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

**Report submitted by Mr. Doudou Diène, Special Rapporteur
on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance***

* This document is submitted late so as to include the most up-to-date information possible.

Summary

This report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance is submitted pursuant to Human Rights Council decision 5/1. It examines in greater detail the current worrying trends in racism and xenophobia to which the Special Rapporteur drew attention when introducing his interim report (A/62/306) to the General Assembly at its sixty-second session. The present report should be read in conjunction with the updated report on political platforms which incite or encourage racial discrimination, submitted by the Special Rapporteur to the Human Rights Council at its fifth session, and his latest report on combating the defamation of religions, submitted to the Council at its sixth session.¹

Efforts to combat racism, racial discrimination, xenophobia and related intolerance are encountering a number of serious major challenges manifested by the following worrying trends, details of which are given in this report: erosion of the political will to combat racism and xenophobia, as shown by the non-implementation of the Durban Programme of Action; the resurgence of racist and xenophobic violence; the growing political trivialization of racism and xenophobia, demonstrated by the spread of racist and xenophobic political platforms and by their implementation through government alliances with democratic parties; the ideological, scientific and intellectual legitimization of racist and xenophobic discourse and rhetoric, which favours an ethnic or racial interpretation of social, economic and political problems and immigration; the general increase in manifestations of racial and religious hatred, and also religious intolerance, reflected in particular in manifestations of anti-Semitism and Christianophobia and, more especially, Islamophobia; and the increasing importance in identity constructs of a rejection of diversity and resistance to the process of multiculturalization of societies. The Special Rapporteur devotes a chapter to discrimination based on caste, which he considers to be implicit in his mandate.

To reverse these worrying trends, the Special Rapporteur is continuing to promote, in all his activities, the development of a dual strategy: political and legal, on the one hand, aiming to arouse and strengthen the political will of Governments to combat racism and xenophobia and enabling States to acquire the legal and administrative instruments for this purpose, in line with the Durban Declaration and Programme of Action; and cultural, intellectual and ethical, on the other hand, targeting the root causes of those trends, in particular the value systems which legitimize them, the identity constructs - including the writing and teaching of history - which support them, and the rejection of diversity and multiculturalism which sustains them.

In 2007, the Special Rapporteur undertook visits to Lithuania, Latvia, Estonia, the Dominican Republic and Mauritania. The details of these visits can be found in the addenda to this report (A/HRC/7/19/Add.4, A/HRC/7/19/Add.3, A/HRC/7/19/Add.2, A/HRC/7/19/Add.5 and A/HRC/7/19/Add.6 respectively).

¹ A/HRC/5/10 and A/HRC/6/6 respectively.

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I. MAIN OBSERVATIONS

1. Efforts to combat racism, racial discrimination, xenophobia and related intolerance are encountering a number of serious major challenges, as manifested by various worrying trends which have been comprehensively analysed by the Special Rapporteur throughout his term of office.
2. The most serious manifestation of the setback in the campaign against racism is the resurgence of racist and xenophobic violence, in particular its most serious expression - a "shift from words to action" - seen in the growing number of acts of physical violence and murders targeting members of ethnic, cultural or religious communities, which the perpetrators - neo-Nazi, nationalist or extreme right-wing groups - openly claim to be motivated by racism and xenophobia.
3. Racist violence is growing in parallel with a worrying new trend which constitutes the most serious threat to democracy and human rights: the political trivialization and democratic legitimization of racism and xenophobia, resulting in particular from the pervasiveness of racist and xenophobic platforms in the political programmes of democratic parties and the ability of the political parties advocating such platforms to apply them through government alliances which ensure their visibility and access to State apparatus.
4. The intellectual legitimization of racism, xenophobia and intolerance is another worrying trend in the current growth of racism and xenophobia, as manifested, inter alia, by the increasing number of so-called scientific or literary works which, on the pretext of protecting national identity and security, develop theories characterized by an ethnic or racial interpretation of social, economic and political problems. Two examples of the trend are: the recent claims that people of African descent are intellectually inferior, made by the Nobel laureate in medicine James Watson, whose underlying desire of establishing a racial hierarchy constitutes a scientific legitimization of historical stereotypes dating from the time when racism first developed and a major setback to promotion the rights of people of African descent; and the speech made by the French President in Dakar on 26 July 2007, which is in line with this move to legitimize racism, through its incredible assertion, reminiscent of the essentialism of the racist constructs of the eighteenth and nineteenth centuries, that Africans had not made their mark on history. The invitation of 26 November 2007 extended by the Oxford Union (the Oxford University student debating society) to David Irving, the British negationist and Nick Griffin, leader of the British National Party, who advocates racist, Islamophobic and anti-Semitic policies, is also in line with this move towards the intellectual legitimization and trivialization of racism.
5. Political and intellectual tolerance of racism and xenophobia can be seen in the exclusively security-based approach to questions relating to the situation of foreign nationals, in particular immigrants, asylum-seekers and national, ethnic, religious or cultural minorities. In many countries, through an ethnic, repressive and dehumanizing interpretation of their situation, immigrants become the prime target for racism and xenophobia. This was the tone set in a speech by Kevin Andrews, the former Australian Minister for Immigration and Citizenship, who singled out African nationals as a group which had difficulty integrating into Australian society and announced a reduction for 2007-2008 in the quotas for African refugees accepted by

Australia. In France, the recent bill introducing DNA testing into the administrative procedure for persons wishing to be reunited with family members resident in France is a further serious illustration of the political use of genetics to reinforce the stigmatization of immigrants, and a blow to the ethical significance of the family, now reduced to its purely genetic aspect.

6. The growth of incitement to racial and religious hatred and the resurgence of manifestations of anti-Semitism, Christianophobia and, more particularly, Islamophobia are other particularly worrying trends. They can be attributed to the following: conflation of race, culture and religion; intellectual and ideological questioning of religion; the imbalance between the defence of secularism and respect for freedom of religion; and the supervisory and security-based approach to the practice and teaching of Islam. A particularly worrying element resulting from these developments is the selective and political interpretation of human rights and fundamental freedoms, manifested inter alia by the ideological pre-eminence of freedom of expression over the other freedoms, restrictions and limitations embodied in the International Covenant on Civil and Political Rights.

7. These trends are indicative of a ring-fencing of identity, of an intellectual and political resistance to multiculturalism, which stems from the conflict between the old national identities and the far-reaching process of multiculturalization taking place in all societies. This gives rise to identity crises that are key to the increasingly dominant idea of “integration-assimilation”, which denies the very existence of values and memories specific to national minorities and immigrants, and thus excludes their contribution to the value system, history and national identity of host countries. This idea is in fact part of the old ideology of the hierarchy of cultures, races and civilizations, on which all subjugation of peoples and legitimization of racist culture and attitudes have historically been based, thus creating fertile soil for all old and new forms of racism and xenophobia.

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Visits by the Special Rapporteur

8. The Special Rapporteur visited Lithuania, Latvia and Estonia from 16 to 28 September 2007 in order to assess two important aspects relating to his mandate: firstly, the reconstruction of the identity of these countries, which are facing tension between the reinforcement of old national identities that had been eroded by past political domination and occupation, and respect and recognition for the rights of national minorities, including those whose presence is due to the domination and occupation; and secondly, the gradual ethnic, cultural and religious multiculturalization - deriving inter alia from non-European sources - of these societies, which in other European countries is leading to attempts to defend identity and racist and xenophobic reactions. The Special Rapporteur’s observations and recommendations are contained in his mission reports (A/HRC/7/19/Add.4, A/HRC/7/19/Add.3 and A/HRC/7/19/Add.2).

9. From 23 to 29 October 2007, the Special Rapporteur made a joint visit to the Dominican Republic with the Independent Expert on minority issues. In its analysis of the extent of racism in Dominican society, the joint mission report (A/HRC/7/19/Add.5) describes the divergence of

opinions and perceptions concerning the existence of racism and discrimination between, on the one hand, the authorities and, on the other hand, civil society and the communities concerned. In the report, the Special Rapporteur analyses the key role of the historical and cultural legacy of racism in the collective subconscious, sensitivities and perceptions of Dominican society.

10. The Special Rapporteur visited Mauritania from 20 to 24 January 2008 in order to contribute to the elimination, in the context of the current remarkable move towards democracy, of the historical legacy of ethnic discrimination which has long characterized that society. A brief preliminary note on his visit is included in an appendix to this report (A/HRC/7/19/Add.6). A full report will be submitted to the Council at a subsequent session.

11. With regard to 2008 visits, the Special Rapporteur welcomes the positive responses he has received from the Governments of Canada - for a follow-up visit - and the United States of America. Recalling that the Governments of India, Pakistan and Nepal have not yet replied to either his 2004 requests to visit or the reminders he sent in 2006, the Special Rapporteur once again expresses his concern at the continued lack of response to requests for special-procedure visits. He hopes that the Human Rights Council will fully address this issue in the context of the universal periodic review.

B. Follow-up to the Special Rapporteur's visits

12. In order to provide continuous follow-up on the situation regarding racism, racial discrimination and xenophobia in the countries visited, the Special Rapporteur emphasizes the importance of pursuing the dialogue with Governments, civil society and United Nations bodies, and taking account of the expectations of the communities concerned.

13. In the context of the follow-up to his visit to Switzerland, the Special Rapporteur notes with concern the confirmation of the trend towards the political use of racism, xenophobia and intolerance in political and intellectual circles. This trend is illustrated by two recent cases of incitement by the Swiss People's Party (Union démocratique du Centre, UDC), which confirmed its status as the country's leading political party in the federal elections in October 2007: a proposed referendum on whether to ban the construction of new minarets and a campaign promoting a proposed popular initiative to deport foreign nationals who have committed a serious offence, the poster for which depicts three white sheep kicking a black sheep off a Swiss flag. The Special Rapporteur sent a letter of allegation concerning that campaign and, having carefully read the Federal Council's reply and in view of the precedents mentioned in his mission report on Switzerland² concerning, inter alia, previous UDC political campaigns, he has judged the poster to be such as to incite racial and religious hatred. Consequently, he has drawn the conclusion that freedom of expression should not act as a screen for incitement to racial and religious hatred, and that the withdrawal of the poster would be more in keeping with the recognized image of Switzerland as a country that respects human rights.

14. The Special Rapporteur welcomes the far-reaching democratic debate within Swiss society prompted by these campaigns. The extent to which the issues of racism and discrimination have

² A/HRC/4/19/Add.3.

been discussed in intellectual, social and, in particular, political circles - especially in connection with the Federal Council elections on 12 December 2007 - illustrates the vitality of democratic debate on these issues within Swiss society.

15. The Special Rapporteur has noted with great interest, in this context, the personal commitment and high degree of motivation and sensitivity of senior officials in a number of federal and local institutions, including the Anti-Racism Department, and the Federal Commission against Racism, and also cantonal and municipal integration officers. In particular, he wishes to express his gratitude to the Federal Commission against Racism for its initiative in organizing a meeting, on 6 December 2007, with the cantonal and municipal integration officers, which was also attended by senior officials of the Anti-Racism Department. The meeting not only provided an opportunity for a productive dialogue with the Special Rapporteur, but above all covered challenges, progress and obstacles relating to the promotion of mutually beneficial coexistence among communities, acceptance of diversity and multiculturalism, and efforts to combat all forms and manifestations of racism and xenophobia.

16. The Special Rapporteur has noted with great interest the election, on 21 October 2007, of Mr. Ricardo Lumengo, a former asylum-seeker of Angolan origin, to the Swiss National Council; he thus became the first black deputy to enter the lower chamber of the Federal Parliament. The Special Rapporteur considers that this election - which also testifies to the inherent democratic vitality of Swiss society - constitutes a significant step towards reinforcing the visibility and representation of communities which have long been confined to invisibility and social, economic and political marginalization because of various discriminatory practices.

17. Following up on his visit to the Russian Federation,³ the Special Rapporteur notes with concern the persistent racist and xenophobic violence in the country, manifested, inter alia, by the growing number of racist and xenophobic incidents, including those perpetrated by neo-Nazi groups, the violence of which has increasingly led to killings of non-Slavic persons originating from Africa, Asia, the Arab world and the Caucasus. In the opinion of the Special Rapporteur, the persistence of such acts, despite the remarkable increase in prosecutions and convictions for acts motivated by racial or religious hatred in recent months, represents the most serious threat not only to the construction of a democratic, egalitarian and interactive multiculturalism, but also to the progress of democracy in the Russian Federation. This persistent problem demands focused political commitment, exemplary punishments, and a large-scale intellectual and cultural strategy to guarantee harmonious coexistence in a society profoundly characterized by multiculturalism.

18. In this connection, the Special Rapporteur considers that the mobilization and dynamism of Russian civil society in combating racism and xenophobia are particularly significant. He especially appreciated the letter he received in September 2007 from the main non-governmental organizations (NGOs) involved in efforts to combat racism and xenophobia in Russia, giving full support to the recommendations made in his mission report, which were considered to be an important basis for the formulation of a national programme to combat discrimination and racism.

³ A/HRC/4/19/Add.3.

19. In the context of follow-up to the Special Rapporteur's visit to Italy,⁴ he expresses his concern at the adoption, on 28 December 2007, of a legislative decree allowing the deportation of adult citizens of European Union (EU) States who have been resident in Italy for less than 10 years and who "violate human dignity, fundamental human rights or public security". Adopted following the murder of an Italian woman, with which a Romanian member of the Roma community has been charged, this decree would appear to target the Romanian community in particular. Recalling that any deportation must be individually substantiated and appealable in a court, the Special Rapporteur also wishes to underline the importance of action to combat the exploitation, by certain media and political parties, of the fear caused by migratory pressure and the identity crisis facing Italian society as a consequence of the process of ethnic and religious multiculturalization. He also wishes to recall the extreme vulnerability and marginalization of the Roma community in Italy. The adoption of measures to punish an entire community in response to an offence committed by one of its members is a worrying example of racism and xenophobia which runs counter to the political will and positive initiatives aimed at combating these scourges highlighted by the Special Rapporteur in his mission report.

20. The Special Rapporteur particularly welcomes the action, initiated in December 2006 by the Office of the High Commissioner for Refugees in Italy, in conjunction with representatives of the National Association of Journalists and the Italian Journalists' Union, to develop a code of ethics for the media. This initiative, which is fully in keeping with the spirit and letter of one of the main recommendations of the Special Rapporteur's above-mentioned mission report, specifically concerns the treatment of information relating to immigration and asylum.

21. In a context characterized by a disturbing increase in xenophobia and manifestations of racism, the Special Rapporteur wishes to recall certain recommendations made in his mission report, including: the adoption of a law on citizenship; reform of the so-called Bossi-Fini Act regulating immigration on the basis of a security-oriented approach, which has led to the criminalization of migrants; adoption of comprehensive legislation and an overall policy on asylum; adoption of a bilateral agreement (known as an *intese*) between the State and the Muslim community; and recognition of the Roma and Sinti communities as national minorities.

22. In the context of his visit to Japan,⁵ the Special Rapporteur considers that the initiation of a dialogue between Japanese, Korean and Chinese historians is particularly significant. This initiative is in keeping with one of the main recommendations of his mission report, which encourages the joint drafting, under UNESCO auspices, of a regional history in order to resolve the historical dispute between Japan and its neighbours, in particular China and the Republic of Korea. This joint undertaking to produce a history forms part of the intellectual and cultural strategy that the Special Rapporteur recommends in order to strengthen the political and legal strategy to eradicate the root causes of racist and xenophobic attitudes and cultures.

⁴ A/HRC/4/19/Add.4.

⁵ E/CN.4/2006/16/Add.2.

23. He also wishes to mention the activities of the Japanese NGO network for the elimination of racial discrimination, which was set up on the basis of his mission report and on the initiative of the NGO International Movement against All Forms of Discrimination and Racism (IMADR). He welcomes the dialogue initiated between the network and the Government of Japan aimed at facilitating constructive dialogue between the authorities and members of the communities most affected by racism and xenophobia, including the national minorities (Buraku people, Ainu and people of Okinawa), people and descendants of people from former Japanese colonies (Koreans and Chinese), and the new immigrants from other Asian, African, South American and Middle Eastern countries.

C. Other activities of the Special Rapporteur

24. Throughout his term of office, several fundamental objectives have underpinned the Special Rapporteur's work: promoting and implementing the Durban Declaration and Programme of Action; encouraging the development of effective political, legal and cultural strategies to identify and combat the root causes of old and new forms of racism and xenophobia; and lastly, promoting the link between efforts to combat racism and xenophobia, and the construction of egalitarian, democratic and interactive multiculturalism.

25. The Special Rapporteur's activities are categorized as follows: activities to strengthen coordination with other human rights mechanisms; participation in various meetings and conferences on the resurgence of racism, racial discrimination and xenophobia; and lastly, activities to strengthen cooperation with regional organizations.

1. Enhanced coordination with other human rights mechanisms

26. The Special Rapporteur has strengthened his cooperation with the Anti-Discrimination Unit of the Office of the United Nations High Commissioner for Human Rights (OHCHR) by continuing the regular consultations begun at the outset of his mandate and by participating in the following particularly important activities: the thematic panel "Discussion and analysis of racial profiling", held in Geneva from 30 January to 1 February 2007 during the sixth session of the Working Group of Experts on People of African Descent; the high-level conference "Racism and discrimination: obstacles to development", held in Geneva on 21 March 2007 to mark the International Day for the Elimination of Racial Discrimination; a series of activities in Nepal from 23 to 27 April 2007 aimed at reinforcing the remarkable initiatives of OHCHR in the context of the current historic move towards democracy; and a meeting in Geneva on 12 December 2007 on updating the model for anti-discrimination legislation to support the action taken by States towards adopting legislation in keeping with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and which respond to the concerns expressed in the Durban Declaration and Programme of Action.

27. Lastly, in the spirit of strengthening the complementarity of their two mandates, the Special Rapporteur welcomes the invitation he has received from the Committee on the Elimination of Racial Discrimination to attend meetings at which it considers reports from States parties that he has visited in order to evaluate racism and follow-up to his recommendations.

2. Resurgence of racism, racial discrimination and xenophobia

28. In 2007, the Special Rapporteur made a number of statements concerning the resurgence of racism, racial discrimination and xenophobia and analysing the historical and cultural dimension of these problems. The most important statements are briefly outlined in the following paragraphs.

29. At the invitation of the Mayor of London, the Special Rapporteur took part in the conference entitled “A World Civilization or a Clash of Civilizations”, held on 20 January 2007. In a round table with journalists and intellectuals on the subject “Multicultural London: does it work?”, he stressed the intellectual and political resistance to multiculturalism, which is one of the underlying causes of the resurgence of racism and xenophobia.

30. From 10 to 12 May 2007 in Nürnberg (Germany), the Special Rapporteur participated in the first General Conference of the European Coalition of Cities against Racism entitled “Sharing Competence and Empowering Communities: the Role of Cities in Challenging Racism and Discrimination”. The Special Rapporteur stressed the broad scope of the Coalition’s initiative, under the auspices of UNESCO, in promoting the campaign against racism in urban areas, the central framework for the process of ethnic, cultural and religious multiculturalism.

31. In addition, the Special Rapporteur attended the fourth International Human Rights Forum on “Human rights and children”, which was held on 24 and 25 May 2007 in Lucerne (Switzerland). There he stressed the need to highlight the cultural and historical processes shaping all forms of racism, and the importance of fostering education in multiculturalism in schools, in the media and in the home.

32. The Special Rapporteur also participated in the second Global Inter-Media Dialogue, in Oslo on 4 and 5 June 2007. This initiative, which was launched in 2006 by the Governments of Indonesia and Norway in the light of the questions raised by the crisis following the publication of cartoons of the prophet Muhammed in a Danish newspaper, offers a forum where leading editors and journalists from all continents can share their experiences and views on how to promote freedom of expression, tolerance and peace. In his statement, the Special Rapporteur urged the media: to pay greater heed to the deep historical and cultural roots of racism and xenophobia; to oppose the use of freedom of expression as intellectual justification for those phenomena; and to reflect more deeply the pluralism and multicultural dynamics of most societies today in the content and structure of their articles and programmes and in their staff.

33. On 13 June 2007, the Special Rapporteur participated in the meeting of the Core Cities: Equalities and Performance Network in Liverpool (United Kingdom). This is an event which is organized annually by an integrated network of eight of England’s major cities, apart from London, to discuss these cities’ role in promoting social cohesion and equality. On that occasion he spoke of the importance of promoting the two central strategies of the intercultural dialogue in order to counteract the identity stress generated by the conflict between old national identities and the far-reaching multicultural process under way within societies: these strategies entail recognition of the various communities’ diversity and specific cultural, ethnic and religious characteristics, and the creation of cultural, economic and social conditions that will facilitate mutual knowledge and interaction between them.

34. From 12 to 15 July 2007, the Special Rapporteur took part in the eleventh biennial Open Dialogue of the Association of American Cultures, held in Denver, Colorado (United States of America) and entitled "Global Connections to Cultural Democracy". His address focused on the key issue of cultural diversity, its use as a historical, intellectual and scientific instrument to create a hierarchy of races and cultures, and the need not only to promote de facto diversity but also to enhance the value of pluralism practised out of recognition and respect for diversity and as a means of promoting it.
35. From 5 to 7 October 2007, the Special Rapporteur visited Perugia (Italy) to attend the seventh session of the *Assemblea dell'Onu dei Populi*, an annual event organized by the Tavola della Pace association and the Italian Coordinating Body for Local Communities for Peace and Human Rights, which jointly coordinate the activities of over 1,200 associations, local and national authorities, and civic and religious organizations which are committed to promoting human rights. In his address, the Special Rapporteur drew attention to the need for the all-inclusive, rather than selective, treatment of human rights and contrasted the rightful rallying of international opinion in response to the violence in Myanmar with the silence which has greeted the hundreds of victims of political repression in Guinea. He considered that media attention should not constitute the only yardstick for measuring the seriousness of human rights violations and that the main guiding principle must be universality and equal treatment.
36. At the invitation of the *Fundación Tres Culturas del Mediterráneo*, the Special Rapporteur also took part in a meeting of civil-society organizations to consider the question of discrimination against Muslims in Jaén (Spain) on 8 October 2007. This meeting provided an opportunity to discuss the following subjects in depth: the perception of the Arab and Muslim world in the media; the role of education in promoting tolerance; and coexistence and cooperation between Muslims and non-Muslims. The participants adopted a declaration which was presented at the Conference on Intolerance and Discrimination against Muslims, convened in Cordoba (Spain) on 9 and 10 October 2007 by the Spanish Chair of the Organization for Security and Cooperation in Europe (OSCE).
37. On 6 November 2007, the Special Rapporteur was invited to Washington by the United States Commission on Security and Cooperation in Europe - which helps to formulate United States policy on the Helsinki Agreements, inter alia within OSCE - in order to give a presentation of measures to counter crimes motivated by racial and religious hatred in the OSCE region. He spoke about the increasing racist and xenophobic violence, the growing activism of political parties with platforms which encourage racism and discrimination, the strategy followed by these parties and groups of gaining a foothold in government coalitions and even in the European Parliament, their rejection of multiculturalism, their bias against certain ethnic groups of immigrants and their attempts to depict them as criminals. He found that in the countries he had visited the basic ideology underpinning these renewed attempts to stir up racial and religious hatred centred on the defence of national identity and security.
38. On 28 November 2007, the Special Rapporteur took part in a conference on the follow-up to the Norwegian Plan of Action against Racism and Discrimination adopted in the wake of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban in 2001. This conference, which brought together representatives of the Government, civil society, intellectual circles and the media, offered an opportunity to evaluate the impact of the Plan of Action and to debate each of these actors' future activities in the

campaign against racism and discrimination. The Special Rapporteur was particularly impressed by the vision and commitment displayed by Ms. Manuela Ramin-Osmundsen, the Minister for Children and Equality, and by the Norwegian leaders' political determination to promote multiculturalism by appointing Ms. Ramin-Osmundsen, who was born in Martinique. He hopes that the initiative shown by Norway will galvanize other Governments, especially in Europe, into implementing the Durban Programme of Action and participating actively in its review process.

39. The Special Rapporteur also participated in a meeting organized by the International Labour Office (ILO) and entitled "Towards a strategy for trade unions in the fight against racial discrimination and xenophobia", which was held in Geneva from 4 to 6 December 2007. This meeting, which was attended by trade-union representatives from some 30 countries, drew on the experience of trade-union movements in mobilizing organized labour to combat racism and xenophobia. The Special Rapporteur, who encouraged delegates to the meeting to contribute actively to the Durban review process, considered that the trade-union movement had an essential role to play in eradicating racism and xenophobia in areas of such importance as employment and labour. He strongly recommends the Human Rights Council to cooperate closely not only with trade unions, but also with specialized agencies such as ILO, in this crucial process.

40. On 6 and 7 December 2008, the Special Rapporteur attended a consultative meeting of experts convened by the Independent Expert on minority issues in order to examine these issues and denial or loss of citizenship.

41. Lastly, on 4 January 2008, the Special Rapporteur took the initiative of drafting a press release, also signed by 13 special-procedure mandate-holders, in which he expressed his concern about the serious events which followed the elections in Kenya. In the light of the historical precedents in the region, the mandate-holders strongly appealed to the Kenyan authorities, and also political, ethnic and religious leaders, to put an end to what might turn into a spiral of inter-ethnic violence. They also called on the international community, including the Security Council, to fulfil its responsibilities in that crisis.

3. Collaboration with regional organizations

42. The Special Rapporteur participated in an expert seminar on regional standards and mechanisms to combat discrimination and protect the rights of minorities, organized on the initiative of the Independent Expert on minority issues in cooperation with OHCHR and the Organization of American States. It was held in Washington on 29 and 30 January 2007. The purpose of this gathering of representatives of Governments, United Nations human rights mechanisms, intergovernmental regional institutions and NGOs, was to make a comparative analysis of the various existing regional instruments and laws designed to combat racial discrimination and protect minorities, and in particular to analyse the preliminary draft inter-American Convention against racism and all forms of discrimination and intolerance.

43. The Special Rapporteur welcomes the collaboration which is under way with the EU's new Fundamental Rights Agency, which was set up on 15 February 2007 to replace the European Monitoring Centre on Racism and Xenophobia. The Special Rapporteur attended a meeting with Agency representatives on 12 April 2007 in Vienna, which was aimed at defining new guidelines for cooperation. While he is pleased that the EU is broadening the Agency's mandate to

encompass fundamental rights, he hopes that the Agency will continue to give high priority to efforts to combat racism and xenophobia, while at the same time promoting a holistic approach to the fight against all forms of discrimination.

44. The Special Rapporteur likewise welcomes the increased collaboration with OSCE, especially with regard to the issues of religious intolerance and the promotion of tolerance. He took part in the High-Level Conference on Combating Discrimination and Promoting Mutual Respect and Understanding, held in Bucharest on 7 and 8 June 2007. This conference examined the practical measures currently in place to combat intolerance and discrimination. While he stressed that the underlying causes of all forms of defamation of religions were to be found all over the world, he was anxious to identify certain factors specific to Christianophobia, namely, its deep historical roots, the fact that Christianity is seen as a purely Western religion and only in terms of its political and historical manifestations and ramifications, and the impact of proselytism by certain evangelical movements.

45. Lastly, in the field of regional cooperation with civil-society organizations, the Special Rapporteur took part in the Strategic Congress organized by the European Network against Racism (ENAR) in Berlin from 20 to 22 April 2007. The Special Rapporteur welcomes the commitment and vigilance of ENAR, which is a network of more than 600 NGOs working to combat discrimination in the EU, and wishes to enhance his cooperation with it, especially with regard to scheduling meetings with civil society during visits to EU countries, organizing follow-up to his visits and the implementation of his recommendations.

III. CONTEMPORARY MANIFESTATIONS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

46. In this section the Special Rapporteur wishes to draw the Council's attention to what he deems to be particularly alarming manifestations of racism, racial discrimination and xenophobia. He considers that these manifestations are of crucial importance and should be discussed in depth in the context of the Durban Review Conference and, especially at the regional preparatory conferences.

A. Political programmes which incite or encourage racial discrimination

47. The question of political programmes which incite or encourage racial discrimination has been dealt with by the Special Rapporteur throughout his term of office, notably in several reports he was instructed to present to the Commission on Human Rights,⁶ the General Assembly⁷ and the Human Rights Council.⁸

⁶ E/CN.4/2004/61 and E/CN.4/2006/54.

⁷ A/59/330.

⁸ A/HRC/5/10.

48. These reports, analysing the main political platforms which incite or encourage racial discrimination, confirm the existence of the following worrying trends: the trivialization of racism, racial discrimination and xenophobia through their use as political tools; the significant influence exerted by racist policies of extreme right-wing parties and movements on democratic parties' programmes, especially in connection with issues relating to immigration, asylum, aliens and terrorism, seen not only as a security challenge but mainly as a threat to national identity; and lastly, the growing intellectual legitimization of these policies as reflected in the increasing number of ostensibly scientific or literary publications which, on the pretext of defending national identity or security, develop explanatory concepts and theories characterized by the ethnic or racial interpretation of social, economic and political problems.

49. The growing "democratic legitimization" of these political platforms is inextricably linked to the resurgence of acts inciting racial hatred, despite the existence in most countries' legislation of provisions prohibiting such acts. More and more frequently, these platforms, which explicitly propagate hatred by calling for exclusion and hostility, depict restrictions on incitement to racial hatred and discrimination as infringements of the freedom of opinion and speech.

50. The significant influence exerted by these platforms on democratic parties' political programmes is primarily accounted for by the absence of any expression of a strong political will to combat them. It is also accounted for by the limited, and sometimes non-existent, participation and representation of ethnic, cultural and religious minorities in the decision-making process in the political, cultural and economic activities of their societies, which thus perpetuates two factors central to the discrimination from which they suffer: invisibility and silence. It is therefore particularly important, in the context of the multiculturalization of all societies, that integration should be conceived not as a rejection of diversity and an undermining of identity, but as a dialectical process of the various communities getting to know each other and interacting. In order to achieve this goal, the leaders of political parties must promote the participation in the decision-making process of groups exposed to racial discrimination, xenophobia and intolerance, and also their representation in Governments, political parties, parliaments and civil society as a whole, as these groups can help to fight discrimination in political and social life.

B. Incitement to racial, ethnic or religious hatred

51. In recent years, the Special Rapporteur has noted an unprecedented rise in the number of acts of incitement to racial, ethnic or religious hatred. These acts constitute a substantial obstacle to the promotion and protection of human rights. On all continents, vulnerable communities, especially minorities, have been the victims of public utterances, both oral and written, calling for intolerance and discrimination and, in some cases, resulting in physical and psychological violence. Although international human rights instruments clearly and absolutely prohibit such acts, several member States have not yet drafted legislation or set up institutions to combat them.

52. The Special Rapporteur considers that this increase in incitement to racial, ethnic or religious hatred is directly linked to three basic factors. The trivialization of racism and xenophobia, particularly through its use as a political tool and its significant influence on democratic parties' platforms, has created a deeply detrimental context, characterized by intolerance, indifference, connivance and even acceptance of racism, which has in turn created ethical, psychological and political conditions that have directly contributed to the increase in

incitement to racial and religious hatred. Furthermore, the ideological context is characterized by the emergence of rhetoric based on the notion of a conflict of civilizations and religions, as reflected in the discourse of certain political, intellectual and media elites. In legal terms, the impact of these trends has encouraged the emergence of a hierarchical, antagonistic and non-dialectic interpretation of fundamental freedoms and the non-recognition of the complementarity, balances and limitations meticulously established by the relevant international instruments, in particular the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

53. The main challenge is now to define the threshold for legitimately restricting freedom of expression in order to protect the victims. In the recommendations contained in the joint report of the Special Rapporteur and the Special Rapporteur on freedom of religion and belief, which concerned incitement to racial and religious hatred and the promotion of tolerance,⁹ the experts invite the Human Rights Committee “to consider the possibility of adopting complementary standards on the interrelations between freedom of expression, freedom of religion and non-discrimination, in particular by drafting a general comment on article 20” of the Covenant.¹⁰ To this end, the Special Rapporteur is considering the organization, in cooperation with other mandate-holders, of an international seminar - for lawyers, the media, politicians, representatives of civil society and the United Nations mechanisms concerned - in order to propose principles and ways and means of strengthening the complementarity of freedom of expression, freedom of religion and belief, and the discouragement of racial, ethnic or religious hatred.

C. Religious intolerance

54. Throughout his term of office, the Special Rapporteur has highlighted one of the central causes of the resurgence of racism and its increasing complexity: the conflation of racial, cultural and religious factors. He has consequently paid special attention to the increase in anti-Semitism, Islamophobia and Christianophobia, and hostility to other spiritual and religious traditions. His most recent report on combating defamation of religions,¹¹ which was submitted to the Human Rights Council at its sixth session, must be seen in the context of his earlier reports to the Commission on Human Rights on the situation of Muslim and Arab peoples in various parts of the world, in which he stressed the violence and attacks targeted on their places of worship, cultural centres, businesses and property following the events of 11 September 2001.¹² His report entitled “Defamation of religions and global efforts to combat racism: anti-Semitism, Christianophobia and Islamophobia”¹³ confirms this worrying trend.

⁹ A/HRC/2/3.

¹⁰ *Ibid.*, para. 61.

¹¹ A/HRC/6/6.

¹² E/CN.4/2003/23, E/CN.4/2005/19 and E/CN.4/2006/17.

¹³ E/CN.4/2005/18/Add.4.

55. In his most recent report, in line with the request by the Human Rights Council, the Special Rapporteur paid special attention to the consideration of Islamophobia, but also examined other manifestations of religious discrimination, in particular anti-Semitism, Christianophobia and other incitements to hatred targeting the religious or spiritual practices of other ethnic or religious groups. This holistic approach is based on his conviction that the equal treatment of all forms of discrimination is a precondition for effectively combating all manifestations of discrimination and ethnic, cultural or religious intolerance.

56. The Special Rapporteur would first like to emphasize the growing trend of defamation of religions arising from the following factors: the conflation of race, culture and religion; the growing use of religion for political ends; and the intellectual and ideological questioning of religion. At the ideological level, the Manichean concept of a clash of civilizations and religions is gaining ground in the thinking and discourse of the political, intellectual and media elites. The concept of a clash of civilizations, and above all a clash of religions - which provides fertile soil for the defamation of religions - is the new front of the cold war theorists. With its pervasiveness and insidious but far-reaching influence, this new ideology is not only shaping the world view of a growing number of influential politicians and media chiefs, but is also becoming a new paradigm for intellectuals and academics. Its ideological effectiveness is based on the intellectual use of the defence of national identity and security, and on the fight against terrorism, reduced to its purely religious dimension. Using the simplistic, Manichean cold-war approach to deal with these issues serves to legitimize two main objectives: (a) the promotion of a purely materialist form of liberalism, marked by hostility towards, and questioning of, religion and spirituality, which are caricatured as running counter to progress and liberty, and (b) a selective, hierarchical, ideological interpretation of human rights and fundamental freedoms. It is against this background that we encounter a number of serious manifestations of the resurgence of racism and xenophobia: the electoral success of racist and xenophobic platforms and their infiltration into democratic institutions; the rise of racist violence; the growing expression of racism on the part of elites; the recycling by intellectuals and the media of the concepts on which historical prejudices are based; the ethnicity-based approach to immigration, and the treatment of immigration on the basis of security aspects alone, and not respect for human rights.

57. In this context, the most serious manifestation today is the increase in Islamophobia and the worsening of the situation of Arab and Muslim minorities around the world, in particular following the events of 11 September 2001. Three main developments attest to the seriousness of this situation: the stereotypical association of Islam with violence and terrorism - an association which is bolstered by intellectual constructs, used by political rhetoric and exaggerated in the media and which has a profound impact on the popular imagination; the determination to impose invisibility on its forms of external expression, and silence on its followers, for example, by obstructing the building of mosques or minarets, and by banning any cultural or sartorial expression or outward sign of Islam; and the fundamentally security-based approach to the monitoring and surveillance of places of worship and culture, and even of the teaching of Islam, and hence the resurgence of policies and legislative, administrative and police measures that stigmatize or criminalize national or foreign minorities of the Muslim faith. One of the most striking examples of this suspicion of Islam can be seen in France, with the policy of training imams "approved" by the Republic at the Catholic Institute in Paris.

58. Anti-Semitism - the oldest historical form of religious discrimination and defamation - not only remains deeply pervasive in its traditional haunts, notably in what has become the new

Europe, but is spreading insidiously to other regions of the world both through declarations by politicians and through publications that perpetuate old stereotypes. The denial or questioning of the extermination of Jews in Europe, or the Holocaust, during the Second World War is the latest manifestation of this deep-seated anti-Semitism. In the course of his visits and investigations, the Special Rapporteur came across serious, silent but deep-seated anti-Semitism, the expression of which is veiled and repressed by image or power-related considerations and strategies.

59. The racial, rather than political, interpretation of the Israeli-Palestinian conflict and the particularly serious situation of the Palestinian people give rise to new forms and manifestations of anti-Semitism in certain communities. The confusion of the State of Israel with Jewish communities of the diaspora or living in Israel, the stereotyping of the Jewish people and the non-recognition of their cultural, religious and political diversity are the root causes of this new form of anti-Semitism.

60. Christianophobia is spreading in a disturbing manner, driven by the twin forces of: (a) the association of Christianity with the West, resulting from their historical closeness during the era of European colonization and current political and intellectual rhetoric about the Christian identity of Europe, and notably opposition to Turkey's admission to the EU; and (b) the proselytism of certain evangelical movements, particularly in South America, Africa and Asia.

61. Hinduism and Sikhism have also fallen victim, in certain regions of the world, to historical discrimination and the modern rejection of diversity. The religious and spiritual traditions of indigenous peoples and communities of African descent still suffer from historical discrimination and demonization by other religions.

D. Rejection of multiculturalism

62. The ideological, cultural and political resistance to ethnic, cultural or religious multiculturalism is one of the underlying reasons for the upsurge in racism and xenophobia. The intellectual and cultural strategy to combat racism must focus on the acceptance and promotion of a democratic, egalitarian and interactive multiculturalism. Multicultural societies are the result of long-term historical processes that have brought peoples, cultures and religions into contact with each other. The organizational machinery of these societies has, in general, been based on an identifying, rallying and unifying factor: national identity. The correlation between the concepts of identity and nation is embodied in a political and legal concept - the nation State - which has structured most modern societies. The main problem in most modern societies lies in the profound contradiction between the nation State - the expression of an exclusive national identity - and the dynamic of multiculturalization at work in these societies.

63. The issue of discrimination in the context of the multicultural process has two main dimensions. The most visible dimension - political, economic and social - is characterized by the correspondence between the map of marginalization and the ethnic, racial or religious map of a multicultural society. But, at root, the identity issue in the multicultural process is illustrated by efforts to counter discrimination in the arenas of memory and value systems, where the strongest resistance to multiculturalism is found. This dimension, often ignored by political leaders, reveals the need for the legal anti-racism strategy to be accompanied by an ethical and cultural strategy to identify and combat the root causes of old and new manifestations of racism and

xenophobia, and to promote the link between efforts to combat racism and the construction, over the long term, of an egalitarian, democratic and interactive multiculturalism.

64. In other words, in order to combat racism in a thorough and lasting manner, the cultural equation that every multicultural society is called upon to solve is that of promoting the link between recognition, protection and respect for specific ethnic, religious and cultural characteristics and the promotion and recognition of universal common values resulting from the interaction and cross-fertilization of these characteristics. With the aim of achieving democratic, egalitarian and interactive multiculturalism, universality must be a shared value, and the ultimate expression of the interaction and cross-fertilization of the specific identities of the different components of a multicultural society and the result of the dynamics of their coexistence. Identity-related tension, inherent in cultural diversity, thus becomes the driving force behind a national unity that integrates and preserves the diversity and vitality of its components. Universality must therefore be rethought in the dynamics of a multicultural society.

E. Discrimination against refugees, immigrants and asylum-seekers

65. One of the most common manifestations of the rejection of diversity as a basis for racism and discrimination is found in the treatment of issues relating to refugees, asylum-seekers and migrants. These groups constantly find themselves in a situation of extreme vulnerability, which has worsened since the events of 11 September 2001. As a result of the overriding focus on combating terrorism, the treatment of immigrants, refugees and asylum-seekers is characterized by suspicion that they may be dangerous, mistrust, and cultural and religious hostility. Such sentiments have resulted in the widespread adoption of policies that tend to restrict the economic and social rights of people in these categories and highlight the decline in respect for human rights resulting from the political primacy of security over the law.

66. The treatment meted out in many countries to asylum-seekers, refugees and immigrants in waiting areas, particularly airports, ports and stations, continues to be a recurrent source of concern. In this context, human rights organizations condemn the transformation of these waiting areas into “no-rights zones” characterized by a lack of access - or difficult access - to redress and defence, by physical and verbal violence of a racist nature on the part of law enforcement officers, by the absence or lack of minimum conditions of hygiene, and by the absence or inadequacy of measures to protect women and children. The growing number and seriousness of violent incidents caused by such conditions, and also the conditions in which persons in such places are expelled or returned, justify the need to pay special attention to this resurgent form of discrimination and racism.

67. With regard to manifestations of discrimination against refugees, the Special Rapporteur wishes to refer to the Conclusion on Local Integration, No. 104 (LVI) - 2005, adopted by the Executive Committee of the Office of the United Nations High Commissioner for Refugees (UNHCR). This conclusion emphasizes that integration is a dynamic and complex two-way process, which requires efforts by all parties concerned, including a preparedness on the part of refugees to adapt to the host society without having to forego their own cultural identity, and a corresponding readiness on the part of host communities and public institutions to welcome refugees and to meet the needs of a diverse population. Emphasizing the importance of the values of diversity, non-discrimination and tolerance of this process, it encourages, inter alia, the

implementation of anti-discrimination policies and awareness-raising activities aimed at combating institutionalized discrimination and promoting the positive aspects of a diverse society.

68. The Special Rapporteur welcomes the excellent cooperation initiated with UNHCR, inter alia in the preparation of his visits and follow-up to the recommendations made in his mission reports.

F. Discrimination on the grounds of caste

69. According to highly credible estimations and studies, 250 million people around the world, particularly in Asia and Africa, are victims of discrimination on the grounds of caste or analogous systems of inherited status, and are constantly vulnerable to exclusion, marginalization and violence. The discrimination they suffer, which affects their civil and political rights as well as economic, social and cultural rights, takes the form of, inter alia: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, and access to public spaces, places of worship and public sources of food and water; limitation of freedom to renounce inherited or degrading occupations or hazardous work; subjection to debt bondage; subjection to dehumanizing utterances referring to pollution or untouchability; or generalized lack of respect for their human dignity and equality.

70. Since the World Conference against Racism in Durban, the issue of discrimination on the grounds of caste has been on the international agenda. Despite the objection of some member States, the main human rights bodies working in the area of racism and discrimination have stated clearly that prohibition of this type of discrimination falls within the scope of existing instruments, in particular the International Convention on the Elimination of All Forms of Racial Discrimination. Thus, the Committee on the Elimination of Racial Discrimination (CERD), at its forty-ninth session, concluded that “the situation of the scheduled castes and scheduled tribes falls within the scope of the Convention”.¹⁴ It also stated that discrimination on the grounds of caste constitutes a form of racial discrimination and that “the term ‘descent’ has its own meaning and is not to be confused with race or ethnic or national origin”.¹⁵ In its General Recommendation XXIX (2002) concerning discrimination on the grounds of descent, CERD further clarified its position by “strongly reaffirming that discrimination based on ‘descent’ includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights”.

71. In this context, women and girls are victims of multiple discrimination, including in certain cases sexual exploitation or forced prostitution. These specific examples of dual discrimination were already acknowledged in the Durban Declaration and Programme of Action, which states that “racial discrimination, xenophobia and related intolerance reveal themselves in a differentiated manner for women and girls, and can be among the factors leading to a

¹⁴ CERD/C/304/Add.13, para. 14.

¹⁵ CERD/C/304/Add.114, para. 8.

deterioration in their living conditions, poverty, violence, multiple forms of discrimination, and the limitation or denial of their human rights". Meaningful work in the areas of legislation, the judiciary and education must be accompanied by strong political will to put an end to this form of discrimination.

IV. CONCLUSIONS AND RECOMMENDATIONS

72. The Special Rapporteur invites the Human Rights Council to draw the attention of member States to the alarming signs of regression in efforts to combat racism, racial discrimination and xenophobia, particularly the upsurge in racist violence, and to remind them of the crucial importance of political will in the refusal to trivialize racism, xenophobia and intolerance, the rejection of their use in politics and electoral campaigns, and the systematic combating of racist and xenophobic political platforms.

73. In this regard, he invites the Council to encourage member States to adopt, as a matter of urgency, national legislation to combat racism, racial discrimination and xenophobia, pursuant to the International Convention on the Elimination of All Forms of Racial Discrimination.

74. The Human Rights Council is invited to draw the attention of member States to the serious nature of the defamation of religion, anti-Semitism, Christianophobia and, more particularly, Islamophobia, and to promote the fight against these phenomena by strengthening interreligious and intercultural dialogue concerning the common ethics of all religions, the critical introspection required of all religions on the historical and theological sources of the defamation they are subjected to, and mutual understanding and joint action to meet the fundamental challenges of democracy, development, peace and the promotion of human rights.

75. The Council is invited to encourage member States to wage a systematic campaign against incitement to racial and religious hatred by maintaining a careful balance between the defence of secularism and respect for freedom of religion and by acknowledging and respecting the complementarity of all the freedoms embodied in the International Covenant on Civil and Political Rights.

76. The Special Rapporteur recommends that the Human Rights Council remind member States of the link between efforts to combat racism, racial discrimination and xenophobia and the construction of democratic, interactive and egalitarian multiculturalism.

77. In the same spirit, the Council is invited to draw the attention of member States to the historical and cultural depth of racism. Efforts to combat racism must involve economic, social and political measures and relate to the question of culture and identity, namely the dialectic between respect for the cultural and religious identities of minority groups and communities, and the promotion of cross-fertilization and interaction between all national communities. The Special Rapporteur recommends that the Council draw the attention of member States to the importance of developing an intellectual front against racism and, consequently, combating - through

education, scientific research and information - ideas, concepts and images likely to incite or legitimize racism, racial discrimination or xenophobia.

78. The Human Rights Council is invited to encourage member States to adopt an approach to questions relating to immigration, asylum and the situation of foreigners and national minorities that is based on international law and instruments such as the Covenants and the Durban Programme of Action, which attach priority to respect for their rights.

79. The Human Rights Council is invited to stress the seriousness of racist and xenophobic manifestations and practices at points of entry to countries, reception areas and waiting areas. It is essential that such areas should not become “no-rights zones” for non-citizens in general and for immigrants and asylum-seekers in particular.

80. In order to combat the resurgence of racism and xenophobia and the association of racial, cultural and religious factors, the Special Rapporteur reiterates his recommendation on the need to assess manifestations of racism and xenophobia accurately and to establish, to this end, within OHCHR, a permanent centre for monitoring racist phenomena, which would submit an annual report to the Human Rights Council and the General Assembly at the same time as the general report and progress report of the Special Rapporteur.

81. The Special Rapporteur suggests that his general report and recommendations be included in the documentation submitted to all bodies involved in the Durban World Conference review process, and his reports on countries visited included in documentation submitted to the regional meetings held as part of this process.

82. The Special Rapporteur recommends that the Human Rights Council draw the attention of member States to the seriousness and depth of the resurgence of manifestations of racism and xenophobia, both old and new. The combination of the processes of multiculturalization and globalization means that no society is immune from these phenomena, which today constitute one of the most serious threats to democracy and the coexistence of all societies. A vigorous and consensual response from the international community is therefore urgently needed.

83. In this context, the Council is invited to emphasize that the Durban Programme of Action constitutes the most detailed response to these phenomena to date. It is therefore of the utmost importance that the Durban review process should provide the opportunity for the international community to express its political commitment to assess these phenomena, and not only formulate political, legal and cultural measures to supplement the Durban Programme of Action in all the areas in which differences were expressed following the World Conference, but also to propose ways and means of implementing a programme that is revised to take account of the seriousness of the situation. Apart from demonstrating a lack of political will to confront these phenomena, a failure of the World Conference review process would, above all, pave the way for intensification of the worrying trends mentioned in the present report, namely, the upsurge in racist violence, the political use of racism and its intellectual legitimization.

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