



General Assembly

Seventy-first session

Official Records

Distr.: General
6 December 2016

Original: English

Third Committee

Summary record of the 39th meeting

Held at Headquarters, New York, on Tuesday, 1 November 2016, at 10 a.m.

Chair: Mr. Glossner (Vice-Chair)..... (Germany)
later: Ms. Mejía Vélez..... (Colombia)

Contents

Agenda item 66: Elimination of racism, racial discrimination, xenophobia and related intolerance

- (a) Elimination of racism, racial discrimination, xenophobia and related intolerance
- (b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Agenda item 67: Right of peoples to self-determination

This record is subject to correction.

Corrections should be sent as soon as possible, under the signature of a member of the delegation concerned, to the Chief of the Documents Control Unit (srcorrections@un.org), and incorporated in a copy of the record.

Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org/>).

16-19040 (E)



Please recycle A small graphic of a recycling symbol, consisting of three chasing arrows forming a triangle.



In the absence of Ms. Mejía Vélez (Colombia), Mr. Glossner (Vice Chair) took the Chair.

The meeting was called to order at 10.05 a.m.

Agenda item 66: Elimination of racism, racial discrimination, xenophobia and related intolerance (A/C.3/71/3)

- (a) **Elimination of racism, racial discrimination, xenophobia and related intolerance (A/71/18, A/71/325 and A/71/327)**
- (b) **Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/71/288, A/71/290, A/71/297, A/71/301 and A/71/399)**

Agenda item 67: Right of peoples to self-determination

1. **Mr. Gilmour** (Assistant Secretary-General for Human Rights), introducing the report of the Secretary-General on the Status of the International Convention on the Elimination of All Forms of Racial Discrimination (A/71/327), said that the report provided updated information on the status of ratification of the Convention and of declarations under article 14 recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals claiming to be victims of violation of the Convention. To date, the Convention had been ratified or acceded to by 177 States. Since the last report, El Salvador, Panama and Togo had made declarations under article 14, bringing the total number of States parties having made such a declaration to 57. Those States which had not yet done so were encouraged to sign and ratify the Convention and to make the declaration under article 14.

2. Introducing the report of the Secretary-General on the programme of activities for the implementation of the International Decade for People of African Descent (A/71/290), he said that the report was based on information and views received from Member States and other stakeholders and highlighted the initiatives undertaken in support of the programme of activities. It also described challenges faced by people of African descent. The Working Group of Experts on People of African Descent had visited the United States

and Italy. With regard to the United States, the Working Group had reported on what it had termed alarming levels of police brutality and lethal force, racial bias in the criminal justice system and mass incarcerations. With regard to Italy, the Working Group had expressed grave concern regarding racially motivated crimes, hate speech and incitement to hatred as well as a failure to provide adequate remedies. In addition, the Special Rapporteur of the Human Rights Council on minority issues had visited Brazil and reported on structural discrimination, low levels of political participation, the racial dimension of violence in Brazilian society and disproportionately high incarceration rates for Afro-Brazilians. In the report, the Secretary-General called for a stronger manifestation of political will by States, urging States to take positive measures to eliminate the conditions that caused or contributed to racial discrimination, including through affirmative action policies. He also called for particular attention to the situation of women and girls of African descent who faced compounded discrimination.

3. Introducing the report of the Secretary-General entitled "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" (A/71/399), he said that in the report, the Secretary-General recommended that urgent measures be taken to reverse the worrisome trend of increasingly hostile racist and xenophobic attitudes and violence and reiterated the need to strengthen intercultural dialogue, tolerance and respect for diversity. He also encouraged Member States that had not yet done so to develop and implement national action plans to combat racism, racial discrimination, xenophobia and related intolerance.

4. Turning to the note by the Secretariat on the Group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action (A/71/288), he said that the note drew attention to the fact that three posts out of five were vacant in the Group. In October 2016, the experts had attended the fourteenth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, during which they had raised

concerns with regard to their mandate and the lack of sufficient human resources and funds to be effectively operational. He encouraged Member States to take a decision with regard to the Group, as the experts were appointed by the Secretary-General.

5. Finally, introducing the report of the Secretary-General on the right of peoples to self-determination (A/71/326), he said that the report summarized the consideration of the topic by the main United Nations bodies and human rights mechanisms and emphasized the obligation of States to promote the realization of the right to self-determination and to respect that right, in conformity with the provisions of the Charter of the United Nations.

6. **Ms. Mballa Eyenga** (Cameroon) recalling that the General Assembly, in resolution 69/16, had decided to establish an international forum for people of African descent, said that the Secretary-General and the Secretariat should clarify what could be done to establish that forum without delay and thus implement a decision that had been taken many years earlier.

7. **Mr. Gilmour** (Assistant Secretary-General for Human Rights) said that the forum had been scheduled to debut in 2015 and to meet on an annual basis. The delay in implementation was a serious concern, stemming from the different views of Member States on how to define people of African descent. One Member State wished to include members of the diaspora in the forum's title. Despite overwhelming support for the forum, there were also disagreements on the forum's operational modalities. Utmost efforts should be deployed to make the forum a reality.

8. **Mr. Sunga** (Chair, Working Group of Experts on People of African Descent), introducing the report of the Working Group of Experts on People of African Descent (A/71/297), said that the report provided an overview of the Group's activities in 2016, including its annual meetings and country fact-finding visits, actions taken under the communication procedure and work related to the International Decade for People of African Descent, as well as a number of recommendations. The Group was pleased to note that some countries had taken steps to protect the human rights of people of African descent in collaboration with civil society, including by collecting data to identify gaps, undertaking studies on racial discrimination, developing national action plans, and

strengthening legal frameworks and institutional policy measures to address systemic racial discrimination.

9. The Group was deeply concerned that despite guarantees enshrined in international and national law, racism, racial discrimination, xenophobia and related intolerance continued with impunity. People of African descent had historically been, and continued to be, victims of violations of their fundamental rights. Structural racism and discrimination occurred at all levels of the administration of justice, including in legislation, law enforcement, courts, tribunals and prisons. People of African descent were vulnerable to social and racial profiling, which resulted in their overrepresentation in the criminal justice system. The Group therefore urged States to take action and adopt national action plans against racial discrimination and to introduce special measures to address systemic racial discrimination against people of African descent.

10. In 2016, the Group had made country visits to the United States of America and Canada. It had asked to visit other countries and underlined the importance of cooperation in that regard; no State was free from racism and an invitation to the Working Group marked a step in the right direction. During the reporting period, the Group had also sent allegation letters and urgent appeals under its communication procedure to countries regarding individual cases and thematic issues under its mandate, and had issued a number of media statements.

11. The Working Group was deeply concerned about alarming levels of police brutality and excessive use of lethal force by law enforcement officials committed with impunity against people of African descent. Independent investigations must be made into incidents of police violence. Police officers must align their conduct with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Incarceration, solitary confinement, segregation and the death penalty were indiscriminately used against people of African descent. The Working Group therefore called on States to consider alternatives to imprisonment, to abolish the death penalty and to end the use of segregation and solitary confinement.

12. Children should be in schools, not in prisons, but many young lives were put in jeopardy because of their race. Negative stereotypes perpetuated in schools and

the media also had dangerous consequences for people of African descent, in particular when dealing with the police. Such stereotypes existed in all regions of the world and in all forms of media. Authors of children's books and advertising firms in particular must be more vigilant about fairly representing people of African descent.

13. People of African descent also faced considerable disparities in access to education, health, employment and housing, often living at the fringes of society. They experienced disproportionately higher rates of unemployment and were often forced into low-paying jobs with little security. Their neighbourhoods were more likely to be situated near factories or waste dumps, which engendered health issues.

14. Structures based on racial bias had a lasting and detrimental effect on people of African descent and Africans in the diaspora. That legacy must be addressed in an open dialogue in order to understand and address the roots of racial tensions and discrimination. Although some States had started to collect disaggregated data along ethnic lines, based on voluntary self-identification, such data was often limited to people of African descent in the general population, with a resulting lack of information regarding those in prison or segregation. Data needed to be collected about the representation of people of African descent at different levels of Government, including in courts, immigration services, police forces and education.

15. The Working Group called on States to draw the connections between history and contemporary forms of racism, racial discrimination, xenophobia, Afrophobia and related intolerance. History books often failed to reflect an African perspective and textbooks did not accurately acknowledge the transatlantic slave trade and slavery, crimes against humanity whose effects continued to be felt by generations upon generations of people of African descent. African contributions to civilization were often overlooked. Reparatory justice must be deployed to redress historical injustices and contemporary forms of Afrophobia, including through acknowledgment, apology, memorialization, restitution, compensation and guarantees of non-repetition.

16. The Working Group welcomed the 10-point plan established by the Caribbean Community (CARICOM)

Reparations Commission with a view to obtaining reparatory justice for the region's indigenous and African descendant communities; those points were globally relevant and could be adapted to suit the unique history and experiences of different States.

17. With a view to increasing support for civil society engagement with States and the United Nations, the Working Group proposed holding one of its sessions outside Geneva, in another country of interest, in order to give civil society a greater opportunity to attend. The proposal had some budgetary implications.

18. The 2030 Agenda for Sustainable Development provided a framework within which countries could integrate human rights into national priorities. Development programmes in the context of the Sustainable Development Goals should be viewed in line with the call to reparatory justice for past historical injustices as experienced by people of African descent.

19. The Working Group encouraged States to develop comprehensive national action plans under the Durban Declaration and Programme of Action. The International Decade would contribute to achieving equality and non-discrimination, while strengthening democracy and the rule of law. States should use the Decade as a platform to discuss the issues faced by people of African descent. Increased efforts were needed in the critical areas of recognition, justice and development to protect people of African descent from racial discrimination and to ensure their equal enjoyment of all human rights. The Working Group called on all relevant actors to collaborate at the national, regional and international levels to make the International Decade for People of African Descent an effective measure.

20. **Mr. Dozler** (United States of America) said that racial stereotyping was unacceptable and must be addressed, including through education and positive social messages about the contributions of people of African descent to society. However, his delegation strongly disagreed with the idea that hate speech and stereotypical expression should be criminalized. Instead, States and public leaders should condemn hate speech but also call for tolerance and inclusion. The International Decade was an opportunity for the international community to challenge persistent,

institutionalized beliefs that were at the root of racial discrimination.

21. He asked what indicators there were for the resurgence of racism mentioned in the report, and for suggestions of ways to combat racism other than through the criminalization of free speech. To address the recommendations of the Working Group, the United States had previously highlighted some of the steps it had taken to encourage positive domestic discourse on human rights, building on over 50 years of progress under the Civil Rights Act, to improve access to justice, to promote equality in housing, employment and education, including for African-American women and girls, and to work with international partners to promote equality and non-discrimination.

22. Education was key to breaking down stereotypes and cultural barriers, with a view to combating racism and discrimination. His country was therefore proud to have opened the National Museum of African-American Culture and History in Washington, D.C., the only national museum of its kind.

23. **Ms. Wacker** (Observer for the European Union), speaking on behalf of the European Union and its member States, said that the European Union was alarmed by the rise in racism around the world, especially hate speech and acts of intolerance against Africans and people of African descent. The Charter of Fundamental Rights of the European Union, in effect since 2008, prohibited racial discrimination in all member States; several directives had also been adopted to combat racial discrimination, in particular a directive on the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin. The European Union reiterated the importance of the International Decade for People of African Descent and the 2030 Agenda for Sustainable Development, and was pleased to note that the Working Group was continuing to collaborate with many countries.

24. The European Union was firmly opposed to stereotypical expression but believed that adopting criminal penalties was a disproportionate reaction to a problem which originated from lack of education. It asked the Working Group what measures, particularly preventive measures, could be adopted instead of criminal penalties. It also asked for additional

information about the short- and long-term role of the international forum for persons of African descent.

25. **Ms. Mxakato-Diseko** (South Africa) recalled that the Durban Declaration had acknowledged 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 recognized them as a crime against humanity. Slavery and the transatlantic slave trade remained one of the main sources of racism, racial discrimination, xenophobia and related intolerance.

26. Her delegation was deeply concerned about the escalation of racism, racial discrimination and Afrophobia, racist speech, xenophobia and related intolerance, and likewise condemned police violence and other forms of violence against people of African descent. She asked the Chair of the Working Group how the legacies of the past, including the commodification of people of African descent, could be overcome, while combating negative stereotyping, hate speech and hostility to economic, religious and cultural diversity. It was imperative to document crimes against people of African descent and to teach the correct history. She also asked him to comment on the question of reparations and redress in line with the Durban Programme of Action.

27. **Ms. Karimdoost** (Islamic Republic of Iran) said that it was unfortunate that in some countries, alarming levels of public brutality, excessive use of lethal force by law enforcement officials, racial profiling in the criminal justice system, and mass incarcerations had a disproportionate impact on people of African descent. Over the 15 years since the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, very little progress had been made in tackling racism, Afrophobia, racial discrimination, xenophobia and related intolerance. She asked what role the international forum for people of African descent might play in recognizing, preventing and compensating the suffering of women of African descent, and whether disaggregated data was available concerning human rights violations against Muslim women of African descent.

28. **Ms. Moutchou** (Morocco) said that her delegation was aware of the injustices to which people of African descent continued to be subjected, including racism, racial discrimination, Afrophobia, racist hate speech, xenophobia and intolerance. It was regrettable that 15 years since the adoption of the Declaration and Programme of Action, people of African descent were still subjected to discrimination in employment. There was no miracle cure to those problems; rather, it was necessary to make economic, social and cultural rights, including the right to development, enforceable by the courts. The International Decade was an opportunity to ensure equality for people of African descent through the implementation of the provisions of the Convention. Her delegation believed that the success of the Decade depended on political will and the participation of all stakeholders. She asked what progress had been made by the Working Group towards the definition of people of African Descent.

29. **Mr. Cepeda Orvañanos** (Mexico) said that In Mexico, people of African descent and more recent immigrants were recognized for their contribution to society. His Government was working to implement the recommendations of the Working Group across Mexico, and had established a plan of action to consolidate the activities undertaken by State bodies concerning the situation of people of African descent, in line with the relevant United Nations initiatives. The plan included more than 50 initiatives and was structured on the basis of the principles of recognition, justice and development. He asked the Chair of the Working Group to provide more information on good practices and lessons learned by States which had minority populations of people of African descent in allowing them equal access to education and health care and other social services; and the minimum components of a national public policy for the inclusion of people of African descent, with full respect for their cultural heritage and traditions.

30. **Mr. Sunga** (Chair, Working Group of Experts on People of African Descent) said that hate speech and stereotyping went beyond the scope of free speech, and did not constitute protected speech. The initiatives mentioned by the representatives of the United States and Canada were good starting points, but more needed to be done. Historical injustices could not be ignored, as they provided the context for current tensions and a sense of racial inequality. Public acknowledgement of

those injustices, which included enslavement, racial segregation and subordination, and a conversation on reparatory justice were necessary, however uncomfortable they might be. Reparations must be understood to cover compensation, restitution, satisfaction, acknowledgement, memorialization, and guarantees of non-repetition. The Working Group urged countries to seriously consider full formal apologies, repatriations, cultural institutions, public health initiatives, African knowledge programmes, rehabilitation, technology transfer, and debt cancellation. Throughout the process of reparatory justice, constructive dialogue was key. The international forum for people of African descent should be established without further delay, take into account the intersectionality and multiplicity of human rights violations and discrimination on the grounds of race and other factors, and also seek to protect the rights of Muslim women.

31. *Ms. Mejía Vélez (Colombia) took the Chair.*

32. **Mr. Rona** (Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination), introducing the report of the Working Group (A/71/318), said that for the second consecutive year, the report focused on foreign fighters and mercenaries. While there was a legal definition of mercenaries in Additional Protocol I to the 1949 Geneva Conventions and in the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, there was currently no international legal definition of foreign fighters. The Security Council had addressed foreign terrorist fighters in its resolutions 2170 (2014) and 2178 (2014), but had not addressed the use of foreign fighters outside the Syrian context and foreign fighters involved in wars but not in terrorist acts. International humanitarian law conferred obligations on both mercenaries and foreign fighters. Domestic legal regulation of foreign fighters included legislation, controls on citizenship, restrictions on movement and confiscation of passports, as well as other anti-terror provisions.

33. The use of mercenaries had a long history, stretching back to the classical world; the foreign fighter phenomenon was more recent. The distinguishing feature of a mercenary was financial

motivation, while that of a foreign fighter was ideological or religious conviction. As a result of those differing motivations, mercenaries generally worked in the service of the wealthy and powerful, while foreign fighters usually served the less powerful. Private military and security companies had appeared after the end of the cold war, and had played a significant role in the United States-led military intervention in Iraq.

34. Turning to the question of accountability and remedies for victims of human rights violations, particularly in relation to private military and security companies, he said that the Working Group commended the adoption of self-regulatory initiatives such as the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict and the International Code of Conduct for Private Security Service Providers, but noted that those initiatives had certain limitations and could not take the place of measures to regulate the industry. The Working Group called for a legally binding international instrument to regulate such companies, ensure their accountability and provide adequate recourse to effective remedies. Whether foreign fighters were subverting the right to self-determination or supporting it often depended on the definition of the people whose right to self-determination was at stake.

35. The evolving phenomenon of foreign fighters, mercenaries and security companies posed serious challenges to the international community; the Working Group urged States to address motivations and root causes when responding to that phenomenon, and also to ensure accountability and remedies for human rights violations. Those measures should integrate international human rights standards into every aspect of their design and implementation.

36. **Ms. Wacker** (Observer for the European Union) said that although the Working Group was mandated to work on issues of mercenaries, for which there was a clear and universal definition under international humanitarian law, it had caused confusion by extending its mandate to cover private military and security companies. In that regard, the European Union supported the removal of foreign fighters from that mandate. The European Union shared many of the concerns about the dangers of contemporary forms of

mercenary activity and the negative impact it could have on the length and nature of armed conflicts, and was concerned about any potential links to terrorist activities. For a number of years, it had argued that a change in the mandate of the Working Group to focus more clearly on the specific issue of mercenaries would make it more effective in its work. The European Union was committed to raising standards in the legitimate global private security industry, which provided essential services to public and private sector clients and supported diplomatic, commercial and humanitarian activity in complex environments around the world.

37. **Ms. Karimdoost** (Islamic Republic of Iran) said that market pressures and legal mechanisms were not adequately effective in regulating the behaviour of foreign terrorist fighters, particularly in the case of the Islamic State in Iraq and the Levant, a terrorist organization which used gross violations of human rights as a propaganda tool and had released videos of horrific violence. Such acts could very well constitute a contemporary form of mercenary activity. It was well known that some countries had contributed to the activities of Islamic State by covertly or openly providing financing, arms, training and recruitment assistance, in contravention of article 5 of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. The international community should take strong and preventive action to combat the impunity of officials from such countries who had collaborated with the Islamic State in the commission of war crimes and crimes against humanity.

38. **Mr. Al-Hussaini** (Iraq) said that his country was waging a war against terrorist groups comprising mercenaries from more than 100 countries. It had also hosted international meetings to share experiences among countries with a view to ending flows of foreign terrorists. His delegation reiterated the necessity of ending funding to the Islamic State and related groups and preventing them from infiltrating Iraq, and asked for more information about best practices that could be adopted to stop mercenaries and foreign terrorists from entering his and other countries affected by terrorism.

39. **Mr. Ruidiaz Perez** (Chile) said that the concept of mercenaries needed to be reviewed in order to ensure that the Group's mandate was properly aligned

with the complicated evolution of warfare on the ground. The definition of a foreign fighter was an important question being addressed by various bodies. His delegation expressed interest in the Group's recommendation to conduct a comparative analysis of all domestic legislation relating to foreign fighters, with a view to ensuring better international cooperation, reinforcing national efforts and promoting better judicial assistance between States. Foreign fighters, especially when they were already veterans of armed conflict, often introduced more radical forms of warfare, making conflicts more intractable and complicating the political situation.

40. **Mr. Rona** (Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination) said that the Working Group had observed that punitive measures were easier to implement than preventive ones, but that an emphasis on punitive measures alone was ineffective and counterproductive. Underlying questions of societal and structural injustice and factors motivating individuals to fight in foreign wars and resort to terrorism needed to be addressed in order to prevent violent extremism. The Working Group also noted the importance of drawing a clear distinction, in both legislation and law enforcement, between foreign fighters and foreign terrorist fighters, as modern history had demonstrated that foreign fighters could make significant contributions, for example in the fight against fascism.

41. There was no confusion about the mandate of the Working Group, an allegation that been made in the past. However, the Human Rights Council was well aware that during the twentieth century, the historical concept of mercenaries had evolved into new forms such as private military and security companies, some of which operated illegitimately, and foreign fighters. It was unequivocally clear that mercenaries, private military and security companies and foreign fighters needed to be addressed in a comprehensive manner and that all three phenomena fell within the mandate granted to the Working Group by the Council. In matters relating to human rights law and the law of armed conflict, the Working Group was mindful of the distinctions and well-equipped with adequate expertise to apply itself to both the human rights aspects and the humanitarian consequences of those phenomena.

42. **Ms. Crickley** (Chair, Committee on the Elimination of Racial Discrimination), presenting an oral report on the work of the Committee, said that since its eighty-fifth session in August 2014, the Committee had reviewed 41 State party reports and had adopted decisions on five communications. Under its follow-up procedure, the Committee had considered the reports of 17 States parties and had continued to engage in constructive dialogue with them. During its recent session in August 2016, it had adopted a decision on Burundi expressing alarm at reported killings, disappearances, torture, arbitrary arrests and genocidal rhetoric in that country, and had issued 13 letters under its early warning and urgent action procedure. At its ninetieth session, the Committee had adopted a list of issues prior to reporting for one State party which would allow it to provide written replies to the list in lieu of submitting a periodic report. States parties were encouraged to avail themselves of the technical support offered by the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the preparation of reports.

43. Unfortunately, a large number of States parties had still failed to abide by their reporting obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. Specifically, 35 States were more than 10 years overdue with their initial or periodic reports, despite the Committee's adoption of the simplified reporting procedure, which had initially been made available to States parties whose reports were long overdue.

44. While the additional meeting time allotted under General Assembly resolution [68/268](#) had enabled the Committee to increase the number of reports it considered each year and reduce some of the backlog, the burden on Committee members and the secretariat had increased. In that regard, it was important for the treaty body system to be adequately resourced.

45. While reporting was crucial, progress would remain only on paper unless the Committee's recommendations and observations were fully implemented in a timely manner and national action plans were put in place. With that in mind, she urged States parties to withdraw reservations which were contrary to the object and purpose of the Convention and to accept the individual complaints procedure. She also encouraged them to avail themselves of technical

cooperation from OHCHR to build capacity to implement their treaty obligations. She called on the 15 countries that had not yet ratified the Convention to do so without delay.

46. The Committee continued to actively promote the Convention through a range of events and activities, including celebrations of the fiftieth anniversary of the Convention itself in 2015 and the fifteenth anniversary of the Durban Declaration and Programme of Action in 2016. It also organized days of discussion with stakeholders. It continued to respond to urgent global situations through its early warning and urgent action procedure. Most recently, during the United Nations Summit for Refugees and Migrants in September 2016, the Committee had issued a statement urging participants to ensure that the discussions and any follow-up processes were grounded in international human rights law, including the Convention and the Committee's General Recommendation No. 30 on discrimination against non-citizens.

47. As part of its work with other treaty bodies and committees to explore the links between racial discrimination and other issues, the Committee had met during its ninetieth session with members of the Committee against Torture and of the Committee on the Rights of Persons with Disabilities. At its next session, it would collaborate with the Committee on the Elimination of Discrimination against Women and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families to discuss the rights of, and discrimination against, migrant women. The intersectionality between racial and gender discrimination had been addressed in most of the Committee's concluding observations. In that regard, she commended the Third Committee for helping to increase the representation of women in the work of the Convention. She encouraged a continuing focus on gender balance and the nomination and election of women as independent experts on racial discrimination and on other human rights issues.

48. Lastly, she urged continued support for the goal of attaining universal ratification of the Convention, and reiterated the call on all States parties to withdraw reservations that were contrary to the object and purpose of the Convention, as well as other reservations, and to make a declaration under article 14. Although 50 years had elapsed since the adoption

of the Convention, its definition of racial discrimination in article 1 was sufficient to cover all forms of discrimination and their complex forms and manifestations in the modern world.

49. **Ms. Sennouni** (Morocco) said that her delegation was concerned about the emergence of new forms of racism and racial discrimination that were not necessarily covered by existing international instruments and the growth in recent years of xenophobic trends and racist political ideologies, including in electoral and sports contexts, in public life and on the Internet. She asked what specific opportunities existed for addressing the scourge of racism within the context of 2030 Agenda for Sustainable Development. She also wondered how to engage national human rights institutions to contribute more effectively to the implementation of the Durban Declaration and Programme of Action. Her delegation believed that existing international instruments should be upgraded to better respond to issues involving racism and racial discrimination; she asked what specific challenges faced the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards as it worked to address gaps in existing instruments.

50. **Ms. Verstichel** (Belgium), also speaking on behalf of Slovenia, said that with 177 ratifications to date, the International Convention on the Elimination of All Forms of Racial Discrimination was one of the most widely ratified core conventions. She asked for more information about the main achievements of the preceding 50 years, as well as the remaining challenges, including new and emerging challenges. In the context of the Committee's endorsement of the San José Guidelines against intimidation or reprisals and the appointment of a Rapporteur on reprisals, she asked for additional information on the Committee's working methods, in particular with regard to implementation of General Assembly resolution 68/268.

51. **Ms. Wacker** (Observer for the European Union), reiterating the strong opposition of the European Union to all forms of racism, racial discrimination, xenophobia and related intolerance, said that all European Union member States had ratified the Convention; she underlined the importance of its universal ratification and encouraged States parties to make a declaration under article 14. The European

Union recognized that taking early action against alleged cases of racism, racial discrimination and xenophobia could have a significant preventive effect, particularly when such cases could be taken as incitement to racial or ethnic hatred; she asked for an assessment of the effectiveness of that procedure. She also asked whether the Committee intended to offer the use of the simplified reporting procedure to States that had already complied with their reporting obligations. The important role played by civil society organizations in the preparation and follow up of the Committee's reviews of States' obligations must be preserved and protected; she requested further information on the Committee's implementation of the San José Guidelines in that regard.

52. **Mr. Cepeda Orvañanos** (Mexico) said that Mexico had established a national programme on equality and discrimination for 2011-2018 in order to harmonize its legislation with the highest standards for equality and non-discrimination and to promote a cultural shift to protect its population from acts of discrimination. He requested an assessment of the effectiveness of the early warning mechanism, including the total number of cases that had been heard and whether any of them had concerned Latin America. He also asked for an assessment of progress and remaining challenges in the implementation of the Durban Declaration and Programme of Action.

53. **Ms. Medcalf** (United Kingdom) said that the United Kingdom had strong and effective legislation against racial and other forms of discrimination and hate crimes. In July 2016, her Government had launched Action Against Hate, a new plan to tackle hate crime through prevention, reporting and support for victims. In August, it had launched the Race Disparity Audit, a review of public services designed to reveal racial disparities and identify and publish the different outcomes for people of different backgrounds across a range of social indicators. It was vital for all States to not only to ratify the Convention, but also to implement it effectively. Recognizing the importance of the early warning and urgent action procedures that were already in place, she asked what steps States could take to help guide that process, and what further action the Committee could take to encourage States that had not yet complied with their reporting obligations to adopt the new simplified reporting procedure.

54. **Ms. Neilsen** (Denmark) said that her country recognized the importance of involving States, civil society and other stakeholders in the implementation of the Convention. In that regard, she requested examples of any collaborative good practices that had been helpful in that regard, for instance during the follow-up to recommendations or reviews by the Committee. She also asked for further information about early warning measures to prevent racism, racial discrimination and related intolerance, especially against indigenous peoples. In that context, she asked whether preventive measures should focus on educational tools that tackled privilege, cultural appropriation and subconscious bias.

55. **Mr. Kelly** (Ireland), noting the important role of civil society and non-governmental organizations in their interactions with the work of the Committee and other treaty bodies, said that that role should be encouraged and protected. He asked for an assessment of the extent to which the San José Guidelines were of assistance to the Committee's work. He also asked whether the Committee had the mandate and resources to address the many dimensions and forms of racial discrimination and associated issues around the world; and whether the current two-year reporting schedule provided sufficient opportunity to report on the work of the Committee.

56. **Ms. Ortega Gutiérrez** (Spain) said that Spain had submitted a consolidated periodic report earlier in 2016 in which it had described its progress since 2011 in combating racial discrimination, in particular with respect to increased tolerance and acceptance of its foreign population in an unfavourable economic and employment context. The Committee's recommendations would be an invaluable guide as the country sought to eliminate remaining forms of racism, racial discrimination, xenophobia and other forms of intolerance. Spain believed that genuine, effective equality and the elimination of all forms of discrimination were questions not only of social justice but also of development and efficiency.

57. **Mr. Lukyantsev** (Russian Federation) said that his delegation agreed that it was vital for the Convention to achieve universality and shared the concern about the large number of reservations, in particular those concerning article 4, that were not clearly not in line with the objective and goals of the Convention and must be withdrawn. He asked whether

the Committee planned to formulate additional general recommendations.

58. **Mr. Yao** Shaojun (China) said that the provisions of the San José Guidelines were not in line with the Convention, resulting in additional obligations for State Parties. The treaty bodies should not act unilaterally, but should consult with State Parties and fully solicit and take in their views. The Guidelines should not be promoted or enforced until consensus was reached.

59. **Ms. Crickley** (Chair, Committee on the Elimination of Racial Discrimination), addressing the issue of reprisals, said that although the Committee had endorsed the San José Guidelines, it was too early to say to what extent they had been effective. In the end, it was up to States parties to decide whether or not reprisals had occurred. However, adopting a procedure to protect against reprisals and informing those who might be subject to them that such a procedure existed was a key confidence-building measure that would reflect on the capacity of the international system to address such issues.

60. On the issue of early warning and urgent action procedures, she said that the Committee's report of the Committee included details on communications it had received and statements it had issued. She wished the Committee's work had been more directly effective, but if, after 50 years, it had been more effective there would no longer be a need for either the Convention or the Committee. Early warnings had drawn direct attention to specific issues in several States. Statements issued could have an impact both within United Nations bodies and in the countries targeted, but there was certainly more work to be done with respect to implementation.

61. Regarding further steps that could support implementation, it was vital to ensure ratification by the 15 countries that remained outstanding, to support countries that had not yet submitted their reports and to encourage the 177 countries that had ratified the Convention to implement the Committee's recommendations more actively. Ratification and reporting were two parts of a whole and implementation was the third. In that context, it was important to bear in mind that implementation required political will. It also required a willingness to acknowledge that some of the complexities involved in

racial discrimination were less obvious and that they often touched on issues that countries themselves were less willing or able to take on board.

62. Education certainly played a key role. People could too easily view racial discrimination and racism as a well-known phenomenon that could therefore be discounted. That was obviously not the case, as was clear from the situation in the United States over the past two years, the spikes in hate crime in the United Kingdom following the referendum to leave the European Union and situations elsewhere in the world. In Europe, the so-called migration crisis was in effect a challenge in which racial discrimination played a heightened role.

63. Hate speech was a related issue. The Committee's general recommendation No. 35 on combating racist hate speech, while acknowledging the complexities of the issue, had also recognized the direct connection between hate speech and incitement to hatred, which was an offence that needed explicitly to be covered. As to whether further general recommendations were under consideration, she hoped that the process of meeting with other committees would lead to the adoption of additional recommendations. However, it was important not to rush; general recommendations needed to be developed in order to better articulate or clarify provisions of the Convention at certain points in time. General recommendations No. 30, on discrimination against non-citizens, and No. 25, on the gender-related dimensions of racial discrimination and discrimination against women from minorities — despite the excellent work done in the latter realm by the Committee on the Elimination of Discrimination against Women — were two such examples.

64. The Third Committee should engage directly with the Convention and with the concluding observations of the report. It was vital for all States parties to fulfil their reporting obligations. The provisions of the Durban Declaration and Programme of Action must be implemented. Article 1 of the Convention was in line with those provisions, but an optional protocol permitting country visits would be welcome, as would greater follow-up and more resources. In order for racial discrimination to be considered seriously and the reality of its continued existence to be acknowledged, she welcomed the suggestion that the Committee on the Elimination of Racial Discrimination should report

annually to the Third Committee rather than every two years, as was currently the case.

The meeting rose at 12.10 p.m.