



NGO PROGRAM OF ACTION

FOR

**THE WORLD CONFERENCE AGAINST RACISM,
RACIAL DISCRIMINATION, XENOPHOBIA AND
RELATED INTOLERANCE**

**DURBAN, SOUTH AFRICA
28 AUGUST TO 1 SEPTEMBER 2001**

I GUIDING PRINCIPLES

We accept that this Programme of Action is informed by the following guiding principles:

1. Forum affirms that the existence, persistence and ongoing practice of racism, racial discrimination, xenophobia and all other forms of related intolerance is anti-human, a gross violation of human rights and a crime against humanity. Racism and the various forms of discrimination mutates and re-invents itself according to the prevailing social, economic, and historical circumstances. It manifests itself in complex ways affecting the psychological, social, economic and cultural spheres of life.
2. Forum acknowledges that issues of racial discrimination, racism and all other forms of related intolerance are matters that affect people in their daily life, in their subjectivity, and in their way of life, their thoughts, their dreams. The racial question has penetrated the deepest reaches of social life and, as a result, its importance is decisive. The World conference offers an extremely important opportunity to tackle these questions and the debate should not be feared, but rather faced with the truth.
3. Forum considers racism, racial discrimination, xenophobia and related forms of intolerance as the most serious violation of human rights and human dignity in the contemporary world. We commit ourselves to the full realisation of fundamental freedoms and human rights for all and we therefore categorically reject and commit ourselves to combat and eradicate, racism, racial discrimination, xenophobia and related forms of intolerance in all of its constructs and manifestations.
4. Forum's agenda in combating and eradicating racism and discrimination is characterised by the assertion that our Programme of Action is "forward looking, whilst acknowledging the past" with the full participation of the affected peoples in all initiatives proposed.
5. Forum acknowledges that the contemporary forms of discrimination have as its foundation, supremacy ideologies that have historically and systematically denied and humiliated people throughout the world from exercising their fundamental freedoms and the right to self-determination. These ideologies have resulted in a profound loss of identity, culture, dignity, and life, and the slavery, servitude, bondage and extreme poverty for millions of people. Through imperialism, colonialism, neo-colonialism and dictatorial rule, racism and discrimination have become institutionalised and structural and informs the current social and economic disparities between "North" and "South".

6. Forum believes that combating poverty is key to eradicating racism and the various forms of discrimination.
7. Forum believes that together with a legal framework and policies aimed at preventing and eliminating racism and various forms of discrimination, the first step in creating a just society should be a global acknowledgement of the past, accompanied by various redress mechanisms to repair past injustices.
8. Forum therefore resolves to commit itself to support all efforts aimed at redress in terms of the four pillars of reparation:
Restitution
Monetary Compensation
Rehabilitation
Satisfaction and guarantees of non-repetition
9. Forum notes with concern, that despite the affirmation by the United Nations over fifty years ago that "any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous", and a plethora of International Human Rights Instruments and National legislation designed to combat discrimination, various forms of racial and ethnic discrimination, xenophobia and related intolerance continues to persist in all continents, regions and countries of the world.
10. Forum therefore recognises the need for this Programme of Action to be action-orientated, visionary, with the full participation of affected groups. Proposed interventions addresses the shortcomings in the implementation of established and future institutionalised measures aimed at eradicating racism and the various forms of discrimination.

II CRITICAL AREAS OF CONCERN

Racism, racial discrimination, xenophobia and related intolerance is still prevalent in all countries and regions of the world today. The manifestations of these forms of discrimination are multi-faceted, with the most obvious embodiment being the socio-economic disparities between the "North" and the "South". Globally, over a 1 billion people in the world today, live in unacceptable conditions of extreme poverty, mostly in the developing countries.

Historically, imperialism and colonialism have created an unequal world order, the consequences of which are still prevalent today. In the contemporary world, sustained economic growth and development for impoverished nations is severely constrained by the deepening interdependence of these nations and the unequal power balance with developed nations within the framework of globalisation.

Efforts to combat and eradicate racism and the various forms of discrimination are dependent on a multi-faceted approach involving a range of levels of intervention and actors. Whilst much progress has been made at the International and Regional levels with the elaboration of Human Rights and anti-discriminatory Instruments, the legal framework has not been translated into real changes of quality of life and dignity. The challenge therefore, is to bridge the gap between the expansive existing legislative and policy landscape, and the scant implementation of these noble provisions. In addressing this task, it is imperative to identify and address the impediments to effective change.

An analysis of the problems associated with eradicating racism is vast, and requires a comprehensive and collective effort by various role-players. In this regard, the minimal requirement of States is the compliance with International Instruments. Yet, for our efforts to be pervasive, democratic dispensations in the developing world require the active support and engagement by civil society. If we are to mobilise and propose structural changes to States to eradicate discrimination, the onus of support for the implementation of the appropriate legislation and policy should be viewed as a shared responsibility between governments and non-governmental organisations.

The means by which political will and commitment can and should be measured in terms of repairing the past damage is through support for the concept of reparations. Reparations being key in terms of the content, and nature of acknowledgement of the past.

III PROGRAMME OF ACTION

Strategic objectives and action

A simple account of the causes, manifestations and victims of racism, racial discrimination, xenophobia and related intolerance, highlight the sheer magnitude of the numbers of affected people, level of destruction caused, expanse of the issues and multiplicity of those who should be held responsible and accountable. Coupled with increasing levels of expectations of affected peoples for an improvement in their quality of life, the need for a strategic approach driven by a shared vision is necessary and key to affecting change from the perspective of NGO's.

Thus, this Programme of Action is presented as a list of key strategic intervention areas, as opposed to a comprehensive list of what should be done in the cause of combating and eradicating racism and all forms of discrimination. This Programme of Action is also based on the assumption that in addition to the strategic interventions addressed hereunder, country-specific national and regional programmes would be developed and shall cover issues in more detail with the full participation of the affected groups. Underlying the strategic intervention and role of non-governmental actors is the principled vision, that acknowledgement has to be forthcoming and that the veracity of this acknowledgement should be based on reparations in all of its various constructs at national, regional and international levels.

The Programme of Action is divided into five (5) sections, within which recommendations are made to States, and where appropriate, the United Nations and other significant role-players. The role of civil society through non-governmental organisations is presented for each of these sections, thereby allowing NGOs to identify key areas in which they could intervene. The five sections are:

- A LEGAL MEASURES**
 - to establish a comprehensive framework to challenge violations
- B POLICIES AND PROGRAMMES**
 - with a focus on the implementation
- C EDUCATION**
 - as the most important preventative measure and remedy
- D GLOBALISATION**
 - to provide the economic context that limits eradication of racism and discrimination, and
- E REPARATION**
 - as a prerequisite for justice, human rights and the restoration of lost human dignity

A LEGAL MEASURES

INTERNATIONAL LEVEL

At the international level, we urge all to States to:

1. Ratify without reservations all international instruments and incorporate them into their domestic legislation, in particular those providing for equality and non-discrimination:
 - The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
 - The International Covenant on Civil and Political Rights (ICCPR);
 - The International Covenant on Economic, Social and Cultural Rights (ICESCR);
 - The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW);
 - The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC);
 - The Rome Statute of the International Criminal Court (ICC);
 - The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture);
 - The UN Convention on the Rights of Children (CRC); and
 - The Vienna Declaration and Program of Action.
2. Ratify the first Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, allowing for the submission of individual and group complaints.
3. Support the adoption of the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights providing for a system of individual and group complaints.
4. Recognise the 1998 ILO Declaration on Fundamental Principles and Rights at Work which holds governments responsible for respecting and promoting a set of fundamental rights for workers, and specifically migrant workers pursuant to ILO Convention 169, including freedom of association, the elimination of forced labour, the abolition of child labour, and the prohibition against discrimination in employment.
5. Implement Art. 6 of ICERD which assures effective protection and remedies to victims of racism and racial discrimination and accept the right to just and fair compensatory measures for victims of racism and racial discrimination.
6. Lift without prejudice, any reservations to ICERD, and making the Declaration under Article 14 of the Convention recognising the competence of the UN Committee on the Elimination of Racial

Discrimination (CERD) to enable the filing of individual complaints to the Committee.

- a) Support the UN in strengthening the role of CERD to allow for enforceable sanctions in cases where CERD's Concluding Observations on the monitoring of States are not complied with by governments within a reasonable period of time;
 - b) The format of State reports to CERD should be expanded beyond that of the legislation that has been passed, but should include disaggregated data on the impact and effect of the adopted legislation.
7. Comply with all reporting obligations provided by the relevant international human rights instruments and act upon the concluding observations and general recommendations and comments made by the relevant human rights treaty bodies and other supervisory mechanisms in a timely manner.
 8. Develop in accordance with Article 71 of Part 2 of The Vienna Declaration and Program of Action that requires "each State consider the desirability of drawing up a national action plan identifying steps whereby the State would improve the protection and promotion of human rights."

Role of NGO's

8. *Non governmental organisations should pressurise their respective governments to accede to, sign and ratify the above-mentioned international instruments.*
9. *Country specific NGO's should engage in a process of identifying those instruments that require immediate ratification, and prioritise the ratification of these instruments as the focus of their lobbying initiatives.*
10. *In countries that have ratified these instruments with reservations, NGO's should mobilise their efforts towards engaging their governments to remove these reservations.*
11. *NGO's should monitor State's compliance with their reporting obligations and publicise the State's commitment to this process.*
12. *The veracity of the official State's reports should be scrutinised by the process of compiling alternate civil society reports. NGO's should note that the compliance and the validity of State's reports is assessed by the United Nations by a process of comparison with alternate civil society reports.*

We call upon the United Nations to:

13. Ensure that compliance with reporting obligations for all relevant human rights documents be made mandatory.
14. Strengthen the effectiveness of The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) by implementing the following recommendations:
 - a) The process of appointment of CERD members should be done in a transparent manner in consultation with NGO's and civil society and with established criteria such as proven competence on anti-racism and non-discrimination;
 - b) Establish a procedure for a formal exchange of views with NGO's during its sessions and reinforce its procedure of examination of national situations even in the absence of a State report;
 - c) Consider and recognise alternate country reports by NGO's and civil society on all relevant international human rights instruments, and to make binding conclusions and recommendations of these reports to States.
 - d) CERD should also consider issuing a General Comment on ICERD whereby:
 - racial discrimination is defined as constituting "degrading treatment", and to include direct and indirect forms of racial discrimination within the definition of racial discrimination;
 - the duty of States to eliminate all forms of racial discrimination is interpreted pursuant to Article 2.2 of ICERD as implying, in certain cases, positive action as remedy for systemic discrimination;
 - in the consideration of individual communications pursuant to Article 14 of ICERD, once a prima facie case of discrimination is set by the complainant, the respondent government bears the burden of showing that the challenged law or practice has an objective and reasonable justification.
15. Complete, as a matter of urgency, Draft International Instruments such as the Declaration on Indigenous Peoples to address the deficiencies in existing international anti-discrimination instruments.
16. Develop international instruments on:
 - Rights of the Youth
 - Rights and Obligations of Minorities
17. Incorporate into existing human rights instruments the respect for free sexual orientation and to punish the imposition of any model of life based on intolerance for and denial of the freedom, autonomy and dignity of people.
18. Develop an International Reparations Instrument in accordance with universally recognised human rights norms, whereby all groups and individuals regardless of race, gender, sexual orientation, age, religion,

culture, language, disability, economic status, political opinion or national origin who have fallen victim of human rights violations, and in particular discrimination, have the right to reparation.

19. Actively support and act as a facilitative body for Independent National Institutions pursuant to the Vienna Declaration and the Paris Principles. Such support should encompass:
 - (a) Resource assistance, including human, financial and research support.
 - (b) Facilitation of co-operation of national institutions between countries on best practice models to gain knowledge on the manifestations of discrimination, and the mechanisms and strategies to prevent and combat unfair discrimination.
20. Facilitate the development of research capacity in the UN charged with exploring best practice models of legislation that takes into account the multi-cultural and ethnic dimensions of post-colonial countries.

Role of NGO's

Concerning representation and engagement with the United Nations, non-governmental organisations should support the calls for the transformation of the role, structure and mandate of the UN. In this regard, NGO's should:

21. *As a medium term strategy, lobby for the formal recognition of NGO representation and status of alternative civil society reports, and a mechanism of formal exchange of views.*
22. *As an immediate priority, engage with the established NGO representation within the UN to ensure that civil society input and impact is maximised. In this regard NGO's should evaluate and publicise CERD NGO representation within CERD. This strategy entails the active lobbying of CERD NGO members to consult with their constituencies of civil society in general, and affected groups in particular, thereby ensuring that in the short-term, these representatives are held accountable.*
23. *Pressurise the United Nations to adopt a General Comment to ICERD that expands the definition of racism, shift the burden of proof of individual complaints to States, and elaborate on positive actions as remedies for systemic discrimination.*
24. *Concentrate their efforts in lobbying for the elaboration of Human Rights Instruments for specific vulnerable groups who are subject to all forms of unfair discrimination.*

25. *Develop a strategy that would lead to the elaboration of an UN Instrument dealing specifically with Reparations.*¹

REGIONAL LEVEL

26. All States should sign and ratify without delay the respective regional Human Rights Instruments, and in particular, those dealing with discrimination.²
27. States belonging to regions that do not have regional human rights instruments should work towards establishing these instruments.
28. Regional systems should ensure that the systems, legislation, and standards adopted reflect at a minimum, international norms and standards.
29. States should ensure the full and effective implementation of these instruments at the national level.
30. African States should as a matter of urgency support and facilitate the setting up of the African Court in terms of the African Commission on Human and Peoples Rights.

Role of NGO's

¹ The World Conference provides us with an opportunity to address redress mechanisms, of which we endorse the concept of Reparations. As reparation has never been used as a means of redress for racism in the international context, this issue is dealt with extensively and separately in a SECTION.

² Africa: the African Charter on Human and Peoples Rights;
the African Charter on the Rights and Welfare of the Child;
the OAU Convention governing the Specific Aspects of Refugee Problems in Africa and related protocols.

Americas: the American Convention of Human Rights;
the Inter-American Convention to Prevent, Punish and Eradicate Violence Against Women and its Optional Protocol;
the Inter-American Convention against all Forms of Discrimination Against Persons with Disabilities.

Europe: the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR);
the Framework Convention for the Protection of National Minorities;
the European Social Charter, the Revised European Social Charter;
the European Charter for Regional or Minority Languages;
the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
the Convention on the Participation of Foreigners in Public Life at Local Level;
the European Convention on Nationality;
the European Convention on the Legal Status of Migrant Workers.

31. *At the regional level, NGO's should seek to acquire their status in their respective regional systems, as well as a status for NGO reports.*
32. *African NGO's should work towards lobbying their respective governments to actively support the African Commission on Human and Peoples' Rights.*
33. *Region-specific NGO's need to engage with the various role-players in the establishment of developing regional systems such as the Southern African Development Community (SADC), thereby ensuring that civil society voices find expression in these proposed structures.*

NATIONAL LEVEL

Constitutional provisions

States should adopt a Bill of Rights in their constitutions to encompass at the minimal level, provisions for the respect, promotion, protection and fulfilment of civil and political, and economic, social and cultural rights as provided for by The International Covenant on Civil and Political Rights and The International Covenant on Economic, Social and Cultural Rights. Additionally, States should:

34. Enact in their Constitutions, clauses guaranteeing non-discrimination and the enjoyment of all individual and collective rights by all persons regardless of race, age, gender, sex, ethnic or social origin, sexual orientation, disability, religion, conscience, belief, culture, language and birth.
35. Include in their Constitutions a clause outlining both the vertical and horizontal application of the provisions of the Bill of Rights.
36. Affirm, in their Constitutions, everyone's right to just administrative action that is lawful, accessible and procedurally and substantially fair.
37. Establish, where none exist, and to strengthen, where they do exist, independent State bodies such as human rights, gender and cultural commissions, ombudspersons and public protectors to protect and promote human rights.

Legislation

38. Do everything necessary to incorporate international and regional anti-discriminatory and human rights law into their national legislation, and that international law is the minimum acceptable standard for domestic

legislation, and that in some cases higher levels of protection for minorities at the domestic level are required to promote equality in fact.

39. Develop a mechanism to oversee and guarantee that all proposed legislation, rules and administrative procedures are in compliance and conformity with international standards on non-discrimination.
40. Adopt comprehensive legislation prohibiting unfair discrimination on grounds listed in B (1) above. Such legislation should:
 - (a) Specifically prohibit and criminalise discrimination in all spheres of life, including but not limited to access to citizenship and employment, and access to social services including education, health, housing and social security.
 - (b) Develop procedures for complaints and appeals against systematic manifestations of racial, ethnic or xenophobic hatred or violence;
 - (c) Declare illegal organisations from promoting and inciting direct or indirect discrimination on prohibited grounds.
 - (d) In certain circumstances including violent racial discrimination, shift the burden of proof upon the defendant to show that charge or complaint is not based on unfair discrimination.
 - (e) Impose adequate sanctions against perpetrators of all forms of unfair discrimination and their individual and collective practices.
41. Review all existing legislation, rules and administrative procedures, to ensure that no provisions are discriminatory, paying particular attention to legislation, rules and procedures affecting vulnerable groups and to bring them in line with the principles and values of International anti-discrimination instruments.
42. Develop and adopt legislation to provide for judicial remedies for acts of both contemporary and past discrimination, with provisions for rehabilitation of victims and perpetrators, compensation, and guarantees that measures be implemented to prevent the recurrence of violations.
43. Improve access mechanisms to just administrative action. Such strategies should:
 - (a) Be principally based on broadening people's access to courts;
 - (b) Provide legal assistance and advice for all people and legal aid for indigent people;
 - (c) Accommodate the cultural, language, literacy, geographical and disability requirements and status of vulnerable groups;
 - (d) Sensitise and educate court officials and legal professionals to the needs of vulnerable groups;
 - (e) In appropriate circumstances, afford security of person and witness and complainant protection.
 - (f) Consider developing specific legislation to improve access to just administrative action.

National Institutions

The establishment and strengthening of effective National Institutions is fundamental in the monitoring and evaluation of legislation, policies, programmes and strategies in the protection and promotion of human rights, including the rights to equality and non-discrimination. The characteristics of these institutions should include that:

44. They are independent from the Government and are subject only to the Constitution and the law.
45. They conform to the principles regarding the status of national institutions for the promotion and protection of human rights (the "Paris Principles"), in particular the efficiency and effectiveness of these institutions rather than the mere establishment of these bodies.
46. They are accessible and responsive to all persons and communities.
47. They initiate investigations, issue recommendations and institute legal proceedings in instances of human rights violations including discrimination.
48. Their reports and findings are transparent and open to the public and are afforded the same status as official financial audits.

Concerning Racism, Xenophobia and related intolerance, the NGO forum calls upon States to:

49. Reinforce and foster co-operation of national institutions with NGO's and other civil society organisations in dealing with racism and unfair discrimination.
50. Support the capacity of these institutions by promoting quantitative and qualitative research into discrimination with the participation of those being researched, the publication and dissemination of existing laws and jurisprudence.
51. Establish within national institutions, a specialised unit or commission dealing with discrimination. The unit should:
 - (a) Be provided with the power to institute legal proceedings.
 - (b) Develop a National Racism and Discrimination Barometer. The barometer or audit should be annual and be developed in consultation with civil society.
 - (c) Be mandated to hold public enquiries into discrimination.
 - (d) Monitor and evaluate the effective implementation and impact of anti-discriminatory legislation.
 - (e) Be mandated with developing assistance programmes and recommendations for the victims of racism and unfair

discrimination.

Role of NGO's

The National level represents the most important level of engagement for NGO's and civil society and the primary means of protecting human rights for two reasons. Firstly, for most NGO's, interactions at the domestic level impacts directly on the conditions of NGO constituencies and it is at this level that we need to mobilise for change in terms of the quality of life and dignity. Also, the rule requiring the exhaustion of domestic remedies re-enforces the primacy of national remedies in this respect. International procedures for the pursuit of individual claims are important, but these procedures are only supplementary to effective National remedies.

52. *NGO's should embark on a strategic assessment of the phases of the development of legislation, and identify key stages at which necessary submissions and interventions can be made.*
53. *NGO's should utilise the established mechanisms for submissions on proposed legislation such as parliamentary portfolio and standing committees.*
54. *Concerning civil society submissions to the legislature, NGO's should address the constraints and limitations that influence both the process of accessing these mechanisms, and the impact on the core content and focus of the submission.*
55. *Submissions by civil society should be based on research that adequately reflects the expressed needs and concerns of their constituencies. In this regard, NGO's should enter into collaborative efforts to maximise their resources and expertise thereby increasing the possibility of affecting change to proposed legislation.*
56. *The drafting of legislation has always included the use of best practice from other parts of the world. In this regard, NGO's in developing countries should look at motivating for the incorporation of best practice from within the region, as opposed to only utilising legislation from developed countries.*
57. *Drafting of legal documents including submissions to the legislature is an expensive process. Consequently, although the mechanism for submissions from civil society exists, submissions are almost always only received from well-resourced NGO interest groups and Academic Institutions. The civil society sector should look at ways of lobbying government to increase access to these mechanisms so that public-participation is adequately reflective of civil society and not dominated by personal interest groups.*

58. *NGO submissions should not only focus on the content and issues that need to be incorporated into proposed legislation, but should also comment on the planned implementation of the legislation.*
59. *Civil society institutions should conduct research, education and training of communities and policy-makers on how the legislative processes works and how to use the legal system to combat racism and unfair discrimination.*
60. *NGO's should advocate for a transparent and public appointment process of National Institution Representatives.*
61. *Civil society should also campaign for inclusion in the establishment of the terms of reference, role and focus of National Institutions.*
62. *National Institutions should be lobbied by NGO's for a system of formal exchange of views and information, and that such a structure should also ensure that civil society recommendations inform the Institutions course of action.*
63. *NGO's should consider the appropriateness of jointly convening public enquiries and hearings and sharing forums with National Institutions.*
64. *In suitable circumstances, NGO's should actively support the recommendations of National Institutions to government and lobby for the action on these recommendations.*
65. *National Institutions are important mechanisms for redress. It is therefore imperative that NGO's utilise the established procedures for complaints, public awareness and enquiries of these institutions to further the needs of civil society.*

B POLICIES AND PROGRAMMES

The NGO Forum notes with concern, that despite the affirmation by the United Nations over fifty years ago that "any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous", and a plethora of international and national legislation designed to combat discrimination, various forms of racial and ethnic discrimination, xenophobia and related intolerance continues to persist in all continents, regions and countries of the world.

The commitment we seek is not merely legal based redress mechanisms that are inaccessible to the majority of people. We want forward-looking comprehensive policies that clearly outline the States' will and commitment to dealing with the past, in the present day manifestations. To meet these expectations, States would have to ensure that all policies address immediate needs as well as long- term objectives.

Policy Content and Design

66. We therefore urge States to develop, implement and strengthen effective measures, strategies, programmes and policies, and to review existing policies to combat racial discrimination, xenophobia and related intolerance in all spheres of life in line with the principles, norms and standards set out in International human rights instruments and national anti-discriminatory legislation.
67. Anti-discriminatory policies should be based on the principle of mainstreaming the issue of combating unfair discrimination by including into all stages of decision-making:
 - guidelines
 - participation of target groups
 - positive actions
 - implementation mechanisms
 - monitoring and impact assessment
 - review of policies
68. Guidelines for policy design should be based on the acknowledgement of the structural racism derived from historical privileges upheld and promoted by the white supremacy ideology, and is expressed in contemporary society as wealth, power and status and through the preservation of coercive mechanisms that guarantee domination.
69. Policy design should ensure the full and effective participation of all members of the community, and especially representatives of target or potential target groups at all stages in designing, implementing, monitoring and evaluating policies to combat and prevent racism and related discrimination.

70. Any proposed new policies should in a Programme of Action, outline the implementing mechanism, the projected period for implementation, a system for monitoring and evaluation of the policy, and a method to review the proposed policy if necessary.

Indigenous People and Discrimination

Indigenous people have through the centuries suffered and continue to suffer from gross human rights violations through the institutionalised manifestations of discrimination of imperialism, colonialism, neo-colonialism and dictatorial rule. Consequently, indigenous people have been denied their inherent right to self-determination, as well as the systematic and wholesale decimation and loss of their identity, culture, dignity and life resulting from the destruction of their social structures and communities. States should as a matter of urgency:

71. Officially recognise the identity and rights of indigenous peoples and adopt immediate measures to eradicate the unfair discrimination of indigenous peoples.
72. Acknowledge that the implementation of previous State and private sector development policies have caused the loss of territories, language, culture and identity, and the forced displacement of indigenous people. States are therefore urged to consult with and to respect the development perspectives and autonomy of indigenous people. Furthermore, States should elaborate the necessary constitutional, legislative, judicial and administrative reforms to ensure the full and effective participation of indigenous peoples at local and national levels.
73. Institute measures to ensure the full enjoyment of fundamental freedoms and the protection, promotion and fulfilment of human rights for indigenous peoples. In this regard, particular attention should be given to the multiple forms of discrimination experienced by indigenous women and girl-children with respect to physical and sexual abuse, and access to health care and education.
74. Enact substantive legislation and a time-bound programme of land restitution and land claims to grant indigenous people access to ancestral land, religious and sacred land, including the right to sub-soil resources of the these land claims.
75. Establish, as a means of redress, positive measures including State-subsidised economic partnerships with indigenous groups with the appropriate access to training and management for these projects.
76. Design and implement educational and cultural policies that would promote the right of indigenous peoples to assert their identities, and to

maintain, develop and promote their cultures, values, languages, education, religious beliefs and alternative dispute resolution systems.

Refugees, Internally Displaced People and Discrimination

Xenophobia, racism and unfair discrimination of refugees are being aided by governments' narrow interpretation of their obligations to refugees. In this regard, the Euro-centric definition of "refugee status" does not account for poverty as a human rights violation that impacts directly on human dignity and the right to life. These policies force bona fide political and economic refugees to seek illegal means of entry into countries with the concomitant stigmatisation of refugees as "bogus asylum seekers", and perpetuate racist and discriminatory attitudes against refugees by host country nationals. The NGO Forum therefore calls on States to ensure that:

77. Policies and the accompanying legislation for refugees and asylum seekers are based on the principles of international human rights standards and international humanitarian law.
78. Programmes and measures for refugees are guided by the right of everyone to "seek and to enjoy in other countries asylum from persecution," as enshrined in the Universal Declaration of Human Rights, and the full and inclusive application of the 1951 Convention and its 1967 Protocol relating to the Status of Refugees in light of its object and purpose, in particular the Convention's Article 3 on non-discrimination.
79. The provisions of the Convention on the Rights of the Child, in particular articles 2 and 22 on non-discrimination and on refugee children respectively are applied in full when developing policies that impact on refugee children.
80. Conform to the legal interpretations, policy directives, guidelines and recommendations of the United Nations High Commissioner for Refugees (UNHCR) and that States recognise the role of the UNHCR as guarantor of the correct application of the 1951 Convention.

Migrants, Trafficking and Discrimination

Migrant workers, documented and undocumented migrants, and trafficked persons suffer gross violations of their human rights. Increasingly, restrictive and racially discriminatory immigration policies forces many economic migrants to utilise clandestine and illegal means of entering countries and perpetuates the organised trafficking of people. In most instances, the principle objective of migration is survival.

The structural legal and policy frameworks enable States to make a distinction between migrants and citizens, and lays the foundation for discrimination

against migrants with a denial of civil and political, and social and economic rights. The lack of legal protection and redress mechanisms makes migrants vulnerable to a range of human rights abuses, including violence by the police and the military, exploitative working conditions, and a lack of access to essential social services such as health, education and social security. All States are therefore urged to:

81. Review and revise the present migratory policies that are unfavourable to migrants and displaced persons, by updating the policies within the context of the socio-economic and cultural integration of nations. The Forum is concerned in particular, about policies that create and perpetuate discrimination on the basis of nationality and strongly condemns the institutionalised discrimination suffered by "third country nationals" in Europe.
82. Implement policies and the necessary legislation prohibiting trafficking of persons. These policies should:
 - (a) Be developed as regional policies;
 - (b) Provide the appropriate resource allocation for enforcement;
 - (c) Pay particular attention to the trafficking of children, women for sexual exploitation, debt bondage and exploitative working conditions;
 - (d) Assist the victims of trafficking; and
 - (e) Elaborate harsh punitive measures for trafficking syndicates.
83. Develop measures and programmes to ensure that documented migrants are afforded the full protection of their fundamental human rights. Specifically, attention should be paid to:
 - (a) Protecting foreign domestic workers from discrimination, violence and physical and sexual abuse;
 - (b) Migrant workers under exploitative working conditions, low wages and a denial of their trade union rights; and
 - (c) Ensuring access to social services especially health care and education for migrant workers and their dependants.
84. Provide human rights education and anti-racism training programmes for the police, key public sector officials including customs and immigration officers who are in frequent contact with immigrants and migrant workers.

Access To Social Services And Discrimination

In most parts of the developing world, the vast majority of the population are denied their fundamental right to human dignity. Poverty remains a major impediment on both the right to life and the right to human dignity. In this regard, the provision of access to basic social services such as health, education, water, and social security are not only obligations of the State, but also an essential means in which the most impoverished and exploited people

can restore their human dignity and seek a better life. Forum therefore calls on States to:

85. Adopt measures to ensure that everyone's right to access to education, health care, social security, water, housing and land is respected, protected, promoted and fulfilled. Particular attention should be given to vulnerable groups and victims of discrimination including the unemployed, rural people, women, children, indigenous people, and people of African descent.
86. Policies and programmes should conform to internationally acceptable standards of the core minimum content of these rights.
87. Implement policies that are culturally sensitive to end-users and ensure that literacy, language, cultural and economic determinants are not utilised as obstacles to the fulfilment of their socio-economic rights.

To combat racism and eliminate discrimination in the fulfilment of everyone's access to health care, States are urged to:

88. Implement measures to fulfill the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
89. Collect dis-aggregated data and conduct research into the health status of vulnerable groups.
90. Monitor and provide an effective mechanism to eliminate discrimination in the health care system. Special attention should be given to indigenous people and those who are illiterate who are often subject to family planning programmes including sterilisation and clinical trials without free and informed consent. Professionals guilty of such practices should be sanctioned.
91. Provide full access to primary health care programmes including immunisations, nutritional and dietary supplements through food programmes, comprehensive preventative measures and treatment for infectious diseases including malaria and dysentery.
92. Extend and strengthen programmes on the prevention of HIV/AIDS, including culturally sensitive educational programmes aimed at preventing the transmission of HIV and eliminating discrimination of people living with HIV/AIDS.
93. Provide a comprehensive HIV/AIDS Mother-to-Child Transmission (MTCT) programme that is freely accessible to all. Included in the MTCT programme should be components on informed consent, pre and post- test counselling, treatment options, milk formula substitution, and access to support groups.
94. Work towards reducing the costs of HIV/AIDS and other medicines. In this regard, we acknowledge the co-operative efforts of the South

African government and civil society in reaching these ends by successfully engaging with the International Pharmaceutical Industry.

95. Allocate resources including health care professionals to vulnerable communities in an equitable manner. Compulsory community service for health care professionals and the recruitment of trainee health professionals from vulnerable groups and minorities are mechanisms for achieving parity in the health care system.
96. Ensure that health care professionals receive a human rights and ethics component as part of their educational programme.

Education and information dissemination are, if used appropriately, powerful tools that can be used to eradicate racism and related discrimination. A detailed and separate section on actionable measures is contained in Section "**C EDUCATION**" below.

Access To Natural Resources, Environmental Racism And Discrimination

Contemporary environmental racism is a historical extension of colonial principles that were designed to deny indigenous people throughout the world their fundamental freedoms and rights, including those of sovereignty and of self-determination. Foreign States and multi-national companies continue to assault and degrade the natural resources of lesser economically developed States, especially in the "South", by utilising limitations in environmental legislation and the enforcement mechanisms of recipient countries. The NGO Forum calls on States to:

97. Adopt and guarantee the compliance with laws by implementing policies to protect peoples and their cultures from environmental racism.
98. Ensure equal community participation in the environmental decision making process and to provide target communities with education on environmental racism.
99. Require environmental impact assessment studies on all public and private works.
100. Elaborate a policy that restricts trans-national companies (TNCs) from degrading the natural resources of developing countries. In this regard, States of the "North" should develop an ethical code of conduct for business. This code should be based on the principle that compliance with domestic environmental standards forms the minimal acceptable standard for TNCs conducting business throughout the world. Transgression of the code of conduct should result in punitive measures.

Public Sector

Globally, the public service is the key implementing agent of all governmental programmes and policies. In this regard, there are various factors that impact on the ability of the public sector to realise this mandate. These include, amongst others, the historical use of the public service to secure power for the ruling elite, the lack of technical skills and capacity of public service officials, and inadequate financial and human resources to implement programmes. Forum recognises for this Programme of Action to be realised, the role, function and performance of the public sector is critical. We therefore call on all States to commit themselves to the transformation of their respective public services. Specifically, States should adopt policies that:

101. Promote, protect and respect all fundamental human rights and dignity, and in particular, those of non-discrimination and equality. These policies should bind all public officials, in particular the police and the military, the judiciary, agents of the administration of justice, and officials and professionals working in the social services.
102. Enable and facilitate the participation of affected and marginalised groups in the functioning of the Public Service, through the process of employment at all levels of the public service.
103. Encourage and support ongoing independent audits to establish gaps in the public service with regard to the realisation of their mandate to promote, protect and respect all fundamental human rights and freedoms.
104. Entrench codes of conduct as part of the overall performance based contracts for public sector officials. The codes of conduct should include specifically anti-corruption, anti-discriminatory and anti-racist clauses.
105. Demonstrate the willingness of the State to deal with issues of crime, criminality and corruption in the public sector, decisively and without fear or favour.

Positive action

Policies to combat racism, and discrimination are the necessary interventions to prevent future repetition of the atrocious acts and deeds. However, they do not address the contemporary effects of racism and discrimination on victims. In this regard, the provision of effective remedies is crucial to achieving full and effective equality, and the restoration of human dignity for victims.

Specific positive actions should be within the domain of:

- Prioritisation of financial resources;
- Affirmative action employment and labour policies;

We call on States to take positive action by prioritising their financial resources to redress the effects of racism and unfair discrimination of individuals and groups by:

106. Developing a macro-economic policy that provides for sufficient resources to improve social and economic conditions that would lead to the eradication of poverty.

We call on States to develop policies that provide specifically for affirmative action and employment equity both in the public and private sectors. These policies should:

107. Be specifically geared towards providing redress for individuals and groups that have been subjected to racism and unfair discrimination including amongst others indigenous people, women, migrants and ethnic minorities. In particular due cognisance should be given to those peoples suffering from multiple forms of discriminations such as indigenous women.
108. Cover the following areas such as housing, cultural heritage, access to justice, social assistance, education and health care.
109. Form part of States' public and development policies at national and regional levels.
110. Elaborate on an appropriate percentage quota for all spheres of public service that would ensure adequate representation and redress for previously disadvantaged and discriminated against individuals and groups.
111. Include the rights of workers to form and join trade unions, participate in the activities of the union, industrial action and collective bargaining.
112. Applicable to the private sector, and should provide for punitive measures for non-compliance.
113. Cover the areas of economic, commercial and labour policies, which compel national and international corporations to implement a compliance with anti-racist anti-discriminatory clauses and practices, since these attitudes have been the cause of the forced displacement of poor persons and communities. Also, to fight against exploitative conditions of labour of children and adolescents.

Role of NGO's

At the level of policy NGO's are provided with the opportunity to engage with government with regards to whether envisaged policies and programmes meet the intended aim of the legislation and to contribute to the development and drafting of policies. It also provides NGO's with a forum through which States will and commitment can be measured by assessing the level of implementation and impact of policies and programmes.

The following two areas are recognised as being most strategic within which NGO's can utilise the policy arena:

- *Development and Implementation of Policy*
- *Monitoring and Impact assessment of policies*

Development and Implementation of policy

Legislation does not guarantee access to rights in a practical way, and it is therefore important for NGO's to extend their involvement from the legislative phase to that of policy development. Key to the development of good policy is ensuring that any social policy is not limited to one right, and that the policy should practically demonstrate the inter-relatedness and indivisibility of rights.

Often, civil society representation in this process is owned by research groups and academic institutions. The crucial area of engagement for NGO's has less to do with the technical expertise in policy development but rather should focus on the role of NGO's as a vehicle for participation of intended target groups. This process would entail defining the constituencies of NGO's, the key areas and concerns of these constituencies and the desired recourse that would meet the needs of the intended target group. This principle has implications in terms of the capacity, representivity and networking abilities of NGO's.

The effectiveness of appropriate policy is also dependant on the implementation programmes, including implementing agents and mechanisms. In the process of implementing programmes, the policy objectives are often diluted as these policies filter down to the level of impact on the individual. For example, public sector officials at the interface with target groups are not trained adequately. Additionally, aspects of the programme such as information dissemination and public awareness are not implemented together with other elements of the programme. As such, one of the crucial roles of NGO's is to educate their constituencies on policies and programmes that provide for the realisation of their rights.

A severe limitation in the realisation of human rights and freedoms is the growing gap between progressive legislation and policy, and the implementation thereof. For people to enjoy their rights, access to these policies and programmes is a prerequisite. For a multiplicity of reasons, States are limited in providing adequate access for these programmes.

Ensuring access to rights requires the NGO sector to focus on the following as areas of intervention:

- *Lack of knowledge of rights, at the levels of the public service and the public at large;*
- *Lack of remedial and facilitative mechanisms at local levels, and presents the greatest strategic challenge for the NGO sector and the way in which the sector organises itself to maintain relevance and to be responsive to the needs of the public;*
- *Exploring their roles as implementing agents and service providers for State programmes, especially in developing countries.*

Monitoring and impact assessment of policies

Monitoring of programmes is an important aspect in ensuring that policies and programmes achieve their desired objectives. In this regard, monitoring is not a passive act but a dynamic process that should serve the following ends:

- *A check and balance to ensure implementation of programmes and policies;*
- *Identifies the constraints on implementation;*
- *Forms the basis of an audit of the areas of violations of the rights and geographical location; and*
- *To collect, collate and analyse primary information for general distribution and dissemination, that can be used to lobby for positive changes to people's quality of life and dignity by articulating the needs of the affected groups.*

C EDUCATION

Education is recognised as a powerful method both in the short and long term to combat racism and other forms of related intolerances, which have resulted in the creation of iniquitous systems of prejudice causing hurt, loss of dignity, dispossession, poverty and disempowerment. Education and educational institutions used effectively and strategically may serve to play a role in debunking the myths and perceptions, by exposing the past and present manifestation of racial discrimination and other forms of intolerances and prejudice.

An effective way to eradicate intolerance is a pluralistic, diverse education, developing thoughts, feelings and actions towards a culture of peace, collectively shouldering of the commitment to undertake joint actions geared towards creating a just global society grounded on the principles of diversity and pluralism.

Education as a means of redress should be viewed from the broad perspective of encompassing as a comprehensive strategy:

- Formal Education;
- Adult Education;
- Awareness Campaigns;
- Information dissemination (access to information);
- Education for the transformation of Public Sector Officials; and
- The Media and information technology.

A comprehensive education strategy can be used as a strategic tool to measure actual state political will and commitment and the outcomes of this strategy would have the following effects.

- Remove the conditions that foster racial prejudice and stereotypes;
- Ensure that ideological domination, slavery and unfair discrimination of any kind is not repeated;
- Affirming and building people's destroyed dignity by restoring the cultural and social identity of victims of racism and discrimination;
- Reduce the rate of illiteracy as a manifestation of racism and secure everyone's basic right to education and thereby provides opportunities for historically marginalised groups.
- Serve to inform, particularly the "North" and perpetrators of racism and unfair discrimination, of the conditions perpetuated by colonialist regimes, and exposing, acknowledging and elevating cultural diversity, people's heritage and indigenous knowledge systems to their rightful place in history.

Education is key to the promotion of respect for the racial, ethnic, cultural and linguistic diversity of societies and for the promotion and protection of democratic values that are essential to prevent the spread of racism, racial discrimination, xenophobia and related intolerance. Forum underlines the

crucial role of education, in particular human rights education, in the prevention and eradication of all forms of intolerance and discrimination.

Formal Education including Adult Education

Changes to the structure and content of formal and informal education content must contain the acknowledgement of the past in an unequivocal manner by representing the true history of the past. This process of change has to include the active participation of people from the marginalised communities. Education content must serve to affirm and build peoples destroyed dignity, and the use of language(s) of choice must become a key issue area.

In this regard, it is important to reinforce the anti-discrimination component of the school curricula and to improve educational materials on human rights, in order to shape attitudes and behavioural patterns based on the principles of non-discrimination, mutual respect and tolerance.

Forum therefore calls upon States to:

114. Ensure equal access to education at all levels, including higher education, without discrimination on any ground, for all persons irrespective of their legal status and abolish policies and practices promoting or leading to racial segregation in education.
115. Include a human rights dimension in the national curriculum for primary and secondary schools aiming for all pupils to be aware of and understand their rights. This dimension should include courses on domestic constitutions, the respect for the Declaration of Human Rights and other International Human Rights Instruments.
116. Review the education curriculum so as to eliminate any elements that might promote racism, racial discrimination, xenophobia and related intolerance or reinforce negative stereotypes, including material that refutes such stereotypes.
117. Introduce into their education curricula, an accurate presentation of the history of the State, highlighting the contributions of the different cultures and civilisations of the region and the world, including the role that indigenous people, people of African descent, migrants and other ethnic, racial, cultural, religious and linguistic groups and minorities have played in building national identities.
118. Ensure that the education syllabi incorporates a true history of the struggle of the people against colonialism, slavery, apartheid, imperialism and patriarchal ideologies and practices which have entrenched racism, racial discrimination, xenophobia and related intolerance.

119. Review and develop the educational system to allow for learning and instruction to be pursued in mother-tongue language(s), and to ensure that access to education is not denied to vulnerable groups on the basis of linguistic ability and criteria.
120. Educational policies be pursued that includes cultural, racial and sexual diversity and that recovers the historical contribution of women in the development of their peoples, communities and nations.
121. To provide to all peoples and cultures in educational centres, access to technology in equal conditions, especially in areas that have no access to higher education, for an equitable and sustainable development and the eradication of racism, racial discrimination, xenophobia and related intolerance.
122. Take measures to increase the recruitment and promotion of members of minority groups as teachers, and guarantee effective equality of access to the teaching profession.
123. Ensure that pupils, parents and teachers are given information about how to deal with racist incidents in schools and on the remedies that are available.
124. Prioritise adult education for the public at large, as well as addressing the levels of functional illiteracy in terms of language etc within the public service. The call for increased commitment in terms of adult education has to be extended to the private sector as well.

Public Awareness and Access to Information

Concerning increasing public awareness on Racism, Xenophobia and related intolerance and the related remedies for these injustices, the NGO Forum calls upon States to:

125. Commit themselves to undertaking public information to alert their societies to the dangers of racism, racial discrimination, xenophobia, and related intolerance, and to support initiatives of non-governmental organisations in this respect.
126. Set up or facilitate the provision of free access to sources of information on the rights and remedies of victims of racism, racial discrimination, xenophobia and related intolerance, including all forms of religious intolerance.
127. Organise and support networks of information in the combat against racism and related intolerance at local, national and regional level, and facilitate the key role of NGO's in combating racism and related intolerance, acknowledging their significant role in disseminating information and establishing networks among target groups.

128. Establish and resource an independent body or bodies, which is tasked to:
- (a) Study the historical and emerging causes of racism, racial discrimination, xenophobia and related intolerance; its effects and suitable remedies;
 - (b) Focus on combating all ideologies, policies and practices which lead to or incite racism, racial discrimination, xenophobia and related intolerance;
 - (c) Undertake and facilitate awareness raising campaigns informing all levels of society about racism, racial discrimination, xenophobia and related intolerance;
 - (d) Integrate, co-operate, encourage and support civil society bodies and NGO's in their work in the eradication of racism, racial discrimination and related intolerance.

Training and Education for Public Officials

The knowledge and respect for human rights and freedoms amongst public sector officials is important and of great consequence in pursuing a society free of racism, racial discrimination, and related intolerance.

Forum therefore urges all States to:

129. Conduct nationwide campaigns to raise awareness among State organs, such as the judiciary, and law enforcement agencies, public officials, including legislators, as well as civil society organisations, including associations involved with migrants and other vulnerable groups, concerning the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.
130. Train police and immigration officials in the application of international human rights standards and that the successful completion of such training programmes be made one of the criteria for promotion.
131. Implement training programmes on the dangers of racism and intolerance, including sexist prejudices, stereotyping and multiple discrimination and promote respect for cultural diversity by officials in all spheres of public life, in particular the police and the military, the judiciary and other agents of the administration of justice, teachers and other educationalists, and officials working in the sphere of health and social welfare.
132. Develop specific measures for agents of the criminal justice system, in particular the police and other law enforcement officers, for their interactions with target groups and minorities.

Information technology, the Internet and Media

Whilst acknowledging and respecting the fundamental right to freedom of expression, Forum is deeply concerned of the use of the media and new information technologies, such as the Internet, to propagate racial hatred, to disseminate new forms of racist ideology and foment xenophobic and intolerant behaviour. Forum believes that information technology should be harnessed and can be used as a positive tool to combat racism, racial discrimination, xenophobia and related intolerance and should be used to promote tolerance and respect for diversity. We call on States to:

133. Establish appropriate mechanisms of protection against the dissemination of hate speech and racist material, which advocates and or incites racism, racial discrimination, xenophobia, and other related intolerance.
134. Enact appropriate legislation and implement effective policies sanctioning the exploitation and degradation of images and cultures in the media and the establishment of monitoring mechanisms for their compliance.
135. Develop communication policies and mechanisms to democratise the media to reflect the ethnic and cultural diversity in societies and to arrest the dissemination, propagation and generation of any material that promotes racism, racial discrimination, xenophobia and related intolerance. In particular, these policies should:
 - (a) Ensure access to the media for marginalised groups, especially indigenous peoples, people of African descent, ethnic minorities, women, displaced and disabled persons.
 - (b) Recognise the importance of community media for marginalised people and provide adequate funding to those local grassroots media;
 - (c) Assess compliance of media receiving public funding with professional norms on responsible journalism;
 - (d) Provide adequate funding for coordination and networking of NGO's monitoring the media on issues of racism and non-discriminatory reporting;
 - (e) Facilitate the development of continuous education for media professionals, especially on human rights and anti-racism;
 - (f) Establish together with the advertising industry, a code of conduct that prohibits advertising messages that portray cultural, religious or ethnic difference in a negative manner, including by reinforcing sexist or other stereotypes and prejudices.
136. Design and develop strategies to ensure the intelligent use of new technologies including the Internet, to place them at the service of the antiracist and anti-discriminatory cause. In particular, these strategies should:
 - (a) Create a dialogue with all Internet service-providers, in order to discuss voluntary measures to counter racist sites such as

- blocking sites, installing a filtering system or refusing anonymity to the authors of sites;
- (b) Develop codes of conduct and self-regulatory measures among access and host providers; and
 - (c) Raise awareness amongst decision makers, the general public, and in particular young Internet-users, of the problem of dissemination of racist messages by the Internet.

Forum urges the Media to provide an inclusive coverage of society, by depicting society in its cultural, ethnic, and religious diversity in a balanced and objective manner and by using diverse sources of information, including from men and women with a minority background, and in particular to:

- 137. Develop self-regulatory codes of conduct with high ethical standards with regard to combat racism in the media.
- 138. Report factually and accurately on acts of racism and intolerance and in a sensitive manner on situations of tension between communities.
- 139. Present a view of cultural diversity and immigration as a structural and positive component of society, in particular by developing a multicultural approach with the understanding that cultural, religious and ethnic difference is an enriching factor in society
- 140. Avoid derogatory stereotypical depiction of members of cultural, ethnic, or religious communities, in particular by refraining from irrelevant references to a person's membership in such communities.
- 141. Alert public opinion to the dangers of intolerance as well as deepening public understanding and appreciation of all forms of diversity, in particular by challenging the assumptions underlying racist remarks made by speakers in the course of interviews, reports, and discussion programmes.
- 142. Promote the recruitment of journalists for print and broadcast media from groups targeted or potential targets of racism, as a reflection of multicultural society in mainstream media.

Role of NGO's

Education is a key component of advocacy and lobbying strategies. Thus NGO involvement and intervention in education and information dissemination is both strategic and necessary as a means to combat racism and unfair discrimination, and to elevate education and access to information as a means of redress.

- 143. NGO's intervention should commence from the perspective of giving content and meaning to the right to education for all both in law and in fact. In the context of the "South", the right to education is integrally linked to the rights of food and shelter and NGO's involvement on these issues is essential to realise the right to education.*
- 144. Issue based NGO's should exert a much bigger role in participating and developing alternate and representative curricula which recognises and promotes cultural diversity and incorporates indigenous knowledge systems.*
- 145. The fundamental link between language and education has to be made a reality in practice. The mere translation of language is not acceptable and the historical and sociological roots of language need to be promoted, protected and respected.*
- 146. NGO's should consider their role as education service providers in areas neglected by the state.*
- 147. NGO's should support people who have become victims of racism and unfair discrimination in the sphere of education.*
- 148. NGO's should collaborate with locally based initiatives and movements, which should be used as the vehicle for public awareness campaigns.*
- 149. NGO's can be used as a vehicle to engage with the media for the expression of views, issues and concerns of marginalized people.*
- 150. The media's compliance with the ethics of non-racism and non-discrimination should be monitored consistently by NGO's.*
- 151. NGO's should use the media as a tool for lobbying and advocacy of anti-racist and anti-discriminatory programmes.*
- 152. NGO's should engage with the media in utilising the media in reducing illiteracy and raising public awareness.*
- 153. NGO's should be part of processes if not leading processes for the transformation of the media, whilst bearing in mind that the issue of control as well as ownership needs to be dealt with.*

D GLOBALISATION

Globalisation can be described as the ever-increasing integration of human society at economic, social, cultural and political levels. Globalisation is an uneven process that is historically derived from the practice of colonial integration of the world, and one that is based on unequal power relations between countries and regions. The empirical evidence shows, among others, that the income gap between developed and developing countries has widened. According to the United Nations Development Programme's Human Development Report, African countries are placed at the bottom 28 of the list of 162 countries.

At one level, globalisation has seen the continuation of the domination of one-time colonial powers together with newly established economic 'big powers' over the world system. At another level, the global order of nation-states has seen the emergence of a multitude of nationalisms from which have developed a number of instances of ethnic hegemonisms and the creation of ethnic exclusivist states.

The processes of globalisation are driven by powerful trans-national economic and technological forces, by politically powerful governments and through multilateral institutions, which has led to a deterioration of the economic and social situation in many countries by pressuring governments to adopt measures in violation of their obligations under international human rights instruments. In this sense, globalisation has promoted institutional racism at both the national and international level.

Recommendations to States

The impact of globalisation affects different countries and regions in different ways. In this regard strategies to deal with the effects of globalisation would differ between countries of the "South" and those of the "North".

We therefore call on countries of the "South" to adopt as a Programme of Action to deal with globalisation, the Havana Programme of Action of the Group of 77 South Summit (April 2000). Key aspects of this Programme of Action that should be taken into consideration are:

154. To respond to globalisation with a view to making it beneficial for all countries and peoples, and to actively promote effective participation of developing countries in the international economic policy decision making in the context of the globalising world economy.
155. To revitalise and strengthen the role of the UN system in promoting development and international cooperation in the context of globalisation.

156. To utilise institutions in the South in meeting the challenges of globalisation.
157. To preserve and promote cultural diversity especially in the context of globalisation.
158. To renew efforts to stimulate the expansion of South-South trade and investment in order to accelerate economic growth and development of the South.
159. To strengthen South-South cooperation in the monetary and financial field.
160. To strengthen South-South cooperation in promoting social development including the enhancing of capacity building and human resources.
161. To promote multilateral cooperation and arrangements towards the expansion of South-South cooperation.

Regarding North-South relations we call on all countries to develop a new North-South partnership to promote consensus on key issues of development and international economic relations. Specifically this partnership should deal with the following actions:

162. Work towards outright cancellation of unsustainable debt of developing countries, and reaffirm the need of a just and lasting solution to the problem of the foreign debt of developing countries, which considers the structural causes of indebtedness and prevents the recurrence of this phenomenon in the future.
163. Revitalise the North-South dialogue to initiate appropriate action with a view to strengthen the existing international arrangements within the UN system in coordination with other groupings from the South.
164. Work towards the formulation of a comprehensive international strategy to reverse the decline in ODA, to achieve the target of 0.7% of GNP of developed countries by the end of the first decade of the twenty-first century and also within that target ensure to earmark 0.15% of their GNP for the Least Developed Countries.
165. Work towards an enabling international economic environment conducive to full implementation of Uruguay Round agreements in particular the operationalisation and strengthening of the measures relating to the special and differentiated treatment for developing countries.

166. Pursue action to encourage the major economies of the North, particularly the G-8, to enhance coordination and coherence of their macroeconomic policies with development objectives of the South.
167. Support reforms, which should lead to the emergence of a new financial architecture, that ensures full participation of the developing countries in the international economic policy decision-making and that ensure stability, transparency and democratic functioning of the international financial system.
168. Work to ensure for the effective integration of all countries into the international trading system including improving supply side capabilities of developing countries especially the least developed among them, overcoming the debt problem and to create conditions in our countries to attract adequate financial flows, including ODA, and to ensure institutional reforms and reducing financial volatility.
169. Work towards achievement of the universal membership of the World Trade Organisation and to provide the appropriate assistance to developing countries seeking accession. Furthermore, all WTO members should refrain from placing excessive or onerous demands on applications from developing countries.
170. Establish a consensus position on the criterion used for the support of the various United Nations agencies such as UNCTAD, UNDP WHO, to prevent the selective disbursing or withholding of financial resources for the preferential support of rival organisations.³
171. Advocate a solution to the serious environmental problems, on the basis of the recognition of the ecological debt of the North and of the principle of common but differentiated responsibilities between developed and developing countries, highlighting the need to gain access under preferential terms to the appropriate financial resources and technologies in order to ensure a sustainable development as provided in Agenda 21.

Recommendations to the United Nations

Globalisation has led to vast disparities in socio-economic conditions between countries and between regions, and the resultant marginalisation of a large number of developing countries in the global context. To this end, the United Nations is in a unique position, as a universal forum, to strengthen international cooperation for promoting development in the context of globalisation.

³ Some UN agencies have succumbed to this withholding of financial resources by developed nations, the most notorious case is the UN Commission on Trans-national Corporations (UNCTC) which has effectively been turned into a service unit for TNC's, rather than being the vigilant investigator and monitor of TNC's that it originally was.

We therefore call on the United Nations to:

172. Facilitate the integration of developing countries into the globalising economy on the terms on which they are able to take full advantage of all their potentials for economic growth and development.
173. Work for decisions on critical economic issues in institutions such as IMF, World Bank and the WTO, which promote the interests of developing countries through effective and full participation of all and on the basis of sovereign equality, and by asserting the key role of the UN in this sphere.
174. Work towards strengthening the role of UNCTAD and the coordinating role of ECOSOC and the regional commissions in addressing the economic and social development priorities of developing countries.
175. Continue to pursue the complementarity's and coordination among the UN agencies, especially UNCTAD and other relevant international organisations including the IMF, the World Bank and the WTO with the view to promoting the development of developing countries while avoiding the imposition on governments of cross-conditionalities and other conditions which would operate to restrict their policy options further.
176. To strengthen and re-establish the UN Commission on Transnational Corporations (UNCTC) to meet the original objective for the creation of this body as a vigilant investigator and monitor of Transnational Corporations.

Role of NGO's

The role of civil society organisations to engage with the appropriate national and regional strategies in terms of the key issues is a crucial part of responding to challenges of globalisation. These issues include the economic role and social effects of debt and external utilisation of debt as an instrument of political control, the effects and challenges of structural adjustments, the negative impact and implications of trade and investment liberalisation and the role of International Financial and Trade organisations such as the International Monetary Fund, World Trade Organisation and World Bank.

Capacity building, lobbying and advocacy actions and other actions on the impact of globalisation and its instruments need to be conceived as a multi-dimensional process. This must be aimed at simultaneously at national governments and inter-governmental regional institutions on the one hand, on the other hand, it has to target governments in the North especially the European Union and the United States of America, and the global institutions controlled by them, like the International Monetary Fund, the World Bank, and

World Trade Organisation. Civil society counterparts and allies in the North are very important in the pursuit of these latter strategies.

National level

Carefully considered strategic alliances between NGO's and Governments in developing countries to further their coordinated and complementary efforts in challenging some of the restrictive policies emanating from globalisation. One such example is the recent collaboration between local and international HIV/AIDS activists and the South African Government in improving access to essential medicines for those most in need, and successfully countering a challenge by the international pharmaceutical industry.

Actions and campaigns by civil society organisations should focus on strategic areas like the prioritisation of resources in national budgets. In this regard civil society needs to campaign around the allocation of resources for the improvement of socio-economic conditions and specifically highlight the detrimental effects of the use of these scarce resources for other programmes such as military spending and repayment of debt.

Central to pressurising government's for spending on social services is the need to expose government's to the constraints and limitations of their inappropriate macro-economic policies.

E REPARATIONS

Forum believes that together with a legal framework and policies aimed at preventing and eliminating racism and various forms of discrimination, the first step in creating a just society should be a global acknowledgement of the past, accompanied by various redress mechanisms to repair past injustices. Forum further believes that reparations are the most important means of achieving redress in fact. Reparations are a question of justice, human rights and the restoration of lost human dignity.

In the multi-year preparatory process for the Third World Conference Against Racism, there were official gatherings of civil society representatives in each of the four United Nations designated regions. There were also officially convened expert seminars that focused on the issues of redress either in total, or as part of deliberations on a related subject. And finally, there were ad hoc gatherings of civil society who professed a sincere interest in the deliberations of this Forum. Approved minutes, memorandum, submissions and other documentation have all contributed to the intense dialogue on reparations which has been on the agenda in some areas for the last three hundred years, and on others for the last three years. While it is not possible to reproduce all of this documentation at this time, it can be stated in summary that significant groups of people throughout the global community are in agreement in:

- 1) Affirming the existence of universal human rights;
- 2) Acknowledging the role of the state and institutions as well as individuals in violating those rights;
- 3) Acknowledging the need to have all relevant international treaties, protocols and declaration immediately ratified by all United Nation member states;
- 4) Affirming the need to strengthen existing national, regional and international organisations, especially United Nations organs;
- 5) Affirming the need for compensatory mechanisms such as restitution, rehabilitation, monetary awards, satisfaction and guarantees of non-repetition;
- 6) Affirming the necessity of developing creative interventions to address remedial actions, and
- 7) Acknowledging the need to provide for these interventions at the national, regional and international levels.

177. We therefore acknowledge the principle of reparation for the cultural, demographic, economic, political, social and moral wrongs of past enslavement of humans, in particular the holocaust of the enslavement of Africans and African descendants, which is unparalleled in world history. In this respect, colonialism and other systematic denigration and dehumanisation of entire cultures and communities represent crimes against humanity, with continuing repercussions at an individual,

institutional and societal level, as the context and motivation for racism, xenophobia and related intolerance.

178. We formally state that acceptance of a mutually agreed past can be the most significant step in developing a forward looking agenda that is in the interests of the majority of the people of the world.

179. We also acknowledge and condemn any existing form of enslavement, particularly the current forms involving men, women and children in Africa.

TYPES OF REPARATIONS

In addressing the area of remedies, it is important to acknowledge that central to the debate is the right to know, the right to remember, acknowledgement of the violations and the right to effective reparations. Reparations is therefore a broad term that is inclusive of the following specific types of relief:

1. Restitution

Restitution seeks to restore the person to the position that would have existed prior to the wrongdoing by returning the exact thing taken, and is generally limited to property claims, unlawful detention of employment or place of residence, or arbitrary detention. Restitution in kind, namely the establishment of the situation that existed before the wrongful act was committed, is the primary remedy provided that restitution is materially possible.

2. Monetary Compensation

Through the provision of money, monetary compensation seeks to make the claimant as well off as they would have been if the injury had not occurred. To the extent that damage is not made good by restitution in kind, compensation can be awarded for “any economically assessable damages sustained.” Calculation of damages can be based on pecuniary losses, non-pecuniary damage, such as physical pain and suffering, and costs and expenses.

3. Rehabilitation

Seeks to restore the claimant through medical, psychological, legal and social services. These may apply to an individual or for a select geographical or otherwise designated community.

4. Satisfaction and guarantees of non-repetition

Public acknowledgement of mutually agreed facts and acceptance of responsibility generally constitute the concept of satisfaction. Specific measures may take the form of an apology, nominal damages, or damages reflecting the gravity of the infringement. “Moral damages” is an accepted

international concept that refers in particular to emotional injury, mental suffering, injury to reputation, and similar damages suffered by the claimants.

Finally, allowance has been made for assurances or guarantees of non-repetition of the wrongful act, which could include measures to acknowledge these violations and to prevent their recurrence in the future. This is most often in the form of specific legislation.

1. Inter-State Reparations

In international law the concept of reparations concerns the responsibility of States to make whole another State in respect of internationally wrongful acts, sometimes involving harm or damage to the person or property of foreign nationals.

In the doctrine of State responsibility, “reparation describes all those remedies which would as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.” International law on State responsibility also provides that reparations to which an injured State which has committed an internationally wrongful act make take any of the four basic forms: restitution in kind, compensation, satisfaction and assurances and guarantees of non-repetition, either singly or in combination.

Forum therefore urges all States to:

180. Immediately implement measures designed to review all factors leading to racism, racial discrimination, xenophobia and related intolerance, including political, historical, economic, social, and cultural, which have had an impact on the systematic development of another State. It is acknowledged that such factors would differ from state to state, from community to community and from specific historical time periods.
181. Include in this review process both governmental and representatives of civil society.
182. Ensure that the concepts and information, which underpin these factors, are incorporated into contemporary analysis of the development of world culture.
183. Begin to develop national measures of redress based on the particular, systemic, historical relationship and identify sources of funding to ensure implementation of trans-national rights to compensation.
184. Agree to and support the establishment of an International Compensation Scheme for claimants based on an historical or contemporary slave trade, or any other trans-national racist policies and acts.

185. Agree to and support the establishment of a Development Reparations Fund to provide resources for development in countries whose development has been adversely affected by colonialism.
186. Agree to and support the cancellation of odious debt, which is a continuation of historical patterns of racism and that undermine contemporary systemic development, for those individual nation states with whom they have bilateral relations, especially in Africa and South America.
187. Agree to and support the cancellation of odious debt that has been incurred by individual nation states through multilateral, donor agencies.
188. Agree to and support the return of cultural heritage icons and artifacts from countries where they have been appropriated.
189. Agree to and support the identification of corporate wealth that was accrued based on economic disenfranchisement in another nation state. These assets should be an aspect of the national contribution to the International Compensation Scheme and/or the Development Fund.
190. Agree to and support the principle that nations that have created or continue to support an enabling environment that disenfranchised economically on the basis of race, ethnicity or sex through legislation or non-enforcement of protective legislation be held financially accountable.

2. Intra-State Reparations

This form varies in the scope, content and form of the reparation, and differs from country to country, depending on the varied circumstances. In the contemporary world, Intra-State reparations may take the form of truth commissions, such as those of Argentina, Chile, Uganda and South Africa; specific grants of monetary compensation and an apology such as for the Japanese-Americans; specific grants of land such as to the Inuit Nation in Canada and First Nation peoples in the United States, and the adjustment of state policies such as with the Maoris of New Zealand in relation to environmental management and town planning. Reparation at the domestic level can also be used as a victim-centered balance against the granting of amnesty to perpetrators.

Usually the reparation component forms part of a domestic redress mechanism that utilizes other strategies such as legislative and policy reforms, education, and formal acknowledgement and apologies for past injustices. Intra-State reparations require the enactment of founding and empowering legislation that clearly defines the parameters of its functions. Factors such as acts that constitute grounds for reparations, exclusionary grounds, and the time-period to be addressed are also defined.

Forum therefore calls on States to:

191. Address the rehabilitation of all members of civil society through the implementation of legislation that provides for the development educational curricula identifying human enslavement as a system of physical and cultural genocide with all its attendant results, such as institutionalized racism.
192. Acknowledge that rehabilitation should include recognition that individual and group attitudes represent barriers to the elimination of racism, racial discrimination, xenophobia and related intolerance through active engagement in social and psychological services that address the eradication of racism.
193. Establish a process with specific timetables by which both the internal issues and measures of redress will be identified.
194. Cooperate with any international mechanisms that are established through the provision of timely, accurate and responsive data; appropriate delegation of personnel and the provision of timely, financial resources.
195. Create and implement measures, with appropriate financial and other resources, to ensure the redistribution of land to people dispossessed through past racial practice.
196. Assist through appropriate legislation the fair and equitable distribution to claimants of monetary compensation for corporate wealth and economic disenfranchisement based on race, sex, ethnicity or colonialism.
197. Promote measures of satisfaction that include establishing memorials in both countries of origin and in the countries of exploitation, recognition of various commemorative days and periods currently identified by the United Nations, and other commemorative practices called for by a specific local community.
198. Ensure that the cultural, demographic, economic, political, social and moral wrongs of past enslavement of humans is never again repeated through appropriate legislation and adherence to existing international mechanisms designed to prevent such abuses. Each individual state should also be aware that racism, racial discrimination and related intolerance have been reinvented as appropriate for each historical epoch. It is therefore essential that there exist a flexibility and creativity within internal mechanisms to address any emerging new forms.

Role of NGOs

A key responsibility for NGOs, as representatives of civil society, is to be able to model appropriate behaviours and mechanisms for implementation that will ensure the success of reparations and the eventual lack of a need for such mechanisms.

- 199. NGOs should conduct research, education and training of themselves, communities and policy-makers on the complexities and applicability of reparations.*
- 200. NGOs should assist individual nation states, as well as international organisations, in the identification of claimants for reparations, either for themselves, or as assigns and successors*
- 201. NGOs should co-ordinate and assists persons, communities and institutions, interested in lodging a claim for reparations before the appropriate national, regional or international tribunal, court or other fora.*
- 202. NGOs should prepare alternative or shadow reports for distribution to the appropriate international fora addressing the measures that individual states will implement to address reparations.*
- 203. NGOs should identify best practice models and rationales that can be applicable in other situations from communities and legal cases throughout the world for dissemination as required.*
- 204. NGOs should ensure that it is possible to successfully influence, advocate and lobby individual governments at national, regional and international levels.*
- 205. NGOs should make recommendations for the co-operation and co-ordination among international agencies and donor bodies to ensure the maximizing of financial and technical resources.*

IV CONCLUDING REMARKS

The Draft Programme of Action was distilled from the recommendations made by the 5 Regional NGO Conferences, the accompanying expert seminars and papers, and submissions to the NGO Conference Secretariat.

One of the major constraints was that most submissions did not clearly define how civil society organisations would intervene in the prevention, combat and eradication of Racism, Racial Discrimination, Xenophobia and Related Intolerance. Most of the submissions contained recommendations to the States and International Organisations like the United Nations. Furthermore, these submissions did not outline how civil society would lobby these actors for compliance with recommendations made. If NGO's were to play a significant role in eradicating racism and discrimination, civil society would need to assess and strengthen their capacity to engage with these issues.

One of the consensus positions among NGO submissions was the need for reparation as an important and necessary remedy towards achieving a just and non-discriminatory future.

As NGOs have identified reparation as a key and strategic form of redress, the crucial responsibility of civil society is to lobby civil society, States and the United Nations to for the inclusion of reparation on the global agenda in all its dimensions.

For the Programme of Action to be effective and achieve the desired objectives of combating and preventing racism and unfair discrimination, the recommended strategies should be monitored and evaluated. In this regard, there are numerous methods and systems in which the Programme of Action can be monitored.

Monitoring and evaluation must be seen as a key component of the programme of action. This activity has to be developed and implemented within the time guidelines as set out of short, medium and long term, through appropriate mechanisms at the local, national, regional and international level. Monitoring and evaluation should focus on the need to build capacity within existing NGO organisations and structures to implement the Programme of Action.