

The implementation of the UN WCAR Durban Declaration & Program of Action as the key towards Reparations and the core of the UN International Decade for People of African Descent 2015-2025.

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September 2014

Three World conferences against racism have been organised by the United Nations. The first one in 1978; the second one in 1983; the third one: the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) that took place in Durban/South Africa from 31 August to 8 September 2001. Drawing the lesson of the two first which failed to defeat racism, the WCAR took great care to identify a pragmatic programme of action and recommended an efficient monitoring in the follow up, based on the launching of National Action Plan against Racism.

Prior to the WCAR in August and September, 2001 over the 700 community based organizations met for a week in the Durban Soccer Stadium. Some groups were small in terms of membership, and some huge; some were officially registered NGOs within their respective countries, and some were makeshift and bootstrap oriented operations.

*The primary objective of the meetings* was to allow organizations to network, state their missions, describe their track records at getting things done, and basically to speak in their authentic voices and to tell their own stories to a worldwide audience. Through tent-talks, press conferences, t-v interviews, panel discussions, meetings with students, and daily news coverage of the triumphs and foibles of such a large undertaking, all those objectives were met.

*The secondary objective of the meetings* was to realize an Interim Executive Council and produce a written document of issues, aims, principles and approaches toward higher ground that could be used as a reference point for the 155-nation heads of state, foreign ministers, and ambassadors who were meeting during the WCAR's second week (2007: pg.49)<sup>1</sup>.

The Durban Declaration and Program of Action (DDPA) constituted the most comprehensive international framework against racism. It provided a profound analysis of the historical roots of modern racism as it emerged from the Trans-Atlantic Slave Trade with lasting consequences for a significant proportion of the world's population who are people of African descent and constitute today's global African Diaspora. Issues of critical importance to Africans and African Descendants were also highlighted in the declarations and plans of action adopted by the NGO Forum<sup>2</sup> and the International Youth Summit<sup>3</sup>, prior to the WCAR inter-governmental conference.

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<sup>1</sup> PanAfstrag Report of the Pan African Roundtable on Durban plus 5, held in Addis Ababa/Ethiopia, 18-20 April 2007

<sup>2</sup> United Nations NGO FORUM South Africa 2001 World Conference Against Racism 03 September 2001

<sup>3</sup> Executive Summary of International Youth Summit Declaration and Plan of Action 2001: UNITED TO COMBAT RACISM: A YOUTH VISION

One of the outcomes of the Durban WCAR is the acknowledgement that: [...] slavery and the slave trade, including the transatlantic slave trade, were appalling tragedies in the history of humanity not only because of their abhorrent barbarism but also in terms of their magnitude, organized nature and especially their negation of the essence of the victims, and further acknowledge that slavery and the slave trade are a crime against humanity and should always have been so, especially the transatlantic slave trade and are among the major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance and that Africans and people of African descent, Asians and people of Asian descent and indigenous peoples were victims of these acts and continue to be victims of their consequences[...] (2002: Art.13, pg.16)<sup>4</sup>. Another outcome is the acknowledgement that [...] combating racism, racial discrimination, xenophobia and related intolerance is a primary responsibility of States. It therefore encourages States to develop or elaborate national action plans to promote diversity, equality, equity, social justice, equality of opportunity and the participation of all. Through, among other things, affirmative or positive actions and strategies, these plans should aim at creating conditions for all to participate effectively in decision-making and realize civil, cultural, economic, political and social rights in all spheres of life on the basis of non-discrimination[...] (2002: Art.99; pg. 82)<sup>5</sup>. Further the DDPA recognizes that the [...] historical injustices have undeniably contributed to the poverty, underdevelopment, marginalization, social exclusion, economic disparities, instability and insecurity that affect many people in different parts of the world, in particular in developing countries. It recognizes the need to develop programmes for the social and economic development of these societies and the Diaspora, within the framework of a new partnership based on the spirit of solidarity and mutual respect [...] (2002: Art. 158; pg. 103)<sup>6</sup> in several areas of concern. It was strongly reaffirmed in the light of a pressing requirement of justice that [...]victims of human rights violations resulting from racism, racial discrimination, xenophobia and related intolerance, especially in the light of their vulnerable situation socially, culturally and economically, should be assured of having access to justice, including legal assistance where appropriate, and effective and appropriate protection and remedies, including the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination[...](2002: Art. 104; pg. 39)<sup>7</sup>.

It is a general notion that the tragedy of 911 and subsequent “war on terror” influenced the continuation and worldwide attention of the extraordinary accomplishments of the Durban conference. Within the United Nations it is usual to schedule meetings for reviewing the declarations and proposals coming out of UN conferences. The

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<sup>4</sup> WCAR Declaration and Program of Action (2002); General issues; Sources, causes, forms and contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance. United Nations Department of Public Information New York 2002.

<sup>5</sup>WCAR Declaration and Program of Action (2002); United Nations Department of Public Information New York 2002; art. 99: Action-oriented policies and action plans, including affirmative action to ensure non-discrimination, in particular as regards access to social services, employment, housing, education, health care, etc.

<sup>6</sup> WCAR Declaration and Program of Action (2002); United Nations Department of Public Information New York 2002; art. 158, section IV. Provision of effective remedies, recourse, redress, and other measures at the national, regional and international levels provisions of effective remedies

<sup>7</sup> WCAR Declaration and Program of Action (2002); United Nations Department of Public Information New York 2002; art. 158, section IV. Provision of effective remedies, recourse, redress, and other measures at the national, regional and international levels provisions of effective remedies

Durban Review after several attempts and negotiations was adopted to take place for April 2009. It must be understood here that without an active lobby everything that was achieved at UN WCAR in 2001 was to be lost and forgotten like many other important initiatives and visions to restore African dignity, pride and equality. For example in the context of Reparations. In April 1993 as following of the first Conference on Reparations in Lagos in 1990, the OAU (AU) with its Reparations Commission made a Proclamation on Reparations in Abuja (*Abuja Proclamation of 1993*). In addition, in August 2001 the UN Sub Commission on the Promotion and Protection of Human Rights adopted unanimously the resolution on recognition of responsibility and reparation for massive and flagrant violations of human rights which constituted crimes against humanity that took place during slavery and the colonial period (2007: pg.10)<sup>8</sup>. In 2013 CARICOM member States, including some non-member States in the Caribbean have joint forces to plea for apologies for genocide among the indigenous People and for Reparations for Transatlantic Slave Trade and Slavery and for the deceptive breach of contract of indentured labourers, from the ex-colonial countries. The CARICOM Reparations Agenda is based on a Reparatory Justice Program.

The adoption by the UN General Assembly (UNGA) to declare 2015-2024 as the International Decade for People of African Descent<sup>9</sup> is the direct result of the Durban follow up process and the insistence by People of African Descent with institutional support of the UN Working Group of Experts on People of African descent. For People of African Descent there can be no other basis for the Decade but the centrality of and full implementation of the DDPA as the core of the program for the Decade. Hopefully adopted by the UNGA later this year. The synergy between the Decade and the intensification of the global implementation of the DDPA must be made full use of, and go hand in hand. The Decade can play an instrumental role in making the alarming situation of people of African descent visible worldwide and alert against the worsened Afrophobia<sup>10</sup>. The Decade must be recognized as the “Reparations Decade” which it must become in order to live up to its theme of “Recognition, Justice, and Development”. It can become a framework to address the concentration of misery and disadvantages which people of African descent face everywhere they live: poverty, racial discrimination and lack of access to human rights, high rates of unemployment and imprisonment, vulnerability to violence and lack of access to justice, lack of access to education-healthcare-housing, multiple forms of discrimination, and political and economic marginalization and stigmatization. It can become a genuine contribution to the realization of Human Rights for all – but only if political will is demonstrated. The negotiations within the UN (sessions Intergovernmental Working group and the Human Rights Council earlier this year) has already demonstrated that there is no political will for the integration of Reparations in the Decade Draft Program of Action. The adoption therefore by the UNGA of the Draft later this year whereby the fully implementation of the DDPA and the affiliated resolutions (outcomes: Durban Review 2009; UNGA High Level Panel 2011) is recognized can use as an instrument to realize the Reparation Agenda. This because of the elements of the DDPA whereby it has been acknowledged that slavery, the slave trade, including the trans-Atlantic slave trade and colonialism are crimes against humanity. It

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<sup>8</sup> PanAfstrag Report on the Pan African Roundtable on Durban plus 5, held in Addis Ababa/Ethiopia, 18-20 April 2007.

<sup>9</sup> “People of African Descent – Recognition, Justice, Development”.

<sup>10</sup> This is the special form of discrimination against People of African Descent as recognized by the Human Rights Council in its resolution 21/33, 28 September 2012.

recognizes that victims should be assured of having access to justice [...] the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination [...].