

**CHAIRPERSON'S PREPARATORY DOCUMENT
FOR THE DRAFT UNITED NATIONS DECLARATION ON THE PROMOTION
AND FULL RESPECT OF THE HUMAN RIGHTS OF PEOPLE OF AFRICAN
DESCENT**

**Chairperson of the Intergovernmental Working Group on the Effective
Implementation of the Durban Declaration and Programme of Action**

Pursuant resolution [A/RES/76/226](#)

(04/10/2022)

Introduction

The following document has been prepared in the framework of resolution [A/RES/76/226](#) of December 2021, by which the General Assembly requested the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (IGWG) to devote at least half of its annual session to the elaboration of a draft United Nations Declaration on the promotion and full respect of the human rights of people of African descent (para. 10). The Assembly also invited the Permanent Forum of African Descent (PFPAD) and the Working Group of Experts on People of African descent (WGEPAD) to contribute to the elaboration of the draft Declaration, in accordance with their respective mandates.

In order to facilitate discussions on the draft Declaration during IGWG 20th session, I would like to present the present preparatory draft, which highlights challenges and the rights of people of African descent as contained in the obligations of States under international human rights law.

This draft is the result of a systematic review of existing international human rights law norms and standards, resolutions of the UN General Assembly and the Human Rights Council, reports of the Secretary General, the High Commissioner for Human Rights and other relevant UN human rights mechanisms. This zero draft also draws on responses of stakeholders to a note verbale circulated by the Office of the United Nations High Commissioner for Human Rights (OHCHR).¹ I would like to sincerely thank all stakeholders for their valuable contributions, particularly the Permanent Forum of People of African Descent and the Working Group of Experts on People of African descent for their work and rich inputs.

¹ On 30th June 2022, OHCHR circulated a note verbale addressed to stakeholders requesting information for this draft. As of 19 August 2022, information had been received from six States (Brazil, Chile, Costa Rica, Cuba, Ecuador and Gambia). Submissions were also received from the Permanent Forum of People of African descent and Working Group of Experts on People of African descent, UN system entities, regional organizations, national human rights institutions and non-governmental organizations. The submissions are available at: <https://www.ohchr.org/en/events/events/2022/20th-session-intergovernmental-working-group-effective-implementation-durban>

Considerations for the preamble

Reaffirming our commitment to the purpose and principles contained in the Charter of the United Nations and the Universal Declaration of Human Rights;²

Affirming that racism, racial discrimination, xenophobia, Afrophobia³ and related intolerance constitute a negation of the purposes and principles of the Charter of the United Nations and of the Universal Declaration of Human Rights and that equality and non-discrimination are fundamental principles of international law;⁴

Reaffirming the principles of equality and non-discrimination in the Universal Declaration of Human Rights and encouraging respect for human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;⁵

Convinced of the fundamental importance of universal accession to or ratification of and full implementation of States obligations arising under the International Convention on the Elimination of All Forms of racial Discrimination as the principal international instrument to eliminate racism, racial discrimination, xenophobia and related intolerance;⁶

Reaffirming that the Durban Declaration and Programme of Action, adopted in 2001, and the outcome document of the Durban Review Conference, adopted in 2009,⁷ as well as the political declarations on the occasion of the tenth and twentieth anniversaries of the adoption of the Durban Declaration and Programme of Action,⁸ provide a comprehensive United Nations framework and solid foundation for combating racism, racial discrimination, xenophobia and related intolerance, and reaffirm our commitment to their full and effective implementation;⁹

Noting with appreciation the agenda towards transformative change for racial justice and equality presented by the High Commissioner for Human Rights, which aims, *inter alia*, to encourage States to ensure that the voices of Africans and of people of African descent and those who stand up against racism are heard and that their concerns are acted upon, and to acknowledge and confront legacies, including through accountability and redress;¹⁰

² World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Declaration [A/CONF. 189/12](#),

³ The term *Afrophobia* is used by the Working Group of Experts on People of African Descent (WGE PAD) in the submission received, as a form of contemporary racism. This draft includes the expression of Afrophobia as a contemporary manifestation of racism as the Human Rights Council entrusted the Working Group “To study the problems of racial discrimination faced by people of African descent living in the diaspora and, to that end, gather all relevant information from Governments, non-governmental organizations and other relevant sources...” as well as to make proposals and submit recommendations to eliminate racial discrimination against peoples of African descent. [A/HRC/9/14](#).

⁴ General Assembly [resolution 76/1](#), para. 2.

⁵ World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Declaration [A/CONF. 189/12](#),

⁶ World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Declaration [A/CONF. 189/12](#),

⁷ See [A/CONF.211/8](#), chap. I.

⁸ [Resolution 66/3](#) and [resolution 76/1](#).

⁹ [A/RES/76/1](#)

¹⁰ [A/HRC/RES/47/21](#)

Acknowledging and profoundly regretting the untold suffering and evils inflicted on millions of men and women of all ages as a result of enslavement, the slave trade, the transatlantic trade of enslaved Africans, colonialism,¹¹ apartheid, genocide¹² and past tragedies;¹³

Recognizing that colonialism has led to racism, racial discrimination, xenophobia and related intolerance, and that Africans and people of African descent were victims of colonialism and continue to be victims of its lasting consequences;

Acknowledging the suffering caused by colonialism and affirming that, wherever and whenever it occurred, it must be condemned and its reoccurrence prevented;

Concerned about the lack of commitment and progress shown in terms of reparatory justice and elimination of all forms of racism and racial discrimination, xenophobia and related intolerance against people of African descent. Urging the international community to recommit to, respond to, take responsibility for and repair the full and equal enjoyment of human rights of people of African descent across the world.¹⁴

Concerned that the effects of colonialism, enslavement, the transatlantic trade of enslaved Africans and related historic episodes of violence persist through the structures and practices and maintain successive racially discriminatory policies and systems, and are major factors contributing to lasting social and economic inequalities in many parts of the world today;¹⁵

Acknowledging the historical roles of people of African descent in affirming and promoting the inherent dignity of the human person, and the unequivocal, full equality of all human beings in the enjoyment of dignity, universal rights, and fundamental freedoms – including through abolitionist, decolonial, human and civil rights movements;¹⁶

Considering that people of African descent are particularly vulnerable to racism, structural discrimination, xenophobia and Afrophobia,¹⁷ and that those are the major historical impediments to the realization of their human rights;¹⁸

¹¹ General Assembly [resolution 76/1](#), para. 5.

¹² See the definition of genocide in article 2 of the [Convention on the Prevention and Punishment of the Crime of Genocide](#): “In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.”

¹³ General Assembly [resolution 76/1](#), para. 5.

¹⁴ UNPFPAD, Input for the IGWG discussion on the United Nations declaration on the promotion and full respect of the human rights of people of African descent. Document submitted by the Working Group of experts on people of African descent on 9 September 2022.

¹⁵ See *World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance*. Declaration and Programme of Action, [A/CONF. 189/12](#), para. 14 and [A/HRC/47/53](#)

¹⁶ UNPFPAD, Input for the IGWG discussion para. 9

¹⁷ [A/HRC/39/69](#): Report of the Working Group of experts on people of African descent (WGEPAD) on its twenty-first and twenty-second sessions. WGEPAD, Input for the IGWG discussion on the United Nations declaration on the promotion and full respect of the human rights of people of African descent. Document submitted by the Working Group of experts on people of African descent on September 14, 2022.

¹⁸ WGEPAD, Input for the IGWG discussion on the United Nations declaration on the promotion and full respect of the human rights of people of African descent. Document submitted by the Working Group of experts on people of African descent on September 14, 2022.

Recognizing that the situation of people of African descent varies from region to region, and yet, they keep facing systemic and structural racism, racial discrimination, xenophobia, Afrophobia and other forms of intolerance connected to colonialism, enslavement, and the transatlantic trade;¹⁹

Convinced that people of African descent can experience multiple, intersecting or extreme forms of racism, discrimination and intolerance, driven by a combination of factors such as race, color, lineage, national or ethnic origin, or other factors, including gender,²⁰ sex, language, religion, political or other opinion, national or social origin, property, birth or other status recognized in international instruments;²¹

Cognizant of the need for economic sustainable development for Africans and people of African descent, through trade, investment, and other methods, including the achievement of the SDGs, as a basis for their full enjoyment of economic, social and cultural rights indispensable for their dignity and the free development of their personality, as well as the right to development;²²

Welcoming the roles that the United Nations, regional systems of human rights, national human rights institutions and civil society have played in advocating the promotion and full respect of the human rights of people of African descent;

Taking note of the recognition of the rights of people of African descent in the international human rights system, this Declaration advances concrete measures against racism, racial discrimination, Afrophobia, xenophobia, marginalization and related forms of intolerance against people of African descent, elaborates their rights in the specific cultural context and distinctive identities of people of African descent,²³ and contributes to the advancement towards racial equality and justice for people of African descent, strengthening the rule of law, democracy, peace and development of societies as a whole.

Determined to promoting multilateralism and calling for solidarity and closer collaboration within and between States, and with other stakeholders, in the fight against all forms of racism, racial discrimination, xenophobia and related intolerance against people of African descent.²⁴

Article 1: People²⁵ of African descent

¹⁹ [A/RES/76/226](#), preamble, para. 12; A/RES/48/18, preamble, para. 15.

²⁰ See UNPFPAD, Input for the IGWG discussion, para. 11

²¹ See *World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance*. Declaration and Programme of Action, [A/CONF. 189/12](#), para. 3. See also, UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment № 20: Non-discrimination in Economic, Social and Cultural Rights, para. 15. And Inter-American Convention against Racism, Racial Discrimination and related forms of intolerance, preamble, para. 3.

²² The wording of this paragraph reflects language in article 2 of the UDHR, Art. 2.

²³ This phrasing is a composition from literal excerpts of the document submitted by WGEPAD for the IGWG discussion on the United Nations declaration on the promotion and full respect of the human rights of people of African descent. Document submitted by the Working Group of experts on people of African descent on September 14, 2022.

²⁴ Ibid., para 38.

²⁵ The Permanent Forum of People of African Descent (PFPAD) submitted a proposal that emphasizes the importance of incorporating the concept of *peoples of African descent* in order to recognize the collective

This Declaration applies to all the people who identify themselves as people of African descent.²⁶ Self-identification, for persons, populations and communities of African descent, shall be regarded as a fundamental criterion for determining the subjects of the rights recognized in this Declaration.

Article 2: Full enjoyment of Human Rights

nature of the rights of people of African descent in Latin America and the plurality of people of African descent. This suggestion of the Permanent Forum reflects the distinctive identity and the recognition of rights of a very important part of the population of African descent whom rights will be addressed in the Declaration, and are important stakeholders in the process of the Declaration. The legal recognition of peoples of African descent in the Americas is strongly rooted in the [International Labour Organization Convention 169 \(ILO Convention 169\)](#), the decisions of the Inter-American Court of Human Rights (IACtHR) on cases of Tribal communities that are of African descent, as well as in reports of the Inter-American Commission of Human Rights (IACHR). See, UN Permanent Forum of People of African Descent, preliminary submission.

²⁶ [CERD/C/GC/34](#), para. 1. People who identify themselves as African descent includes -but are not limited to:-
(a) victims of the transatlantic trade in enslaved Africans; (b) people of African descent who have migrated and are descendants of victims of the transatlantic trade in enslaved Africans; (c) all populations who migrated from African countries outside of sub-Saharan Africa and nationals who are of African descent; (d) all the communities of African descent that identify themselves or are recognized as ethnic groups, native and/or tribal peoples in independent countries under other instruments of international human rights law.

The Convention on Indigenous and Tribal Peoples of the International Labour Organization 169 (ILO Convention 169) uses the concept “Indigenous and tribal peoples” as a “common denominator for a diversity of peoples that have their own cultures, languages, customs and institutions, which distinguish them from other parts of the societies in which they find themselves.”, see [ILO Convention 169](#) art. 1. The term “Tribal Peoples” has been used in the Americas, to recognize persons of African descent because it is the category of international human rights law that has enabled recognition of rights to collective property, according to the provisions of the Convention on Indigenous and Tribal Peoples of the International Labour Organization (ILO) 169. Peoples of African descent have used the concept “tribal” of the ILO Convention 169 to achieve recognition of their histories, institutions, territories, practices and culture as collective subjects. The Inter-American Court of Human Rights has accepted the claim of a tribal identity for communities of African descent in multiple cases and has recognized collective rights for those communities, as well as a common history related to the transatlantic trade. See for example Inter-American Court of Human Rights (IACtHR), Case of The Saramaka People v. Suriname, 2007, Series C No. 172. For a more recent decision, see Inter-American Court of Human Rights (IACtHR), Case of the Punta de Piedra Garífuna Community and Its Members v. Honduras. Series C. N° 304.

The Inter-American Commission of Human Rights (IACHR) has understood that “*given the historical and structural discrimination to which the African Descent population has been subjected, these communities found protection of their territorial rights by accepting recognition as “tribal peoples,” without this signifying in certain cases abandoning self-identification as African Descent.*” The IACHR, pursuant the principle of equality and non-discrimination and following the decisions of the Inter-American Court of Human Rights (IACtHR), have asserted that “*African Descent communities must enjoy the same territorial rights that have been granted to indigenous peoples, because the notion of territoriality not only addresses the element of ancestral tie but is also linked to the construct of culturally identifying with the territory and its natural resources. This also means that to African Descent communities the geographic surroundings are a space of recognition of the diaspora, which helps them preserve cultural traditions and conserve their historical legacy.*” See, “*Economic, Social, Cultural and Environmental Rights of Persons of African Descent. Inter-American Standards to Prevent, Combat and Eradicate Structural Racial Discrimination.*” OEA/Ser.L/V/II. Doc. 109, March 16, 2021. Available at <https://www.oas.org/en/iachr/reports/pdfs/DESCA-Afro-en.pdf>

See, [ILO Convention 169](#), Art. 1. See Inter-American Court of Human Rights (IACtHR), Case of the Punta de Piedra Garífuna Community and Its Members v. Honduras. Series C. N° 304. Inter-American Commission of Human Rights. Also, the UNPFPAD highlighted the importance of considering the right of peoples of African descent in the Americas to be recognized as native and/or tribal peoples.

The rights of people of African descent are human rights; they are indivisible and interdependent.²⁷ People of African descent have the right to the full enjoyment, as a collective and/or as individuals,²⁸ of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.²⁹

Article 3: Equality and non-discrimination

All human beings are born free and equal in dignity and rights. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race,

²⁷ Ibid.

²⁸ See inputs of UNPFPAD and the WGEPAD for the IGWG discussion. The collective dimension of the rights of peoples of African descent has been recognized extensively in the Latin American context, both by national constitutions as well as by the Inter-American Court of Human Rights and the International Labour Organization. As the Declaration draws on recognized human rights and elaborate the rights in specific contexts and distinctive identities of people, the explicit recognition of the collective dimension of rights seems necessary to include communities that are organized as a collectivity. Also, the document submitted by the United Nations Permanent Forum of People of African Descent (UNPFPAD) advocates for the incorporation of the concept *peoples of African descent* in order to recognize the collective rights of people of African descent and the plurality of people of African descent that are often ethnic and national groups with a distinctive history in their countries. UNPFPAD, Preliminary submission towards the United Nations Declaration on the promotion and full respect of the human rights of peoples of African descent.

²⁹ The Convention on Indigenous and Tribal Peoples of the International Labour Organization 169 (ILO Convention 169) uses the concept “Indigenous and tribal peoples” as a “common denominator for a diversity of peoples that have their own cultures, languages, customs and institutions, which distinguish them from other parts of the societies in which they find themselves.”, see [ILO Convention 169](#) art. 1. The term “Tribal Peoples” has been used in the Americas, to recognize persons of African descent because it is the category of international human rights law that has enabled recognition of rights to collective property, according to the provisions of the Convention on Indigenous and Tribal Peoples of the International Labour Organization (ILO) 169. Peoples of African descent have used the concept “tribal” of the ILO Convention 169 to achieve recognition of their histories, institutions, territories, practices and culture as collective subjects. The Inter-American Court of Human Rights has accepted the claim of a tribal identity for communities of African descent in multiple cases and has recognized collective rights for those communities, as well as a common history related to the transatlantic trade. See for example Inter-American Court of Human Rights (IACtHR), Case of The Saramaka People v. Suriname, 2007, Series C No. 172. For a more recent decision, see Inter-American Court of Human Rights (IACtHR), Case of the Punta de Piedra Garífuna Community and Its Members v. Honduras. Series C. Nº 304.

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colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.³⁰ People of African descent have the right to exercise all human rights and fundamental freedoms without any distinction and in full equality before the law.

States shall ensure that people of African descent exercise all their human rights fully, without any distinction and in full equality before the law.

Article 4: Right to a life free from racism and racial discrimination

People of African descent, as a collective or as individuals³¹ have the right to be free from any kind of racism, racial discrimination, xenophobia, Afrophobia, and related forms of intolerance, in the exercise of their rights, in any sphere of life, public or private.³²

States shall take all necessary and appropriate measures to correct and redress the legacies and impacts of colonialism, enslavement, racism, racial discrimination, xenophobia, Afrophobia and other forms of intolerance, with a view to preventing discrimination,³³ and promoting racial equality with special attention to multiple and intersectional forms of discrimination and racist violence.³⁴ States shall also take measures, in conjunction with people of African descent, to ensure that women and girls enjoy the full protection and guarantees against all forms of sexual and gender-based violence and discrimination.

Article 5: Recognition of Rights

People of African descent live in many countries of the world, either dispersed among the local population or in communities, where they are entitled to exercise, without discrimination, the full spectrum of rights, with particular attention to the following rights:³⁵

- a. The right to recognition and self-determination, where appropriate. By virtue of this right, people of African descent freely determine their political status and freely pursue their economic, social and cultural development. The right of people of African descent to self-determination, where appropriate, includes the right to consolidate their own culture by strengthening autonomous decision-making capacity, to guide its own development;³⁶ ³⁷

³⁰ Universal Declaration of Human Rights (UDHR), arts. 1 and 2.

³¹ The clarification about individuals and collective is introduced here to reflect the dimensions in which the right to equality may unfold for peoples of African descent that organize themselves as a community and have collective rights. See supra notes 20 and 21 on the category of tribal peoples and collective rights in the Americas.

³² The Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance in its article 2, recognizes the right of every human being to equal protection from racism, racial discrimination and related forms of intolerance. The UN Declaration on the rights of Indigenous Peoples in its article 2, also recognizes the right to be free from any kind of discrimination in the exercise of their rights, in particular that based on their indigenous origin and identity. As racism, racial discrimination, xenophobia and Afrophobia are the most common causes of discrimination against peoples of African descent, this recognition encompasses the provisions about equality and non-discrimination based on the identity of peoples of African descent.

³³ See [A/CONF.189/12](#), para. 46 and 48.

³⁴ See WGEPAD submission, Supra note; the Working Group acknowledges the multiple and intersecting forms of discrimination faced by people of African descent and advocates for combat them through the framework of the 2030 Agenda for Sustainable Development. See also, [A/RES/76/226](#), preamble, para. 13 that notes with concern the disproportionate impact of racist violence, discrimination and stigmatization, on women and girls.

³⁵ [CERD/C/GC/34](#), para. 4. Unless otherwise noted, the phrasing replicates the General Recommendation 34.

³⁶ Based on WGPAD submission

³⁷ This expansion is included in the document submitted by the UNPFPAD, para. 8, num. xi. In the case of indigenous peoples, the right to self-determination encompasses the right to their own political and juridical institutions -government and legal order. This recognition for the case of peoples of African descent is common in the ILO Convention 169 and its applications for the Americas. See supra note 21. Self-determination for

- b. Security of tenure over land and the use, conservation and protection of lands traditionally occupied by them and to natural resources in cases where their ways of life and culture are linked to their utilization of lands and resources;³⁸
- c. The right of people of African descent to benefit from the underwater cultural heritage and treasures carried by the galleons and ships carrying enslaved Africans and people of African descent.³⁹
- d. People of African descent shall not be forcibly removed, evicted or displaced from their lands or territories. No relocation shall take place without the free, prior and informed consent of the people of African descent concerned and after agreement on just and fair compensation.⁴⁰
- e. People of African descent have the right to practice and revitalize their cultural traditions and customs. This includes the right to keep and maintain their political and cultural identity, and foster their mode of life and forms of organization, culture, languages and religious expressions;⁴¹
- f. People of African descent have the right to the protection of their traditional knowledge and their cultural and artistic heritage.⁴² This right includes the recognition and valuation of their traditional use of genetic resources, their derived products, and their associated intangible components; self-determination over their traditional knowledge, innovations and practices associated with genetic resources and the right to equitable participation in the benefits derived from these;⁴³
- g. The right to full, equal and effective participation in public and political affairs without discrimination, in accordance with international human rights law;⁴⁴

peoples of African descent in the Americas mirrors the self-determination claims and recognition of indigenous peoples, but that is not the case for other peoples of African descent in the rest of the world. The second part of the article includes the condition “where appropriate” to qualify the contexts in which peoples of African descent have a right to self-determination.

³⁸ [CERD/C/GC/34](#), para. 4, lit. b.

³⁹ See UNPFPAD submission

⁴⁰ The UN Declaration on the rights of Indigenous Peoples includes this clause of protection against forced displacement that may be integral part of developing the right to property over land of the CERD on [its G/GC/34](#) para. 4.

⁴¹ Ibid., para 4., lit. b. This phrasing uses the language of the [CERD/C/GC/34](#) and the phrasing of the UN Declaration on Indigenous Peoples Rights in its article 11.

⁴² [CERD/C/GC/34](#), para. 4, lit. c. The UNPFPAD included in their submission a detailed account of what this right should comprise, as follows in the second part of the proposed text.

⁴³ See Convention of Biological Diversity, Art. 8.

⁴⁴ [A/RES/69/16](#), para 16

- h. The right to free, prior and informed consent with respect to decisions, which may affect their rights, in accordance with international standards;⁴⁵ ⁴⁶
- i. People of African descent have the right to a life free of violence and the right to physical and mental integrity, health, liberty and security of the person.⁴⁷ This right enshrines the protections against violence or bodily harm, arbitrary deprivation of life, and the guarantees against cruel and unusual punishment and of slavery, servitude and forced labor, several forms of violence including hate speech, ethnic or racial profiling, inappropriate bodily searches, enforced disappearances, extrajudicial executions, torture and any other form of race-based or ethnic-based violence.⁴⁸
States shall take appropriate measures to prevent, combat, investigate and put an end to all those forms of violence, racially and ethnically driven.
States shall also guarantee accountability for police brutality, racial profiling, and discriminatory law enforcement conduct, as well as all human rights violations affecting people of African descent, including violence, acts of torture and inhuman or degrading treatment, including those committed by State officials.⁴⁹
- j. People of African descent have the right of peaceful assembly. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.⁵⁰
- k. People of African descent have the right to freedom of thought and conscience on all matters, including holding beliefs and committing to a religion or belief⁵¹. This includes the right to fully practice their religion, including religions of African origin, individually or in community with others, free of discrimination and stigmatization.⁵²

⁴⁵ [CERD/C/GC/34](#), para. 4. The international standards on consent have evolved in the international human rights law and the former consultation have been qualified as a mechanism to obtain consent when there is a large impact of the administrative or legislative measure on the integrity of the people. See, The United Nations Declaration on the rights of Indigenous Peoples. See, IACtHR, Case of The Saramaka People v. Suriname, 2007, Series C No. 172, para. 134. Also see the Implementation Guide of the ILO Convention 169 and the Guiding Principles on Internal Displacement.

⁴⁶ The right to prior consultation and consent has been challenged by several stakeholders that aim for the recognition of the right to self-determination. By virtue of this right, peoples of African descent might determine freely their political status and pursue their economic, social and cultural development. According to the submission by the UNPFPAD, the right of peoples of African descent to self-determination, where appropriate, might include the right to consolidate their own culture by strengthening autonomous decision-making capacity, to guide its own development. See, UNPFPAD, para. 8, num. xi. In the case of indigenous peoples, the right to self-determination encompasses the right to their own political and juridical institutions -government and legal order. This recognition for the case of peoples of African descent is common in the ILO Convention 169 and its applications for the Americas. See *supra* note 21.

⁴⁷ [CCPR/C/GR/36](#): General Comment № 36. The right to life, Human Rights Committee, September 3, 2019. See also [A/HRC/39/69](#): Report of the Working Group of Experts on People of African Descent on its twenty-first and twenty-second sessions, para. 43. Consult also, [A/HRC/47/21](#), [A/HRC/47/53](#); [A/HRC/43/1](#).

⁴⁸ [CERD/C/GC/36](#); [A/77/294](#); [A/HRC/47/53](#).

⁴⁹ [A/RES/69/16](#), para 17.g.

⁵⁰ ICCPR, Art. 21

⁵¹ [CCPR/C/21/Rev.1/add.4](#), para 1. General Comment № 22.

⁵² [CERD/C/GC/34](#).

States shall guarantee the exercise of the right through comprehensive policies that prevent discrimination, including the revision of regulatory measures that may create stigma or discrimination.

Article 6: State's obligations to promote full and effective equality and to develop a comprehensive approach against racism, racial discrimination, xenophobia, Afrophobia and other forms of intolerance and violence.

States shall fully implementation the International Convention on the Elimination of All Forms of Racial Discrimination, the Durban Declaration and Programme of Action, the programme of activities for the International Decade and the the High Commissioner agenda towards transformative change for racial justice and equality⁵³ as the principal international instruments and guidance for the elimination of racism, racial discrimination, xenophobia and related intolerance faced by people of African descent.

States shall take concrete actions to guarantee the enjoyment of rights of people of African descent in full equality, de jure and de facto, and to promote and develop a comprehensive approach to combat racism, racial discrimination, xenophobia, Afrophobia and related intolerance face by people of African descent, taking into account the particular situation of persons that face intersectional discrimination. In pursuant of these goals, States shall:⁵⁴

- a. Remove all obstacles that prevent the equal enjoyment of all human rights, economic, social, cultural, civil and political, including the right to development, of people of African descent;
- b. Withdraw reservations contrary to the object and purpose of the International Convention on the Elimination of All Forms of Racial Discrimination, and consider withdrawing other reservations;
- c. Undertake a comprehensive review of domestic legislation with a view to identifying and abolishing provisions that entail direct or indirect discrimination;
- d. Adopt or strengthen comprehensive anti-discrimination legislation and ensure its effective implementation;
- e. Provide effective protection for people of African descent, and review and repeal all laws that have a discriminatory effect on people of African descent facing multiple, aggravated or intersecting forms of discrimination;
- f. Promote the effective implementation of national and international legal frameworks against racism, racial discrimination, xenophobia, Afrophobia and other forms of violence and intolerance, including measures to acknowledge, correct and redress the lasting consequences of colonialism, slavery, and the transatlantic trade;
- g. Adopt, strengthen and implement action-oriented policies, programmes, and projects to combat racism, racial discrimination, xenophobia, Afrophobia and related intolerance

⁵³ [A/HRC/47/53](#)

⁵⁴ Unless otherwise noted, this article reproduces the obligations of the States that are already developed in the Programme of activities for the implementation of the International Decade for People of African Descent. [A/RES/69/16](#), II, A. 1. a. Also, the obligations develop the provisions in [A/77/294](#), and [A/RES/76/1](#). See also, [CERD/C/GC/32](#) and [CERD/C/GC/34](#).

- designed to ensure full and equal enjoyment of human rights and fundamental freedoms by people of African descent;
- h. Adopt special measures, such as affirmative action policies, where appropriate, to alleviate and remedy disparities and structural disadvantages in the enjoyment of human rights and fundamental freedoms affecting people of African descent, protecting them from discrimination and overcoming persistent structural disparities and de facto inequalities resulting from historical circumstances.⁵⁵
- i. Elaborate and implement national plans of action to promote diversity, equality, equity, social justice, equality of opportunity and the participation of all;
- j. Establish and/or strengthen national mechanisms or institutions with a view to formulating, monitoring and implementing policies to combat racism, racial discrimination, xenophobia and related intolerance and promoting racial equality, with the participation of representatives of people of African descent;
- k. As appropriate, establish and/or strengthen independent national human rights institutions, in conformity with the Paris Principles, and/or similar mechanisms with the participation of civil society, and provide them with adequate financial resources, competence and capacity for protection, promotion and monitoring to combat racism, racial discrimination, xenophobia, Afrophobia and related intolerance.

Article 7: Preventing and combating racism and hate speech

States shall develop comprehensive strategies to guarantee the right to freedom of opinion and expression, while taking all necessary measures to prevent and combat the dissemination of racist messages and those that result in racial discrimination, xenophobia, Afrophobia or any form of intolerance and discrimination.⁵⁶ States shall adopt and implement legal frameworks that allows for prosecuting those responsible for incitement to racial hatred and hate crimes, for disseminating hate speech and racist materials including through new information technologies and social media.⁵⁷

States must guarantee the existence and implementation of effective and appropriate measures, including legal measures as appropriate, to combat all acts of racism, in particular the dissemination of ideas based on racial superiority or hatred, incitement to racial hatred, violence or incitement to racial violence, as well as racist propaganda activities and participation in racist organizations⁵⁸

States shall address contemporary forms of racism and racial discrimination, including those derived from the use of automation tools and artificial intelligence – including algorithmic bias,

⁵⁵ [A/RES/69/16](#), para 18. See also, the definition of the Inter-American Convention against Racism, Racial Discrimination and related forms of intolerance that defines “Special measures or affirmative action adopted for the purpose of ensuring equal enjoyment or exercise of one or more human rights and fundamental freedoms of groups requiring such protection shall not be deemed racial discrimination provided that such measures do not lead to the maintenance of separate rights for different groups and are not continued once their objectives have been achieved.”, para. 1.5.

⁵⁶ [A/CONF.189/12](#), para. 147.

⁵⁷ Ibid. And [A/RES/76/1](#).

⁵⁸ [A/RES/69/16](#), para. 17.d and 17.e. See also, [A/HRC/51/55](#), para. 24 and 72.

in line with CERD General Recommendation 36 on preventing and combatting racial profiling, which also addresses algorithmic bias.⁵⁹ States shall undertake measures for the prevention and combat of contemporary forms of racism and racial discrimination against people of African descent in the area of algorithmic biases (including, in artificial intelligence and information technology).⁶⁰

States shall encourage access and use by all people of the Internet as an international and equal forum, and promote participation and representation of different segments within societies in media organizations.⁶¹

Article 8: Promotion, recognition and respect for the culture, history and heritage of people of African descent

People of African descent have the right to recognition of the historical contributions of people of African descent to the growth and development of the global economy; the historical contribution to the conservation of biological diversity, and development of the sustainable use of genetic resources; and the contribution of their traditional knowledge and languages to scientific knowledge.

States shall recognize the domestic and international histories and heritages, cultural and other contributions to societies of people of African descent. States shall also raise awareness of and take educational measures on the histories, heritages, cultural and other contributions to societies of people of African descent.⁶²

States shall adopt and implement comprehensive programs to recognize, disseminate and promote the knowledge about the culture, the history and heritage of people of African descent, including but not limited to research and education programs with a view to restoring the dignity of people of African descent.⁶³

Article 9: Educational systems

People of African descent have the right to access the educational system in full equality; the right to access to education includes their right to participate in the educational system in a manner that is appropriate to their cultural methods of teaching and learning as well as to have access to education in their languages.⁶⁴

States shall ensure measures to ensure equal opportunities and access to higher education of students of African descent, *inter alia*, through positive or affirmative action measures, mentorship programs, and university curriculums that reflect their needs and interests.⁶⁵

Article 10: Data collection, analysis and use

States shall collect, compile, analyse, disseminate and publish reliable statistical data on the human rights situation of people of African descent, in accordance with international human rights law, upholding the right to privacy and the principle of self-identification. To fulfil this duty, States shall⁶⁶:

- (a) Collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and undertake all other related measures which

⁵⁹ UNPFPAD submission

⁶⁰ UNPFPAD submission

⁶¹ [A/CONF.189/12](#), para. 147.

⁶² UNPFPAD submission, para. 26.

⁶³ [A/RES/69/16](#), num. 12.c and e.

⁶⁴ [A/RES/69/16](#), num. 12.c and e.WGEPAD submission.

⁶⁵ UNPFPAD submission, para. 31.e.

⁶⁶ [A/RES/69/16](#), para. 69.

are necessary to assess regularly the situation of people of African descent, and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance;⁶⁷ I.

- (b) Collect disaggregated data by grounds and factors relevant to the equal enjoyment of human rights of people of African descent – inter alia, by race, ethnicity, sex, income, gender, age, migratory status, disability, geographical location, and other characteristics relevant in national contexts.⁶⁸
- (c) Collect and make publicly available reliable and timely disaggregated data that are conducive to evidence-based policymaking,⁶⁹ and effective implementation of them in relation to people of African descent.⁷⁰
- (d) Implement a comprehensive policy for a systematic monitoring of the equal enjoyment of all human rights as experienced by people of African descent, and the specific forms of racism, racial discrimination, xenophobia, Afrophobia, and related intolerance that people of African descent are subjected to, including through interpersonal, social, cultural, institutional, and systemic forms of racism, discrimination, xenophobia and related forms of intolerance.⁷¹
- (e) Include people of African descent in disaggregated data across all sectors, and especially in law enforcement⁷² and monitoring sustainable development – inter alia, as related to vulnerability to climate change, climate related disasters, environmental degradation, large-scale migration, global health crises and social and economic development.⁷³
- (f) Disaggregated data should be used to drive responses to systemic racism in all spheres of life, including objectively measuring the impact of corrective measures and subsequent reforms.⁷⁴

Article 11: Access to justice: equality and non-discrimination

People of African descent have the right to equality before the law, to access to justice and to equal protection by the justice system.

States shall ensure that people of African descent, like all other persons, enjoy all the guarantees of a fair and public hearing by a competent, independent and impartial tribunal established by law, as enshrined in relevant international human rights instruments. In particular, anyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law, the right to be tried without undue delay, the right to counsel of his/her own choosing, and to have the free assistance of an interpreter..⁷⁵

States should undertake systemic and institutional transformation of criminal justice, carceral practices, immigration law and policy, and national security systems to protect the human rights of people of African descent to non-discrimination and equality of dignity and rights and the right to a life free from violence and discrimination.⁷⁶ States should also guarantee

⁶⁷ [A/CONF.189/12](#), para. 92.a.

⁶⁸ Phrasing from WGEPAD submission and the UNPFPAD.

⁶⁹ [A/HRC/51/55](#), para. 38, 39 and 81.

⁷⁰ Phrasing from WGEPAD submission and the UNPFPAD.

⁷¹ Phrasing from WGEPAD submission and the UNPFPAD.

⁷² [A/HRC/51/55](#)

⁷³ Ibid. And [A/RES/76/226](#)

⁷⁴ [A/HRC/51/55](#), para. 21, 22 and 25.

⁷⁵ [A/RES/69/16](#), para. 17.h.

⁷⁶ [A/RES/69/16](#); [A/HRC/47/21](#); [A/HRC/47/53](#).

accountability for police brutality, racial profiling, and discriminatory law enforcement conduct.⁷⁷

States shall adopt and implement effective measures to eliminate the phenomenon known as racial profiling and comprehensive programs of racial justice aimed to eliminate institutional manifestations and consequences of stereotypes.⁷⁸

States shall also guarantee accountability for police brutality, racial profiling, and discriminatory law enforcement conduct, as well as all human rights violations affecting people of African descent, including violence, acts of torture and inhuman or degrading treatment, including those committed by State officials.⁷⁹

Article 12: Access to effective remedies for victims of racism

People of African descent have the right to effective remedies for racial discrimination and racist acts.

States shall ensure that people of African descent have full access to effective protection and remedies through the competent national tribunals and other State institutions against any acts of racism, racial discrimination, and the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.⁸⁰

States shall provide special assistance to victims of racism and racial discrimination by providing the requisite legal information about their rights, and providing legal assistance for victims and families of victims, when appropriate.⁸¹

States are encouraged to ensure that such motivations are considered an aggravating factor for the purpose of sentencing⁸² and to consider special measures regarding the burden of proof in acts that might be racially motivated.⁸³

Article 13: Special measures for people of African descent and victims of racism

States shall adopt and implement special measures to guarantee access to justice for people of African descent who are victims of racism, when necessary. Special measures shall be considered when the structural disadvantage that affect people of African descent by virtue of colonialism, racism, racial discrimination, xenophobia, Afrophobia and related forms of intolerance, constitute an obstacle for the enjoyment of the right of access to justice in full equality,⁸⁴ including but not limited to, granting quality legal aid to facilitate access to justice in all areas, as well as timely review and support for mechanisms of alternative dispute resolution, which often prove to be particularly effective in dealing with racism against people of African descent⁸⁵ as measures for accountability and redress.

⁷⁷ UNPFPAD submission, para. 27.

⁷⁸ [A/RES/69/16](#); [A/HRC/47/21](#); [A/HRC/47/53](#); [A/77/294](#), para. 36.

⁷⁹ [A/RES/69/16](#), para 17.g.

⁸⁰ [A/RES/69/16](#), para. 17.d.

⁸¹ Ibid. See also, [A/HRC/51/55](#), para. 24 and 72.

⁸² Ibid, para. 17.e.

⁸³ UNPFPAD submission.

⁸⁴ [A/CONF.189/12](#), para. 104. “We also strongly reaffirm as a pressing requirement of justice that victims of human rights violations resulting from racism, racial discrimination, xenophobia and related intolerance, especially in the light of their vulnerable situation socially, culturally and economically, should be assured of having access to justice, including legal assistance where appropriate, and effective and appropriate protection and remedies, including the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination, as enshrined in numerous international and regional human rights instruments, in particular the Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination”.

⁸⁵ [Operational Guidelines on the Inclusion of People of African Descent in the 2030 Agenda, Working Group of Experts on People of African Descent](#), 09 December 2020, p.75.

The elimination of all forms of racial discrimination requires recognition and redress of group-based forms of discrimination, including special measures and reparations.⁸⁶

States and, in particular former colonial powers, have a moral obligation to take appropriate and effective measures to reverse the lasting consequences of enslavement, the trade and trafficking in enslaved Africans and of people of African descent, apartheid, colonialism, genocide, and past tragedies⁸⁷ through special measures including -but not limited to affirmative actions to overcome the structural disadvantage and systemic racism that affect people of African descent.

Article 14: Participation in the justice system

States shall adopt special measures to facilitate increased participation of people of African descent in the judiciary and in law enforcement.⁸⁸

Article 15: Reparations

People of African descent have the collective and individual right to recognition of the lasting impacts on their enjoyment of human rights of colonialism, enslavement, the transatlantic trade and trafficking in enslaved Africans and of people of African descent, which includes the right to reparations and reparatory justice within the framework of the International Convention on the Elimination of All Forms of Racial Discrimination and of the Durban Declaration and Programme of Action.⁸⁹

People of African descent have the collective and individual right to redress of the lasting impacts on their enjoyment of human rights of colonialism, enslavement, the transatlantic trade and trafficking in enslaved Africans and of people of African descent, exploitation, dehumanisation, embedded notions and practices of racial superiority, racial domination, racial and ethnic inequity, ethnocentrism, ethnic and racial nationalism.⁹⁰

States shall recognize the systemic and structural disadvantages that people of African descent face as a legacy of colonialism, slavery, the transatlantic trade, in the form of structural, systemic, institutional, and interpersonal racism and racial discrimination and take steps towards reparatory justice.

States shall acknowledge that the past legal support for colonialism, enslavement and systemic racial discrimination is part of the injustice to be redressed, rectified, and healed, as is the lack of legal and other institutional support mechanisms to pursue reparatory justice. States shall design, adopt and implement programs of reparatory justice for people of African descent that recognizes, seeks to redress, rectify, and heal the lasting consequences of colonialism, enslavement, the transatlantic trade and trafficking in enslaved Africans and of people of African descent.⁹¹

States shall design, adopt and implement special measures to guarantee that the history of people of African descent is included in educational materials, reflecting the facts with historical accuracy as they relate to past tragedies and atrocities, in particular slavery, the slave trade, the transatlantic slave trade and colonialism, so as to avoid stereotypes and the distortion of the facts that may lead to racism, racial discrimination, xenophobia and related intolerance.⁹²

⁸⁶ [A/77/294](#); A/76/369.

⁸⁷ [A/CONF.189/12](#), para. 157 and 158. A/76/369.

⁸⁸ WGEPAD, [Operational Guidelines on the Inclusion of People of African Descent in the 2030 Agenda, Working Group of Experts on People of African Descent](#), 09 December 2020.

⁸⁹ [A/HRC/39/69](#): Report of the Working Group of Experts on People of African Descent on its twenty-first and twenty-second sessions, para 42.

⁹⁰ UNPFPAD submission, para. 25.

⁹¹ Based on UNPFAD submission.

⁹² [A/RES/69/16](#), num. 12.g.

States are encouraged to create programs for reparatory justice according to the principles of international human rights law and drawing upon comprehensive frameworks for reparations, including but not limited to, full formal apology, repatriation, a development programme to rehabilitate affected peoples, development of community institutions to advance knowledge of the historical crimes of slavery and colonialism, public health interventions, implementing educational programmes that promote African knowledge and eradicate illiteracy, psychological rehabilitation of African descendant populations, technology transfer and sharing of scientific knowledge, and debt cancellation.⁹³

States should facilitate effective preventive and remedial approaches to contemporary forms of slavery, racism, racial discrimination, Afrophobia, xenophobia and related intolerances.⁹⁴

Article 16: Land rights over ancestral lands

People of African descent have the right to recognition and self-determination of ancestral territories, including the security of tenure, to the use, conservation and protection of lands traditionally occupied by people of African descent, and to natural resources in cases where their ways of life and culture are linked to their use of lands and resources.⁹⁵

Article 17: Right to development of people of African descent

People of African descent have the right to sustainable development with its economic, social and ecological dimensions, in particular in the areas of alleviating poverty, redressing inequalities and realizing the right to livelihood⁹⁶, education, health care, water and sanitation, housing, and employment.⁹⁷ Poverty and inequalities are causes of discrimination and

⁹³ See [A/HRC/51/55](#) that recommends to create, reinforce and fully fund national and other processes to construct a shared narrative on enslavement, the transatlantic trade in enslaved Africans and colonialism and their lasting consequences;

Ensure effective participation of people of African descent and their communities to guide the design and implementation of these processes including broad and inclusive consultations;

Make amends for centuries of violence and discrimination through wide-ranging and meaningful initiatives, within and across States, including through formal apologies, truth-telling processes, and reparations in various forms;

Dismantle structures and systems designed and shaped by enslavement, the transatlantic trade in enslaved Africans and colonialism; re envision public spaces, including through memorialization; See also, WGEPAD submission.

⁹⁴ Ibid. See the mention of CARICOM programme for reparatory justice as an example of a comprehensive model for reparations. CARICOM is a ten point programme for reparatory justice, which outlines the path for justice for victims and descendants of the trans-Atlantic trade and trafficking in enslaved Africans. The programme advocates for full formal apology, repatriation, a development programme to rehabilitate affected indigenous people, development of community institutions to advance knowledge of the historical crimes of slavery and colonialism, public health interventions, implementing educational programmes that promote African knowledge and eradicate illiteracy, psychological rehabilitation of African descendant populations, technology transfer and sharing of scientific knowledge, and debt cancellation.

⁹⁵ UNPFAD submission

⁹⁶ The idea of livelihood is closely related to dignity and therefore, within the framework of the 1986 United Nations Declaration on the Right to Development, the livelihood as part of a life with dignity is related to measures against poverty and against conditions that affect a life with dignity. See, [CCPR/C/GR/36](#): General Comment No. 36. The right to life, Human Rights Committee, 03 September 2019, para 3. See also, WGEPAD, [Operational Guidelines on the Inclusion of People of African Descent in the 2030 Agenda, Working Group of Experts on People of African Descent](#), 09 December 2020, pp.10 -11.

⁹⁷ UNPFAD submission.

contribute to the reproduction of racism, racial discrimination, xenophobia, hate speech and other forms of intolerance.⁹⁸

Sustainable development and the respect, promotion and protection of all human rights and fundamental freedoms for all, as well as the implementation of international human rights obligations and commitments in accordance with international human rights law, are crucial to prevent acts of racism, racial discrimination, xenophobia and related intolerance, and commit to promoting measures to counter and address those acts, including through education, the media and sports;⁹⁹

States shall adopt measures aimed at guaranteeing active, free and meaningful participation by all individuals, including people of African descent, in development and decision-making related thereto and in the fair distribution of benefits resulting therefrom.

States should, as appropriate, adopt or strengthen national programmes for eradicating poverty and reducing social exclusion that take account of the specific needs and experiences of people of African descent, and should also expand their efforts to foster bilateral, regional and international cooperation in implementing those programmes.

States should implement actions and special measures to protect ancestral groups of people of African descent,¹⁰⁰ within the framework of the UN Charter and to the 2030 Agenda for Sustainable Development.

States shall take, where applicable, appropriate measures to prevent racism and racial discrimination against persons belonging to national or ethnic, religious and linguistic minorities in respect of employment, health care, housing, social services and education, and in this context forms of multiple and intersectional discrimination should be taken into account;¹⁰¹

States shall adopt and implement poverty reduction strategies, in cooperation with other States, regional and international organizations and financial institutions, to promote the use of public and private investment in consultation with the affected communities in order to eradicate poverty, particularly in those areas in which victims of racism, racial discrimination, xenophobia and related intolerance predominantly live.¹⁰² Article 18 Right to employment
People of African descent have a right to employment, equal opportunities and access to employment. States should develop and implement strategies to guarantee sustainable livelihoods of people of African descent, including those facing multiple and intersecting discrimination.¹⁰³

Article 19: Right to education

People of African descent should fully enjoy the right to education, to ensure it is available, accessible, acceptable and adaptable. They should also be positively centered in education as informers and reformers of narratives. This includes their peculiarities including culture, language, and history, among others.¹⁰⁴

States should take all necessary measures to give effect to the right of people of African descent, particularly children and young people, to free primary education and access to all levels and forms of quality public education without discrimination.

States shall:

⁹⁸ [A/RES/76/1](#), para. 4.

⁹⁹ [A/RES/76/1](#).

¹⁰⁰ [A/RES/69/16](#), para. 21.

¹⁰¹ [A/CONF.189/12](#), para 69.

¹⁰² [A/CONF.189/12](#), paras 48 and 49.

¹⁰³ UNFPAD submission, para. 32.

¹⁰⁴ WGEPAD submission.

- a. Ensure that quality education is accessible and available in areas where communities of African descent live, particularly in rural and marginalized communities, with attention to improving the quality of public education;
- b. Take measures to ensure that public and private education systems do not discriminate against or exclude children of African descent, and that they are protected from direct or indirect discrimination, negative stereotyping, stigmatization, bullying and violence from peers or teachers; to this end, training and sensitization should be provided to teachers and measures should be taken to increase the number of teachers of African descent working in educational institutions.¹⁰⁵

Article 20: Right to health

States should take appropriate steps to ensure that people of African descent are fully and effectively included in the schemes of universal health coverage and the public health systems. States should adopt measures to address the disparate health outcomes, including high rates of hunger, exposure to infectious and non-communicable diseases, high infant, child and maternal mortality rates, and high morbidity rates among populations of African descent.

States shall promote the recognition and inclusion of traditional health and medical practices of people of African descent.

States should adequately invest in research and development of interventions in ailments that are peculiar to people of African descent.¹⁰⁶

States shall adopt special measures to provide preventive health services with good quality for people of African descent and victims of racism.¹⁰⁷

States shall guarantee the sexual and reproductive health and rights of all without discrimination, and particularly of women and girls regardless of gender identity or expression. States shall ensure the provision of health care information and treatment in languages accessible to people of African descent, including sign language.

Article 21: Children of African descent's rights

States shall, in collaboration where necessary with international organizations, having the best interests of the child as a primary consideration, provide protection against racism, racial discrimination, xenophobia and related intolerance against children, especially those in circumstances of particular vulnerability, and to pay special attention to the situation of such children when designing relevant policies, strategies and programmes.¹⁰⁸

Article 22: Right to housing

People of African descent have the right to adequate housing. Structural racial discrimination in housing and rental markets have a disproportionate impact on people of African descent¹⁰⁹ and States shall adopt and implement policies and projects, as appropriate, aimed at ensuring

¹⁰⁵ [A/RES/69/16.](#), para 22.

¹⁰⁶ [A/RES/69/16.](#), para 24; WGEPAD submission.

¹⁰⁷ WGEPAD submission.

¹⁰⁸ [A/CONF.189/12](#), para 55.

¹⁰⁹ Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 45, U.N. Doc. [A/HRC/42/59/Add.2](#) (August 14, 2019); WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 60, U.N. Doc. [A/HRC/42/59/Add.1](#) (August 14, 2019); WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to Germany, para 43, U.N. Doc. [A/HRC/36/60/Add.2](#) (August 15, 2017).

that they gain and sustain a safe and secure home and community in which to live in peace and dignity.¹¹⁰

Article 23: Intersectional discrimination

States should adopt and implement policies and programmes that provide effective protection for, and review and repeal all policies and laws that could discriminate against, people of African descent facing multiple, aggravated or intersecting forms of discrimination based on other related grounds, such as sex, language, religion, political or other opinion, social origin, property, birth, disability or other status.¹¹¹

States should mainstream a gender perspective when designing and monitoring public policies, taking into account the specific needs and realities of women and girls of African descent, including in the area of sexual and reproductive health and reproductive rights in accordance with the Programme of activities for the implementation of the International Decade for People of African Descent, the Conference on Population and Development, the Beijing Platform for Action and the outcome documents of their review conferences, and ensure adequate access to maternal health care.¹¹²

Article 23: Climate change and environmental justice

People of African descent continue to be subjected to environmental racism and are disproportionately affected by the climate crisis. Environmental racism refers to environmental injustice in practice and in policies in racialized societies. It is a measurable contemporary manifestation of racism, racial discrimination, xenophobia, Afrophobia and related intolerance. States should seek climate solutions that also serve to rectify historical inequities. Racial impact assessments should be a part of human rights due diligence efforts for all climate and environmental action, and there should be accountability for human rights violations and environmental damage, including reparations. This includes mainstreaming corporate responsibility.¹¹³

Article 24: Migration

States shall guarantee that their migration policies and practices guarantee full equality and will remove any element that may create racial and ethnic discrimination.

Host countries of migrants of African descent should consider the provision of adequate social services, in particular in the areas of health, education and adequate housing, as a matter of priority, in cooperation with United Nations agencies, regional organizations and international financial bodies; also these agencies should provide an adequate response to requests for such services.¹¹⁴

Article 25: Follow-up

The Declaration calls for:

¹¹⁰ [A/RES/69/16](#), para. 25. Also see, CESCR General Comment No.4: The Right to Adequate Housing, [E/1992/23](#), para 7.

¹¹¹ [A/RES/69/16](#), para. 26

¹¹² [A/RES/69/16](#), para 27. See also, [CERD/C/GC/34](#), paras. 22-24.

¹¹³ [A/HRC/48/78](#): Environmental justice, the climate crisis and people of African descent, 21 September 2021, para 55.

¹¹⁴ [A/CONF.189/12](#), para. 33.

- a. The establishment of a United Nations Fund for the Development of People of African Descent,¹¹⁵ as a mechanism to guarantee the rights of People of African Descent and overcome disparities in their development. This Fund would contribute to guarantee conditions to combat poverty, access to education, employment, health, and housing, from the perspective of the right to ethno development of Afro-descendant communities.¹¹⁶
- b. A second International Decade of People of African Descent to take place from 2025 to 2034.¹¹⁷
- c. The faithful implementation of the Durban Declaration and Programme of Action, the International Convention on the Elimination of All Forms of Racial Discrimination and the present Declaration following its adoption.¹¹⁸

Article 26:

Nothing in the present Declaration may be construed as diminishing, impairing or nullifying the rights that people of African descent currently have or may acquire in the future. The human rights and fundamental freedoms of all, without discrimination of any kind, shall be respected in the exercise of the rights enunciated in the present Declaration. The exercise of the rights set forth in the present Declaration shall be subject only to such limitations as are determined by law and that are compliant with international human rights obligations. Any such limitations shall be non-discriminatory and necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others, and for meeting the just and most compelling requirements of a democratic society.¹¹⁹

¹¹⁵ UNFPAD submission, para. 36. In the First World Summit of Afro descent, which was held in 2011 in La Ceiba (Honduras) within the framework of United Nations resolution 64/169, under which the International Year for People of African Descent was proclaimed, there was a commitment to continue promoting local, national, and international actions that would mean substantial improvements for People of African Descent. The action plan approved at the summit included, among others (...) designing and promoting the establishment of an Afro-descendant development fund in the United Nations, as a mechanism to guarantee the rights of People of African Descent and overcome disparities in their development. This Fund would contribute to guarantee conditions to combat poverty, access to education, employment, health, and housing, from the perspective of the right to ethnodevelopment of Afro-descendant communities. See UNFPAD submission, para 36 and footnote 11.

¹¹⁶ Ibid.

¹¹⁷ Ibid., para. 37.

¹¹⁸ Ibid., para. 39.

¹¹⁹ Based on Article 28 1. and 2 of the Declaration on the rights of peasants and other people working in rural areas.