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**STATEMENT BY MR. SABELO GUMEDZE**

**MEMBER OF THE WORKING GROUP OF EXPERTS ON PEOPLE OF aFRICAN DESCENT**

Item 9: consideration of the elaboration of a draft United Nations Declaration on the promotion and full respect of human rights of people of African descent

1. Scope of a Declaration?

16th session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action

Geneva, 29 August 2018



Chairperson,

Distinguished representatives

Ladies and Gentlemen

It is an honour for me to once again address you as a member of the Working Group of Experts on People of African Descent.

In accordance with Human Rights Council resolution 35/30 and the General Assembly resolution 69/16 on the programme of activities for the implementation of the International Decade for People of African Descent, the Working Group dedicated its 22nd session (19-23 March 2018) to preparing for the Intergovernmental Working Group on the elaboration of a Draft Declaration on the Promotion and full respect of human rights of people of African descent. The Working Group received submissions on the substantive elements to the draft Declaration from member States and civil society whose synopsis is worth restating.

The submissions stated that preambular provision should, among other things, call upon States to recognise the existence of their population of people of African descent in line with article 33 of the Durban Declaration. The preamble must also make reference to the current situation of people of African descent in making a strong case for the full enjoyment of their rights and freedoms, as a collective or as individuals, as guaranteed in the Charter of the United Nations and in international human rights law.

The submissions pointed out that the draft should urge those States that have not yet done so to ratify all international instruments and agreements related to the fight against racism and discrimination. This includes the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights as well as the Optional Protocol thereto and the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization (A/HRC/36/60).

The submissions underscored the importance of ensuring that national legislation is compatible with international human rights law. The draft declaration should therefore encourage States to review national laws and their compatibility with international human rights law, specifically in relation to combating racial discrimination and Afrophobia against people of African descent.

The submissions also addressed the issue of reparation, emphasising the declaration should assert a right to reparations and reparative justice for enslaved Africans, and the descendants of enslaved Africans, within the legal framework of the Durban Declaration and Plan of Action and ICERD (article 6). It was also noted that the article on reparations in the draft declaration could, among other things, adopt the language from the CARICOM Reparations Committee.

The submissions also referred to the importance of the right to life, liberty and security of person, which the draft declaration should contain drawing inspiration from the Universal Declaration of Human Rights. Linked to this right to is the guarantee of the equality before the law which the draft declaration should protect.

The submissions also underscored the protection against State Violence, including racial profiling, which people of African descent are subjected to. The Working Group recommended the setting of national observatories on racial profiling to identify and document violations. It was also been suggested that this declaration should include reference to the responsibility of States regarding the training, control and accountability of law enforcement personnel, with a goal of ending the systematic and institutionalised targeting and killing of people of African descent. The draft declaration must also guarantee against abused of the rights of people of African descent within the justice system.

The submissions noted that the declaration should include robust legal protections against discrimination and violent crimes, especially those motivated by hate based on race, pursuant to Article 4 of the ICERD.

The submissions also underscored the importance of migrant rights, and to this end recommended that the draft declaration should include responsibility of taking positive to reduce inequality that marginalises African migrant communities, and that marginalises other people of African descent who are in a position of statelessness. Other rights linked to migrant rights are refugee and asylum-seekers rights, and the submissions proposed that the draft declaration should, among other things, define asylum-seekers as inclusive of both *de facto* and *de jure*.

The submissions recommended that the draft declaration should re-assert the human right to health and wellbeing, and highlight new global risks such as climate change, environmental degradation and pollution, and urban migration. The draft declaration should call upon stated to take appropriate measures to ensure that people of African descent are fully and effectively included in the schemes of universal health coverage and the public health system. The coverage of essential health services for people of African descent must be guaranteed in law and practice without any discrimination.

The declaration must also guarantee the right to food security, improved nutrition and sustainable agriculture. To this end, the declaration must, among other things, take all necessary steps to eradicate undernourishment and ensure that People of African descent effectively benefit from the right to food. The declaration must call upon States to adopt specific programmes with the aim of further decreasing the incidence of diseases among people of African descent. The declaration should encourage States to implement programmes that are aimed at preventing and treating substance abuse within people of African descent.

The submissions also underscored the importance of reproductive rights recommending that the draft declaration should include reproductive health provisions. It should also encourage states to introduce programmes aimed at enhancing medical and psychological care for those affected by mental conditions and disorders.

The draft declaration should also guarantee access to adequate housing and States should be encouraged to develop and implement policies and projects ensuring that people of African descent gain and sustain a safe and secure home and community in which they live in peace and dignity. Equally important is the recognition of land claims and to this end, it was recommended that the draft declaration should encourage States to develop legislation and land reform programmes aimed at ensuring land rights for people of African descent.

The submissions also noted that the right to education should feature prominently in the draft declaration in line with international human rights law. The draft declaration should also guarantee employment rights. To this end, the declaration should guarantee that employment be available to people of African descent without discrimination. It must further ensure that all African descent youth and women have access to opportunities of formal work with labour and social security rights protected.

The submission also emphasised the importance of cultural rights of people of African descent noting that the declaration should guarantee the right to engage in and teach African religion and spiritual practices. These include the right to engage in rituals and ceremonies; the right to use traditional medicines and healing practices; the right to preserve African languages through speech and education without discrimination; the right to protect historical sites and to be decision-makers on how these sites are maintained; and the right to hold meetings exclusively for people of African descent.

As the Working Group, we stand ready to support all efforts aimed at elaborating the declaration. The Working Group actively participated in the drafting of the Programme of Action for the International Decade for People of Africa Descent. We further pledge our support to be involved in the drafting of a United Nations declaration on the promotion and full respect of human rights of people of African descent, which we believe will be a living document in a changing world.

We further value the support provided by civil society in this process. As the Working group, we will further continue in joining forces with civil society in addressing the challenges faced by people of African descent. The Working Group reiterates the importance of unifying efforts in combating racism and racial discrimination. To echo what my colleage, Michal Balcerzak, said on Monday, “as part of the international anti-racism architecture, we have a very important responsibility to respond resolutely against racism, racial discrimination, xenophobia and related intolerance, including their contemporary forms and manifestations.”

I thank you for your attention.