



## **Annex**

### **Contributions by the Special Rapporteurs**

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proliferation in many countries of policies and legislation designed to restrict the rights of individuals belonging to these groups.

8. The Special Rapporteur on freedom of religion or belief notes that the DDPA expressly call upon States to promote and protect the exercise of the rights set out in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.<sup>8</sup> She regrets to report that she continues to receive information regarding violations of the 1981 Declaration. She refers the Preparatory Committee to her most recent report<sup>9</sup> in which she provides an overview of the issues of concern in the context of her mandate.

9. The Special Rapporteur continues to be concerned by religious intolerance and acts of violence against members of certain religious or belief communities. She regularly receives reports of violations of the right of members of religious minorities to worship and carry out other religious activities without state registration or approval, as well as reports of attacks on places of worship. She is also concerned by numerous cases of killings and arbitrary detenti

including age, gender, gender expression, gender identity, race, sexual orientation, disability and he

19. The Special Rapporteur continues to receive reports of violence against women and girls, including reports of sexual violence, motivated by 6.3339(r)-4.55617(t)0.721099(s)7(g)5.7d [(1)-6.33537(9)-6.3(.2

from racism, discrimination and xenophobia in the private sphere. He notes that in many countries immigrants bear the brunt of racist or xenophobic backlashes and expresses concern at the campaigns conducted in some political quarters and the media

of discrimination by the administration of justice system is forbidden. In addition, States must ensure that there is an effective remedy against any act of racial discrimination.<sup>31</sup>

32. The Special Rapporteur has devoted special attention to difficulties encountered in accessing justice, including barriers relating to discriminative practices.<sup>32</sup> He has observed that vulnerable groups, such as indigenous peoples, refugees, migrants, and stateless people can face barriers, including cultural barriers in their attempts to access the justice system. These groups can have difficulties in understanding their rights and what is at stake in judicial proceedings; in particular persons living in situations of extreme poverty and social exclusion. Accordingly, the Special Rapporteur calls upon States to adapt their legal systems to respond to these needs, by establishing appropriate mechanisms, including alternative conflict resolution programmes.

33. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people notes that the Durban Declaration recognizes the racial discrimination faced by indigenous peoples and that this is linked to historical patterns of colonialism.<sup>33</sup> The discrimination against indigenous peoples is manifested in governmental, legal and political systems that have excluded indigenous peoples from the life of the State, suppressed their attributes and culture, provided obstacles for their connections to and ownership over land and resources, and denied them basic rights. He reiterates the concern expressed in the Durban Declaration that the political and legal structures of State institutions often do not correspond to the multi-ethnic, pluricultural and plurilingual characteristics of the population and, in many cases, constitute an important factor of discrimination in the exclusion of indigenous peoples.<sup>34</sup>

34. The Special Rapporteur notes that States have taken some measures to implement the DDDPA at both the international and domestic levels. In September 2007, the General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples,



and abuse, including but not limited to violence ag

professional way, are more efficient than profiling, as they are non-discriminatory and impossible for terrorists to evade. States need to establish clear guidelines for law enforcement agencies on the measures that are permissible in counter-terrorism operations. There is also a need to document and monitor terrorist profiling practices, to establish oversight of law enforcement agencies, and ensure their compliance with human rights standards.<sup>43</sup>

***Discrimination on the grounds of caste and other systems of inherited status***

44. The Special Rapporteur on racism highlights his serious concern about discrimination on grounds of caste and other systems of inherited status. He notes that an estimated 250 million people around the world are at risk of violations of civil, political, social, economic and cultural rights, including violence, marginalization and discrimination, on the grounds of caste and other systems based on inherited status. He expresses his concern at reports of prohibition or limitations on ability to alter inherited status, socially enforced restrictions on marriage outside the community, public and private segregation, including in housing and education, and access to public spaces and places of worship and public sources of food and water, limitation of freedom to renounce inherited or degrading occupations or hazardous work, as well as subjection to debt and bondage.

45. The Special Rapporteur on racism believes that the vital first step in addressing this issue is for Member States to recognize that discrimination on the grounds of caste and other systems of inherited status constitutes a form of discrimination prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In the absence of such recognition it will not be possible to effectively address the serious human rights violations and discrimination suffered by

from racism perpetrated by private actors and to take proactive and preventive steps to foster a culture in which racism and xenophobia are considered unacceptable by all members of society.

50. The mandate-holders regret that the DDPA remain unimplemented in many States and note that a precondition for overcoming racism, racial discrimination, xenophobia and related intolerance is to recognize their existence. The Durban Declaration itself asserts that, “the obstacles to overcoming racial discrimination and achieving racial equality mainly lie in the lack of political will, weak legislation and lack of implementation strategies and concrete actions by States”.<sup>47</sup> The mandate-holders emphasize that there can be no progress in dealing with these complex challenges without sufficient political will on the part of States.

51. The Durban Review Conference is an opportunity for States to give new momentum to implementing the measures set out in the DDPA. The mandate-holders call upon States to take the measures and initiatives set out in the Programme of Action in the areas of prevention, education and protection, including legislative and policy measures, the provision of effective remedies, recourse and redress and strategies to achieve full and effective equality. They wish to highlight three of the commitments in the Programme of Action, which should be implemented by all States as a matter of urgency to provide a solid basis for all other measures and initiatives to tackle racism, racial discrimination, xenophobia and related intolerance.

52. First, the mandate-holders point to the importance of ratifying regional and international conventions relevant to the elimination of racism, racial discrimination, xenophobia and related intolerance. In addition to the ICERD, there are a number of other pertinent international conventions set out in the Programme of Action.<sup>48</sup> The ratification of these instruments would constitute a clear sign of intent on the part of Member States indicating that, in addition to making politically binding commitments, they are also willing to enter into legally binding commitments. The mandate-holders further encourage Member States to withdraw any reservations and make the necessary declarations to ensure that the monitoring bodies can deal with individual complaints.

53. Second, the mandate-holders call upon States to put in place national legislative frameworks in conformity with international norms to combat racism, racial discrimination, xenophobia and related intolerance. They note that the Programme of Action urges States to design or reinforce, promote and implement effective legislative and administrative policies in a number of areas.<sup>49</sup> The mandate-holders consider that the introduction of a legal framework in accordance with human rights standards is a necessary prerequisite for all other measures to combat racism, racial discrimination, xenophobia and related intolerance.

54. The mandate-holders recognize that drafting legislation in this area can be a complex task. As such, they encourage States wishing to implement the Programme of Action and comply with their legislative commitments, to do so in a consultative manner, including consultations with representatives of all groups vulnerable to racism, racial discrimination, xenophobia and related intolerance. They also encourage States to take into account good practices in other countries and to seek technical assistance, as part of the consultation process, from relevant regional and international bodies.

55. The mandate-holders welcome the legislative steps taken by many States and encourage other States to follow suit. However, the introduction of legislation does not mean that the job is done. The presence of unimplemented legislation on the statute books will do little to reduce the incidence of racism and xenophobia. As such, the mandate-holders also emphasize the importance of ensuring the implementation of legislation, including by regional and central government and its agencies, including law enforcement agencies.

56. Third, the mandate-holders point to the importance of devising national action plans bringing together initiatives and measures to combat racism, racial discrimination, xenophobia and related intolerance in the areas of prevention, education and protection, the provision of effective remedies, recourse and redress and strategies to achieve full and effective equality. They encourage States to



awareness-raising activities undertaken by States s

Rights Council decision 1/107.<sup>56</sup>



impetus to their efforts to implement the parts of the DDPA designed to improve the protection of women and girls.

81. Governments must address the particular vulnerabilities faced by women who are non-citizens, migrants or refugees in the receiving country. In particular, undocumented immigrant women should



the media, in an effort to ensure its effective implementation. He encourages other States that have already adopted action plans to consider initiating similar consultative reviews of their implementation.

87. The Special Rapporteur on freedom of religion or belief welcomes the entry into force of the Racial and Religious Hatred Act 2006 in England and Wales, which creates the offence of inciting religious hatred in addition to the pre-existing offence of inciting racial hatred. The act seeks to strike a delicate balance with freedom of expression by banning threatening words and behaviour rather than