

**Implementation of the Durban Programme of Action:
an exchange of ideas on how to move forward**

SEMINAR OF EXPERTS FOR THE AFRICAN REGION

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The Seminar of Experts for the African Region, having met in Nairobi, as representatives of the African region (Governments, experts, non-governmental organizations, intergovernmental organizations, United Nations programmes and funds) to exchange views on the way forward towards implementation of the Durban Declaration and Programme of Action (DDPOA),

Acknowledging the valuable exchange of views on a wide range of issues connected with follow-up to, and implementation of, the DDPOA,

Convinced that the DDPOA constitutes a solid foundation for the global drive to eliminate the scourges of racial discrimination, xenophobia and related intolerance,

Convinced that the outcome of this important seminar must contribute positively to all future programmes and actions (national, regional and international) to combat racial discrimination, xenophobia and related intolerance,

Taking into consideration the views expressed by the experts to the effect that, for the successful implementation of programmes to combat racism, racial discrimination, xenophobia and related intolerance, the issues raised in paragraphs 157 and 158 of the Programme of Action, in particular require priority and sustained attention,

Considering in this regard that the remedial measures articulated at Durban (paragraph 158) should be used within the framework of the New Partnership for Africa's Development (NEPAD) and the World Solidarity Fund to achieve the objectives of paragraph 157 for the eradication of poverty.

Recognizing that the elimination of racism, racial discrimination, xenophobia and related intolerance in Africa is essential for the achievement of development, transparent and accountable governance, and the elimination of poverty,

Meeting at a time when all countries in the region face threats from globalization policies that directly increase the number of people and communities facing racism, racial discrimination, xenophobia, poverty and marginalization,

Encouraging States when formulating poverty reduction and elimination policies, including poverty reduction strategy papers (PRSPs), to ensure that their obligations

stemming from the international human rights instruments are fully integrated therein,¹

Having regard to the foregoing, the Seminar makes the following recommendations for the implementation of and follow-up to commitments made at Durban at the national, regional and international levels:

A. National action plans: the role of different participants, including States, national human rights institutions, non-governmental organizations and civil society, in the process

1. The Seminar recommends that:

- (a) Political leaders demonstrate a strong political commitment to the DDPOA. They should further facilitate the development and implementation of national action plans with reasonable and measurable indicators, in consultation with all key players. All programmes aimed at the realization of national action plans must include corrective measures, such as affirmative action programmes for target groups;
- (b) States ensure the effective participation of non-governmental organizations (NGOs), community-based organizations (CBOs) and other civil society representatives in the development and implementation of national action plans by creating opportunities and forums for open dialogue;
- (c) The Coordinating Committee of African National Institutions for the Promotion and Protection of Human Rights recommend strategies and activities for its members for addressing racism, racial discrimination, xenophobia and related intolerance;
- (d) At the national level, States establish focal points on anti-discrimination to work with NGOs, government departments, national institutions and civil society to facilitate the implementation of the national action plans. States should further ensure that appropriate policy and legislative frameworks are put in place at all levels of Government to give effect to the national action plans;
- (e) States should recognize and acknowledge that the mainstreaming of a gender perspective and HIV/AIDS issues into national action plans are among the main building blocks and necessary elements of sustainable development, poverty reduction, and the combating of marginalization and social exclusion;

B. Implementation of the provisions of the Durban Programme of Action relating to health, including HIV/AIDS

2. The Seminar recommends that:

- (a) States recognize racism and other manifestations of inequality as significant social determinants of health, including HIV/AIDS status, and implement programmes to address these inequalities and resultant

¹ In pursuing this objective States may refer to the Human Rights Guidelines on PRSPs developed by OHCHR.

conditions such as poor sanitation, lack of secure housing, lack of access to drinkable water and to primary health care, and unemployment, thereby reducing vulnerability to diseases such as HIV/AIDS, tuberculosis and malaria;

- (b) States should develop, in consultation with all stakeholders, and adopt legislative and policy frameworks and measures, including partnerships between the public and private sectors and NGOs, that respect, protect and fulfil the fundamental human right of all persons to the highest attainable standard of health. In particular, they should enact legislation to provide for the regulation of HIV-related goods, services and information, so as to ensure widespread availability of high-quality prevention messages and services, adequate HIV prevention and care information, and safe and effective medication at an affordable price;
- (c) States take the necessary measures, giving particular attention to vulnerable individuals and populations, to ensure for all persons, on a sustained and equal basis, the availability and accessibility of quality goods, services and information for HIV prevention, treatment, care and support, including antiretroviral and other safe and effective medicines, diagnostics and related technologies for preventive, curative and palliative care of HIV/AIDS and related opportunistic infections and conditions, as well as access to effective remedies for people who have been discriminated against on the basis of their health status in their access to these goods, services and information;
- (d) States develop and implement, in consultation with NGOs and in particular with persons living with HIV/AIDS, national plans to realize progressively universal access to comprehensive treatment, care and support for all persons living with HIV/AIDS, as well as indicators and benchmarks to monitor progress;
- (e) States should integrate HIV/AIDS prevention, treatment, care and support into all aspects of their planning for development, including poverty eradication strategies, national budget allocations and sectoral development plans;

C. The need for capacity-building, including strengthening the administration of justice and the rule of law

3. The Seminar recommends that:

- (a) States ensure the independence of the judiciary and strengthen the administration of justice as a credible avenue of effective redress for victims of human rights violations. To this end, States should make use of available technical cooperation programmes to sensitize and train judges, lawyers and law enforcement officers on issues relating to racial discrimination and the rights and special needs of victims;
- (b) States also ensure improved access to justice, including traditional justice systems, and legal assistance for victims and encourage the further development of traditional justice systems so that they comply with international human rights standards;

D. The role of African national and regional human rights institutions in implementing the Durban Programme of Action

4. The Seminar recommends that:
- (a) States establish or strengthen existing national human rights institutions for the promotion, protection and monitoring of human rights in accordance with the Paris Principles;
 - (b) An anti-discrimination unit be established within the African Commission on Human and Peoples' Rights to monitor the implementation of the Durban Declaration and Programme of Action and to serve as a focal point for the exchange of information and the sharing of best practices;
 - (c) A regional anti-discrimination network, encompassing inter- and intra-State networks of civil society, CBOs, NGOs and national institutions, be established to ensure effective coordination of activities and effective availability of redress;

E. Implementation of the Durban Programme of Action relating to human rights training and education

5. The Seminar recommends that:
- (a) States develop a policy of multiculturalism as a national framework for promoting cross-cultural understanding and respect for diversity;
 - (b) States develop and implement a legislative framework to provide statutory backing for the policy of multiculturalism and to ensure continuity and sustainability in the implementation of programmes to promote respect for cultural diversity and to foster inter-group harmony;
 - (c) States develop and implement public information and educational programmes for the promotion and acceptance of cultural diversity;
 - (d) States develop and implement programmes to foster acceptance of a multicultural society and cultural diversity among youth;
 - (e) States support the Slave Route Project of the United Nations Educational, Scientific and Cultural Organisation, and, in particular, its education component, "Breaking the Silence", which helps students and teachers cultivate respect, tolerance, anti-discriminatory attitudes and intercultural understanding, and contribute to the implementation of the Project at the national level;

F. Achieving full and effective equality through the New Partnership for Africa's Development (NEPAD) and development policies

6. The Seminar recommends that:
- (a) States ensure close collaboration between NEPAD processes and the United Nations human rights machinery with a view to realizing the Durban commitments. In this regard, it is proposed that a functional relationship be established between the NEPAD Steering Committee and the Special Procedures of the Commission on Human Rights, especially those in the areas of economic, social and cultural rights;

- (b) States establish a mechanism linking all stakeholders in Africa with the developed countries to negotiate and mobilize resources in the context of paragraphs 157 and 158 of the Programme of Action;
- (c) States establish a regional review mechanism to monitor the implementation of all domestic (i.e. African) commitments.
- (d) States establish an international review mechanism to assess and monitor the status of partnerships as well as to ensure the implementation of all commitments made at the international level, for example at conferences or summits, including the Millennium Development Goals and in key United Nations resolutions;
- (e) States ensure that all concerted efforts undertaken by States and the international community should advance the plight of victims of racism, racial discrimination, xenophobia and related intolerance as agreed by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and reflected in paragraph 1 of the Durban Declaration;
- (f) States volunteer for the African Peer Review Mechanism of NEPAD;
- (g) States take into account the social and cultural context of the African continent in developing their programmes and policies and their relations with NEPAD;
- (h) States develop a genuine partnership between the South and North in which national and international institutions and coalitions act in a transparent and accountable manner and share resources and expertise to support the African continent;
- (i) States demonstrate greater commitment to the goal of achieving sustained and sustainable growth and development by allocating resources for this purpose and integrating poverty reduction strategies into their domestic budget and financial management systems;
- (j) States create an environment conducive to Africa's increasing aggregate savings so that it can channel resources towards capital investment and achieve the annual target of 6 to 7 per cent growth in gross domestic product needed to tackle poverty;
- (k) States use development policies that are consistent with the relevant international human rights instruments, including policies formulated through the NEPAD process, as a corrective to and a defence against the adverse effects of globalization;
- (l) States guarantee non-discriminatory access to adequate housing, including essential civic services, potable water, electricity and sanitation. The privatization of these services, if at all necessary, must be undertaken with the utmost care. States should guarantee non-discriminatory access to natural resources critical for the sustenance of people in rural areas who depend largely on self-built housing, such as building materials, fodder, fuel and water;²
- (m) States institutionalize ethical practices with respect to housing, land use and planning through the preparation of city and regional master plans that prevent the development of segregated residential patterns and discrimination in facilities based on group identity in terms of race, colour,

² Further guidelines can be found in the report of the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living (E/CN.4/2002/59), paras. 37-48.

descent, national and ethnic origin, or religion. Residents should enjoy the right to participation, including through participatory budgetary processes, on a basis of non-discrimination and equality, in the formulation and implementation of these plans;

- (n) States institutionalize inter-ministerial coordination at the national and international levels and inter-organizational coordination at the regional level (NEPAD, African Commission and Court on Human and Peoples' Rights, African Development Bank) so as to ensure that, in accordance with paragraphs 157 and 158 of the DDPOA, that the formulation and implementation of national, regional and international economic policies, such as those in the areas of trade, investment, finance, structural adjustment and debt, do not cause the State to contravene international human rights obligations and aggravate housing and living conditions for people and communities facing discrimination and segregation in terms of housing, land and access to related civic services;
- (o) States eliminate barriers to the enjoyment of the right to adequate housing that have a disproportionate impact on ethnic and racial minorities, indigenous peoples and descent-based communities living in life-threatening and health-threatening housing and conditions. Special attention should be given to particularly vulnerable groups, i.e. persons affected by HIV/AIDS, so that they do not suffer discrimination in access to housing;
- (p) States halt processes that violate the right to adequate housing and increase discrimination, segregation and poverty such as forced evictions and systematic denial of civic services. They should guarantee access to judicial and other remedies for violations of the right to housing such as forced evictions and deliberate denial of civic services, including reparations for damages suffered;
- (q) States ensure that attention is given and research conducted to determine, inter alia, the impact of institutionalized and other forms of discrimination and segregation that particular people and communities face in securing adequate housing, land and civic services; the impact of residential segregation; the need to enumerate the nature of "preventive" and "provisional" measures to be taken as a means of protecting victims of housing discrimination and to prevent irreparable harm, especially to women and children; and the need to develop indicators at the national level to monitor the realization of the right to adequate housing;

G. Implementation of provisions of the Durban Programme of Action relating to specific victim groups and provisions relating to the gender dimensions of racial discrimination and, more broadly, to multiple discrimination

7. The Seminar recommends that:

- (a) States study and understand the root causes of racism and racial discrimination, xenophobia and related intolerance, paying particular attention to value systems, culture, history, spirituality, political context and social and economic systems;
- (b) States develop and implement policies and practices to encourage cultural,

- ethnic and religious pluralism, inter alia through intercultural education and communication and the teaching of history;
- (c) States respect and protect the rights of migrants and refugees, particularly in the fields of administration of justice, education, health, employment and housing;
 - (d) States promote a policy of national identity that recognizes and respects the cultural specificities of different communities while promoting and enhancing universal values;
 - (e) States adopt effective measures to increase women's participation in decision-making at all levels and adopt effective measures to increase women's economic and educational empowerment, inter alia through nationwide information campaigns, the introduction of gender awareness into school curricula and the reallocation of resources;
 - (f) States adopt effective measures to provide support and redress for women who are abused in situations of unequal power relations such as those who experience domestic violence or abuse in situations of conflict, detention or sexual harassment in the workplace;
 - (g) States ensure that effective measures are put in place to prevent and combat trafficking and other contemporary forms of slavery which particularly affect women and girls;
 - (h) States combat traditional practices that discriminate against or are harmful to women;
 - (i) States adopt measures that allow for greater exchange of information among African States;
 - (j) States remove legal, administrative, social and cultural obstacles, including customary practices, to the fulfilment of women's right to own land and other property and their right to adequate housing, including through the exercise of the right to inheritance, giving particular attention to women who face double and triple discrimination, including women who have faced violence in and around the home, women with disabilities, HIV/AIDS, minority or other vulnerable status, as well as women who have faced forced evictions;
 - (k) States ensure that no child is subjected to discrimination in terms of his or her right to adequate housing. States must, in all policy formulation, consider the best interests of the child and ensure that special protection and assistance are provided to children living in the streets and those temporarily or permanently deprived of a family environment;

H. Implementation of the provisions of the Durban Programme of Action relating to environmental controls

8. The Seminar recommends that States develop and implement environmental policy frameworks that incorporate the ecosystem approach. They should integrate the diverse environmental provisions of the Durban Declaration and Programme of Action and ensure:

- (a) Coherence and consistency between international environmental agreements and human rights commitments;
- (b) The identification and strengthening of linkages between poverty, environment and human rights;

- (c) The use of renewable resources on a sustainable basis for the benefit of current and future generations;
- (d) Community involvement in natural common property resource management and control and community sharing in the benefits arising therefrom;
- (e) Effective public participation in decision-making affecting the environment as well as access to information and environmental justice;
- (f) Fair and equitable access to natural resources, goods and services;
- (g) Equitable access to sufficient water of acceptable quality;
- (h) Environmental impact assessments with specific reference to the impact of proposed projects on affected individuals and communities and on ecosystems;
- (i) Improved regional and international cooperation on responses to environmental issues of a global nature and their adverse consequences for the continent, inter alia within the framework of NEPAD and multilateral environmental agreements.
