



General Assembly

Distr.
GENERAL

A/HRC/AC.1/1/CRP.2
18 February 2008

Original: ENGLISH ONLY

HUMAN RIGHTS COUNCIL
Ad Hoc Committee
on the Elaboration of Complementary International Standards
First session
Geneva, 11-22 February 2008

COMPLEMENTARY INTERNATIONAL STANDARDS

**COMPILATION OF CONCLUSIONS AND RECOMMENDATIONS
ADOPTED BY THE INTERGOVERNMENTAL WORKING GROUP
ON THE EFFECTIVE IMPLEMENTATION OF THE DURBAN
DECLARATION AND PROGRAMME OF ACTION**

(2002-2007)

**CONCLUSIONS AND RECOMMENDATIONS
ON COMPLEMENTARY INTERNATIONAL STANDARDS
ADOPTED BY CONSENSUS
AS CONTAINED IN THE REPORTS
OF THE INTERGOVERNMENTAL WORKING GROUP ON THE EFFECTIVE
IMPLEMENTATION OF THE
DURBAN DECLARATION AND PROGRAMME OF ACTION**

**I. Second Session, Geneva, Switzerland, 26 January - 6 February 2004
(E/CN.4/2004/20).**

19. The Working Group reaffirms its mandate to prepare complementary standards to update and strengthen the existing instruments dealing with the elimination of racism, racial discrimination, xenophobia and other related intolerance. To this end, the Working Group decides to remain seized of this issue and to undertake, in its future sessions, a constructive dialogue on all the substantive issues, which such additional instrument(s) may address and bridge gaps and weaknesses in the existing instruments and their implementation;

20. In the above context, the Working Group acknowledges the compendium and accompanying analytical report produced by OHCHR and presented, for reflection, to the current session of the Working Group. These useful documents have attempted, albeit to a limited extent, to identify the gaps in the relevant existing instruments. Further to these documents, the Working Group requests OHCHR to convey its invitation to CERD for its written views on the effectiveness of the Convention, including its implementation. Similarly, the Working Group conveys its invitation to all other treaty monitoring bodies to submit their written views in this regard. Further, the Working Group requests OHCHR to facilitate the compilation of these views and of other views submitted by interested institutions and organizations, and to ensure their timely circulation to all members of the Working Group before its next session with the view to enriching the Working Group's debate on the preparation of complementary standards;

21. The Working Group welcomes and supports current efforts and initiatives of human rights treaty bodies to strengthen their cooperation and coordination by making use of, inter alia, the inter-committee meetings, the meeting of the Chairpersons of the treaty bodies and the sharing and use of concluding observations;

22. The Working Group notes the intention of CERD to hold a thematic discussion on non-citizens and racial discrimination and invites all treaty bodies to continue holding thematic discussions on issues raised by the Working Group;

23. The Working Group requests its Chairperson to submit the report of the Working Group at its second session to the Commission at its sixtieth session.

II. Third session, Geneva, Switzerland, 11 - 22 October 2004 (E/CN.4/2005/20).

25. The Working Group considers it appropriate to recall that the obstacles to overcoming racism, racial discrimination, xenophobia and related intolerance and achieving racial equality lie mainly in the lack of political will, weak legislation, and lack of implementation strategies and concrete action by States.

26. The Working Group reiterates the urgency of the universal ratification of and accession to existing international human rights instruments, in particular accession to the International Convention on the Elimination of All Forms of Racial Discrimination, with a view to universal ratification by 2005, and to other relevant international human rights instruments,¹ especially those that lack an adequate number of ratifications.

27. In combating racism, racial discrimination, xenophobia and related intolerance, States should consider withdrawing reservations contrary to the object and purpose of the International Convention and consider withdrawing other reservations to relevant international and regional legal instruments on human rights and non-discrimination.

28. To enhance the effective implementation of the International Convention, States should consider making the declaration envisaged in article 14 of that instrument, deploy further efforts to comply fully with their reporting obligations, and follow up on concluding observations and pay due attention to general recommendations adopted by CERD.

29. To ensure enhanced and coherent implementation of existing international human rights instruments, coordination should be improved between all regional and

¹ (a) International Covenant on Economic, Social and Cultural Rights; (b) International Covenant on Civil and Political Rights and the Optional Protocols to the International Covenant on Civil and Political Rights; (c) Convention on the Prevention and Punishment of the Crime of Genocide of 1948; (d) International Labour Organization Migration for Employment Convention (Revised), 1949 (No. 97); (e) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949; (f) Convention relating to the Status of Refugees of 1951, and its 1967 Protocol; (g) International Labour Organization Discrimination (Employment and Occupation) Convention, 1958 (No. 111); (h) Convention against Discrimination in Education, adopted on 14 December 1960 by the General Conference of the United Nations Educational, Scientific and Cultural Organization; (i) Convention on the Elimination of All Forms of Discrimination against Women of 1979, with a view to achieving universal ratification within five years, and its Optional Protocol of 1999; (j) Convention on the Rights of the Child of 1989 and its two Optional Protocols of 2000, and the International Labour Organization Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182); (k) International Labour Organization Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); (l) International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the Convention on Biological Diversity of 1992; (m) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990; (n) The Rome Statute of the International Criminal Court of 1998; and (o) United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention of 2000.

international organizations and human rights bodies with a mandate to address the issue of racism, racial discrimination, xenophobia and related intolerance. Fields of coordination could include technical assistance and the collection, dissemination and exchange of relevant statistics and information on best practices.

30. In the implementation of existing standards, contemporary or new forms or manifestations of racism and xenophobia should be fought. States should take action to tackle racist platforms in political institutions present in various parts of the world, particularly when they impact on the broader political debate and affect people seriously. Any attempts to justify, intellectually and morally, any form of racism shall be rejected.

31. States must ensure that anti-terrorist measures are in compliance with international human rights standards in order to ensure that such measures do not result in racism, racial discrimination, xenophobia and related intolerance.

32. Attempts to establish hierarchies among different forms of racism, racial discrimination, xenophobia and related intolerance, as well as among the victims, must be countered.

33. In the fight against racism, racial discrimination, xenophobia and related intolerance, the legal human rights-based approach must be complemented by intellectual and cultural strategies aimed at reaffirming the value of multiculturalism within and among States, as well as respect for cultural diversity and for universal human rights.

34. The Working Group reaffirms its mandate to prepare complementary standards to update and strengthen the existing instruments dealing with the elimination of racism, racial discrimination, xenophobia and related intolerance.

35. The Working Group should focus its efforts on strengthening the implementation of existing instruments by identifying gaps in international human rights law, with a view to preparing complementary standards to address them. In contributing to these efforts, the Working Group should further conduct an in-depth assessment and evaluation of the implementation of existing international instruments, including suggestions to enhance the effectiveness of the fight against racism, racial discrimination, xenophobia and related intolerance. Complementary standards should strengthen the existing norms and bring added value.

36. OHCHR is requested to organize a four- to five-day high-level seminar within the fourth session of the Working Group to address the work identified in paragraphs 22 and 35 of the present recommendations.

III. Fourth Session, Geneva, Switzerland, 16 - 27 January 2006 (E/CN.4/2006/18)

104. The Working Group concluded that a successful strategy to combat racism and racial discrimination on a global scale should give relevant attention to the need to

reinforce the implementation of existing international instruments and to the elaboration of complementary standards to address substantive and procedural gaps in those instruments.

105. In fulfilment of its mandate to assess and evaluate the implementation of existing international instruments, including suggestions to enhance its effectiveness in the fight against racism, racial discrimination, xenophobia and related intolerance, the Working Group:

- (a) Encourages States that have not yet done so, to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, with a view to achieving its universal ratification;
- (b) Encourages States parties to review their reservations to international human rights instruments, in particular regarding article 4 of the Convention, with a view to their possible withdrawal;
- (c) Reminds States parties of the need to comply with their reporting obligations under relevant human rights treaties, in particular the International Convention on the Elimination of All Forms of Racial Discrimination as a matter of priority;
- (d) Encourages States parties to the Convention to consider making the declaration under article 14 of the Convention providing for the possibility for individuals and groups to submit individual communications to CERD, and to give adequate publicity to that mechanism;
- (e) Encourages CERD to further update its guidelines for State reporting so as to include the Internet and, in that regard to provide further elaboration of general recommendation XXIX (2002) on article 1, paragraph 1, of the Convention (Descent);
- (f) Recommends that the General Assembly:
 - (i) Allocate adequate resources to CERD in order to ensure its capacity to fulfil its mandate;
 - (ii) Devote greater attention to the annual reports of CERD;
- (g) Requests that OHCHR:
 - (i) Strengthen its capacity to respond to technical assistance needs of States for the drafting of reports to CERD and other relevant bodies, including for the elaboration of national plans of action against racism;
 - (ii) Assess the possibility of CERD holding some of its sessions outside headquarters, in the different United Nations regions;

- (iii) Assist CERD to ensure better publicity for, and make widely available its general recommendations, concluding observations, decisions and opinions, and encourage follow-up by States parties to its concluding observations, including through the organization of regional and subregional workshops;
- (iv) Update the model anti-discrimination law so as to assist States in their efforts to adopt adequate anti-discrimination legislation complying with their obligations under the Convention and reflecting concerns raised in the Durban Declaration and Programme of Action and in the Working Group.

106. The Working Group identified and/or considered the following substantive and procedural gaps:

(a) Substantive gaps in the International Convention on the Elimination of All Forms of Racial Discrimination: the protection of persons belonging to specific groups, such as religious groups, refugees, asylum-seekers, stateless persons and migrants, migrant workers, internally displaced persons, descent-based communities such as people of African descent, indigenous peoples, minorities and of people under foreign occupation. Additional gaps and deficiencies examined also include multiple or aggravated forms of discrimination, xenophobia, ethnic cleansing, genocide, human rights education, religious intolerance and defamation of religious symbols, racial discrimination in the private sphere, incitement to racial hatred and dissemination of hate speech and xenophobic, defamatory caricatural pictures, through traditional mass media and information technology, including the Internet;

(b) Procedural gaps: the need for CERD to be able to undertake country visits; need to formalize the procedure of follow-up to the recommendations addressed to State parties by CERD in its concluding observations as well as in opinions on communications under article 14 of the Convention.

107. Among the next steps, the Working Group deems it essential to define the nature and scope of the gaps examined in order to assess the most appropriate means to bridge the gaps, be they substantive or procedural.

108. The Working Group recommends the following:

(a) For the procedural gaps: the Working Group requests CERD to conduct a further study on possible measures to strengthen the implementation through additional recommendations or the update of its monitoring procedures;

(b) For the substantive gaps: it is recommended that OHCHR select, in close consultation with regional groups, five highly qualified experts to study the content and scope of the substantive gaps in the existing international instruments to combat racism, racial discrimination, xenophobia and related intolerance, including but being not limited to the areas identified in the conclusions of the Chair of the high-level seminar that took

place during the fourth session of the Working Group. The group of experts, in consultation with human rights treaty bodies, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and other relevant mandate-holders, should produce a base document that contains concrete recommendations on the means or avenues to bridge these gaps, including but not limited to the drafting of a new protocol to the International Convention on the Elimination of All Forms of Racial Discrimination or the adoption of new instruments (conventions, declarations);

(c) Both documents should be presented to the Working Group for analysis during its fifth session.

IV. Fifth Session, Geneva, Switzerland, first part from 5 to 9 March 2007, and the second part from 3 to 7 September 2007 (A/HRC/6/10).

CONCLUSIONS AND RECOMMENDATIONS

First part of the session

Complementary international standards

84. The Working Group affirms that the preliminary exchange of view with the highly qualified experts selected to produce a base document outlining substantive gaps in the International Convention on the Elimination of All Forms of Racial Discrimination and make concrete recommendations on the means and avenues to bridge these gaps was very fruitful.

85. The Working Group recognizes the independence and competence of the experts and looks forward to the fulfilment of their mandate.

Second part of the session

CONCLUSIONS AND RECOMMENDATIONS

106. The Working Group notes the study submitted by the Committee on the Elimination of Racial Discrimination on possible measures to strengthen implementation through optional recommendations or the update of its monitoring procedures, and the study submitted by the five experts on the contents and scope of substantive gaps in the existing international instruments to combat racism, racial discrimination, xenophobia and related intolerance.

107. The Working Group held interactive dialogues with the five experts as well as the member of the Committee on the Elimination of Racial Discrimination. During the dialogues, various views were expressed by delegations.

108. The Working Group invites States to further consider the recommendations made by the Committee on the Elimination of Racial Discrimination in its study.

109. The Working Group transmits to the Human Rights Council the study by the five experts prepared in the context of paragraph 199 of the Durban Programme of Action, and pursuant to Human Rights Council resolution 1/5 and Human Rights Council decision 3/103, paragraph (g).
