



INPUTS TO DRAFT PRELIMINARY OUTLINE ON GLOBAL CALL FOR CONCRETE ACTION FOR THE TOTAL ELIMINATION OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA, AND RELATED INTOLERANCE AND THE COMPREHENSIVE IMPLEMENTATION OF AND FOLLO UP TO THE DURBAN DECLARATION AND PROGRAMME OF ACTION

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Introduction

The [International Movement Against All Forms of Discrimination and Racism \(IMADR\)](#) is an international non-profit, non-governmental human rights organisation devoted to eliminating discrimination and racism, forging international solidarity among discriminated groups and advancing the international human rights system. The Human Rights Council Advisory Committee's study mandated by the General Assembly resolution 72/157 on "A global call for concrete action for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action" is suggested to include information on the States' ratification and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (hereafter "the Convention" or "ICERD") as well as on their cooperation with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Concrete data on these issues would allow for a more complete understanding of the state of progress in realizing the DDPA.

Ratification of ICERD

As of May 2019, 181 States have ratified ICERD ("States parties"), yet 16 States have either signed but not ratified it or not taken any action.¹ Universal ratification of the Convention is vital towards the total elimination of racism, racial discrimination, xenophobia and related intolerance.

Individual communications

As of May 2019, only 58 States parties have accepted the individual communications procedure under Article 14 of the Convention, while 123 States parties have not. Individual communications procedure allows victims of racial discrimination to seek justice and remedy as a last resort. Additionally, the procedure helps States parties interpret the Convention within a domestic case. The universal recognition of the individual communications procedure under Article 14 is essential to the total elimination of racism and should be recommended in the Advisory Committee's study.

States parties that have accepted the individual communications procedure: 58²
Africa: 5
Asia and Pacific: 3
Eastern Europe: 17
Latin America and Caribbean: 12
Western Europe and Others: 21

¹ States that have either signed but not ratified or not taken any action: Angola, Bhutan, Brunei Darussalam, Cook Islands, Democratic People's Republic of Korea, Kiribati, Malaysia, Micronesia (Federated States of), Myanmar, Nauru, Niue, Palau, Samoa, South Sudan, Tuvalu, Vanuatu (Source: United Nations Human Rights Office of the High Commissioner: Status of Ratification Dashboard. <https://indicators.ohchr.org>)

² States parties that have accepted the individual communications procedure: Algeria, Andorra, Argentina, Australia, Austria, Azerbaijan, Belgium, Bolivia, Brazil, Bulgaria, Chile, Costa Rica, Cyprus, Czechia, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Italy, Kazakhstan, Lichtenstein, Luxembourg, Malta, Mexico, Monaco, Montenegro, Morocco, Netherlands, North Macedonia, Norway, Panama, Peru, Poland, Portugal, Moldova, Republic of Korea, Romania, Russia, San Marino, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, State of Palestine, Sweden, Switzerland, Togo, Ukraine, Uruguay, Venezuela. (Source: United Nations Treaty Collection, Chapter IV Human Rights, 2. *International Convention on the Elimination of All Forms of Racial Discrimination*, 1966. https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&lang=en)



Reservations to the Convention (Article 4)

Additionally, IMADR is concerned about the reservations or declarations made by 19 States parties on Article 4 of the Convention. Article 4 calls for the condemnation and criminalization of “all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form.” The globally-intensifying prevalence of racist hate speech is a significant challenge for human rights. The faithful implementation of Article 4 of the Convention is the best way to ensure that the rights to equality, freedom from discrimination, and freedom of expression are fully preserved for everyone.

States parties with reservations/declarations on Article 4:19³

Africa: 0

Asia and Pacific: 4

Eastern Europe: 0

Latin America and Caribbean: 4

Western Europe and Others: 11

Reporting obligations

Regular reporting is indicative of commitment to the implementation of the Convention. However, failure to submit reports in a timely manner is prevalent among States parties. As of May 2019, there are 44 States parties with reports that are overdue by at least 10 years, and 18 States parties with reports overdue by at least 5 years. The regular and timely reporting of the implementation of ICERD is essential for a government to assess and improve the state of racial justice within their jurisdiction.

States parties with reports overdue by at least 10 years: 44⁴

Africa: 26

Asia and Pacific: 7

Eastern Europe: 0

Latin America and Caribbean: 10

Western Europe and Others: 1

States parties with reports overdue by at least 5 years: 18⁵

Africa: 8

Asia and Pacific: 5

Eastern Europe: 1

Latin America and Caribbean: 3

Western Europe and Others: 1

³ States parties with reservations/declarations on Article 4: Antigua and Barbuda, Australia, Austria, Bahamas, Barbados, Belgium, France, Grenada, Ireland, Italy, Japan, Malta, Monaco, Nepal, Papua New Guinea, Switzerland, Tonga, United Kingdom of Great Britain and Northern Ireland, United States of America. (Source: United Nations Treaty Collection, Chapter IV Human Rights, 2. *International Convention on the Elimination of All Forms of Racial Discrimination*, 1966. https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-2&chapter=4&lang=en)

⁴ States parties with reports overdue by at least 10 years: Afghanistan, Bahamas, Bangladesh, Barbados, Belize, Benin, Brazil, Burundi, Cabo Verde, Central African Republic, Comoros, Côte d'Ivoire, Equatorial Guinea, Eritrea, Eswatini, Gabon, Gambia, Ghana, Guinea, Guyana, Haiti, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Nigeria, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic, Timor-Leste, Tonga, Trinidad and Tobago, Uganda, United Republic of Tanzania, Zimbabwe. (Source: Report of the Committee for the Elimination of Racial Discrimination: Ninety Sixth to Ninety Eighth Sessions <https://undocs.org/A/74/18>)

⁵ States parties with reports overdue by at least 5 years: Antigua and Barbuda, Botswana, Congo, Croatia, Democratic Republic of the Congo, Ethiopia, Guinea-Bissau, India, Indonesia, Iran, Monaco, Morocco, Mozambique, Nicaragua, Panama, Philippines, Tunisia, Yemen (Source: Report of the Committee for the Elimination of Racial Discrimination (Ninety Sixth to Ninety Eighth Sessions) <https://undocs.org/A/74/18>)



Follow-up procedure

Furthermore, concluding observations and recommendations issued by the UN Committee on the Elimination of Racial Discrimination (hereafter “the Committee” or “CERD”) can be incredibly useful in addressing discrimination based on race, colour, descent, or national or ethnic origin, and other intersecting grounds. Between 2007 and 2017, however, 63 States parties failed to comply with the Committee’s follow-up procedure, which States parties were requested to submit information on the implementation of a number of designated recommendations within one year, in accordance with Article 9 (1) of the Convention and rule 65. This essential mechanism of CERD must be complied with by all States parties. The frequency with which States parties are noncompliant to this vital procedure demonstrates a lack of political will to eliminate racism and is essential to include in the Advisory Committee’s study.

States parties that did not comply with follow-up procedure (2007-2017): 51⁶

Africa: 15

Asia and Pacific: 17

Eastern Europe: 4

Latin America and Caribbean: 10

Western Europe and Others: 5

Cooperation with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

A State’s level of engagement with special procedures is indicative of their commitment to the protection and promotion of human rights. In particular, States should provide full cooperation with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

Allegation letters from the Special Rapporteur should be thoroughly and swiftly responded to. However, these communications are habitually unanswered by a number of States. Between December 2010 and September 2019, 59 States have received allegation letters concerning racism but failed to respond to them. 15 of these States have received two or more allegation letters that they have not replied to.⁷ It is essential that States address allegations such as these and show serious concern for instances of racism and discrimination within their jurisdiction.

States that have failed to reply to allegation letters concerning racism: 59⁸

Africa: 9

Asia and Pacific: 5

Eastern Europe: 7

Latin America and Caribbean: 30

Western Europe and Others: 8

⁶ States parties that did not comply with follow-up procedure: Algeria, Antigua and Barbuda, , Azerbaijan, Belgium, Bosnia and Herzegovina, Burkina Faso, Cambodia, Cameroon, Chad, Chile, Congo, Croatia, , Democratic Republic of the Congo, Djibouti, Dominican Republic, , Egypt, El Salvador, Fiji, France, Holy See, Honduras, Iceland, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kyrgyzstan, Luxembourg, Maldives, Malta, Mongolia, Mozambique, Namibia, Nicaragua, Niger, Panama, Paraguay, Philippines, Qatar, Romania, Rwanda, Sri Lanka, Sudan, Suriname, Tunisia, United Arab Emirates, Venezuela, Yemen. (Source: UN Treaty Database, Sessions for CERD - International Convention on the Elimination of All Forms of Racial Discrimination https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/SessionsList.aspx?Treaty=CERD)

⁷ States that have received two or more allegation letters that they have not replied to: Bahamas (2), Colombia (2), Dominican Republic (4), France (2), Guyana (2), Hungary (2), India (5), Israel (2), Italy (2), Latvia (2), Libya (2), Myanmar (3), North Macedonia (3), Romania (3), United States of America (9). (Source: OHCHR Communication Report and Search <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>)

⁸ States that have failed to reply to allegation letters concerning racism: Antigua and Barbuda, Bahamas, Barbados, Belize, Bolivia , Canada, Chile, China, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador , Egypt, El Salvador, France, Grenada, Guatemala, Guyana, Haiti, Honduras, Hungary, India, Israel, Italy, Jamaica, Kenya, Latvia, Libya, Mexico, Myanmar, Netherlands, Nicaragua, Nigeria, North Macedonia, Panama, Paraguay, Peru, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia , Slovakia, Somalia Rwanda, South Africa, Sri Lanka, Sudan, Suriname, Switzerland, Trinidad and Tobago, Venezuela, Ukraine, United Kingdom, United Republic of Tanzania, United States. (Source: OHCHR Communication Report and Search, <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>)



Finally, cooperation with the Special Rapporteur for country visits is also often disregarded. Country visits are vital opportunities for States to be examined racism and related intolerance in detail and receive the expert's advice to improve the human rights situation. However, as of September 2019, there are 24 States with outstanding visit requests. Although 121 States have extended standing invitations to special procedures, many of them fail to realize country visits. States should offer standing invitations and work to maintain their commitment.

States with outstanding country visit requests from the Special Rapporteur on racism: 24⁹

Africa: 8

Asia and Pacific: 8

Eastern Europe: 1

Latin America and Caribbean: 5

Western Europe and Others: 2

Conclusion

IMADR recommends the Advisory Committee to include the above-mentioned issues of States' cooperation with UN human rights mechanisms in the report to propose practical means for States to eliminate racism, racial discrimination, xenophobia and related intolerance. Concrete actions through ratifying and implementing ICERD and cooperating with the Special Rapporteur are mechanisms which already exist yet are too often overlooked. The Advisory Committee is strongly encouraged to propose concrete actions both at national and international levels in its study for a global call.

⁹ States with outstanding country visit requests of the Special Rapporteur on racism: Algeria, Bangladesh, Botswana, Dominican Republic, India, Israel, Jamaica, Japan, Kenya, Lebanon, Madagascar, Mexico, Nepal, Nigeria, Oman, Pakistan, Peru, Slovakia, South Africa, Sudan, Thailand, Tunisia, Trinidad and Tobago, United States of America. (Source: OHCHR Country Visits <https://www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/CountryVisits.aspx>)