillo pointed out that there was consistent and coherent jurisprudence as well as general recommendations and guidelines from the Committee on the Elimination of Racial Discrimination pertaining to affirmative action that should be referred to and relied upon.

### **3. Discussion on the lack of knowledge of the culture, history and traditions of people of African descent**

79. Ms. Shepherd made a presentation on the lack of knowledge of the culture, history and traditions of people of African descent, by themselves and others, and gave a detailed overview of the obstacles to the creation of Afro-centric societies in the Commonwealth Caribbean. She began by emphasizing that many people of African descent and of other origins were quite aware of the culture of Africa and maintained strong cultural connections with Africa, including in the areas of dance, language, religion, dress, hairstyles and cuisine, as well as through tangible sites of memory. She also pointed out that the teaching of African history in many educational institutions had resulted in a feeling of pride and dignity across the African diaspora. Ms. Shepherd explained, however, that despite great resistance to the elimination of African culture and tradition by the West, Afro-centricity had not permeated all sections of Caribbean societies, essentially because of the history of slavery and colonialism. She explained that colonial authorities tried actively to suppress all manifestations of African culture, and the remaining signs that could not be erased, such as speech patterns and skin colour, were incorporated into Creole society but were marked as inferior.

80. Ms. Shepherd pointed out that the persistence of colonial influences in Caribbean societies was an obstacle to an Afro-centric vision of their political, economic and education systems, despite great and continuing efforts to resist. Similarly, racism and the lack of respect for the culture, history and traditions of people of African descent in many

developed countries constituted major reasons for the feeling of marginalization of people of African and Caribbean ancestry, who are not aware of their heritage, given that it was not reflected in school curricula.

81. Following Ms. Shepherd's presentation, participants took the floor to stress the crucial importance of teaching the history of people of African descent as well as the need for a large-scale review of history books to incorporate the contributions that Africans and people of African descent had made to all sectors of society.

82. An observer stressed the need to develop African-centred models in justice, education and legislative systems to address past wrongs, and referred to the establishment of indigenous courts in Canada as models for dispute resolution systems that are inclusive, respectful and designed by indigenous peoples.

83. Marcelo Paixao from the Federal University of Rio de Janeiro presented a study related to item 8 (c) regarding the lack of knowledge of the culture, history and traditions of people of African descent, by themselves and others. The study highlighted results from national censuses conducted in several Latin American countries. Mr. Paixao pointed out that, in the 2000 census, nine countries had included a question on ethnicity or race, by which respondents were asked if they identified themselves as being of African descent through one of four main categories: ancestry; culture (including ethnic group, population group or nationality); phenotypic traits (skin colour, race); or feeling of belonging (without mentioning ethnic group or race).

84. Mr. Paixao pointed out that the formulation of questions on ethnicity and race in national censuses, household surveys and other data collection may influence the respective replies, reliability of collected data and consequently the visibility of people of African descent. In this regard, he also noted that it was important to know whether questions devised to determine ethnic and racial variables addressed the population as a whole or just a specific group.

85. Mr. Paixao emphasized that the collection of data, the development of public policies, the implementation of affirmative action and self-identification were all interrelated. He noted that almost all Latin American countries would have a question on people of African descent in their next national census.

86. Mr. Paixao stated that statistical data were essential for the creation of the nation-State. Such data were closely linked to the recognition of groups, the identification of challenges they faced, and public policies. In this regard, he encouraged all States to introduce racial/ethnic variables in national censuses and other data-collection initiatives as this was a prerequisite to improve conditions for these population groups.

87. Mr. Sicilianos commented that data on ethnic characteristics was sensitive information. He emphasized that it was essential that these kinds of questions were asked in an anonymous manner. He also noted that data should be disaggregated by sex, age or on other grounds, thus allowing decision makers to identify multiple forms of discrimination.

88. A representative of an international organization pointed out that it was important to design and implement rights-based public policies.

89. Mr. Paixao stated that it was essential to ensure funds for statistical studies and analysis to be carried out. He noted that this kind of data consolidated democracies and countered the invisibility of groups and the perpetuation of their problems. In this vein, he pointed out that the mortality rate for people of African descents in Brazil was higher, including maternal mortality.

90. Mr. Paixao highlighted the key role of the United Nations in ensuring data collection and analysis. Data were needed to monitor progress, produce new social consensus and

overcome inequality. He stated that proper data collection enhanced democracy because it allowed people to say what they think and to be counted in the way they want. The speaker also noted the importance of the analysis and interpretation of data, follow-up activities to data collection and the development of strategies, in accordance with collected data.

#### **4. Discussion on the contribution made by people of African descent to global development**

91. Alma Jenkins, from the United Nations Children's Fund Regional Office in Panama, gave a presentation on the contribution made by young people of African descent to the fight against racism and racial discrimination in Latin America and the Caribbean.

92. In her presentation, Ms. Jenkins spoke about several activities undertaken by Latin American and Caribbean Afro-descendant youth groups to follow up on the World Conference against Racism. Such initiatives included the involvement of Afro-descendant youths in the preparation of shadow reports to the United Nations monitoring bodies, participation in the drafting of bills against racism, the monitoring of mass media and involvement in census data to guarantee a better visibility of people of African descent.

93. Ms. Jenkins stressed that several Afro-descendant Youth summits had been organized in Latin America and the Caribbean to ensure that the situation of young people of African descent was made visible. It was noted that the next summit of young Afro-descendants leaders would be held in Costa Rica in June 2011 and that OHCHR had been invited to participate in it.

94. The speaker made a number of recommendations that the efforts made by young people of African descent be supported by measures to enhance their inclusion in all aspect of public life. Such measures included the reinforcement of their capacity to engage actively in policy dialogue, the promotion of affirmative action in universities and academic institutions, the mapping of programmes and policies specifically designed for young people of African descent and support for intergenerational dialogue between leaders.

95. One expert noted that further efforts should be made to monitor the media and to protest against the racist stereotypes they often conveyed. The importance of creating a forum where young people of African descent could express their views and make contributions was also noted.

96. Ms. Sahli, made a presentation regarding the contribution made by people of African descent to global development. She highlighted the importance of multiculturalism and pointed out the need to enhance the mobilization of the diaspora in order to influence social and economic policies. The diaspora had reached political maturity in the United States of America, but not in Europe. The underrepresentation of people of African descent in decision-making bodies, including political structures, was linked to their invisibility. She noted the important role played by the media and international networks. In order to increase the visibility of the contributions of people of African descent, information must be collected and widely disseminated. Most of the available information focuses on contributions to sport, music and films, but not on many other areas. The potential of people of African descent had to be boosted further by States.

97. With regard to migration, Ms. Sahli pointed out that both countries of residence and countries of origin had a key role to play. She noted the significant impact of remittances on African economies and the fact that this can also reduce poverty in countries of origin. Education and access to technology could enhance the efficiency of networks at various levels. She emphasized the key role of mass media in changing stereotypes and attitudes.

98. Verene Shepherd emphasized the importance of the intellectual contributions of people of African descent, such as in various books by distinguished scholars, philosophers, experts on human rights and Nobel prize laureates.

#### **D. Discussion under item 9 on the draft conclusions and recommendations made at the tenth session**

99. The Chairperson opened the 8th meeting on 1 April with a presentation of the draft conclusions and recommendations. She invited the other experts and observers to formulate comments. A representative of a State asked about the nature of disaggregated data, as referred to in the conclusions and recommendations, and commented on the difficulty of collecting such data in those countries where it was State policy not to distinguish between different racial groups. A representative from a non-governmental organization commented that any recommendation referring to reparations for victims of the slavery and the slave trade should identify who exactly was owed reparations. A representative of a State commented that the issue of reparations would best be studied separately and that it would be extremely difficult to calculate any reparations for slavery and the slave trade.

100. A representative of a non-governmental organization suggested that the conclusions and recommendations should include a reference to combating denial of the slave trade. Several observers commented on the use of the term “Afrophobia”, some suggesting that its meaning was unclear and others that it did not add value to the current discourse on the rights of people of African descent. Others were very much in favour of its use. A representative from a regional group commented that reparations for the transatlantic slave trade was a divisive issue that had jeopardized the 2001 Conference and that recognizing that the slave trade was a crime against humanity did not imply that the issue of reparations for people of African descent was a human rights issue. The representative asked for clarification concerning the nature of the “special mechanism” to reopen the discussion on reparations referred to in the recommendations. Another representative of a State commented that the issue of reparations was presented in a balanced way in the document and did not prejudge future discussions on the subject.

101. A representative from a regional group stated that positive and affirmative action measures that targeted one specific group could be problematic and that judgements from the European Court of Justice had highlighted the difficulty of combining the promotion of equal treatment with affirmative action in favour of one group of individuals. In reference to the conclusion of the Working Group noting the absence from the session of many Western and a significant number of Caribbean countries, the same regional group representative commented that a representative of its regional group had been present throughout the session.

102. A representative from a non-governmental organization commented that the theme proposed by the Working Group for the International Year for People of African Descent, “Recognition, justice and development”, had enjoyed wide acceptance from civil society, many Member States and OHCHR. A representative from another non-governmental organization commented that there was a connection between the legacy of the slave trade and the situation of migrants from Africa, adding that relevant conventions on the rights of migrants were not being fully complied with. A representative from a regional group commented that a reference to migrants and asylum-seekers in the conclusions and recommendations was not relevant, because there was no evidence that people of African descent were disproportionately affected. A representative of a non-governmental organization stated that the conclusions and recommendations should include reference to the right of African descendents to physical space to recreate their culture and the right to territorial sovereignty of Afro-descendents. It was further suggested by the representative of



another non-governmental organization that the recommendations should include a call for a fund to be created for the development of people of African descent in the Americas.

103. A representative of a non-governmental organization proposed that the conclusions should include an expression of regret that few States had taken the initiative to launch or conduct activities to highlight the International Year for People of African Descent. The representative also suggested the inclusion of a recommendation urging States to take action in this regard during the remainder of the Year. Another non-governmental organization recommended that OHCHR should establish a special fund to facilitate the participation of civil society in the meetings of the Working Group. The representative also suggested that there should be a recommendation addressing the issue of traditional lands and the forced displacement of people of African descent. A representative of a State stressed the importance of learning from the experiences of the Forum on Indigenous Peoples and ensuring the collaboration of the Working Group with other mechanisms. A representative from a regional group commented that structural discrimination was a vague term that did not add value compared with the concepts of multiple discrimination or direct and indirect discrimination. In reference to the Working Group's recommendation concerning the tenth anniversary of the Durban Declaration and Programme of Action to be held in September 2011, the same representative stated that the Working Group was not in a position to decide on the modalities of a high-level meeting of the General Assembly.

104. Following the discussion, the amended conclusions and recommendations were adopted at the 9th meeting by the Working Group. Several participants, including representatives of Member States and civil society, made statements in support of the Working Group, praised the quality of the presentations made during the week and congratulated the Chairperson for her stewardship of the session. The Chairperson then made her closing statement and closed the tenth session.

## IV. Conclusions and recommendations

### A. Conclusions

**105. The Working Group is concerned that, despite wide acceptance by States, the Durban Declaration and Programme of Action, and especially the provisions relating to people of African descent, is not being implemented effectively as envisaged because of lack of political will and commitment by States.**

**106. The Working Group reiterates its call to all Governments to demonstrate the required political will for and commitment to the effective implementation of the Durban Declaration and Programme of Action, in particular concerning the provisions relating to people of African descent. In this context, the Working Group welcomes the high-level meeting of the General Assembly on 22 September 2011 and recognizes the importance of the meeting being allocated the time needed for the involvement of Heads of State and Government to make their contributions encouraging the effective implementation of the Durban Declaration and Programme of Action.**

**107. The Working Group underlines the importance of States enhancing the visibility of people of African descent, and discrimination against them, especially through the collection and use of credible and comparable disaggregated data.**

**108. The Working Group reaffirms that the slave trade and slavery are crimes against humanity and should always have been so, especially the transatlantic slave trade (Durban Declaration and Programme of Action, paragraph 13). The Working**

Group recognizes that reparation for the transatlantic slave trade and slavery is a human rights issue that must be addressed adequately.

109. Mindful of the factual circumstances and standard of living of many people of African descent, the Working Group emphasizes the need for positive and affirmative action in order to contribute to the achievement of equal enjoyment of their rights.

110. The Working Group underscores the importance of collecting disaggregated data to enable recognition of people of African descent as a minority and/or vulnerable group within societies, as appropriate. The Working Group also underlines the importance of recognizing the fact that people of African descent, where they consider themselves a minority group, should be covered by international instruments on minorities.

111. The Working Group recognizes the fact that respect for diversity and multiculturalism is a means to intensify the fight against racism, racial discrimination, xenophobia and related intolerance. In this regard, the Working Group underlines the importance of education in fighting stereotypes and prejudices against people of African descent, and encourages the promotion of greater knowledge of and respect for diverse heritages and cultures.

112. The Working Group notes the absence from its tenth session of many Western and a significant number of Caribbean countries. The Working Group believes that their presence would enhance and enrich the discussion on the improvement of the conditions of people of African descent.

113. The Working Group underlines the need for the criminalization of racism and racial discrimination, in accordance with article 4 of the International Convention on the Elimination of Racial Discrimination. The Working Group concludes that the deleterious effects of the transatlantic slave trade and slavery can still be found in racist attitudes towards, and the conditions of existence of, people of African descent.

114. The Working Group notes that insufficient attention has been paid to the contributions of people of African descent to world development.

115. The Working Group is concerned by information received during its tenth session regarding treatment and deportation disproportionately affecting migrants, asylum-seekers and refugees of African descent.

116. The Working Group recognizes the efforts that have been made by regional and international organizations with regard to people of African descent in the context of the Durban process, and stresses the importance of collaborating, when appropriate, and continuing to strengthen its relations with these organizations.

## **B. Recommendations**

117. The Working Group urges States and specialized agencies of the United Nations, as appropriate, to implement, as a priority, the provisions pertaining to people of African descent in the Durban Declaration and Programme of Action and the Outcome Document of the Durban Review Conference, as well as the present and previous recommendations of the Working Group.

118. The Working Group recommends that OHCHR include, in the database on practices to combat racial discrimination that it is currently developing, a section devoted to the situation of people of African descent.

119. The Working Group reiterates its call to the United Nations to introduce the use of the term “Afrophobia” in its work in order to highlight the special and unique

discrimination faced by people of African descent, since analogous terms are used to address the stigmatization and prejudice against ethnic, religious and other vulnerable groups.

120. The Working Group calls on States to recognize the continuing consequences of the transatlantic slave trade and slavery on people of African descent and the historic disadvantage and marginalization of this group, and to develop comprehensive affirmative action programmes, as appropriate, to reduce the high rate of poverty, unemployment, underemployment and underrepresentation among African descendants.

121. The Working Group calls upon the United Nations to establish a special mechanism that would reopen the discussion on reparations for slavery and the transatlantic slave trade, and study the adequate forms of such reparations.

122. The Working Group calls on States to engage in comprehensive reform of their education systems, including human rights education and training, with a view to addressing stereotypes and prejudices against people of African descent. The Working Group recommends that the themes of the transatlantic slave trade and slavery be adequately covered in history text books.

123. The Working Group urges States to recognize the unique situation of African-descendant youth and to implement targeted opportunities and specific measures that promote and advance the development of leadership and active participation in all sectors of society.

124. The Working Group recommends that OHCHR strengthen its coordination with the relevant structures of regional organizations dealing with people of African descent.

125. The Working Group calls upon States Members of the United Nations to investigate information regarding the treatment and deportation disproportionately affecting migrants, asylum-seekers and refugees of African descent, and to reconsider their respective policies, as appropriate.

126. The Working Group strongly recommends that the international community declare an international decade for people of African descent to make the challenges they face more visible, to identify solutions and to engage in a sustained campaign to eradicate structural discrimination against people of African descent. The theme proposed by the Working Group for the International Year, and which was widely accepted in the international community, should be adopted as the theme of the decade, namely “People of African descent: recognition, justice and development”.

## 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. Keynote address.
6. Briefings with regard to:
  - (a) Participation of the Working Group in the Forum on Minority Issues;
  - (b) Visit to Washington by the Chairperson of the Working Group;
  - (c) Participation of the Working Group in the Human Rights Day event held in New York.
7. Durban +10: update of the Working Group.
8. Thematic discussion on the situation of people of African descent:
  - (a) Overview of the current situation;
  - (b) Perspective of the Working Group on positive discrimination;
  - (c) Contribution by people of African descent to global development;
  - (d) Lack of knowledge of culture, history and traditions of people of African descent by themselves and others.
9. Presentation and discussion of conclusions and recommendations of the Working Group.
10. Adoption of the conclusions and recommendations of the Working Group at its tenth session.

## Annex II

*[English only]*

### List of participants

#### A. Members

- Mirjana Najchevska (Chairperson)
- Linos-Alexander Sicilianos
- Maya Fadel-Sahli
- Verene Shepherd
- Monorama Biswas

#### B. Member States

Algeria, Angola, Argentina, Austria, Bahrain, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Chile, Côte d'Ivoire, Cuba, Ecuador, Egypt, France, Ghana, Greece, Guatemala, Haiti, India, Jamaica, Japan, Kenya, Lesotho, Mexico, Morocco, Nigeria, Pakistan, Panama, Portugal, Russian Federation, Rwanda, Serbia, Singapore, South Africa, Sudan, Switzerland, Tunisia, Uganda, Uruguay, Venezuela (Bolivarian Republic of), Zimbabwe

#### C. Non-Member States

Holy See

#### D. International organizations

United Nations Population Fund, United Nations High Commissioner for Refugees, United Nations Children's Fund (UNICEF)

#### E. Intergovernmental organizations

European Union, Organization of American States

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

African Canadian Legal Clinic, Action internationale pour la paix et le développement dans la région des Grands Lacs (AIPD-GL), African Commission of Health and Human Rights Promoters, Association of World Citizens, Cercle de recherche sur les droits et les devoirs de la personne humaine (CRED), Committee International for the Respect and Application of the African Charter on Human Rights (CIRAC), Culture of Afro-indigenous Solidarity, International Secretariat of the December 12th Movement, Foundation of National

Monument Dutch Slavery Past, Human Rights Congress for Bangladesh Minorities (HRCBM), International Association against Torture, International Youth and Student Movement for the United Nations (ISMUN), Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP), Rencontre africaine pour la défense des droits de l'homme, Tiye International, World against Racism Network (WARN)

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

Espace Afrique International, Mouvement international pour les réparations

**H. Panellists and presenters**

- Hilary Beckles, Principal of the University of the West Indies
- Githu Muigai, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- Pastor Murillo, member of the Committee on the Elimination of Racial Discrimination
- Diego Moreno, Department of International Law, Organization of American States
- Roger Wareham, International Secretariat of the December 12th Movement
- Marcelo Paixao, Federal University of Rio de Janeiro
- Alma Jenkins, UNICEF, Regional Office in Panama

## Annex III

### List of documents

<i>Symbol</i>	<i>Title</i>
A/HRC/18/AC.3/1	Provisional agenda
A/HRC/18/AC.3/1/Add.1	Annotations to the provisional agenda
A/HRC/18/AC.3/2	Note by the Secretariat

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