

**Human Rights Council****Forty-second session**

9–27 September 2019

Agenda item 9

Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action**Report of the Working Group of Experts on People of African Descent on its twenty-third and twenty-fourth sessions****Summary*

The present document contains the report of the Working Group of Experts on People of African Descent on its twenty-third and twenty-fourth sessions, prepared pursuant to Council resolutions 9/14, 18/28, 27/25 and 36/23. During its twenty-third session, held in Geneva from 3 to 7 December 2018, the Working Group held private discussions. At its twenty-fourth session, held in Geneva from 25 to 29 March 2019, the Working Group focused on the theme “Data for racial justice”.

At its public session, the Working Group discussed the human rights situation of people of African descent globally. It also took a comprehensive look at the varied intersections of big data and racial justice (and injustice). The Working Group presented its draft report on countering negative racial stereotypes of people of African descent. It concluded that mapping and analysis of disaggregated data were crucial to inform policy priorities relating to equality and opportunity for people of African descent. In addition, the refusal by some States to collect and disaggregate data based on race and ethnicity was one of the most serious impediments to the attainment of the Sustainable Development Goals, and achieving those Goals and meeting their targets required dismantling the structural and systemic barriers to sustainable development that exist for people of African descent in developing and developed countries. The Working Group also concluded that all relevant stakeholders should make an effort to implement the Durban Declaration and Programme of Action and the programme of activities of the International Decade for People of African Descent.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter’s control.



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I. Introduction

1. The Working Group of Experts on People of African Descent held its twenty-third session from 3 to 7 December 2018 and its twenty-fourth session from 25 to 29 March 2019 at the United Nations Office at Geneva. The present report is submitted in accordance with Human Rights Council resolutions 9/14, 18/28, 27/25 and 36/23, in which the Council requested the Working Group to submit an annual report on all activities relating to its mandate. The report focuses mainly on the deliberations at the twenty-fourth session of the Working Group.
2. Representatives of Member States, international organizations, regional organizations and non-governmental organizations (NGOs) and invited panellists participated in the twenty-fourth session (see annex).

II. Organization of the twenty-fourth session

A. Opening of the session

3. In her opening statement, the Director of Thematic Engagement, Special Procedures and the Right to Development Division of the Office of the United Nations High Commissioner for Human Rights (OHCHR) expressed appreciation for the timeliness of the discussion on the theme “Data for racial justice” as a way to amplify the importance of data in informing policy and measures to address inequality and discrimination. A human rights-based approach to data and statistics – one that detected multiple and intersecting forms of discrimination towards a particular group based on disaggregated data – could inform decisions for better lives. The challenges facing data collection for marginalized groups, such as people of African descent, were even greater when those groups were legally invisible, either because their existence was unrecognized or because, in some countries, collecting data about them was criminalized by the State.
4. The Director encouraged the Working Group to continue to reach out to financial and development institutions regarding the inclusion of people of African descent, noting its work in developing operational guidelines on the inclusion of people of African descent in the implementation of the 2030 Agenda for Sustainable Development, which would be a useful tool and raise awareness about the importance of data for the development of groups such as people of African descent. She reaffirmed the commitment of the United Nations High Commissioner for Human Rights, as the Coordinator of the International Decade for People of African Descent, to advancing the rights of people of African descent.

B. Election of the Chair-Rapporteur

5. Ahmed Reid was elected Chair-Rapporteur of the Working Group. Dominique Day was elected Vice-Chair.
6. Michal Balcerzak, the outgoing Chair-Rapporteur, welcomed Ms. Day as a new member of the Working Group and thanked the other members for their contributions. He acknowledged both the achievements of the Working Group, as reflected in the implementation by States of the Working Group’s recommendations on the issue of racial discrimination faced by people of African descent, and the need to continue efforts to encourage more States to implement the Working Group’s recommendations.
7. Accepting his new role as Chair-Rapporteur, Mr. Reid thanked the other experts for his election and the participants for their support.
8. Representatives of Member States and civil society expressed their appreciation to Mr. Balcerzak for his work during his tenure as Chair-Rapporteur and congratulated Mr. Reid on his election.

C. Organization of work

9. The Working Group adopted the agenda (A/HRC/WG.14/24/1) and programme of work for its twenty-fourth session.

III. Update on activities of the Working Group in the past year

10. Mr. Reid informed participants that the Working Group had submitted its annual report on its twenty-first and twenty-second sessions to the Human Rights Council at its thirty-ninth session, including reports on its country visits to Guyana and Spain (A/HRC/39/69 and Add.1 and 2), and had engaged in a constructive dialogue with Member States. The Working Group had also submitted its annual report to the General Assembly (A/73/228) at its seventy-third session and had participated in an interactive dialogue with the Third Committee on 29 October 2018.

11. At its twenty-third session, the Working Group had held a closed meeting at which members had approved their revised methods of work (A/HRC/WG.14/24/2). The Working Group had also prepared for its upcoming session, country visits and the consideration of communications, and had held meetings with various stakeholders and representatives of OHCHR. At the session, the Working Group had decided to submit to the General Assembly at its seventy-fourth session a thematic report on addressing negative racial stereotypes of people of African descent. It had also issued a call for submissions to gather all available data and analysis to conduct a mapping exercise and prepare a baseline report on the human rights situation of people of African descent. The report would serve as a tool to increase visibility, identify gaps and guide the formulation of policies and actions to prevent, combat and eradicate racism, racial discrimination, xenophobia, Afrophobia and related intolerance faced by people of African descent. In addition, the Working Group had held meetings with the Committee on the Elimination of Racial Discrimination to explore ways to increase collaboration between the two mechanisms on issues of mutual concern.

12. The Working Group had conducted country visits to Belgium (4–11 February 2019) and Argentina (11–18 March 2019). At the end of each visit, the Working Group had released media statements containing its preliminary findings and recommendations.¹ Reports on the visits would be submitted to the Human Rights Council at its forty-second session. The Working Group thanked the Governments of Belgium and Argentina for their invitations and for their assistance before, during and after the visits. The Working Group also thanked the representatives of civil society and people of African descent with whom it had met.

13. The Working Group had continued to actively promote and participate in activities to assist stakeholders in the implementation of the programme of activities for the International Decade for People of African Descent. In that connection, the Working Group had organized a side event at United Nations Headquarters in New York on 29 October 2018, entitled “Towards a declaration on the promotion and respect of the rights of people of African descent”, in which the Chair of the Working Group, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Chair of the Committee on the Elimination of Racial Discrimination had participated. Over 50 civil society participants had attended the event, indicating a great deal of interest in the work of the anti-racism mechanisms. The panellists had emphasized why the declaration was necessary and the importance of the process leading up to the declaration on the promotion and full respect of human rights of people of African descent taking place within the International Decade. During the same week, the Chair of the Working Group had also met with the United Nations Department of Global Communications to discuss promotional work related to the International Decade and had been interviewed on United Nations Radio on the Working Group’s mandate and efforts to promote the International Decade. The Working Group had welcomed General Assembly

¹ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24155&LangID=E and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24352&LangID=E.

resolution 73/262, in which the Assembly decided to establish a permanent forum on people of African descent.

14. The Chair of the Working Group said he had held two meetings with civil society organizations, on 30 and 31 October 2018 in New York. The first meeting had been with 20 representatives of the World Council of Churches from the United States of America and Canada and the second had been organized by the United States Human Rights Network.

15. He had also participated in a side event organized by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, entitled “Ascendant nationalist populist ideologies and strategies: a sobering threat to racial equality”, which had been held in New York on 31 October 2018.

16. On 10 December 2018, the Working Group had visited the European Union Agency for Fundamental Rights in Vienna to discuss the results of the European Union Minorities and Discrimination Survey, *Being Black in the EU*, and how to enhance synergies and collaboration for future work. On 12 February 2019, the Working Group had met in Brussels with officials from the Anti-racism and Diversity Intergroup of the European Parliament and the Directorate-General of Justice and Consumers of the European Commission to discuss activities and issues of common concern. On the same date in Brussels, the Working Group had also met with the European Network against Racism and the European Network of People of African Descent to discuss the human rights situation of people of African descent and developments at the European level.

17. The Chair said that, on 27 February 2019, he had participated in a panel discussion in Geneva on people of African descent and the 2030 Agenda. The event had been organized by Costa Rica, the Bahamas, Brazil and OHCHR. Other panellists had included the United Nations High Commissioner for Human Rights, the Vice President of Costa Rica and senior officials from the International Labour Organization and the World Health Organization.

18. He had also taken part in a one-day consultation on the modalities, format and substantive and procedural aspects of the permanent forum on people of African descent, held in Geneva on 10 May 2019, and had expressed the Working Group’s openness to support the permanent forum.

19. On behalf of the Working Group, the Chair expressed appreciation to all of the Governments that had cooperated with the mandate and had invited the Working Group to undertake country visits. He noted that the Working Group had requested invitations to visit other countries and emphasized the importance of confirming dates and allowing visits to be planned and to proceed on schedule.

20. During the reporting period, and in accordance with its mandate, the Working Group had sent 10 communications regarding allegations of human rights violations to Brazil, Colombia, Ecuador, Japan, the Netherlands, Italy and other actors. The communications sent and replies received had been included in the joint communications reports of special procedures mandate holders submitted to the Council (A/HRC/42/65, A/HRC/41/56 and A/HRC/40/79). The Working Group urged States to address human rights violations faced by people of African descent seriously and to take effective measures to end impunity and structural racism. On 1 April, the Working Group together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had also written to the International Law Commission with comments on the draft articles on crimes against humanity that were currently under deliberation by the International Law Commission.²

21. The Working Group had issued several media statements during the reporting period. On 12 November 2018, it had expressed concerns about racial bias in the Netherlands child welfare system. On 21 November 2018, it had joined several special procedure mandate holders in a statement expressing concerns over legal changes and the

² See www.ohchr.org/Documents/Issues/Racism/WGEAPD/CommentsDraftArticlesCrimesAgainstHumanity.pdf.

threat to migrants' rights in Italy. On 14 March 2019, the Working Group had stated that the fight against the world drug problem had to address the unjust impact on people of African descent. On 14 March 2019, the Working Group had joined several mandate holders and called upon Brazil to ensure justice for rights defender Marielle Franco, who had been killed on 14 March 2018. On the International Day for the Elimination of Racial Discrimination, on 21 March, the Working Group and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had issued a joint statement urging States to act against nationalist populism and supremacist ideologies.

22. The Working Group had continued its work on advancing engagement with international and development institutions and the specialized agencies of the United Nations system to promote the human rights of people of African descent. It had also continued work on a draft set of operational guidelines on inclusion of people of African descent in the 2030 Agenda, with the aim to field test the guidelines by engaging with national authorities and partners and contribute to the development of programmes intended for people of African descent. In that connection, on 1 November 2018, the Working Group had also met with the United Nations Statistics Division, and had discussed methodological frameworks and guidelines for censuses, data collection and dissemination, and technical assistance to Member States.

23. The Chair then opened the floor for Member States. The representatives of Brazil, Egypt, Trinidad and Tobago and Venezuela (Bolivarian Republic of) expressed satisfaction at participating in the session of the Working Group.

IV. Summary of deliberations

Thematic analysis

24. The Working Group devoted its twenty-fourth session, held in the form of six panel discussions, to the theme "Data for racial justice". The session focused on negative racial stereotypes, the Working Group's mapping exercise and the human rights situation of people of African descent globally. It also involved a comprehensive look at varied intersections of big data and racial justice (and injustice) throughout the world.

25. In the first panel, the Chair of the Working Group presented the draft thematic report on negative racial stereotypes of people of African descent. He highlighted the ongoing prevalence of racial stereotypes in everyday life, including in advertisements, on social media, in criminal justice systems and elsewhere. In politics, the deployment of racial stereotypes for political gain was becoming increasingly common and was particularly toxic. Racial bias had such a systemic impact on the enjoyment and exercise of fundamental rights that even in different countries people of African descent faced similar challenges. That suggested that a key underlying factor was white supremacy, or a construction of whiteness that relied on toxic negative stereotypes about people of African descent to preserve the value of whiteness and to afford less opportunity and fewer rights to people of African descent. He provided several indicative examples of racist statements by politicians, cultural practices involving the use of blackface, caricatures and media advertisements that all perpetuated racial stereotypes of people of African descent. Negative racial stereotypes and the cumulative impact of racially motivated discrimination were defining factors for many people of African descent worldwide and posed structural and systemic impediments to the attainment of the Sustainable Development Goals.

26. The Vice-Chair of the Working Group presented the status of the Working Group's efforts to gather all available data and analysis to conduct a mapping exercise and prepare a baseline report on the human rights situation of people of African descent. The objective of the report was to serve as a tool to increase visibility, identify gaps and guide the formulation of policies and actions to prevent, combat and eradicate racism, racial discrimination, xenophobia, Afrophobia and related intolerance faced by people of African descent. It could also serve as a baseline to measure progress in the realization of the human rights of people of African descent in accordance with international human rights

obligations, the 2030 Agenda and the International Decade for People of African Descent (2015–2024). Ms. Day shared highlights of the submissions received from several Member States and civil society, providing examples of data and statistics on the composition of the population, data reflecting the human rights situation of people of African descent and information on measures to address disparities they faced. The Working Group intended to continue to call for more submissions from Member States, civil society and all stakeholders to enhance the proposed report.

27. During the interactive discussion, in response to a question from Working Group member Ricardo A. Sunga III, Mr. Reid elaborated further on the importance of the Durban Declaration and Programme of Action and the International Convention on the Elimination of All Forms of Racial Discrimination in framing legislation to combat racial stereotypes. He also emphasized the importance of reviewing curricula and education to include the history of colonization and past atrocities, and the contribution of people of African descent in society, along with the establishment of memorial sites to address racial discrimination. Responding to a question on the linkage between racial stereotypes and law enforcement, Mr. Reid gave the example of the Stanford Open Policing Project, which had studied over 100 million traffic stops from 2011 to 2017 and had concluded that stereotypes and racial profiling were at the heart of policing. A representative of civil society asked about the next steps, to which Mr. Reid responded that the draft report would be published as the Working Group report to the General Assembly in 2019. Regarding Ms. Day's presentation, Mr. Sunga asked her to evaluate the different methods of data collection. Mr. Reid asked about the challenges in undertaking the mapping exercise. Working Group member Sabelo Gumede asked about the different sources of data received and how to reconcile data from different sources. In response, Ms. Day said that data and information received so far did not conflict and fairly corresponded with each other. While the Working Group was still accepting submissions, Ms. Day outlined the different varieties of information received so far, including statistical data, narratives, policy documents and research. Currently the Working Group was trying to distil the information received. A representative from civil society advised including policy recommendations in the report based on the analysis of data received.

28. The second panel focused on people of African descent in Latin America and the Caribbean. Mr. Reid gave a presentation on the historical structural barriers flowing from colonialism that continued to plague Caribbean countries today. Examining the adverse socioeconomic impact on various former colonies, a comparison of the human development index of former colonial States in the West with former colonized States in the Caribbean showed that former colonial States ranked at the top, while former colonies ranked at the bottom. That gap could be attributed to colonial exploitation. During the colonial period the Caribbean region had been a resource powerhouse, yet the wealth generated through African enslaved labour had not been invested in Caribbean countries but used to fuel European industrialization.

29. German Freire, a social development specialist at the World Bank Group and the main author of the World Bank report *Afro-Descendants in Latin America: Toward a Framework of Inclusion* (2018) presented the report. He highlighted the human rights challenges faced by people of African descent, including the fact that they made up 25 per cent of the population in Latin America yet constituted 50 per cent of those living in poverty. Attempting to understand why people of African descent were today suffering from lack of inclusion, he recognized three contributing factors: the localities in which people of African descent were living; their participation in the job markets; and their access to education. Between 2005 and 2015, Latin America had seen a reduction in poverty regionally, yet people of African descent had not been equally impacted. People of African descent in Latin America were 2.5 times more likely to be living in chronic poverty than other Latin Americans. Another concern was systemic racism ingrained in the educational systems of various Latin American countries, which resulted in people of African descent being marginalized. That marginalization then translated into reduced participation and eventual withdrawal from education, thereby significantly impacting the chances of such persons to obtain better paying jobs.

30. The third presenter on the panel, Pastor Elias Murillo Martínez, a member of the Committee on the Elimination of Racial Discrimination, also explored the disconnect between the size of populations of people of African descent in the Americas and their lack of representation in government. There was a need for more representation, as the path to justice required people of African descent to enter public life and hold positions of authority in public office. Recognizing special measures was one way of increasing the representation of people of African descent in government, but there was also a need for elected officials of African descent to transcend parties and even nation States and come together to address social and economic deficits plaguing communities of people of African descent.

31. During the interactive discussion, Ms. Day asked Mr. Reid if there was an estimate for the economic value of exploitation during the period of his research in the Caribbean. Mr. Reid said there was literature that detailed what profits individuals and families made from chattel enslavement and the trade in enslaved persons. Verene Shepherd, a Member of the Committee on the Elimination of Racial Discrimination, asked Mr. Reid if there had been opportunities during the Working Group's country visit to present data, similar to his own, to interested parties. Mr. Reid said that the data were largely derived from three Caribbean countries: Dominica, Jamaica and Trinidad and Tobago. Mr. Balcerzak asked Mr. Freire if Latin America was likely to be the best region when it came to data collection in terms of people of African descent. Mr. Freire replied that Latin America and the Caribbean was a data rich region, while pointing out that identity variables often changed among populations from year to year since censuses were voluntary and based on self-identification. The representative of Uruguay expressed the commitment of Uruguay to bridging existing gaps and improving socioeconomic indicators as part of efforts to implement the 2030 Agenda. The representative of Brazil stated that Brazil was committed to collecting aggregated and disaggregated data on people of African descent.

32. The third panel focused on the human rights situation in Europe. Mr. Balcerzak gave a presentation on the lack of data availability on people of African descent on the European continent. Owing to historical injustices by past totalitarian European Governments, it was difficult for many European States to willingly collect data on ethnic or racial groupings. That lack of data collection nevertheless contributed to the invisibility of people of African descent, resulting in an enhanced risk of racial injustice and discrimination along with disadvantaging them in terms of enjoying their human rights. Examining several countries from the European Union and their consistent lack of data collection, Mr. Balcerzak highlighted the United Kingdom of Great Britain and Northern Ireland and its policy of data collection based on ethnic and racial self-identification. As a result of that disaggregated data, the United Kingdom was able to formulate and implement policies to address various issues identified through the data.

33. The second speaker on the panel, Marcus Bell, Director of the Race Disparity Unit of the Cabinet Office of the United Kingdom, recognized the vast amount of data collected on ethnic and racial minorities in the United Kingdom, simultaneously acknowledging the lack of full utilization of that data. As a result, the United Kingdom had set up a Race Disparity Audit with the goal of uncovering uncomfortable truths about racial disparity. One of the primary discoveries made through the audit had been that ethnic minorities were worse off than white people in the United Kingdom. The data collected also showed that other factors, such as geographical location, might play a role in disparities faced by minorities. People of African descent might be doing very poorly in one geographical area, while simultaneously doing well in another. Data collection had resulted in government policy changes in the areas of labour, addressing the pay gap and disparities in the prison system.

34. Rossalina Latcheva, from the European Union Agency for Fundamental Rights, presented the Agency's report, *Being Black in the EU*. There were fundamental obstacles to obtaining racial or ethnic data on people of African descent in the European Union. At the same time, data on first and second generation people of African descent showed that people of African descent perceived significant amounts of discrimination based primarily on their skin colour. The data also indicated that people of African descent were more likely to report acts of discrimination when they stayed longer in a country or if they had a

higher level of education. One of the primary reasons for not reporting acts of racial discrimination was the notion that no action would be taken against the perpetrators. Another significant finding was that homeownership by people of African descent was significantly less than the average.

35. The last speaker on the panel, Lilla Farkas, a Senior Legal Policy Analyst at the Migration Policy Group, spoke about the situation of data collection in the European context. The European Commission against Racism and Intolerance, the European Union Agency for Fundamental Rights and several related institutions had been undertaking research on equality and had produced data on hate crimes, Afrophobia and ethnic minorities. However, the political context, including among minorities, was not conducive to the collection of data on ethnicity. While a number of minority groups had been officially recognized, people of African descent were yet to be recognized. Anti-racism work within the European Union was generally addressed through the migrant integration framework and the Roma integration framework, resulting in gaps in addressing inequalities pertaining to people of African descent. Legally, data collected in the European Union was based on national origin and on the specific history of each of the countries and their relation with Africa. Moreover, data on racial origin, when collected, was seldom based on self-identification. Agencies responsible for gathering statistics, such as the United Nations Statistics Division, Eurostat and national equality bodies, also needed to review their data collection methods to include disaggregated data.

36. During the interactive discussion, Mr. Gumede asked how Member States could be encouraged to collect data that would inform policy changes to benefit people of African descent. Mr. Balcerzak stated that soft law and recommendations could be considered a way forward, while introducing stronger obligations would likely require a treaty and might not be realistic. He added that regional initiatives might be a better way to address the issue. Mr. Reid asked Mr. Bell if black people were arrested at higher rates than the average in all regions of the United Kingdom. Mr. Bell replied that there was no pattern. Areas with low concentrations of black people also exhibited higher arrest rates for black people. Ms. Shepherd, responding to a question from Ms. Latcheva, said that historical black populations had not been included in the study.

37. The fourth panel focused on people of African descent in North America. The first speaker in the panel, Ms. Day, focused her presentation on racial justice in the North America region and specifically how data could be used to identify areas of injustice. She advocated for public access by civil society to government data sets that might help in identifying racial violence and racial terrorism and allow for civil society input into formulating solutions to mitigate those challenges. There was a recent trend by some Governments to remove access to or to completely delete data sets that were vital to addressing racial discrimination. One such example was climate change data, which civil society no longer had access to, although the effects of climate change disproportionately impacted people of African descent. Another area of concern was the recent implementation of automated systems and artificial intelligence that were designed primarily for white people and thus might have an adverse impact on people of African descent. For example, automated vehicles were 10 per cent less likely to recognize people of African descent as humans, thereby exposing them to undue risk and endangering their lives. She also highlighted the failure of facial recognition technology to recognize people of African descent and their correct gender, which would result in further dehumanization.

38. Karen Thompson of the World Council of Churches spoke on the challenges of being a person of African descent in North America. In 2018, out of 1,166 persons killed by police in the United States 25 per cent were people of African descent, while the total population of people of African descent in the United States totalled only 13 per cent. The same disparity regarding police actions against people of African descent had also been witnessed in Toronto, Canada, where only 8.2 per cent of the population were people of African descent, while 7 out of 10 cases of fatal shootings by the police involved the death of a person of African descent. Racially motivated punishment was not only limited to modern police forces but could also be seen at the preschool level. Children of African descent constituted 16 per cent of the preschool population, yet they disproportionately represented 40 per cent of all preschool children receiving more than one out-of-school

suspension according to a recent study by the United States Department of Education Office for Civil Rights. The environment for people of African descent in North America had become extremely stressful, which had resulted in a higher rate of post-traumatic stress disorder in the African-American community compared with their white counterparts.

39. Yeshimabeit Milner, co-founder of Data for Black Lives, spoke on the vital role of data with regard to the safety and security of people of African descent. Data had recently exposed a disturbing trend in which children of African-American descent were three times more likely to die before their first birthday than white children. Inadequate education and training provided by hospitals to young mothers of African descent was responsible for that disparity. That trend could not have been identified if data on the situation of children of African descent born in the United States had not been collected and analysed. Another recent trend that was severely disadvantageous for people of African descent was for governments to rely on automated algorithms as a tool to generate solutions. The objective function of those algorithms incorporated the biases that existed as a result of historical injustices and the values of the programmers. Those biases then translated into algorithms that exhibited racial discrimination.

40. Mr. Murillo Martínez addressed the growing challenges in the use of artificial intelligence with regard to racial discrimination against people of African descent. He provided several examples of concerns around the ethics and governance of artificial intelligence and of bias in technological advances, such as facial recognition, and software used in the criminal justice sector in certain countries. At its next session, the Committee on the Elimination of Racial Discrimination would be debating a draft general recommendation on racial profiling, which would examine ethical aspects of cybersecurity and would seek to provide guidelines to prevent and sanction racial bias in artificial intelligence. In relation to the proposed general recommendation, he called for submissions to the Committee, among others, of the criteria that companies should apply in preventing racial bias in the programming and use of algorithms; notable examples of artificial intelligence-related racial discrimination; examples of research and best practice in the prevention of or response to racial bias stemming from artificial intelligence; and ethical aspects of machine learning and relevant criteria to ensure understanding and transparency in the programming process pertaining to issues of race.

41. During the interactive discussion, the representative of the United Kingdom commented on artificial intelligence and algorithmic bias and the risks they presented within the criminal justice system. Speakers asked if there were any other countries that could be learned from with respect to algorithmic bias. Mr. Murillo Martínez noted that Germany had had a successful experience in eliminating racial bias in algorithms. In Germany, there were generalized measures of training algorithms so that the bias could be corrected to avoid harmful consequences. A main challenge was the independence of algorithms after they might have been programmed to express racial bias. Mr. Sunga asked Ms. Milner to provide more information regarding the 2020 United States Census and how the census could be reconfigured better. Ms. Milner stated that since it was the first census that would be fully online, there were now issues around security and privacy that had to be taken into account. Moreover, she discussed the need to mobilize people to take part in the census. A civil society representative asked Ms. Milner to provide more information about infant mortality. Ms. Milner said that research suggested that the aggressive targeting of black mothers by the infant formula industry and the overuse of caesarean sections might contribute to higher infant mortality for black infants. The use of midwives or doulas and more natural methods for childbirth and child-rearing might mitigate the disparity. In response to a question from the representative of Haiti on the role of the church in seeking racial justice, Ms. Thompson stated that an increasing number of African Americans were leaving the church – often to discover ancestral religious practices – while there remained many young leaders in the church who were agitating for racial justice and often received less publicity. She also acknowledged that the church was not exempt from the past, and that it had amassed a lot of wealth from enslavement.

42. The fifth panel focused on the mapping of people of African descent in Asia and other parts of the world. The first speaker, Mr. Sunga, shared the challenges due to the lack of data availability in the Asian region. He strongly urged Asian States to do more with

regard to data collection on people of African descent. He refuted the argument that there were no people of African descent in the Asian region. Nevertheless, no Asian country had yet invited the Working Group for a country visit or responded to a call for information sent out by the Working Group. Only through data collection would the Working Group obtain a clearer picture of all the challenges faced by people of African descent in the Asian region, thereby allowing for appropriate solutions to be formulated.

43. Shihan de Silva Jayasuriya, a Senior Research Fellow at the Institute of Commonwealth Studies, explored the history of people of African descent in the South Asian region. Over a period of 1,100 years almost 12.5 million people of African descent had entered the Asian region. The history of people of African descent in Asia might go back even further, with an estimated 2,000 years of contact between South Asians and people of African descent. The migration of people of African descent to Asia derived from two streams, enslavement and the free flow of peoples. People of African descent had held a wide range of positions within South Asian societies, from enslaved persons to high-ranking positions as monarchs of sovereign kingdoms in South Asia. While marriage had diminished the total number of people of African descent visibly identifiable in South Asia, there still existed a significant number of people of African descent that needed to be empowered and made visible to society through policy changes at the governmental level.

44. During the interactive discussion, Ms. Jayasuriya said that education through schools and films was necessary to raise the visibility of people of African descent in the Asian region. Mr. Murillo Martínez said that art and culture were also positive vehicles for people of African descent to manifest their cultural identity. Mr. Sunga added that more data from Asian countries was required under the mapping exercise and hoped the call made by the Working Group would be extended further. When asked about the status of people of African descent in the Pacific region (Melanesians), Mr. Sunga said their situation was comparable to that of West Papuans, and in his view so long as they self-identified as being people of African descent they would fall under the mandate of the Working Group. On a question from a civil society representative about the population of North Sentinel Island, in the Andaman Islands, Mr. Reid said the Working Group had been notified of the Jarawa people in India.

45. The sixth and final panel focused on data and racial justice. Geoff Palmer, Professor Emeritus in the School of Life Sciences at Heriot-Watt University in Edinburgh, Scotland, and human rights activist, focused his presentation on enslavement and reparatory justice through the lens of Scotland and the University of Glasgow. He traced the University of Glasgow's chequered history with enslavement in Jamaica and the role played by Scotland. The University of Glasgow was said to have received funding from slave owners through donations and other forms that amounted to a total of £200 million in today's money. To atone for its role in enslavement, the University was today increasing admissions of people of African descent and other minorities and awarding them scholarships, among other initiatives. Mr. Palmer noted that the interest in researching the role of Scotland in enslavement did not stem from the academic community; rather, it was the people of Scotland that had shown great interest in that history. The crimes of the past could not be changed but reparative justice could contribute to building a better future.

46. In his presentation, Mr. Gumedze highlighted the importance of understanding the various forms of intersectionality of discrimination faced by people of African descent. The three pillars of the International Decade for People of African Descent – Recognition, Justice and Development – represented important tools for the betterment of the lives of people of African descent. While racial justice might mean different things to different people, it would always include full enjoyment of all human rights and freedoms by everyone without distinction of any kind. Mr. Gumedze stressed the importance of data collection with regard to racial injustice and urged States to collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels.

47. Ms. Shepherd emphasized the importance of data in racial justice. Data in national archives and libraries across the world had helped to shed light on what had truly transpired during the transatlantic trade in enslaved Africans. Nearly 50 per cent of all people of African descent taken into enslavement perished crossing the Atlantic. Slavery was a result of racism, racism was not a product of slavery. Discussing the two wars for liberation and

justice in Jamaica during the nineteenth century, Ms. Shepherd explored the retribution and punishment imposed upon people of African descent who had taken part in the struggle. It was important to keep places of memory alive through memorialization. She highlighted the efforts of some States in that area while encouraging others to also act.

48. Ms. Milner emphasized the need to eliminate big data collection as it resulted in perpetuating racial discrimination under the guise of neutral algorithms. An example of the detrimental effects of racially discriminatory algorithms in partnership with big data collection was private credit scoring by banks of people of African descent with regard to homeownership, employment and access to schools. Data collection was the present-day workhorse of racism, as it perpetuated and legitimized racism and discriminatory practices. As a potential solution to that problem, a public data trust could be created for technology giants to share their data and allow social researchers and data analysts to sift through it for the betterment of people of African descent. Furthermore, there was a need to clearly identify responsible parties when algorithms were used that might violate people's rights.

49. During the interactive discussion, Mr. Sunga asked Mr. Palmer about the obstacles he had encountered regarding reparations and steps he had taken to overcome them. Mr. Palmer said he spoke directly to the public and institutions. Press interest was also extremely significant. He had spoken to the public truthfully and had done research to find the truth. History had to be part of the curriculum and be examinable. The representative of Jamaica asked Mr. Gumedze about the draft operational guidelines on the inclusion of people of African descent in the 2030 Agenda being developed by the Working Group, and to what extent it could improve the use by Member States of data to address racial discrimination issues. Mr. Gumedze replied that it was crucial for people of African descent to be counted to inform policy processes towards addressing racial discrimination. Responding to a question from Mr. Reid on the challenges related to the reparations movement, Ms. Shepherd observed that there had been a rise in reparations movements in different parts of the world. Youth education and awareness-raising strategies were important tools in the movement, including history education in schools. In response to a question from a civil society representative related to measures to increase knowledge of history, Ms. Shepherd said that knowledge could be increased by including the history of people of African descent on high school syllabuses and through radio and television programmes and commemorative days. That history was being promoted actively in the Caribbean region.

V. Conclusions and recommendations

50. The Working Group thanks Member States, representatives of international organizations and civil society for their active participation in the discussions.

A. Conclusions

51. The Working Group concludes that the existence of ongoing racial bias and racial stereotype is reflected throughout society, including in advertisements, social media, political rhetoric and decision-making in health, education and employment.

52. The ability to exercise and enjoy key human rights is dramatically curtailed by racial bias in decision-making that is grounded in false beliefs. Racial bias has such a systemic impact on the enjoyment and exercise of fundamental rights that even in different countries people of African descent face similar challenges. The individual and institutional racism faced by people of African descent impacts their enjoyment of basic human rights, including their rights to education, health, housing and employment, and other economic, social, cultural and environmental rights.

53. Racial discrimination continues to be systemic and rooted in an economic model that denies meaningful and effective development to people of African descent globally, and frequently justifies or neutralizes the historical and ongoing exploitation of their labour, land and natural resources.

54. The Working Group concludes that efforts to disrupt the colonial dynamic persist between developing and developed nations, which frequently retain a historical hegemony and drive ongoing bias and false beliefs about people of African descent.
55. Racial bias in decision-making is a particularly potent form of institutional racism. The Working Group commends important social science research that is revealing such biases. For example, compelling research demonstrates racial bias in the perception of patients' pain and the biases that creates in health providers' treatment recommendations and in the accuracy of medical diagnoses and treatment. Other research indicates an increased incidence of post-traumatic stress disorder, and other biological and psychological illness, as a result of chronic racial stress.
56. The Working Group concludes that the tolerance of entrenched racial disparities in health, criminal justice, education and elsewhere reflects a culture of diminished expectations linked to narratives used to justify historical patterns of exploitation and abuse of people of African descent, including enslavement, colonialism and white supremacy rhetoric.
57. Recognition of the existence of people of African descent is essential to increasing their visibility.
58. The Working Group emphasizes the importance of mapping and analysis of disaggregated data to inform policy priorities relating to equality and opportunity for people of African descent. That includes efforts to measure equality and access to and enjoyment of human rights.
59. The Working Group recognizes the diversity among people of African descent and the need for data that reflects that diversity, as well as the extreme vulnerabilities and qualitatively different experiences found at the intersections of race and gender, sexuality, disability and other areas. The Working Group embraces the intersectional priority to "reconceptualize race as a coalition", as a key driver of access to and enjoyment of human rights and notes the particular suitability of disaggregated data to measure such access to human rights intersectionally.
60. The refusal by some States to collect and disaggregate data based on race and ethnicity is one of the most serious impediments to the attainment of the Sustainable Development Goals. Achieving the 2030 Goals and targets requires dismantling the structural and systemic barriers to sustainable development that exist for people of African descent in developing and developed countries.
61. Historical injustices have undeniably contributed to underdevelopment and economic disparities. Harrowing intergenerational poverty runs the risk of continuing unabated. Member States, United Nations agencies and international financial institutions should take into account the linkage between enslavement and colonialism that led to underdevelopment, including in development policies.
62. The Working Group concludes that, where data exists, it has helped highlight and address institutional racism and racial disparity. Data offers evidence that racism against people of African descent has been transformed rather than eliminated, presenting new and sometimes more subtle manifestations over time.
63. The Working Group notes with concern, as proven by available data, the lower return on investment that people of African descent experience from educational investments.
64. The Working Group notes the importance of linking data analyses to human rights and development policy priorities narrowly tailored to local realities.
65. The Working Group commends States that have begun recognizing and collecting disaggregated data on populations of African descent, across a wide range of socioeconomic indicators and over time, to facilitate nuanced analysis of interlinked factors.
66. The Working Group welcomes wide-ranging efforts to understand, explore and target entrenched racial disparities, like the Race Disparity Audit in the United

Kingdom, the World Bank social inclusion metrics in South America, the European Union Agency for Fundamental Rights *Being Black in the EU* report and the seven commitments on the rights of Afrodescendants, including priority measure 98 on disaggregated data, of the Montevideo Consensus on Population and Development, which provide important analyses and instructive methodologies for similar efforts in other States.

67. The Working Group notes the importance of social inclusion efforts and the relevance of disaggregated data collection in that regard, including in revealing the access to spaces of life and work, the participation in markets and the educational trajectories of people of African descent.

68. The Working Group notes the invisibility of some populations of people of African descent, including many in Asia, despite their presence in societies for generations, and the ability of data disaggregated by race to render visible those populations. People of African descent remain socially and structurally invisible within societies in some States, particularly in Asia, owing to, inter alia, the lack of statistical data, including data disaggregated along ethnic lines.

69. The Working Group acknowledges that the collection of disaggregated data and the availability of open data have allowed public interest to drive deeper, critical analyses of entrenched racial disparities and racially driven outcomes that disfavour people of African descent systematically. Those analyses have fuelled new understandings of the factors that drive ongoing racial bias and disadvantage.

70. The Working Group recognizes the importance of Member States' prioritizing open data, public access and increased diversity among data scientists.

71. Yet data systems and algorithms often incorporate, mask and perpetuate racism in their design and operation – and the Working Group expresses concern that that is considered an acceptable cost for convenient data solutions.

72. The Working Group wishes to highlight that biased policing techniques, such as broken windows policing, stop and frisk or “carding”, contribute to biased police data. The use of historical data sets in new analyses and the maintenance of biased policing techniques to generate new data pose a serious threat to human rights.

73. The Working Group notes with concern that little or no effort has been made to ensure that racial biases reflected throughout society have not been embedded in algorithms, coding and data-driven commercial and military products, like facial recognition software, autonomous weapons systems and signature strike targeting programs.

74. The Working Group understands the ongoing influence of mindsets that channel certain narratives, including racially biased beliefs, and remain embedded in decision-making, and the importance of surfacing those views to mitigate their impact, particularly in computerized algorithms that may lack reflective capacity or effective independent oversight.

75. The Working Group notes that people of African descent have been subjects of experimentation historically, including ongoing data collection and surveillance without consent. It expresses concern that similar exploitation and experimentation continues via social media platforms and other big data initiatives.

76. The development of new technologies must reflect a strong commitment to human rights and human dignity. The reliance on algorithms to identify risk, target misconduct and carry out operations should not violate the human rights of people of African descent.

77. The Working Group notes the importance of historical data for people of African descent who lost family, culture and identity in the transatlantic trade in enslaved Africans. The liberatory power of historical data has offered truth, history and paths towards reparation and reconciliation for people of African descent in the diaspora.

78. The Working Group further recognizes that economic success, even when exploitative and enslaving, was historically recognized as a qualifier, rather than a disqualifier; that countries, prominent historical figures, institutions, the church and universities gained wealth and status from the enslavement of people of African descent; and that the risk of that exploitative dynamic remains today.

79. The Working Group is continuing to gather all available data and analysis to conduct a mapping exercise and prepare a baseline report on the human rights situation of people of African descent. It extends its call for data and analysis on the human rights situation of people of African descent until 31 March 2020. Governments, non-governmental organizations, national institutions and all interested stakeholders that have not done so are invited to make submissions in accordance with the guidance note³ and the present report. States and interested stakeholders that previously made submissions are also welcome to resubmit updated information or to submit additional information they would like to be reflected in the report.

B. Recommendations

80. Member States are urged to recognize people of African descent as a distinct group. That is essential to increasing their visibility and thus the full realization of their human rights and fundamental freedoms. People of African descent must be recognized among others in national constitutions and legislation, through education, awareness-raising measures and the respect of their cultural rights. Self-identification is also critical for people of African descent.

81. In accordance with paragraph 92 of the Durban Declaration and Programme of Action, the Working Group urges States to collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and to take all other related measures which are necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance.

82. The Working Group calls on Member States to understand how institutional racism is situated within a particular historical context that links enslavement, colonialism and the modern global economy to the false beliefs and stereotypes used to justify the exploitation and abuse of people of African descent historically and which retain tremendous force even today.

83. The Working Group urges Member States to adopt a human rights-based approach to data, by providing for disaggregation, self-identification, transparency, privacy, participation and accountability in collecting and storing data.

84. The Working Group calls on Member States to mitigate algorithmic bias in commercial, military and government products and tools. Care must be exercised with respect to people in a situation of vulnerability who are frequently targeted, misidentified or ignored, when developing computer-based algorithms. Algorithmic bias particularly affects people of African descent intersectionally, including women, persons with disabilities and lesbian, gay, bisexual, transgender and intersex persons.

85. The need for reliable data on people of African descent should be considered a priority to achieve the aims of the International Decade for People of African Descent and the Sustainable Development Goals. The Working Group calls on States, development agencies and financial institutions to use the Working Group's operational guidelines for the realization of the Sustainable Development Goals.

86. Where official data does not exist, the Working Group recommends the collection of data through the analysis of the culture, history and heritage of people of African descent globally.

³ The guidance note is available from the Working Group's web page and can be accessed directly at www.ohchr.org/Documents/Issues/Racism/WGEAPD/GuidanceNoteRequest_for_Data_EN.pdf.

87. The Working Group encourages the disaggregation of official data by race, including for census data, household surveys and vital statistics, including by Eurostat and other official statistical collection programmes.
88. The Working Group urges Member States to take steps to ensure that social media platforms and other data-driven enterprises do not reinforce historical bias or accredit data reflecting racially biased policy and practices.
89. The Working Group calls on Member States to conduct race disparity audits and related analyses specific to people of African descent to better understand and address the racial biases in decision-making that are reflected in racial disparities.
90. The Working Group recommends the development of comprehensive and public databases and/or public data trusts wherein data from private and public sources could be accessed openly to drive research towards innovative understandings and solutions to promote access to and enjoyment of human rights for people of African descent.
91. The Working Group recommends that Member States and civil society adopt an ethical framework for data collection and usage that protects individuals from exploitation, prevents data initiatives from reinforcing historical bias and defines human subject research adequately broadly to address manipulation or crowdsourcing of information for profit by private companies.
92. The Working Group recommends increased racial diversity among data scientists working on addressing racial disparity and injustice.
93. The Working Group urges States to preserve and make available historical data linked to the trafficking of enslaved Africans and colonialism with the aim of achieving reparatory justice for people of African descent. Such data also includes data that link the role of non-State actors (such as universities, churches, companies, families and banks) to the trade in enslaved Africans and colonialism.
94. The Working Group recommends repatriation of, and/or digitization and open access to, records archives and primary data relating to the periods of enslavement and colonialism. It also recommends the declassification of colonial archives.
95. The Working Group recommends that relevant public and private institutions map, analyse and publish an honest accounting of the ways in which they profited from the trafficking of and trade in enslaved Africans.
96. The Working Group welcomes initiatives such as that of the University of Glasgow to make reparations for historical atrocities committed against people of African descent. It urges Member States to ensure reparatory justice in line with the Caribbean Community Ten Point Plan for Reparatory Justice, which includes full formal apology, repatriation, an indigenous peoples development programme, cultural institutions, alleviation of the public health crisis, illiteracy eradication, an African knowledge programme, psychological rehabilitation, technology transfer and debt cancellation.
97. The Working Group calls for Member States and civil society to address racially biased data and analyses that have contributed to mass incarceration, over-policing and targeting of communities of African descent, and to ensure that the same biases are not embedded in computerized algorithmic systems.
98. The Working Group calls upon Member States to ensure that textbooks and other educational materials reflect historical facts accurately as they relate to past tragedies and atrocities, in particular the transatlantic trade in enslaved Africans and colonialism, so as to avoid stereotypes and the distortion or falsification of those historic facts that may lead to racism, racial discrimination, xenophobia, Afrophobia and related intolerance.
99. The Working Group urges States to adopt a human rights approach to data. Data must inform the development of legislation, policies and other measures aimed at addressing racism, racial discrimination, Afrophobia, xenophobia and other related

intolerance against people of African descent. The Working Group urges States to work with people of African descent rather than for people of African descent in addressing issues affecting them.

100. The Working Group urges financial and development institutions to design policies and programmes with clear, specific and measurable goals for the development of people of African descent. Such policies and programmes must be informed by data and be in line with the Durban Declaration and Programme of Action, the International Decade for People of African Descent and the Sustainable Development Goals.

101. The Working Group recommends that Member States introduce the need for data on people of African descent on the agenda of the United Nations Statistical Commission.

102. The Working Group recommends that Governments, businesses and civil society implement the Guiding Principles on Business and Human Rights to prevent, address and remedy human rights abuses suffered by people of African descent in business operations, including technology companies. Furthermore, it encourages the inclusion of the perspective of the human rights of people of African descent in the debate on the collection and use of data for commercial purposes. In that respect, the Forum on Business and Human Rights provides a potential opportunity.

103. The Working Group recommends that all Member States, regional and international organizations, United Nations funds, programmes and specialized agencies, civil society organizations and all other relevant stakeholders implement the Durban Declaration and Programme of Action and the programme of activities for the implementation of the International Decade for People of African Descent.

Annex

List of participants at the twenty-fourth session

A. Members of the Working Group

Michal Balcerzak, Dominique Day, Sabelo Gumede, Ahmed Reid, Ricardo A. Sunga III

B. Member States

Algeria, Angola, Argentina, Belgium, Bolivia (Plurinational State of), Brazil, Costa Rica, Cuba, Democratic Republic of the Congo, Egypt, Haiti, Jamaica, Japan, Jordan, Mexico, Morocco, Peru, Russian Federation, South Africa, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of) and Zambia

C. Intergovernmental organizations

European Union

D. Non-governmental organizations in consultative status with the Economic and Social Council

Collectif des femmes africaines du Hainaut, Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos “Capaj”, Comité des observateurs des droits de l’homme, Commission of the Churches on International Affairs of the World Council of Churches, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco and Nigerian Network of Women Exporters of Services

E. Non-governmental organizations not in consultative status with the Economic and Social Council

Africa Centre Ireland/European Network of People of African Descent, African Commission of Health and Human Rights Promoters, Bangladesh Jumma Buddhist Forum, Belgium PAD/INGWEE, Culture of Afro-Indigenous Solidarity, Data for Black Lives, Dejusticia, Eurasian Research Institute for Peace Development, Fondation des œuvres pour la solidarité et le bien-être, INGWEE, Legal Aid and Human Development Foundation, Migration Policy Group, Resilient Communities International and World Council of Churches

Private Sector

A Healing Paradigm

Academia

Institute of Commonwealth Studies, International Academic Center for Strategic Studies, Regional Academy on the United Nations, University of Cambridge and University College Roosevelt

Others

Association of Reading Centres in the Gambia, West Africa, European Union Agency for Fundamental Rights, Methodist Church of Brazil and Presbyterian Church of Trinidad and Tobago

F. Panellists and presenters

Marcus Bell, Director, Race Disparity Unit, Cabinet Office, United Kingdom; Lilla Farkas, Senior Legal Policy Analyst, Migration Policy Group; German Freire, Social Development Specialist, Latin America and Caribbean, World Bank Group; Shihan de Silva Jayasuriya, Senior Research Fellow, Institute of Commonwealth Studies; Yeshimabeit Milner, Founder, Data for Black Lives; Rossalina Latcheva, European Union Agency for Fundamental Rights; Pastor Elias Murillo Martínez, Member, Committee on the Elimination of Racial Discrimination; Geoff Palmer, Professor Emeritus in the School of Life Sciences at Heriot-Watt University in Edinburgh, Scotland; Verene Shepherd, Member, Committee on the Elimination of Racial Discrimination; and Karen Thompson, World Council of Churches
