Statement by Ms. Dominique Day, Chairperson, Working Group of Experts on People of African Descent, at the 19th session of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action

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*Ms. Day, as Chairperson of the Working Group of Experts on people of African descent, human rights attorney, academic and civil society activist* ***how you would summarize the situation of racial discrimination worldwide****? and* ***what in your view are the main actions that states and other actors should undertake to counter racism****, taking into consideration the DDPA and the programme of activities for the International Decade?*

Excellencies,

Distinguished Guests,

Fellow Panellists,

Ladies and Gentlemen,

Thank you for the opportunity to join you again. At the midpoint of the International Decade on People of African Descent and the 20th Anniversary of the Durban Declaration and Programme of Action, we welcome the ongoing commitments set forth in these spaces to confront and dismantle systemic racism. We urge States and civil society to re-commit to the promise of the Decade and the promise of Durban.

Current events confirm the relevance the DDPA twenty years later. For example, globally, States ignored early indications that people of African descent would be particularly hard hit by the COVID-19 pandemic, despite our guidance and DDPA’s discussion of the contributions of race to health disadvantage (Section 31). Recent research indicates ***reparations alone*** would have decreased the impact of COVID-19 by 31–68% in parts of the United States.[[1]](#footnote-1)

SO I will discuss for a moment how the COVID-19 pandemic has laid bare clear examples of racial disparity and discrimination in institutions designed to confer justice, equity and redress, posing even more loudly the question of whether these institutions, including law enforcement, operate consistently with, or contrary to, their design. We have seen racial disparities in the infection, severity, and mortality form COVID-19, which has hit people of African descent disproportionately worldwide. We can measure systemic racism everywhere we look for it, including in every human rights pillar. Our recently recognized right to a healthy environment is also disproportionately burdened for people of African descent. At the midpoint of the Decade we are forced to confront the limitations of our commitments to its pillars of Recognition, Justice, and Development for people of African Descent. At the 20th anniversary of the Durban Declaration and Programme of Action, we see the language of Durban is as relevant as it has ever been.

These spaces are also important sites to acknowledge the legacies of the past. Historically, systemic racism was used to rationalize colonialism and trade and trafficking in enslaved Africans by embedding justifications throughout the societal fabric. In the course of the COVID-19 pandemic and the global protests on ystemic racism, these mindsets are still apparent, as is their deep connection to historical exploitation. In 1951, an American poet of African descent, Langston Hughes, asked “what happens to a dream deferred?”. He asked *whose* rights and freedoms were prioritized, even at the founding of the United Nations and the establishment of the Universal Declaration of Human Rights. In an era of peace, fortune and dream-building, Hughes noted that *deferred dreams* were the true content of protests, uprisings and resistance. Consider this today. We have been able to observe profoundly and globally, in this past 2 years, how the task of disrupting systemic racism and upholding the human rights framework remains a promise unfulfilled, a dream deferred.

In our report, “COVID-19, systemic racism and global protests,” we examined how structural racial discrimination exacerbates inequality in access to health care and treatment, leading to racial disparities in health outcomes and higher rates of mortality and morbidity for people of African descent. COVID-19 is not exclusively a public health issue where policy decisions fail to prioritize scientific conclusions, but also reflect racialized priorities – just as police violence against Black bodies is not exclusively a policing issue where widespread impunity, misconduct and brutality exist within an enabling environment where racialized misconduct persists.

**Play 1 SLIDE**

Neglecting race has led to critical failures in the production of knowledge relating to the pandemic, including in scientific fields and despite racially-determined outcomes. There is some irony here – the most successful vaccine thus far was developed by a woman of African Descent, Dr. Kizzmekia Corbett – a doctor who now teaches at one of the leading universities in the world but who was unknown and uncelebrated despite her brilliance, before the pandemic. Often, I wonder whether the next Dr. Corbett is getting the education and support they need or whether structural discrimination is denying that individual and all of us an important intellect for the future. We should compare this with our early concerns at the impact of systemic racism on therapy and vaccine development was also equally of concern. The use of people of African descent as “lab rats” for research on COVID-19 was publicly discussed in April 2020 during a televised broadcast by the head of intensive care at a large public university hospital in Paris and the director of research at the French National Institute of Health and Medical Research.

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In fact, throughout the pandemic, we have seen how structural discrimination has exacerbated inequality in access to health care and treatment, leading to racial disparities in health outcomes and a higher rate of mortality and morbidity for people of African descent. Most States, however, have failed to consider the social determinants of health and failure to appreciate the risks that Afrodescendent populations face has facilitated racial disparities in the pandemic.

Even before the outbreak of COVID-19, scientists knew a pandemic would disproportionately affect people of African descent. Racial disparities in exposure, susceptibility, access to health care, and perceptions of discrimination were key factors in the influenza A (H1N1) pandemic. Contrary to popular belief, susceptibility to and the severity of COVID-19 are not wholly attributable to an individual’s health as underlying health conditions (“comorbidities”) do not adequately explain the racial disparities seen in COVID-19 infection. Universal health care may have mitigated racial disparities in some States.

The disproportionate representation of people of African descent in service industries was also a source of risk and vulnerability. Widespread quarantining, distancing and mask mandates are heavily underwritten by the ongoing availability of an “essential” workforce that enables people to reduce transmission by staying at home. In many States, a disproportionate number of people of African descent work in the service industry, serving as home health aides, carers and grocery and delivery personnel who must work full-time and use public transportation daily. We saw this in the UK, US, and throughout Europe and Latin America.

The Working Group also pointed to medical bias including research shows which doctors underdiagnose illness, discount reports of pain, infer lesser pain and suffering for the same conditions and under-prescribe painkillers for people of African descent, including in the case of serious illnesses. People with lupus reported denials of prescription medications redirected for the COVID-19 response.

Prisons and jails in the United States, Brazil and other States have been COVID-19 hotspots, with high infection rates and few containment or preventative measures, and people of African descent are disproportionately represented among both prison populations and those succumbing to COVID-19 worldwide. Failure to effectively mitigate the resulting risk in places of detention is an issue of racial discrimination and racial justice. Troubling reports have also highlighted disregard for the rights of incarcerated persons, including in the use of inhumane practices, like solitary confinement, to mitigate COVID-19 contagion in prisons in the United States.

We also found that mandated restrictions have, however, been sometimes used as a pretext for disproportionate enforcement and violence against people of African descent. Police involvement was more likely to end in arrest and law enforcement impunity; the use of violence against people of African descent was also evident in social restriction enforcement. In the United Kingdom, Black and minority ethnic persons were 54 per cent more likely to be fined for violating lockdown. regulations than white people. In Spain, 70 per cent of people of African descent surveyed reported being targeted by the police because of race. In China, police enforced orders of eviction people of African descent from apartments, and prohibited them from staying in hotels or from frequenting restaurants.

However, we also look beyond the COVID-19 crisis to see how pervasive systemic racism exists in our institutions, including our human rights spaces.

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Similarly, our conversation on migration remains highly racialised. In Spain we heard of harassment and violence toward undocumented workers declared essential during the pandemic who lacked residency documents as they were in public streets. DDPA Section 30 (e) calls for respect for dignity by police and immigration authorities. Yet, last month, we see men on horseback using whips against Haitian asylum-seekers at the U.S. border – people fleeing political instability and the recent devastating earthquake, given their understanding, honed after the last earthquake, that international assistance may be inadequate at best and toxic at worst.[[2]](#footnote-2) This is being done under Title 42, instrumentalizing the pandemic.

Denying the right to seek asylum and forced repatriation violate the principle of non-refoulement, central tenets of international human rights.[[3]](#footnote-3) But, as the DDPA tells us, we ***must*** ***also*** consider race for an ***accurate*** understanding of our current context. Moreover, as people of African descent, our blood memories, as Alvin Ailey would say, quake at media images that mirror precisely the patter rollers, white slave patrols employed to surveil and control Black bodies during the period of enslavement… and the persistence of racial animus inherent in the similar exercise of discretion today. As some courts acknowledge, including last month in *US v. Carillo-Lopez*, immigration policy was enacted to intentionally discriminate on the basis of race. We must confront, not excuse, an ongoing denials of equal protection under the law.

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As was reported this week, even the greater awareness of systemic racism due to the global conversation in the last year has not mitigated the willingness to discriminate on some employment spaces. A recent study conducted by civil society in France found that 45% of temp agencies, or agencies d’interim, were willing to discriminate on the basis of race – and select white employment candidates at the request of an employer or to facilitate the employer’s ability to do so themself. Importantly, this is consistent with research elsewhere and our own findings in country visits. The Working Group remains a key resource to examine, uncover, and address ongoing manifestations of systemic racism like this.

**STOP SLIDE**

In our 2021 report, “Environmental Racism, the climate Crisis, and People of African Descent,” we noted that People of African descent in all parts of the world face environmental racism in the siting of landfills, toxic waste dispensaries, extractive industries, industrial and mining areas, factories and power plants and in other environmentally hazardous activities. Hazardous waste continues to be exported to countries in the global South with environmental policies and safety practices that conveniently accommodate wealthier nations’ desire to send the problem elsewhere. Transnational corporations develop lucrative endeavours that disregard or deny serious or deadly impact to local populations. This is not new and yet it persists, unabated, and intensifies over time.

Today, people of African descent are also disproportionately affected by the climate crisis, a ticking time bomb. Global warming and climate change is a result of human decision-making: here, as elsewhere, we see systemic racism embedded even in seemingly neutral decisions. As climate change is a biproduct of our ongoing economic reliance on extraction, exploitation and accumulation through dispossession, only a racialized analysis illustrates how climate change is not an isolated crisis, but instead is linked to economic and political frameworks that have systematically disregarded the right to life and other core human rights for certain people. Systemic racism and unspoken understandings of racial hierarchy license profit at the expense of certain lives, resources, lands, and futures. And, despite active roles in the *creation* of extreme weather events and climate-related emergencies, many governments evade responsibility for the collateral consequences of the climate crisis for people of African descent, even in their own countries.

The Working Group welcomes the current attention to the issue of systemic racial discrimination that people of African descent face, and thanks the Black Lives Matter movement and anti-racism protestors for turning a spotlight towards thisurgent matter. It is now time for Member States to take real action to ensure that the roots of the problem are effectively addressed, that international human rights law is implemented and that justice is provided.

Recommendations

* Efforts to disrupt systemic racism requires looking specifically at the impact of systemic racism in policing, health care, COVID-19 pandemic policy and other areas of discretionary decision-making on communities of African descent, and explicitly strive to disable taxonomy that obscures or minimizes that impact. It requires prioritizing human rights, equality and racial equity, even in times of emergency, and take measures to mitigate the impact of racial bias when decisions are made under stress or time pressure.
* With respect to people of African descent, the COVID-19 pandemic has shown that systemic racism touches the lives of people of African descent broadly. Structural racial discrimination exacerbates inequality in access to health care and treatment, leading to racial disparities. These racial disparities suggest that the precarity that many people of African descent experience, particularly in intersectional populations, will increase. The human rights framework offers important lessons in the context of global pandemics, where people of African descent risk being left behind in terms of their access to the right to health, including medicines, treatments and vaccines. In particular, the Working Group recommends data disaggregated by race should be collected and analysed with respect to the COVID-19 pandemic, including on the enforcement by States of COVID-19-related restrictions.
* This moment is ripe for political commitments to reparatory justice for people of African descent who continue to live the consequences of the transatlantic slave trade. With respect to COVID, a recent research has shown that in one location in the US, reparations after enslavement would have decreased the impact of COVID-19 from 31-68% - more than cut in half. We urge States to acknowledge the internationally recognized right to reparations and to develop comprehensive plans for reparatory justice for historical and ongoing systemic racism. While these may include financial and wealth equality initiatives, they should also look more broadly at recognition and justice initiatives.
* We Urge States, UN agencies, and others to launch the decade, to publicize and implement the programme of Activities for the decade, to develop national action plans to fight racism, and to develop clear plans to use the last five years of the Decade effectively. We have not seen adequate engagement on the convening and public opportunities the Decade offers and even in States with considerable populations of people of African descent, the Decade is often unknown or unrecognized.
* We urge States to engage with the text of Durban and to decline to politicize the DDPA at the expense of people of African descent or at the expense of its important and nuanced language on systemic racism and racial equity. This is language we do not have elsewhere and we remind States that Durban was adopted by consensus at the time. Claims that the DDPA is biased, discriminatory, or antisemitic are simply not supported by its text or its use internationally.

I thank you for your attention.

1. Eugene T. Richardson, Momin M. Malik, William A. Darity, A. Kirsten Mullen, Michelle E. Morse, Maya Malik, Aletha Maybank, Mary T. Bassett, Paul E. Farmer, Lee Worden, James Holland Jones, (2021)

*Reparations for Black American descendants of persons enslaved in the U.S. and their potential impact on SARS-CoV-2 transmission*, Social Science & Medicine, Vol. 276, p. 113741. (https://www.sciencedirect.com/science/article/pii/S0277953621000733) [↑](#footnote-ref-1)
2. Brett Wilkins, *Border Patrol Accused of 'Unfathomable Cruelty' for Cracking Whips on Haitians*, Common Dreams (Sept. 20, 2021) (https://www.commondreams.org/news/2021/09/20/border-patrol-accused-unfathomable-cruelty-cracking-whips-haitians) [↑](#footnote-ref-2)
3. UNHCR, *Comment by UN High Commissioner for Refugees Filippo Grandi on conditions and expulsions at US border* (Sept. 21, 2021) (https://www.unhcr.org/news/press/2021/9/614a27324/news-comment-un-high-commissioner-refugees-filippo-grandi-conditions-expulsions.html) [↑](#footnote-ref-3)