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**REVIEW OF REPORTS, STUDIES AND OTHER DOCUMENTATION FOR
THE PREPARATORY COMMITTEE AND THE DURBAN REVIEW
CONFERENCE AND CONTRIBUTIONS OF HUMAN RIGHTS BODIES
AND MECHANISMS**

Contributions submitted by the Special Rapporteur on the right to education to the questionnaire prepared by the Office of the United Nations High Commissioner for Human Rights, pursuant to decision PC.1/10 of the Preparatory Committee of the Durban Review Conference at its first session

* Reissued for technical reasons.

QUESTIONNAIRE

Replies received from the Special Rapporteur on the right to education

1. A questionnaire was submitted to the specialized agencies of the United Nations system and relevant United Nations bodies, regional organizations, governmental organizations, national human rights institutions and non-governmental organizations, the Committee on the Elimination of Racial Discrimination, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on freedom of religion or belief, the Five Independent Eminent Experts to follow up on the implementation of the Durban Declaration and Programme of Action, the Five Experts on Complementary International Standards, the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Working Group of Experts on People of African Descent and other relevant human rights mechanisms including other special procedures, prepared by the Office of the United Nations High Commissioner for Human Rights, pursuant to decision PC.1/10 of the Preparatory Committee of the Durban Review Conference at its first session (A/62/375).

2. See below the replies received from the Special Rapporteur on the right to education, Vernor Munoz.

Question 1

Please assess the implementation of the Durban Declaration and Programme of Action.

Reply of the Special Rapporteur

1. From the perspective of education, the implementation of the Durban Declaration is still a challenge. The Durban Declaration included some key recommendations that are far from having been implemented. Among them, we underline: (a) the need for States to implement strategies that can guarantee the full, precise and objective teaching and communication of the history, culture and contributions of all different populations; (b) the need to guarantee access to and completion by all children and adults of a quality education, eliminating intra-school and outside-school factors that hinder access, attendance and success in learning experiences; (c) the

need for States to guarantee opportunities for indigenous populations to learn in their mother tongue; (d) human rights education, for students, teachers and administrative staff, including those who are part of the administrative structure (Ministries, for example). In these four major areas of action, only timid progress has been made by States.

2. In terms of point (a) above, discrimination manifests itself within the school, when students are faced with an environment that is insensitive to their rights, needs and cultures, given a curriculum that goes against the valuing of human diversity and that gives in to homogenizing trends; or that is marked by the difficulty teachers and school staff face in dealing with clear manifestations of racism; or that is characterized by the scarce and fragile relation that most schools have with their surrounding community, and thus, with the diversity that is present there.

3. There is sufficient historical basis to understand that most education exclusion is rooted in the structure of the traditional school. The need for uniformity and for increasing efficiency in the outcomes of “production factors” was the reason that motivated the concept of a school based on the elimination of differences among people. In this sense, much more concrete reflection and work has to take place at the level of education systems, inquiring into these issues and drawing concrete policies and programmes that guarantee the recognition and valuing of differences. In terms of point (b) above, statistics show that historically discriminated-against groups are still at an enormous disadvantage in terms of access, completion and success in learning experiences, showing that the very notion of universality of education has still a long way to go. The obligation of States to offer universal, compulsory and free education is still not being met by the great majority of them. The lack of opportunities for victims of discrimination is easily converted into factual evidence of their supposed inferiority, perpetuating discrimination and its perverse consequences.

4. In terms of point (c), a good indicator for assessing progress is to analyse the number of States that have ratified International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples. To date, only 19 States have ratified the Convention, most of them from Latin America. Finally, in terms of point (d), the very notion of human rights education is still a challenge for many States and all efforts and initiatives currently under way by UNESCO are very important.

Question 2

On the basis of your experience, please assess contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance, as well as initiatives in this regard with a view to eliminating them.

Reply

1. The Durban Declaration gives special emphasis to: Africans and Afro-descendants; indigenous populations; migrants; and refugees. It also mentions poverty as a key element of discrimination and gender as a deep-rooted cross-cutting issue that severely aggravates all forms of discrimination. AIDS is also mentioned as a factor of discrimination.
2. Contemporary forms of racism, racial discrimination, xenophobia and related intolerance include religion-based discrimination and consequently discrimination against the Arab, Muslim and Jewish communities, among others. Furthermore, other forms of discrimination relate to the fact that the issue of terrorism has gained centrality. In this sense it is crucial that States and international organizations take on the responsibility of making sure that measures adopted in the fight against terrorism do not foster discrimination due to race, colour, descent or nationality.

Question 3

Please identify concrete measures and initiatives for combating and eliminating all manifestations of racism, racial discrimination, xenophobia and related intolerance in order to foster the effective implementation of the Durban Declaration and Programme of Action.

Reply

1. A first key step in overcoming racism, racial discrimination, xenophobia and related intolerance is recognizing its existence. More often than not, recognizing the existence of racism is a tense process that requires objectively looking at historical injustices. This recognition is crucial because it sets the stage for any other action to take place, creating the necessary conditions to spell out the discriminatory contexts and its various manifestations.

2. A second important measure is to set out curricular and pedagogical changes based on the notion of “re-education of social relations”, fostering new forms of relationships among people, by which differences are not only recognized but also valued. I have frequently pointed out in all my reports that access to school, on its own, does not represent a guarantee that the right to education is being met. There is an urgent need to foster quality education based on the teaching and the living of human rights. This is a prerequisite for developing resistance against all forms of exclusion and discrimination.

3. Pursuant to this, initiatives and school processes that help to institutionalize human rights education are a must if we want to see the Durban Declaration effectively implemented. The United Nations Decade for Human Rights Education (1994-2005) was an important initiative and other efforts still have to be made to consolidate this perspective. The first phase of the World Programme for Human Rights Education is certainly one of these efforts. Education in and for human rights is a condition for the adequate development of the personality and for the integral protection of human dignity; it must be considered as a key parameter when attempts to define the significance of quality education take place. Such education, based on the recognition and valuing of difference, must be oriented towards equity and a more just and peaceful society.

4. Last but not least, further priority and consideration must be given to affirmative action and other equity-oriented public policies that attempt to remedy and overcome historical exclusions owing to deep-rooted discriminatory processes. Consolidating the public system of education, guaranteeing that education is available, accessible, adequate and adaptable to all is paramount in overcoming historic discriminations.

Question 4

Please assess the effectiveness of the existing Durban follow-up mechanism and other relevant United Nations mechanisms dealing with the issue of racism, racial discrimination, xenophobia and related intolerance, and make suggestions in order to enhance them.

Reply

1. The follow-up mechanisms in place are crucial for overcoming racism, racial discrimination, xenophobia and related intolerance. They give the necessary framework for

monitoring the problem and for refining recommendations in an ever-changing context. As a suggestion for enhancing the mechanisms, strategies could be put in place that favour a closer and more ongoing dialogue with States, creating procedures that seek more responsive positions from the latter and that thus increase the possibility of their enactment. Another suggestion is to give further publicity to steps taken in the follow-up process of the Durban Conference, as regards any new observation or recommendation. This is very important in that it will inform public debate, strengthening the possibility of different stakeholders putting in place in-country mechanism of pressure and accountability. Civil society actors must be recognized as important allies in the implementation of the Durban Declaration and the International Convention and must be accordingly involved in the Durban follow-up mechanisms and other United Nations mechanisms dealing with racism, racial discrimination, xenophobia and related intolerance.

2. Another area of action would be to further articulate the recommendations in the Durban Declaration to the different sectors involved in the concrete implementation of the Declaration, among them the education sector. Cross-sector contribution, collaboration and dialogue are very important and necessary, both at the national level and at the United Nations. UNESCO, for example, could be called upon to collaborate with the Committee on the Elimination of Racial Discrimination in strategizing for overcoming multiple forms of discrimination.

Question 5

What are the steps that should be taken by Governments to ratify and/or implement the International Convention on the Elimination of All Forms of Racial Discrimination and to give proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination?

Reply

1. Governments should have appropriate institutional spheres and mechanisms whose terms of reference include enacting procedures to ratify and implement the Convention as well as to give proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination, as well as to the other concerned treaty bodies and special procedures. However, in order to create conditions for such institutionalization, it is important that there be public debate and mobilization around the issue. States that resist ratifying the Convention or taking

concrete measures to implement the Durban Declaration and other recommendations of the Committee on the Elimination of Racial Discrimination must be impelled to act, especially in response to the demands of their national constituencies. Ways of involving parliament must be considered, since parliamentarians are the key in representing and responding to citizens' interests and in creating national legal frameworks in tune with international human rights instruments and which foster the effective implementation of the latter. Parliament is also an adequate institutional sphere to promote debate around issues of discrimination, a necessary step if any Declaration or Convention is to be effectively carried forward.

Question 6

Please identify and share good practices achieved in the fight against racism, racial discrimination, xenophobia and related intolerance.

Reply

1. An example of good practice is the legal framework approved by Brazil in 2003 and recently amended. The Law 10.639 of 2003 represents a turning point in the historic demands of the Black population in Brazil. It amended the 1996 General Law of Education to include in the curriculum of all Brazilian schools, both public and private, the obligatory teaching of African and Afro-Brazilian history and culture. In 2004 the National Education Council approved curriculum guidelines for the teaching of African and Afro-Brazilian history and culture. The guidelines are based on the need for an education of ethnic-racial relations, having as its goal the "dissemination and production of knowledge, as well as attitudes, positions and values that educate citizens in relation to ethnic-racial plurality, making them capable of interacting and negotiating common objectives that guarantee, to all, respect to legal rights and to the valuing of identity". This year, the law was amended to include, apart from African and Afro-Brazilian history and culture, that of the indigenous population. The challenge in Brazil is now to see the full implementation of the law, but it certainly offers a concrete and sound platform from which to act. It has also put at the forefront of the public agenda the recognition of racism and discrimination in the society, and consequently, of ways to overcome this historic problem.

2. Considering “education of ethnic-racial relationships” and recognizing that changes come about not only through curricular development, but especially through changes in values and attitudes, is an important step forward. This is an example of an education geared for human rights. Children learn through observation and if proactive efforts are not installed they will perpetuate discriminatory practices way before they rationally understand the meaning of discrimination.
