



**OFFICE OF THE HIGH COMMISSIONER FOR  
HUMAN RIGHTS**



**World Conference against Racism, Racial Discrimination,  
Xenophobia and Related Intolerance and the  
comprehensive implementation of and follow-up to the  
Durban Declaration and Programme of Action**

**Commission on Human Rights Resolution: 2004/88**

*The Commission on Human Rights,*

*Recalling* all its previous resolutions on the elimination of racism, racial discrimination, xenophobia and related intolerance,

*Recalling in particular* its resolutions 2002/68 of 25 April 2002 and 2003/30 of 23 April 2003, in which the Commission established effective mechanisms for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1),

*Taking note* of General Assembly resolution 58/160 of 22 December 2003, and appreciating the growing momentum for enhanced effort by the international community towards the elimination of racism, racial discrimination, xenophobia and related intolerance,

*Taking note also* that in General Assembly resolutions 57/195 of 18 December 2002 and 58/160 the Assembly outlined the important roles and responsibilities of the various organs of the United Nations and other stakeholders at the international, regional and national levels, including, in particular, the Commission on Human Rights,

*Acknowledging* the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 1 July 2003 and inviting all States that have not yet done so to consider signing, ratifying or acceding to this important instrument,

*Recognizing with deep concern* the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, communities of people of African descent, communities of Asian descent and other communities,

*Underlining* that political will, international cooperation and adequate funding at all levels are indispensable prerequisites for the successful implementation of the Durban Declaration and Programme of Action,

*Underlining also* its commitment to a global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance, and encouraging all States to join this drive towards non-discrimination, human dignity and equality for all peoples worldwide,

## I. BASIC GENERAL PRINCIPLES

1. *Acknowledges* that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid or slavery is permitted, as defined in the obligations under the relevant human rights instruments;

2. *Stresses* that States and international organizations have a responsibility to ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin, and urges all States to rescind or refrain from all forms of racial profiling;

3. *Regrets* that racially discriminatory immigration laws, policies and practices, including enforcement mechanisms, contribute to the persistence of racism, racial discrimination, xenophobia and related intolerance and in this context urges all States that have not yet done so to review and revise any racially discriminatory immigration laws, policies and practices so that they are free of racial discrimination and compatible with their obligations under international human rights instruments;

4. *Underlines* the importance of mainstreaming the values of non-discrimination, equality, human dignity and human solidarity in the United Nations system;

5. *Urges* States to mainstream a gender perspective in the design and development of prevention, education, promotion and protection measures aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men;

## II. INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

6. *Reiterates* the call made by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in paragraph 75 of the Durban Plan of Action to achieve universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination by 2005 and for all States to consider making the declaration envisaged under article 14 of the Convention, and expresses grave concern that at the current pace, that is, 169 ratifications and only 45 declarations, the deadline for universal ratification decided by the Conference will regrettably not be realized;

7. *Calls upon* all States that have not yet complied with the recommendations of the Conference urgently to demonstrate will and commitment towards the fulfilment of these recommendations as a matter of priority;

8. *Notes* that the Committee on the Elimination of Racial Discrimination, in its general recommendation XV (42) of 17 March 1993 concerning article 4 of the Convention, holds that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression as outlined in article 19 of the Universal Declaration of Human Rights and in article 5 of the Convention;

9. *Welcomes and emphasizes* the importance of implementing general recommendation XXVIII, adopted on 19 March 2002 by the Committee on the Elimination of Racial Discrimination, in which the Committee emphasized the importance of follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and recommended measures to strengthen the implementation of the Convention as well as the functioning of the Committee;

### III. COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE DURBAN DECLARATION AND PROGRAMME OF ACTION

10. *Welcomes* the outcome of the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action outlined in the report of the Working Group on the work of its second session (E/CN.4/2004/20), which focuses on the cross-cutting thematic issues of poverty eradication and education, and calls upon all States to implement the recommendations of the Working Group without delay, and notes with appreciation that at its next session the Working Group will undertake thematic discussions on the issues of health and the Internet, in the context of racism;

11. *Calls upon* the Office of the United Nations High Commissioner for Human Rights to implement all the relevant recommendations of the second session of the Working Group and to submit a progress report in that regard to the Commission at its sixty-first session;

12. *Welcomes* the outcome of the third session of the Working Group of Experts on People of African Descent, which focused on the thematic issues of administration of justice, the media and access to education;

13. *Also welcomes* the inaugural meeting of the group of independent eminent experts, held at Geneva from 16 to 18 September 2003, with the participation of representatives of Member States, the United Nations system and civil society, takes note of its substantive outcome, and in this context requests the United Nations High Commissioner for Human Rights to examine the possibility of the development of a racial equality index, as proposed by the group, and to report thereon to the Commission at its next session;

14. *Recognizes* the centrality of resource mobilization, effective global partnership and international cooperation in the context of paragraphs 157 and 158 of the Durban Programme of Action for the successful realization of commitments undertaken at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and to this end emphasizes the central role to be played by the group of independent eminent experts in mobilizing the necessary political will required for the successful implementation of the Durban Declaration and Programme of Action;

15. *Welcomes with appreciation* the recommendation of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of

Action to undertake at its next session the process of preparation of complementary standards consistent with all the recommendations of the Working Group contained in paragraphs 19 to 27 of its report on the work of its second session, with a view to strengthening and updating international instruments against racism, racial discrimination, xenophobia and related intolerance;

#### IV. SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE, AND FOLLOW-UP TO HIS VISITS

16. *Expresses its full support and appreciation* for the work of the Special Rapporteur, welcomes his reports (E/CN.4/2004/18 and Add. 1-4 and E/CN.4/2004/19) and encourages the continuation of his work;

17. *Reiterates its call* to all Member States, intergovernmental organizations, relevant organizations of the United Nations and non-governmental organizations to cooperate fully with the Special Rapporteur;

18. *Urges* all Governments to consider favourably the requests for visits by the Special Rapporteur;

19. *Urges* Member States to consider implementing the recommendations contained in the reports of the Special Rapporteur;

20. *Invites* the High Commissioner to provide States, at their request, with advisory services and technical assistance to enable them to implement fully the recommendations of the Special Rapporteur;

21. *Requests* the Secretary-General to provide the Special Rapporteur with all the necessary human and financial assistance to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit an interim report to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session;

#### V. GENERAL

22. *Decides* to consider this matter at its sixty-first session under the sub-item of the agenda entitled “Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action”.

*59th meeting  
22 April 2004*

[Adopted by a recorded vote of 38 votes to 1,  
with 14 abstentions. See chap. VI.]

## **B. Decisions**

### **2004/101. Organization of work**

At its 2nd meeting, on 15 March 2004, the Commission on Human Rights decided, without a vote, to invite the following persons to participate in its meetings:

- (a) In connection with item 5: Mr. E. Bernales Ballesteros, Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination;
- (b) In connection with item 6: Mr. D. Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;
- (c) In connection with item 6: Mr. P. L. Kasanda, Chairperson-Rapporteur of the Working Group of experts on people of African descent;
- (d) In connection with item 6: Mr. J. Martabit, Chairperson-Rapporteur of the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action;
- (e) In connection with item 7: Mr. A. Sengupta, independent expert on the right to development;
- (f) In connection with item 7: Mr. I. Salama, Chairperson-Rapporteur of the Working Group on the Right to Development;
- (g) In connection with item 8: Mr. J. Dugard, Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967;
- (h) In connection with item 9: Ms. M.T. Keita-Bocoum, Special Rapporteur on the situation of human rights in Burundi;
- (i) In connection with item 9: Ms. C. Chanet, Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba;
- (j) In connection with item 9: Ms. I. A. Motoc, Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo;
- (k) In connection with item 9: Mr. A. Mavrommatis, Special Rapporteur on the situation of human rights in Iraq;
- (l) In connection with item 9: Mr. P. S. Pinheiro, Special Rapporteur on the situation of human rights in Myanmar;
- (m) In connection with item 9 (b): Mr. F. Yimer, Chairperson-Rapporteur of the Working Group on Communications of the Sub-Commission on the Promotion and Protection of Human Rights; representatives of States in respect of which situations were being considered under item 9 (b);

(n) In connection with item 10: Mr. B. A. Nyamwaya Mudho, independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights;

(o) In connection with item 10: Mr. J. Ziegler, Special Rapporteur on the right to food;

(p) In connection with item 10: Ms. F. Z. Ouhachi-Vesely, Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights;

(q) In connection with item 10: Mr. M. Kothari, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living;

(r) In connection with item 10: Ms. A.-M. Lizin, independent expert on the question of human rights and extreme poverty;

(s) In connection with item 10: Ms. K. Tomasevski, Special Rapporteur on the right to education;

(t) In connection with item 10: Mr. P. Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

(u) In connection with item 10: Ms. C. Albuquerque, Chairperson-Rapporteur of the open-ended Working Group of the Commission with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights;

(v) In connection with item 11 (a): Mr. T. van Boven, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;

(w) In connection with item 11 (a): Ms. L. Zerrougui, Chairperson-Rapporteur of the Working Group on Arbitrary Detention;

(x) In connection with item 11 (a): Mr. I. Tosevski, member of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture;

(y) In connection with item 11 (b): Ms. A. Jahangir, Special Rapporteur on extrajudicial, summary or arbitrary executions;

(z) In connection with item 11 (b): Mr. D. García Sayán, Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances;

(aa) In connection with item 11 (b): Mr. B. Kessedjian, Chairperson-Rapporteur of the intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance;

(bb) In connection with item 11 (c): Mr. A. Ligabo, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;

(cc) In connection with item 11 (d): Mr. L. Despouy, Special Rapporteur on the independence of judges and lawyers;

(*dd*) In connection with item 11 (*e*): Mr. A. Amor, Special Rapporteur on freedom of religion or belief;

(*ee*) In connection with item 12: Ms. Kyung-wha Kang, Chairperson of the Commission on the Status of Women;

(*ff*) In connection with item 12 (*a*): Ms. Y. Ertürk, Special Rapporteur on violence against women, its causes and consequences;

(*gg*) In connection with item 13: Mr. J. M. Petit, Special Rapporteur on the sale of children, child prostitution and child pornography;

(*hh*) In connection with item 13: Mr. O. A. Otunnu, Special Representative of the Secretary-General for children and armed conflict;

(*ii*) In connection with item 13: Mr. P. S. Pinheiro, independent expert to direct an in-depth study of the question of violence against children;

(*jj*) In connection with item 14 (*a*): Ms. G. Rodríguez Pizarro, Special Rapporteur on the human rights of migrants;

(*kk*) In connection with item 14 (*c*): Mr. F. M. Deng, Representative of the Secretary-General on internally displaced persons;

(*ll*) In connection with item 14 (*d*): Swami Agnivesh, Chairperson of the Board of Trustees of the United Nations Voluntary Fund on Contemporary Forms of Slavery;

(*mm*) In connection with item 14 (*d*): Ms. S. H. Khalifa bin Ahmed al-Thani, Special Rapporteur on disability of the Commission for Social Development;

(*nn*) In connection with item 15: Mr. L. E. Chávez, Chairperson-Rapporteur of the open-ended intersessional working group on the draft United Nations declaration on the rights of indigenous peoples;

(*oo*) In connection with item 15: Mr. R. Stavenhagen, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people;

(*pp*) In connection with item 15: Ms. V. Tauli-Corpuz, Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations and member of the Advisory Group of the Voluntary Fund for the International Decade of the World's Indigenous People;

(*qq*) In connection with item 16: Ms. H. E. Warzazi, Chairperson of the Sub-Commission on the Promotion and Protection of Human Rights at its fifty-fifth session;

(*rr*) In connection with item 17 (*b*): Ms. H. Jilani, Special Representative of the Secretary-General on the situation of human rights defenders;

(*ss*) In connection with item 19: Ms. C. Abaka, independent expert on technical cooperation and advisory services in Liberia;

(*tt*) In connection with item 19: Mr. L. Joinet, independent expert appointed by the Secretary-General on the situation of human rights in Haiti;

(*uu*) In connection with item 19: Mr. P. Leuprecht, Special Representative of the Secretary-General for human rights in Cambodia;

(*vv*) In connection with item 19: Mr. G. Alnajjar, independent expert on the situation of human rights in Somalia;

(*ww*) In connection with item 19: Mr. T. Hammarberg, member of the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights.

[See chap. III.- E/2004/23 – E/CN.4/2004/127]