

Operational Guidelines
on the inclusion of
People of African Descent
in the 2030 agenda

Working Group of Experts on People of African Descent

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Working Group of Experts on People of African Descent*

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INTRODUCTION

The United Nations Working of Experts on People of African Descent (WGEPAD) was established pursuant to the Durban Declaration and Programme of Action (8 September 2001), which requested the Commission for Human Rights (predecessor to the Human Rights Council), to “consider establishing a working group or other mechanism (..) to study the problems of racial discrimination faced by people of African descent living in the African Diaspora (..)”.¹ Among other things, the WGEPAD was mandated to elaborate short-, medium- and long-term proposals for the elimination of racial discrimination against people of African descent, through inter alia: Liaising with financial and developmental institutional and operational programmes and specialised agencies of the United Nations, with a view to contribute to the development programmes intended for people of African descent by allocating additional investments to health system, education, housing, electricity, drinking water and environmental control measures and promoting equal opportunities in employment, as well as other affirmative or positive measures and strategies within the human rights framework.

In the fulfilment of the above tasks the WGEPAD prepared these Operational Guidelines as a tool for UN Country Teams, Member States, financial and development institutions and all stakeholders to assist them to implement the 2030 Agenda and its SDGs with a specific focus on people of African descent. The Working Group provides compelling human rights arguments as to why there should be a specific focus on people of African descent as one of the population groups who face multiple and compounded forms of discrimination and should be prioritized to end inequalities and discrimination “leave no one behind” and “reach the furthest behind first”. They refer to international human rights law and available official and unofficial data including reference to WGEPAD reports and other studies.

The UN Working Group believes that the 2030 Agenda for Sustainable Development (2030 Agenda) and its Sustainable Developments Goals (SDGs) adopted by Heads of State and Government at the United Nations Summit in September 2015 (A/RES/70/1) provides a vehicle to address the racism, racial discrimination, xenophobia, Afrophobia and related intolerance that people of African descent face every day around the world. In 2017 the Working Group reported to the Human Rights Council on their thematic session “Leaving no-one behind: people of African descent and the sustainable development goals” with recommendations. The Working Group urged Member States to make a genuine commitment to the standard of leaving no one behind by, inter alia, collecting inclusive and disaggregated data and devoting special attention to the human rights of people of African descent through the preparation of specific programmes of action, including social programmes for the implementation of the International Decade for People of African Descent.

The Working Group has developed these Operational Guidelines on inclusion of People of African Descent in the 2030 agenda in accordance with international human rights obligations for the protection of the human rights of people of African descent. These guidelines are intended as a tool to assist all stakeholders in a human rights based approach to implementation of the SDGs as they relate to Africans and people of African descent They are also intended to assist the United Nations System and development partners to implement the International Decade for People of African Descent (PAD) and its programme of activities. The guidelines were field-tested in Ecuador and Peru in 2019-2020.

Key principles:

The implementation of these Operational Guidelines should be framed by the principles and objectives set forth by the Agenda 2030 for Sustainable Development

¹ Para.7 Programme of Action

under a human rights-based approach, the Durban Declaration and Programme of Action, the Objectives of the United Nations International Decade for People of African Descent 2015-2024, as well as applicable regional documents such as the Montevideo Consensus on Population and Development. The concrete implementation of these guidelines shall also be guided by the following non-exhaustive and mutually reinforcing principles:

Integration: These Operational Guidelines are to be used in support of the implementation of the framework documents mentioned above, as well as of other of importance for People of African Descent, such as the ICPD programme of Action and the Beijing Platform for Action, among others, as well as in support to national SDG planning and implementation processes. These Guidelines are also produced to support the Leave No One Behind approach by relevant United Nations Country Teams, and in the set up and implementation of UN Sustainable Development Cooperation Frameworks (UNSDCF).

Meaningful participation: In the spirit of the motto “Nothing About Us, Without US”, the inclusion of People of African Descent in the 2030 agenda is directly linked to their ability to participate in relevant decision making and to play a meaningful role in agenda setting at the local, regional and international level, including through: 1) Increasing and expanding participation of Afro-descendent organizations and groups, 2) Informed participation, 3) Enabling environment free from violence and reprisals.

Visibility through data: Data collection is related to identity in many and complex ways, and needs to be promoted to fight invisibility. Even when for historical reasons some countries have been reluctant to ethnic-oriented statistics, approaching this gap simultaneously from different viewpoints can help overcome these difficulties.

More readily available disaggregated data, in national censuses, surveys and administrative data systems is a fundamental prerequisite for the operational implementation of these guidelines in development plans and sectoral policies on a cross-cutting basis. When quantitative data may not be available, the use of innovative approaches for data collection and analysis including qualitative data should be promoted, as well as the recording of communities-lived experiences through story-telling and other means, metadata etc. People of African Descent should drive data processes as subjects and not as mere objects of study. States are encouraged to include data pertaining to People of African Descent in the follow-up and review of sustainable development goals and targets and corresponding global, regional and national indicators. The Economic Commission for Latin America and the Caribbean (ECLAC)/Office of the United Nations High Commissioner for Human Rights (OHCHR), *People of African descent in Latin America and the Caribbean: developing indicators to measure and counter inequalities* (LC/TS.2019/62), Santiago, 2020 is a useful reference in this regard.

Intersectionality: Structural discrimination and inequalities facing People of African Descent are complex and intersecting, touching upon different systems of oppression where race-based discrimination is aggravated by other prohibited grounds of discrimination under international human rights law, including gender, age, disability, social origin, nationality, sexual orientation and gender identity, marital and any other status. Intersecting discrimination not only limits equal opportunities but also exacerbates unequal social and economic outcomes, thereby perpetuating systemic marginalization and exclusion of People of African Descent. Interventions should be grounded in an understanding of root causes of marginalization and exclusion, including how different forms of intersecting discrimination operate together. Stakeholders should mainstream a gender perspective when designing and monitoring interventions, taking into account the specific needs and realities of women and girls of African descent.

Monitoring and accountability: Accountability is a cornerstone of racial justice. The principle of accountability includes the notions of monitoring, review, and remedies, which can only operate in practice if people of African descent have effective access to accountability mechanisms. Building strong mechanisms for the monitoring and evaluation of the implementation of these guidelines is essential, including strong coordination/integration with existing national, regional, and global mechanisms,

and the creation of additional targeted ones as appropriate. Implementing stakeholders are called to avail themselves of existing international monitoring processes, such as the Universal Periodic Review, Human Rights treaty bodies and the Voluntary National Review mechanism under the High Level Political Forum. States are encouraged to empower National Human Rights Institutions to monitor progress in achieving racial justice and to investigate the violations of the rights of people of African Descent. In turn, Agencies, Funds and Programmes of the UN system are encouraged to develop the capacity of national accountability systems to ensure effective monitoring, review and remedies.

SDG1. END POVERTY IN ALL ITS FORMS EVERYWHERE

- Right to an adequate standard of living [UDHR art. 25; ICESCR art. 11; CRC art. 27]
- Right to social security [UDHR art. 22; ICESCR art. 9; CRPD art. 28; CRC art. 26]
- Equal rights of women in economic life [CEDAW arts. 11, 13, 14(2)(g), 15(2), 16(1)]

1.1 States should disaggregate data about poverty and people of African Descent where data does not exist. Disaggregated data can inform on the extent of possible inequality and discrimination faced by people of African descent according to a Human Rights Based Approach to Data (HRBAD)² and in accordance with States' human rights obligations. Where data exists, baseline studies should be conducted to evaluate the disparities, understand the root causes and develop remedies to ensure the right to an adequate standard of living is realized for all.

1.2 States should adopt special measures (affirmative action), to promote job creation, entrepreneurship and activities generating revenue among women and men of African descent

1.3 States should ensure access to education for all children of African Descent as well as access to schools

1.4 Access to adequate housing, access to health structures and program against discrimination should be developed or reinforced to alleviate poverty of people of African Descent

1.5 Following data collection of social protection of people of African Descent, States should ensure that social protection systems are available, used and accessible to people of African descent.

1.6 States should ensure that their development plans provide specific programs and legislation to address the access to basic services of people of African Descent

1.7 States should develop legislation and land reforms to ensure land rights of people of African Descent. Where these legislations exist, their implementation should be enforced and evaluated. Traditional practices that prevent women of African descent to inherit land should be discontinued through legislation. Specific protection measures and training for agricultural activities should be provided.

1.8 States should document the number of people of African Descent who live in areas that are likely to be affected by climate change (floods, earthquakes, cyclones) and develop national preventive measures.

1.9 Disaggregated data on people of African descent should be collected, disseminated and used to address development and economic inequalities.

1.10 Training packages on natural disasters and contingency plans should be made available to people of African Descent.

² See A HUMAN RIGHTS-BASED APPROACH TO DATA LEAVING NO ONE BEHIND IN THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT
<https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>

COMMENTARY ON SDG 1 | END POVERTY

People of African descent, globally, have been disproportionately impacted by poverty, in part due to enduring legacies of the historical context of colonialism and the trade and trafficking in enslaved Africans.³ The Durban Declaration and Programme of Action (DDPA) sets forth, and the Working Group has observed transnationally, how disproportionate poverty and lack of economic opportunity among people of African descent is connected to racial prejudice,⁴ as well as disparities in access to education,⁵ employment, health care, housing,⁶ and opportunity as well as the high costs of living with lesser access to public goods and public accommodations. This is true in the Global South,⁷ but also true in the more developed countries in the North.⁸ Thus, poverty compounds obstacles which people

³ The Durban Declaration and Programme of Action, in relevant part: Recognizes that these 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. The Conference 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, in the following areas... Agriculture and food security; See Durban Declaration and Programme of Action at paragraph 158.

In the “Race and Poverty” report, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance cites ongoing legacies of this historical context, noting that “In North and South America, two regions characterized by great disparities, a disproportionate number of persons of African descent are affected by a lack of income, health services, quality of education and opportunities to attain well-being,”³ and that people of African descent suffer from discriminatory and consequently inadequate access to housing at various stages of the rental or sale process. Moreover, among persons of African descent, persistently lower income and lesser public investment in communities of African descent creates challenges with respect to food security.

⁴ Durban Declaration and Programme of Action, Art. 3.

⁵ See Durban Declaration and Programme of Action at paragraphs 122, 123

⁶ Durban Declaration and Programme of Action, Art. 9.

⁷ The concentration of poverty among people of African descent is particularly strong in developing countries, involving considerable gaps. Poverty is over twice as high for Afro-descendants in Brazil and three times higher in Uruguay, and over 10 percentage points higher in Colombia, Ecuador, and Peru.⁷ In Ecuador, only 7.2 per cent of the population are Afro-Ecuadorians, but they make up 40 per cent of those living in poverty. See Ecuador: Discrimination and environmental racism against people of African descent must end, say UN experts, Geneva/Quito (23 December 2019). In Panama, people of African descent experience disproportionate rates of poverty and extreme poverty. The Common Country Assessment and United Nations Development Assistance Framework for Panama (2007–2011) identified poverty, inequality and social exclusion as the main problems in the country. Despite a spectacular growth rate, the country has failed to demonstrate corresponding progress in the reduction of poverty and extreme poverty. (A/HRC/24/52/Add.2, para. 25).⁷ Although Afro-Peruvians and Afro-Uruguayans saw extraordinary annualized poverty decreases of 7 percent and 10 percent respectively in the 2005–15 period, non-Afro-descendants experienced annualized decreases of 9 percent and 14.5 percent respectively, widening the relative distance between the two groups in each country.

⁸ Even in wealthy countries, the outlook on poverty is not optimistic when the focus is on people of African descent. In the United States, in 2014, 22.9 percent of Black families remained in poverty, compared to an average of 11.6 percent rate of family poverty. See 16th Session UN WGEPAD, on April 3, 2016, Veronica L. Womack, *Strategies for Asset Building and Wealth Creation for People of African Descent within the Black Belt Region of the American South* (citing BlackDemographics.com; U.S. Census Bureau, Survey of Income and Program Participation (SIPP). Dynamics of Economic Well-Being: Participation in Government Programs, 2009-2012: Who Gets Assistance?). Today, the average wealth of white families in the United States is ten times the average wealth of Black families. See Brookings Institution, *Examining the Black-White Wealth Gap* (Feb. 2020). In addition, more than 10 million (26 per cent) of African Americans remain mired in poverty, half of whom live in “deep poverty”. (A/HRC/33/61/Add.2, para. 43). In Germany, data provided by the Federal Statistical Office showed that a high percentage (44.3 per cent) of “people of African descent with migrant background” were at risk of poverty, which is nearly three times the national mean of 15.7 per cent. Their monthly net income (€1,456) was almost 25 per cent

of African descent face in the exercise and enjoyment of human rights.⁹ Poverty further complicates the protection of human rights for people of African descent, who face discrimination simultaneously on the basis of gender, ethnicity, race or migration status.¹⁰

COMMENTARY ON SDG 1.1 | DISAGGREGATED DATA ON POVERTY

The use of disaggregated data is the only way to ensure that efforts to mitigate and eradicate poverty leave no one behind and address the furthest behind first.¹¹ Without disaggregated data, gaps and failures in protection may not be cognizable, and may even result in widening the poverty gap between people of African descent and others.¹² In addition, without involving impacted groups in the definition and collection of this data, important information may be lost in even the most well-intentioned efforts.

less than the national mean monthly net income (€1,921). (A/HRC/36/60/Add.2, para. 37). In Netherlands, poverty is the main challenge faced by people of African descent, compounded by wage gaps, high unemployment, lack of political participation and lack of effective national institutions to change the situation. (A/HRC/30/56/Add.1, para. 53). Similarly, the EU, EU-MIDIS II findings show that respondents of African descent most often indicate that they have great difficulties in making ends meet. *See* European Union Agency for Fundamental Rights, WGEPAD 24th Session on March 2019, *Second European Union Minorities and Discrimination Survey: Being Black in the EU*, p65, 2018.

Reports have also indicated a pattern of steady decline in the economic situation and increasing poverty of African Canadians, with a poverty rate among Black Canadians is more than three times the average for Whites. In 2000, one in two African Canadian children lived below the low income cut-off rate before taxes, compared to one in 10 for European Canadians. Furthermore, poverty among single-parent, mother-led families stood at 65 per cent for African Canadian families compared to 26 per cent for European Canadian families. African Canadians in Montreal, Quebec, have the highest poverty rates among all “visible minorities” in the city. Approximately 50 per cent of the Black Canadian population are categorized as low income, with that number jumping to 65 per cent for new Black immigrants. (A/HRC/36/60/Add.1, para. 54).

⁹ The Inter American Court of Human Rights has also linked the right to an adequate standard of living with the access to economic, social and cultural rights, among them, water, health, education, food, specially, with groups in situation of vulnerability (*See Case of Xákmok Kásek Indigenous community vs. Paraguay; Case Gonzales Lluy vs. Ecuador*).

¹⁰ *Death penalty disproportionately affects the poor, UN rights experts warn*, World Day Against the Death Penalty - Tuesday 10 October 2017, Geneva (6 October 2017).

¹¹ The 1993 Vienna Declaration and Programme of Action notes the importance of “a system of indicators to measure progress in the realization of the rights set forth in the International Covenant on Economic, Social and Cultural Rights.” *See* para. 98. In 2009, the Durban Review Conference recommended that States should “develop a system of data collection, including equal-opportunity and non-discrimination indicators, that, upholding the right to privacy and the principle of self-identification, makes it possible to assess and guide the formulation of policies and actions to eradicate racism, racial discrimination, xenophobia and related intolerance, and to consider, where appropriate, seeking the assistance of the Office of the United Nations High Commissioner for Human Rights” (para. 104). Notably, involving people of African descent in data definition and data-collection processes can help ensure relevance and accuracy of data collected. This relates to the human rights principle of participation, which encourages all sections of the population, including vulnerable and marginalized groups, as well as human rights and other relevant institutions, to actively join in decision-making.

¹² For example, in Ecuador in 2018, the incidence of multidimensional poverty fell from 51.5 per cent to 35.1 per cent at the national level, while poverty among Afro-descendants decreased from 56.3 per cent to 43.0 per cent, suggesting the relative poverty gap may have widened, putting the Afro-descendent population in a more disadvantaged position relative to the broader society.

COMMENTARY ON SDG 1.2 | AFFIRMATIVE ACTION

UN treaty bodies have also noted the importance of taking positive measures, i.e., affirmative action, to address the pervasive impact of racial bias in perpetuating poverty among people of African descent.¹³ Such measures seek to disrupt the practices and pattern that structurally and disproportionately disadvantage people of African descent as a people.¹⁴ Affirmative action recognizes that while individuals may navigate systems with success, this has been the exception and that prevailing norms (including racial prejudice) have operated as institutional barriers for people of African descent as compared to the majority populations in diaspora countries.¹⁵

COMMENTARY ON SDG 1.3 | ACCESS TO EDUCATION

Poverty and child poverty continue to correlate strongly to access to education and opportunity. Yet, disproportionate child poverty among people of African descent is evident in both developed and underdeveloped nations.¹⁶ Similarly, dropout rates are

¹³ [General recommendation No. 34](#) adopted by the Committee on the Elimination of Racial Discrimination noted that racial discrimination against people of African Descent is evident in the pervasive and persistent inequality people of African descent experience, including being characterized as the poorest of the poor. The Committee observed that overcoming the structural discrimination that affects people of African descent calls for the urgent adoption of special measures (affirmative action), as established in the International Convention on the Elimination of All Forms of Racial Discrimination (arts. 1, para. 4, and 2, para. 2). The need for special measures has been the subject of reiterated observations and recommendations made to the States party to the Convention, summarized in general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination.” See CERD General Recommendation No. 34.

In addition, CERD General Recommendation 32 on The Meaning and Scope of Special Measures in the International Convention on the Elimination of Racial Discrimination states that special measures for disadvantaged groups include “goal-directed programmes” which have the objective of alleviating and remedying disparities in the enjoyment of human rights and fundamental freedoms affecting particular groups and individuals, protecting them from discrimination.

¹⁴ In this regard, the call for reparations is squarely grounded within human rights. Furthermore, the situation of people of African descent requires the use of all three methods: (1) compensatory, mainly intended to remedy harm caused in the past, should address the consequences of the slavery history of people of African descent; (2) corrective, primarily utilized to ensure the end of discriminatory practices should address stereotypes and prejudices based on race. They should cover activities related to changing negative perceptions toward people of African descent, and be implemented through education, research, and media; and (3) redistributive, principally to put an end to the unequal distribution of opportunity. It means the equal enjoyment of basic human rights and equal opportunities for people of African descent in comparison with others and tackling equity traps that people of African descent are caught in in relation to poverty, education, housing, health, and decision-making processes. See 10th Session UN WGEPAD on March, 2011, Mirjana Najcevska, *Overview of the current situation of people of African descent and reflections on positive action*.

¹⁵ In many states proactive measures and affirmative action are linked mainly to indigenous people, while most people of African descent have been historically excluded from benefiting from these laws. It is not surprising that the development of equality legislation and non-discrimination measures is not affecting people of African descent to the same degree as it is affecting other vulnerable groups. See 10th Session UN WGEPAD on March, 2011, Mirjana Najcevska, *Overview of the current situation of people of African descent and reflections on positive action*.

¹⁶ The Working Group’s country visits and research has consistently borne out this truth, in both developed and less developed places. In Ecuador, for example, indigenous and Afrodescendent children are the most affected by poverty: one out of every three indigenous and Afro-descendent children lives in extreme poverty and two out of every three live in poverty. (See Report of the Working Group of experts on people of African descent Visit to Ecuador (22 to 26 June 2009), A/HRC/13/59.) However, in Ecuador, only 7.2 per cent of the population are Afro-Ecuadorians, but they make up 40 per cent of those living in poverty.

concentrated among children of African descent.¹⁷ The Durban Declaration and Programme of Action offers a clear mandate to promote equal access to education, using a variety of methods.¹⁸

COMMENTARY ON SDG 1.4 | HOUSING, HEALTH, AND ANTI-DISCRIMINATION

The Working Group of Experts on People of African Descent has reported that racial bias and stereotyping have a clear impact on the rights to education, housing, employment and health. For example, concerning health, people of African descent often lack access to preventive health services, receive lower-quality care and experience worse health outcomes for certain conditions.¹⁹ With respect to housing, the Working Group has reported on significant discriminations, lack of access, and inequality facing people of African descent.²⁰ People of African descent face

(*See* Ecuador: Discrimination and environmental racism against people of African descent must end, say UN experts). At the other end of the development spectrum, in the United Kingdom, while child poverty rates decreased between 2001 and 2007, poverty rates for Caribbean children are 26 per cent and for black African children over 35 per cent, compared with national average of 20 per cent. (A/HRC/24/52/Add.1, para. 28).

- ¹⁷ Concerning access to education, the European Commission against Racism and Intolerance reported that in Portugal, the primary school drop-out for afro-descendant children is three times higher, and there are five times fewer students of African origin at university. A similar situation was noted by the Committee on the Elimination of Racial Discrimination in its Concluding observations (Honduras). It expressed its concerns about the high school dropout rate among indigenous and Afro-Honduran children and adolescents and recommended the adoption of special measures to guarantee this right.
- ¹⁸ The Durban Declaration and Programme of Action urges States to commit themselves to ensuring equal access to education, including access to free primary education for all children, both girls and boys, and access for adults to lifelong learning and education, based on respect for human rights, diversity and tolerance, without discrimination of any kind. To be specific:
- (a) To adopt and implement laws that prohibit discrimination on the basis of race, colour, descent or national or ethnic origin at all levels of education, both formal and non-formal;
 - (b) To take all appropriate measures to eliminate obstacles limiting the access of children to education;
 - (c) To ensure that all children have access without discrimination to education of good quality;
 - (d) To establish and implement standardized methods to measure and track the educational performance of disadvantaged children and young people;
 - (e) To commit resources to eliminate, where they exist, inequalities in educational outcomes for children and young people;
 - (f) To support efforts to ensure safe school environments, free from violence and harassment motivated by racism, racial discrimination, xenophobia or related intolerance; and
 - (g) To consider establishing financial assistance programmes designed to enable all students, regardless of race, colour, descent or ethnic or national origin, to attend institutions of higher education;
- See* Durban Declaration and Programme of Action at paragraphs 122, 123.
- ¹⁹ Concerning access to health, the Inter American Commission on Human Rights (IACHR) has noted the impact of the structural discrimination and the obstacles to access education and health in the case of Afro-descendant boys and girls, and called for the adoption of special measures to guarantee these rights. *See* Inter-American Commission on Human Rights (“IACHR”), the Situation of People of African Descent in the Americas, Dec. 17, 2011, para 76, OEA/Ser. L/V/II, Doc.62 (citing CERD General Recommendation XXXIV at para.25, CERD/C/GC/34 (Oct. 3, 2011)). Similarly, the IACHR observed that no intercultural approach to medical treatments and policies in the region that specifically addresses the diseases that affect Afro-descendent people, impacting disproportionately the access to health and effective medical services for people of African descent. *See* Inter-American Commission on Human Rights, *Poverty and Human Rights in the Americas*, Sep. 7, 2017, para 386, OEA/Ser.L/V/II.164 Doc. 147 (citing IACHR, *The Situation of People of African Descent in the Americas*, Dec. 17, 2011, paras 21 and 52). Report of the Working Group of Experts on People of African Descent, 2 August 2019, A/74/274.
- ²⁰ The Working Group of people of African Descent has emphasized that: “ongoing racial bias perpetuated and licensed by toxic negative stereotypes also impacts people of African descent

discrimination in access to home ownership and even rental properties, an issue of particular concern in developed countries where this serves as a mechanism to create wealth and stability for individuals and communities.²¹ This has been evident in the country visits of the Working Group.²²

COMMENTARY ON SDG 1.5 | DATA, ACCESSIBILITY OF SOCIAL PROTECTION PROGRAMS

Data disaggregated by race is the only effective mechanism to ensure social protection is available to people of African descent. This is particularly important given the Working Group's fact-finding investigations, which consistently indicate people of African descent have less access to social protection and face higher burdens to their human rights.²³ In addition, data should be disaggregated by race, gender, sexual orientation and gender identity, disability, and other relevant criteria, as availability to social protection programs to intersectional populations, which often face added burdens to access social protection, must inform any adequate review of accessibility.²⁴

with respect to access to housing. The individual and subjective decision-making of lenders, landlords and brokers powerfully impacts housing and stability. Everyone has a fundamental human right to housing, which ensures access to a safe, secure, habitable and affordable home with freedom from forced eviction (...)" (A/74/274, para. 74). In addition, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has reported that individuals from marginalized racial groups face discrimination from landlords and officials in accessing public and private rental housing, noting the violation of the right to adequate housing also affects the enjoyment of other human rights including the rights to work, education, health and social security. *See SR Racism, Race and Poverty.*

²¹ In the United States, access to affordable housing is a serious problem for many people of African descent. As neighbourhoods traditionally home to large communities of African descent are redeveloped, the African descendent population is being gradually forced to move out due to the now unaffordable cost of living there. (See Report of the Working Group of Experts on People of African Descent - visit to the United States of America from 25 to 29 January 2010, A/HRC/15/18.)

In 2014, one report found that 69.8 percent of Whites applied for conventional mortgages and 73 percent of those applications were successful. While only 2.9 percent of Blacks applied for conventional mortgages and only 2.0 percent were successful. *See* 18th Session UN WGEPAD, on April 13, 2016, Veronica L. Womack, *Strategies for Asset Building and Wealth Creation for People of African Descent within the Black Belt Region of the American South* (citing *A House Divided How Race Colors the Path to Homeownership* (2014)).

²²

²³ For example, in the Working Group's country visit to Canada, disaggregated data revealed that Black Canadian children are living in poverty at very high rates, i.e., 33 per cent for children of Caribbean heritage and 47 per cent for children of continental African heritage, compared to 18 per cent of White Canadian children living below the poverty line. This offers a clear indication of a denial of social protection, but also a clear metric to chart a trajectory of improvement through programs, assistance, and commitments by the State. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Canada, para 57, U.N. Doc. A/HRC/36/60/Add. 1, (August 16, 2017).

²⁴ The country visits of the Working Group have provided many examples of this. For example, African Canadian women and girls are reportedly targeted by the police and are increasingly in contact with the criminal justice system as one of the fastest growing prison populations. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Canada, para 57, U.N. Doc. A/HRC/36/60/Add. 1, (August 16, 2017). In Guyana, Discrimination against lesbian, gay, bisexual and transgender persons and sex workers was prevalent. Transgender people of African descent faced particular criminalization, stigmatization, and discrimination as highly visible members of the lesbian, gay and bisexual community. For example, one transgender person shared a personal story with WEGPAD on being subjected to discrimination when she tried to petition a court of law in Guyana. The magistrate refused to hear the matter and even asked that she leave the courtroom because she was "cross-dressed," i.e., her gender expression was inconsistent with her assigned gender at birth. In Guyana, section 153 (1) (xlvii) of the Summary Jurisdiction (Offences) Act makes

COMMENTARY ON SDG 1.6 | INCLUSION IN DEVELOPMENT PROGRAMMING

Ensuring the voices of impacted communities inform discussions relevant to their lives is also a means of ensuring adequate expertise is brought to decision-making. This is particularly true with respect to people of African descent, who often lack access to the leadership and resources necessary to buy a seat at this table.²⁵ States must include people of African descent in policy and planning and leverage their authority with civil society to ensure impacted communities are respected and adequately represented in development processes.²⁶

COMMENTARY ON SDG 1.7 | LAND RIGHTS, REFORM, INHERITANCE

The loss of ancestral lands, the ongoing lack of title, and the lack of inheritance flouts fundamental rights and the very identity of people of African descent in many countries. In many countries, despite lengthy periods living on lands (in some cases pre-modern era populations), people of African descent lack ownership, title, or rights to the lands where their communities have lived²⁷ and are susceptible to abuse

“cross-gender dressing” an offence. Sexual minorities are not protected under the clause in the Constitution on protection from discrimination. Thus, in Guyana, lesbian, gay, bisexual and transgender persons often choose not to express their sexual orientation or identity out of fear of being threatened, subjected to discrimination or victimized. (A/HRC/39/69/Add.1, para. 33). However, this has profound implications for nearly all human rights.

- ²⁵ For example, Environmental racism is a serious concern in Panama, where the Working Group reported serious harm to the environment, as well as human rights, from economic activities related to uncontrolled mining, tourism and land use, coupled with the development of infrastructure projects. The lack of control and planning of economic activities, and the lack of consultation of impacted communities, was accelerating the destruction of the environment. Civil society denounced the dumping or leakage of untreated human waste and toxic substances near areas inhabited by people of African descent. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Panama, para. 87, U.N. Doc. A/HRC/24/52/Add.2 (August 21, 2013).
- ²⁶ In addition, the Durban Declaration urges States and encourages the private sector and international financial and development institutions to promote participation of all victims suffered from “racism, racial discrimination, xenophobia and related intolerance in economic, cultural and social decision-making at all stages, particularly in the development and implementation of poverty alleviation strategies, development projects, and trade and market assistance programmes;” urges States to ensure effective and equal access of those victims to the decision-making process in society at all levels and particularly at the local level, and also urges States and encourages the private sector to “facilitate their effective participation in economic life;” and urges all international private institutions to “promote participations by all members of the international community in decision-making processes at all stages and levels.” See Durban Declaration and Programme of Action at paragraphs 112, 113, 114.
- ²⁷ The country visits of the Working Group have illustrated the lack of ownership and title to land long-held by people of African descent, an institutional form of discrimination. *In Canada, the Working Group reported the lack of implementation of the Land Titles Clarification Act in Nova Scotia, which should assist people of African descent in obtaining titles to the lands on which they live. The Act was passed in Nova Scotia in 1963 to create a process to assist with the clarification of land title and land ownership issues for residents living in 13 specific communities in Nova Scotia. For historic and systemic reasons, there was a lack of land ownership documentation for the residents of those areas and communities, many of whom are African Nova Scotian. The Act was intended to provide a simpler and inexpensive mechanism to obtain clarification of land titles. Under the Act, a certificate of title is issued to applicants who can show that they used and occupied the land claimed for at least 20 years. The process provides for notice to be given to the community and issues such as competing ownership claims and unsettled boundaries to be resolved before a certificate can be issued. (See Report of the Working Group of Experts on People of African Descent - visit to Canada from 17 to 21 October 2016, A/HRC/36/60/Add.1).*
- Ecuador is another example of a systemic lack of access to land title and land rights. There, the Committee on the Elimination of Racial Discrimination recommended to guarantee the full and effective enjoyment by indigenous and Afro-Ecuadorian peoples of their rights over

and exploitation as development spreads into territories where these communities have always lived.²⁸ With the assistance of the State, the displacement of people of African descent from ancestral lands in the name of development a racialized criminalization.²⁹ Although these communities are tied to the land as a key resource, the lack of regularization of their rights to the land creates vulnerability and precarity.³⁰ Thus, human rights demands both consultation and consent of impacted communities as a part of the development process, not as an obstacle to be evaded.³¹

SDG2. END HUNGER, ACHIEVE FOOD SECURITY AND IMPROVED NUTRITION AND PROMOTE SUSTAINABLE AGRICULTURE

- Right to adequate food [UDHR art. 25; ICESCR art. 11; CRC art. 24(2)(c)]
- International cooperation, including ensuring equitable distribution of world food supplies [UDHR art. 28; ICESCR arts. 2(1), 11(2)]

2.1 States should take all necessary steps to eradicate undernourishment and ensure that people of African Descent effectively benefit from the right to food, recognizing disproportionate risk exists for people of African descent in this regard.

2.2 States should ensure that people of African descent do not experience food insecurity, recognizing disproportionate risk exists for people of African descent in this regard.

2.3 States should take all necessary steps to ensure that children of African descent under 5 years are equally included in the policies aimed at ending all forms

the lands, territories and natural resources that they occupy or use. *See CERD, Concluding Observations (Ecuador).*

- ²⁸ The Working Group has observed this in country visits and monitoring of the situation. For example, in Columbia, many Afro-Colombians community leaders have faced repeated death threats following their call for their ancestral land rights and to prevent the exploitation of their territories by outside mining interests, including multinational mining companies. The Working Group has called on the authorities to take concrete and urgent measures to protect the Afro-Colombian communities. UN expert group alarmed by increasing violence toward people of African descent in Colombia, GENEVA (13 June 2016).
A study by the U.S. Department of Agriculture shows that Black farmers own less than 3 million acres of farmland and comprise less than 1 per cent of all U.S. farmers. Moreover, of all private U.S. agricultural land, whites account for 96 per cent of the owners, 97 per cent of the value, and 98 per cent of the acres. (See Ahmed N. Reid, *A framework for the Declaration for the rights people of African Descent*, 22nd Session UN WGEPAD, on March 20, 2018.). In Canada, despite a Land Reform Act, most African Nova Scotians lack title to the lands they have lived on for centuries.
- ²⁹ “[R]acialized criminalization of indigenous peoples and people of African descent is now a commonplace strategy that Governments and corporate actors use to suppress and eliminate opposition to extractives projects that are pursued without consultation or consent from the affected communities.” *See* Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, *Global Extractivism and Racial Equality*.
- ³⁰ For example, in Argentina, the Working Group also urged the Government to introduce quotas for Afro-Argentines by way of land and land tenure rights for them. From a reparatory approach, land rights must be guaranteed for Afro-Argentines. The Working Group noted that government lands may be dealt with more easily than privately owned land in this regard. For private land, agrarian or land reform must be implemented with people of African descent as the beneficiaries. Afro-Argentines should come into ownership of land, a vital resource to which their lives are intimately bound. Support services must accompany the land transfer to enable Afro-Argentines to maximize their productive use of the land. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 82, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019).
- ³¹ The Inter-American Court of Human Rights in the *Saramaka People vs. Suriname* case recommended that in situations where communities agree to outside use of their land and resources, such concessions should respect: (1) Effective participation of the respective community, including prior consent; (2) Distribution of benefits in reasonable shares between the state and the community; and (3) Prior assessment of the environmental and social impact in the community’s territory.

of malnutrition, recognizing disproportionate risk exists for people of African descent in this regard.

2.4 States need to address the nutritional needs of adolescent girls, pregnant and lactating women as well as older person of African Descent on the same basis as the other members of the society, recognizing disproportionate risk exists for people of African descent in this regard.

2.5 Where necessary, special programs and measures should be implemented if people of African Descent constitute a part of the society which is particularly affected by malnutrition.

2.6 States should make sure that the increase in agricultural productivity and incomes of small-scale producers of African Descent meet the target set in goal 2.3 of the SDG 2.

2.7 It is of paramount importance that people of African descent are provided – without any discrimination – a secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment.

2.8 States should ensure that people of African descent are able to benefit from food production systems and resilient agricultural practices that increase productivity and production, help maintain ecosystems and meet other criteria of sustainable agriculture.

COMMENTARY ON SDG 2 | RIGHT TO FOOD

While hunger, malnutrition, and food insecurity are of serious concern globally,³² people of African descent experience hunger, food insecurity, and are denied

³² Global statistics showed that in 2015, 16,000 children aged under five died every day. Malnutrition was the underlying contributing factor in about 45 per cent of all child deaths. 159 million children under the age of five suffered from stunted growth and 50 million suffer from severe acute malnutrition, most of them in developing countries. Access to basic health services, including children's health care, as well as adequate mental health services, remained a luxury in many places. *See* 30th anniversary of the adoption of the Declaration on the Right to Development by the UN General Assembly on 4 December 1986, 2 December 2016.

The Universal Declaration on the Eradication of Hunger and Malnutrition adopted on 16 November 1974 by the World Food Conference recognizes that “the elimination of hunger and malnutrition, included as one of the objectives in the United Nations Declaration on Social Progress and Development, and the elimination of the causes that determine this situation are the common objectives of all nations; the situation of the people afflicted by hunger and malnutrition arises from the historical circumstances, especially social inequalities, including in many cases alien and colonial domination, foreign occupation, racial discrimination, apartheid and neo-colonialism in all its forms, which continue to be among the greatest obstacles to the full emancipation and progress of the developing countries and all the peoples involved.” The Conference further calls upon “all peoples expressing their will as individuals and through their Governments, and non-governmental organizations, to work together to bring about the end of the age-old scourge of hunger.” *See* Universal Declaration on the Eradication of Hunger and Malnutrition, Adopted on 16 November 1974 by the World Food Conference convened under General Assembly resolution 3180 (XXVIII) of 17 December 1973; and endorsed by General Assembly resolution 3348 (XXIX) of 17 December 1974.

SDG2 has also embedded into article 11 of the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), which recognizes the right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions, the fundamental right to be free from hunger, and urges States Parties to take effective measures to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in order to achieve the most efficient development and utilization of natural resources and to ensure an equitable distribution of world food supplies in relation to need. *See* International Covenant on Economic, Social and Cultural Rights, art.11, adopted and opened for signature, ratification

investment at disproportionate rates. As the Durban Declaration sets forth, the disproportionate malnourishment and food insecurity relate to the legacies of colonization and the transatlantic trade in enslaved Africans.³³ People of African descent continue to be left behind, although the perception that aid programs are largely targeted to people of African descent persist. This directly contradicts human rights, the SDGs, and the obligation of social protection.³⁴ States have the obligation to develop policy and planning tools to redress inequalities and inadequate food and/or food security in communities within their jurisdictions.³⁵

Various instruments suggest that an impact analysis must inform all efforts to achieve SDG 2, understanding that the ways in which people of African descent face food insecurity may result from disparities in political power or wealth, or even disinterest, by decision-makers and power brokers.³⁶ However, perpetuating food insecurity in an ongoing choice to ignore the ways in which African labor, bodies, and resources are exploited with less regard for the instability and insecurity this creates. In implementing SDG 2, it is necessary to consider how the need for corrective measures may be grounded in the legacies of colonization and exploitation to understand what durable and meaningful solutions really look like.

COMMENTARY ON SDG 2.1 | ERADICATE UNDERNOURISHMENT AMONG PEOPLE OF AFRICAN DESCENT

Although the natural resources, labor, and trade patterns of the modern global economy owe a considerable debt to Africa and Africans, the exploitation of African land bodies, and resources has left food insecurity and hunger to be a particular, recognizable, and disproportionate feature of surviving populations of African descent globally, including in very wealthy States in Europe and the Americas.³⁷ In addition, the crisis of hunger in developing nations has an apparent connection to the

and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27

- ³³ The Durban Declaration and Programme of Action: Recognizes that these 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. The Conference 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, in the following areas... Agriculture and food security; *See* Durban Declaration and Programme of Action at Paragraph 158.
- ³⁴ ICESCR art. 11 (2) (a) The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.
- ³⁵ For example, in the universal periodic review process, Panama was asked to draw up an effective and appropriate policy framework and institutional mechanism to fight hunger, food insecurity and inequality in income distribution (A/HRC/16/6, para. 69). (*See* Report of the Working Group of Experts on People of African Descent - visit to Panama, 14 and 18 January 2013, A/HRC/24/52/Add.2).
- ³⁶ States should take efforts to ensure the equal and adequate distribution of food supplies to cut down food insecurity and malnutrition among people of African Descent. [ICESCR art. 11 (2) (b)].
- ³⁷ In the United States, African Americans face hunger at a rate more than twice as high as that for white Americans. In the United States, the Working Group observed that, in many communities, African Americans had limited access to varied and healthy foods, as they lived disproportionately in poor neighbourhoods with food outlets selling unhealthy and even expired foods. In the United States, African Americans have the highest rates of obesity, which is linked to “food deserts”. *See* Report of the Working Group of Experts on People of African Descent - visit to United States of America, 19-29 January 2016, (A/HRC/33/61/Add.2)

exploitation of African and diaspora people, land, and resources, beginning with the trade and trafficking in enslaved Africans but continuing today.³⁸

COMMENTARY ON SDG 2.2 | NO FOOD INSECURITY FOR PEOPLE OF AFRICAN DESCENT

The historical context has produced real challenges in food security for people of African descent, despite heavy concentrations of natural resources on the continent of Africa. This also offers insight to how these inequalities in food security are perpetuated. The Durban Declaration urges implementation of “effective remedies, recourse, redress, and other measures at the national, regional and international levels” in the context of the specific and ongoing impact to populations of people of African descent, including with respect to food security. *Id.* See also Durban Decl. at para. 109 (noting food security must also achieve equity for victims of racism).

COMMENTARY ON SDG 2.5 | SPECIAL MEASURES FOR MALNOURISHED COMMUNITIES

Where people of African descent are cognizable as a community suffering from malnutrition or food insecurity, States have the obligation to develop policy and planning tools to offer special attention and to ensure social protection.³⁹

COMMENTARY ON SDG 2.8 | ACCESS TO RESILIENCY, ACCESS TO PRODUCTIVITY-ENHANCING MEASURES

In many places, people of African descent rely on long-outdated agricultural practices and food production systems.⁴⁰ A holistic review of the impact of private and public innovation to ensure they augment, rather than undermine, food security in the communities where they operate could impact food security for people of African descent greatly.

SDG3. ENSURE HEALTHY LIFE AND PROMOTE WELL-BEING FOR ALL AT ALL AGES

- Right to life [UDHR art. 3; ICCPR art. 6], particularly of women [CEDAW art. 12] and children [CRC art. 6]

³⁸ For example, in Brazil, food insecurity remains a particularly serious issue for Afro-Brazilians; 43 per cent experienced food insecurity compared to 24 per cent of white Brazilians. (See Report of the Working Group of Experts on People of African Descent - visit to Brazil, 3-13 December 2013, A/HRC/27/68/Add.1). In Haiti, one of the highest rates of hunger in the world (40 percent of households undernourished, 30 percent of children suffer from chronic malnutrition), offers evidence of severe economic reprisals following its achievement of independence.

³⁹ The FAO promulgated voluntary Right to Food Guidelines in 2006. Guideline 13, Support for vulnerable groups, sets forth State obligations to identify groups and households particularly vulnerable to food insecurity, identify the reasons for food insecurity and what corrective measures exist, “systematically undertake disaggregated analysis on the food insecurity, vulnerability and nutritional status of different groups in society, with particular attention to assessing any form of discrimination that may manifest itself in greater food insecurity and vulnerability to food insecurity,” establish transparent, non-discriminatory eligibility criteria for assistance, and to understand the decision-making roles women play in household food security. *See* FAO Right to Food Guideline 13.

⁴⁰ For example, in Peru, the Working Group spoke with agricultural producers of African descent without access to modern irrigation, equipment to harvest or store rainwater, or any advanced production technology. This left these communities vulnerable to extreme weather conditions, drought, and even minor variations in rainfall from season to season. Without state investment or support, these communities remained food insecure despite being technically able to produce their own food on arable land.

- Right to health [UDHR art. 25; ICESCR art. 12], particularly of women [CEDAW art. 12]; and children [CRC art.24]
- Special protection for mothers and children [ICESCR art.10]
- Right to enjoy the benefits of scientific progress and its application [UDHR art. 27; ICESCR art. 15(1) (b)]
- International cooperation [UDHR art. 28, DRtD arts. 3-4], particularly in relation to the right to health and children's rights [ICESCR art. 2(1); CRC art. 4]

3.1 States should provide reliable data regarding maternal mortality and proportion of births attended by skilled health personnel, within the Afro-descendant population. States should ensure that efforts aimed at decreasing maternal mortality are effective within the Afro-descendant population. Specific programmes to this effect should be implemented. States should support participatory qualitative data collection and analysis that allows communities to play a role in designing and implementing culturally sensitive health programs focused on decreasing maternal mortality. States should provide timely and reliable data on the number of health providers including skilled midwives with cultural sensitivity training to respond to the specific needs of communities of people of African descent. States must create standardized health assessments designed for pregnant women of African descent. When necessary, States should be set up and fund maternal, perinatal and neonatal death surveillance and response mechanisms, with the active participation of concerned PAD communities.

3.2 Specific programmes might be required to further decrease neonatal and under-five mortality rate within Afro-descendant population.

3.3 Specific programmes might be required to further decrease the incidents of disease within Afro-descendant populations.

3.4 Special attention should be paid to programmes promoting education in the sphere of disease prevention, especially the improvement of medical services.

3.5 Where required, States should enforce specifically designed programmes of vaccinations.

3.6 States are encouraged to introduce programmes specifically designed for people of African Descent in order to reduce premature mortality from non-communicable diseases.

3.7 States are encouraged to introduce programmes aimed at reducing suicide mortality rate among people of African Descent.

3.8 In this regard, special attention should be paid to programmes enhancing medical and psychological care for those affected by mental conditions and disorders. Attention should be given to the integration of mental health care for Afro descendent women and girls, within the continuum of GBV prevention, treatment and response services.

3.9 States should implement programmes aimed at preventing and treating substance abuse within Afro-descendant populations.

3.10 Specific attention should be paid to easing re-entry for people returning from a period of incarceration or overcoming substance use disorders to re-integrate with other members of the society through adequately designed programmes facilitating re-entering into labour market and full participation in the life of the community.

3.11 States should ensure that specific programmes aimed at reducing death rate due to road traffic injuries are effective within Afro-descendent populations.

3.12 States should ensure that Afro-descendant populations are fully and effectively entitled to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes. States must train providers to address racism and build a more diverse health care workforce which includes People of African Descent. States must ensure that women and girls of African

Descent are not disproportionately affected by preventable maternal mortality and morbidity, by ensuring unimpeded access to maternal care services which are available, accessible, acceptable and of quality, at the primary health-care level, as part of Universal Health Coverage. States must offer women and girls of African Descent information, including the development of knowledge and skills, to make informed choices on their own health and to seek remedies for human rights violations occurring in their interactions with health systems. States should identify barriers and introduce mitigating strategies that allow women of African Descent to access maternal mental health services, including in humanitarian situations.

3.13 States should take appropriate steps to ensure that people of African Descent are fully and effectively included in the schemes of universal health coverage and the public health system.

3.14 States must ensure that the coverage of essential health services for people of African Descent is guaranteed in law and practice without any discrimination. In the event of inadequacies, specific programs should be implemented to provide Afro-descendant populations with all essential health services.

3.15 States must ensure that people of African Descent are not exposed to hazards referred to in Goal. To this end, implementing specific programmes and taking appropriate action might be necessary.

3.16 States should eradicate all forms of environmental racism and ensure that Afro-descendant populations live in areas free from environmental hazards.

3.17 States should ensure that appropriate programmes aimed at discouraging tobacco use and encourage non-smoking are implemented and bring expected results within Afro-descendant populations.

3.18 States should implement specific programmes to ensure that people of African Descent have full access to affordable medicines and vaccines.

3.19 States should ensure that people of African Descent may benefit from the services of health workers whenever necessary.

3.20 States should ensure that the health workforce includes people of African Descent.

3.21 States should ensure that IHR capacity and health emergency preparedness sufficiently and adequately address the needs and situation of people of African Descent.

3.22 States should acknowledge the devastating impact of their methods on people of African descent, and amend them as necessary to fight the world drug problem.

COMMENTARY ON SDG 3 | RIGHT TO HEALTHY LIFE

People of African descent experience a lower standard of living in many countries. This implicates their right to life and social protection profoundly.⁴¹ The targets and WGEPAD Guidelines in the area of SDG 3 are set forth in the Durban Declaration

⁴¹ The Inter American Court of Human Rights concluded in relation with the right to an adequate standard of living that: The right to life is a fundamental human right, and the exercise of this right is essential for the exercise of all other human rights. If it is not respected, all rights lack meaning. Owing to the fundamental nature of the right to life, restrictive approaches to it are inadmissible. In essence, the fundamental right to life includes, not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence. States have the obligation to guarantee the creation of the conditions required in order that violations of this basic right do not occur and, in particular, the duty to prevent its agents from violating it. *Case of the "Street Children" (Villagran-Morales et al.) v. Guatemala*.

and Programme of Action⁴² and are closely linked to universal standards concerning the right to life (Article 3 of the UDHR, Article 6 of the ICCPR) and health (Article 25 of the UDHR, Article 12 of the ICESCR). Particular focus was given to standards regarding health and well-being of women (Article 12 of CEDAW, Article 10 of the IESCR, as reflected in Guidelines 3.1 and 3.7), as well as children (Article 24 of the CRC, as reflected in Guideline 3.2). However, States should also take care to ensure that racially discriminatory decision-making and mindsets do not burden the right to health for people of African descent.⁴³ Civil society and the private sector also play important roles to assist social protection efforts aimed at guaranteeing the effective right to health.⁴⁴

⁴² The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa, from 31 August to 8 September 2001 urged States, individually and through international cooperation, to enhance measures to fulfil the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, with a view to eliminating disparities in health status, as indicated in standard health indexes, which might result from racism, racial discrimination, xenophobia and related intolerance. *See* Durban Programme of Action, para. 109. The Durban Declaration and Programme of Action instructs States to take measures to ensure the right of everyone to enjoy the highest attainable standard of physical and mental health, aiming at eliminating disparities in health status, which might result from racism, racial discrimination, xenophobia and related intolerance. *See* Durban Declaration and Programme of Action at Paragraphs 109. The Durban Declaration and Programme of Action further urges States and encourages non-governmental organizations and the private sector:

- (a) To provide effective mechanisms for monitoring and eliminating racism, racial discrimination, xenophobia and related intolerance in the health-care system, such as the development and enforcement of effective anti-discrimination laws;
- (b) To take steps to ensure equal access to comprehensive, quality health care affordable for all, including primary health care for medically underserved people, facilitate the training of a health workforce that is both diverse and motivated to work in underserved communities, and work to increase diversity in the health-care profession by recruiting on merit and potential women and men from all groups, representing the diversity of their societies, for health-care careers and by retaining them in the health professions;
- (c) To work with health-care professionals, community-based health providers, non-governmental organizations, scientific researchers and private industry as a means of improving the health status of marginalized communities, in particular victims of racism, racial discrimination, xenophobia and related intolerance;
- (d) To work with health professionals, scientific researchers and international and regional health organizations to study the differential impact of medical treatments and health strategies on various communities;
- (e) To adopt and implement policies and programmes to improve HIV/AIDS prevention efforts in high-risk communities and work to expand the availability of HIV/AIDS care, treatment and other support services; *See* Durban Declaration and Programme of Action at Paragraph 110.

⁴³ In addition, States should take special measures to ensure equality in dignity and rights for individuals and groups where necessary. Particular attention should be paid to social protection for racial or ethnic minorities, in particular in regard to housing, employment and health. *See* ECOSOC, Declaration on Race and Racial Prejudice (1978).

⁴⁴ The Mandate of the Working Group of Experts on People of African Descent (res. 9/14 of the Human Rights Council) explicitly refers to health systems in the context of liaising with financial and developmental institutional and operational programmes and specialized agencies of the United Nations, with a view to contribute to development programmes intended for people of African descent, by allocating additional investments. (HRC 9/14, para. 8(f)(iii)). The Durban Conference further urged States and encouraged non-governmental organizations and the private sector:

- (a) To provide effective mechanisms for monitoring and eliminating racism, racial discrimination, xenophobia and related intolerance in the health-care system, such as the development and enforcement of effective anti-discrimination laws;
- (b) To take steps to ensure equal access to comprehensive, quality health care affordable for all, including primary health care for medically underserved people, facilitate the training of a health workforce that is both diverse and motivated to work in underserved communities, and work to increase diversity in the health-care profession by recruiting on merit and potential women and men from all groups, representing the diversity of their societies, for health-care careers and by retaining them in the health professions;

The outbreak of the COVID pandemic in 2020 brought particular risks to the standards of healthy life and well-being for many vulnerable groups⁴⁵. It is imperative that people of African descent are not discriminated against in any actions aimed at fighting the pandemic and its aftermath.

COMMENTARY ON SDG 3.1 | DATA AND PROGRAMMING TO REDUCE MATERNAL MORTALITY

[ICESCR art. 12 (2) (a)] states should take measures to reduce the stillbirth-rate and infant mortality and to improve the health development of children.

Para. 27 of the Programme further stipulates:

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

COMMENTARY ON SDG 3.2 | REDUCE NEONATAL AND CHILD MORTALITY

Neonatal and child mortality is also racialized globally. Infant mortality rates of the Afro-descendants and the non-Afro-descendants also reflect inequality,⁴⁶ as does access to health related activities for youth.⁴⁷ Racial disparities in the accuracy of age assessment tests creates social protection gaps for youth of African descent.⁴⁸

COMMENTARY ON SDG 3.3 | REDUCE DISEASE

Intersectional populations, like migrants,⁴⁹ also require particular focus to target the intersectional racial discrimination that impacts their health.

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- (c) To work with health-care professionals, community-based health providers, non-governmental organizations, scientific researchers and private industry as a means of improving the health status of marginalized communities, in particular victims of racism, racial discrimination, xenophobia and related intolerance;
 - (d) To work with health professionals, scientific researchers and international and regional health organizations to study the differential impact of medical treatments and health strategies on various communities;
 - (e) To adopt and implement policies and programmes to improve HIV/AIDS prevention efforts in high-risk communities and work to expand availability of HIV/AIDS care, treatment and other support services. (DDPA, para. 110).

⁴⁵ “Leave no one behind” – Don’t forget your commitments in your response to the COVID-19 crises, UN expert urged States – joint press release of 9th April 2020.

⁴⁶ In Brazil, Colombia, Panama and Uruguay, Afro-descendent children were up to 1.6 times as likely to die before their first birthday as non-Afro-descendent children. Economic Commission for Latin America and the Caribbean (ECLAC), WGEPAD 24th Session on March 2019, First regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/6), p. 212, Santiago, 2019.

⁴⁷ In 2018, the Pan American Health Organization launched a health plan for the youth of African descent in Argentina. The plan is the result of efforts to create spaces for dialogue that promote and facilitate social participation in actions related to the health and well-being of the different ethnic groups that coexist in the Americas. (A/HRC/42/59/Add.2, para. 44).

⁴⁸ In Spain, for example, the Working Group expressed serious concern about the large number of unaccompanied children of African descent who are subject to age assessment tests, which are not considered accurate, and which in most cases leaves them with gaps in their protection. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Spain, para 37, U.N. Doc. A/HRC/39/69, (August 14, 2018).

⁴⁹ In Italy, racial discrimination continues to prevent access to health care. Migrants of African descent faced additional barriers in accessing health care and other services. Doctors allegedly

COMMENTARY ON SDG 3.4 | EDUCATION ON DISEASE PREVENTION

Although many conditions affecting people of African descent disproportionately are known and may be controlled through mitigation measures, communities are often unaware of well-established protocols and practices in this regard. Failure to educate communities on matters relevant to their health is a failure of social protection,⁵⁰ an implicit reinforcement of racialized decision making and ongoing systemic discrimination,⁵¹ and demonstrated inadequate commitment to public health. States should embrace the opportunity to share information and resources with impacted communities, allowing them to take control of their health and well-being with updated scientific understanding.

COMMENTARY ON SDG 3.5 | ENFORCE VACCINATION SCHEMES

As these guidelines are issued, the world is grappling with COVID-19. This has presented new and unprecedented challenges and credible concerns at vaccine development and access to potential treatments and therapies for people of African descent, who have been disproportionately hit by the pandemic. People of African descent face particular and extreme challenges in this regard, as racial disparities indicate, in developed and developing countries, exacerbating the risk that they will continue to be left behind.⁵²

COMMENTARY ON SDG 3.6 | REDUCE PREMATURE MORTALITY FROM COMMUNICABLE DISEASE

People of African descent experience chronic health conditions and morbidities, which some research has linked to the experiencing of chronic racial stress, cultural food practices developed in the context of leveraging what was available to maximize taste and flavor, and more.⁵³

often do not believe the statements of people of African descent and make wrong assumptions based on racial prejudice. Moreover, negative stereotypes and poor knowledge of certain diseases can lead to differential treatment of patients of African descent. The Working Group was informed that in some cases during the Ebola outbreak a combination of racial bias and ignorance led to discrimination and panic despite the fact that the Government had provided information and that, to prepare medical personnel, particularly on the Ebola outbreak, a network of hospitals capable of dealing with infectious diseases had been created. (A/HRC/33/61/Add.1, para. 60). In Argentina, the Working Group was also concerned at the reluctance of migrants of African descent to access health care centres and hospitals because of their non-regularized status. (A/HRC/42/59/Add., para. 44).

⁵⁰ See e.g., ICESCR art. 12 (2) (c) & (d).

⁵¹ ‘Education which is undoubtedly one of the most effective instrument to dismantle pervasive social constructions based on racial differentiation and to create a society based on pluralism, tolerance and respect, as well as to instil a tolerant and respectful mindset from an early age’ (A/64/295) Githu Muigai (citing to A/64/295), Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Working Group of Experts on People of African Descent 10th session 2011.

⁵² For a robust analysis, see the UN Working Group of Experts on People of African Descent’s recent thematic report, *COVID-19, systemic racism, and global protest*, A/HRC/45/44, September 2020 (<https://undocs.org/en/A/HRC/45/44>).

⁵³ For instance, in the United Kingdom, WGEPAD learned of the health inequalities affecting people of African descent, which included higher rates of diabetes and stroke among African Caribbean people, higher admission rates as mental health in-patients among people of African descent and high rates of HIV among Africans in the United Kingdom. A leading NGO has found that people of African descent in the United Kingdom are up to three times more likely than the general population to have Type 2 Diabetes. (A/HRC/24/52/Add.1, para. 49). The WGEPAD has also reported that African Canadians experience a high and disproportionate level of chronic health conditions such as hypertension, diabetes, HIV and AIDS, cancers, mental health problems and sickle cell disease. (A/HRC/36/60/Add.1, para. 64).

COMMENTARY ON SDG 3.8 | MENTAL HEALTH CARE

The experience of chronic racial stress alone has been found to contribute to mental health challenges, accrediting data suggesting that people of African descent should have access to safe, effective, and non-stigmatized mental health care.⁵⁴ In addition, the lack of long-term roots and belonging of having been involuntarily trafficked is an existential challenge many people of African descent continue to grapple with today.⁵⁵

COMMENTARY ON SDG 3.10 | RE-ENTRY PROGRAMS

In many countries, People of African descent were overwhelmingly impacted by mass incarceration, the War on Drugs, and carceral policies of recent decades, some of which continue today.⁵⁶ Meeting substance use disorders with criminal

In the United States, WGEPAD noted that a number of factors contributed to the disparities faced by African Americans in realizing the right to the enjoyment of the highest attainable standard of health, which included lack of access to health insurance coverage, lack of access to preventive services and care, and shortcomings related to a lack of diversity and of cultural competency among those giving the care. While the implementation of the Patient Protection and Affordable Care Act has led to 20 million people getting health insurance coverage, states with some of the widest health disparities in the country have rejected expansion of Medicaid, one of the main tools to cover the uninsured. Nine out of ten people who fall into the coverage gap live in the South, and black adults are more likely than any other racial group to be affected. (A/HRC/33/61/Add.2, para. 48) *See also* Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to USA, 19-29 January 2016, WASHINGTON D.C. (29 January 2016), showing that the adoption of the Patient Protection and Affordable Health Care Act has allowed 2.3 million African American adults to gain medical health insurance).

- ⁵⁴ Findings from large-scale national studies indicate that, while African Americans have a lower risk for many anxiety disorders, they have a 9.1 per cent prevalence rate for PTSD, compared to 6.8 per cent in Whites (Himle *et al.*, 2009). That means that almost one in ten Black people becomes traumatized. Rev. Dr. Karen Georgina Thompson, *The Trauma of Black Living*, 24th Session UN WGEPAD, on 27 March 2019; also citing to Malcoun, Williams, & Bahojb-Nouri, 2015.
- ⁵⁵ For many, psychological rehabilitation is also required to address the cultural rupture caused by the trans-Atlantic trade in Africans and European colonization, which impacts people of African descent today. Forced separation of Africans from their homelands resulted in cultural and social alienation from identity and existential belonging, something many people feel strongly in cultures where roots define identity and belonging. She emphasized the importance of revising history education, which represented a more liberating narrative of self, instead of what so many formerly colonized people had been taught. *See* Verene A. Shepherd, 14th Session of the Working Group, 2014, *Justice for People of African Descent through History Education: Addressing Psychological Rehabilitation*, p 1; Report of the Working Group of Experts on People of African Descent on its 14 session, paragraph 34, July 2014. (A/HRC/27/68).
- ⁵⁶ *See* WGEPAD, *Fight against world drug problem must address unjust impact on people of African descent*, say UN rights experts (March 14, 2019). "The pretext of fighting the world's drug problem has been used to justify excessive surveillance, criminalisation and the targeting of people of African descent worldwide. People of African descent are disproportionately penalised and denied access to treatment or alternatives to being locked up. This is despite the fact that people of African descent use, sell and traffic narcotics at rates similar to other racial groups, particularly in the West. "It has also not decreased trafficking or the use of narcotics worldwide, despite the enormous investment of resources over several decades. Important recent analyses demonstrate that the war on drugs has operated more effectively as a system of racial control than as a mechanism for combating the use and trafficking of narcotics." Globally, people of African descent experience discrimination at every stage of the criminal justice system and are more likely to be stopped, searched, arrested, convicted, and harshly sentenced including the use of the death penalty, for drug crimes. Higher arrest and incarceration rates are not reflective of increased prevalence of drug use, but rather law enforcement's focus on urban areas, lower income communities and communities of colour.)

prosecution removed individuals from community life and limited opportunities on re-entry. Yet, health has been shown to be linked to equal opportunity in employment and full participation, particularly for people who have been incarcerated⁵⁷ or outside society for a period of time, as these inequalities impact health and livelihood significantly.⁵⁸

COMMENTARY ON SDG 3.12 | SEXUAL AND REPRODUCTIVE HEALTH SERVICES

Intersectional populations also require particular focus to target the intersectional racial discrimination that impacts their health.⁵⁹ In many states, restrictions on access to sexual and reproductive health care are particularly extreme for women and persons of African descent. These may be financial, i.e., barriers to entry that people of African descent's disproportionately lower socioeconomic status may impact, or policy-driven, including the use of criminal prosecutions against women seeking reproductive health care or on the basis of their actions while pregnant or breastfeeding. These interventions into individual health are visibly targeted toward people of African descent in many states.

⁵⁷ The Working Group reported serious disadvantages faced by people of African descent, specifically, with criminal records or a history of incarceration face when re-entering their communities or accessing employment, housing, health, safety net programmes, or welfare assistance during its visit to the United States of America. For example, African Americans with criminal records are 50 per cent less likely to receive an interview request or job offer than individuals without criminal records. Furthermore, white men with a criminal record had more positive responses in job applications than African American men with no criminal record even when their work experience was the same. See WGEPAD, *Report of the Working Group of Experts on People of African Descent on its mission to the United States of America*, para 33, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016). See also *Criminal stigma, race, gender and employment: an expanded assessment of consequences of imprisonment for employment*. <https://csgjusticecenter.org/reentry/publications/criminal-stigma-race-gender-and-employment-an-expanded-assessment-of-consequences-of-imprisonment-for-employment>. The Federal Government has put in place some re-entry programmes to solve this problem. At the time, in 2016, the Working Group was informed that the federal U.S. Office of Personnel Management had modified its rules to delay inquiries into criminal history until later in the federal hiring process. See WGEPAD, *Report of the Working Group of Experts on People of African Descent on its mission to the United States of America*, para 34, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016).

This is also true in less developed countries. In Guyana, the Working Group visited Lusignan Prison, where the majority of inmates are Afro-Guyanese. Inmates were kept in appalling conditions not fit for human habitation. Overcrowding was a major concern. One cellblock built to accommodate 30 people housed more than 80 people, all of whom shared one shower and one toilet. The stench emanating from the landfill next to the cellblock combined with that from the stagnant water below and beside the cellblocks was unbearable. The unhygienic conditions of the prison and associated health risks are of serious concern. Although inmates with tuberculosis were held in a separate room within the prison facility, the measures were insufficient to prevent the spread of the disease to other people incarcerated at the facility. The wooden structure of the facility also poses a significant fire hazard. The Working Group found that the prison clearly fell short of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). No human being should be subjected to such dehumanizing conditions. WGEPAD, *Report of the Working Group of Experts on People of African Descent on its visit to Guyana*, para 22, U.N. Doc. A/HRC/39/69/Add. 1, (August 13, 2018).

⁵⁸ The Pan American Health Organization (PAHO) has noted the important link between health and work inequalities with respect to full participation in the community. See PAHO, *Just Societies Health Equity and Dignified Lives*. PAHO has recommended, among other things, to reduce rates of young people not in employment, education, or training, especially women of African descent and Indigenous peoples.

⁵⁹ For example, in Portugal, the Working Group noted that youth pregnancy was a big problem for many migrant communities, including migrants of African descent, and that migrant teenagers needed education and resources for avoiding unwanted pregnancy. The WGEPAD was also informed that there are insufficient information campaigns on human immunodeficiency virus (HIV) and other health issues directed at migrants. Such campaigns would assist immigrants of African descent in understanding these issues and how to gain access to treatment when necessary. (A/HRC/21/60/Add.1, para. 36)

COMMENTARY ON SDG 3.13 | INCLUSION IN PUBLIC HEALTH SYSTEM AND UNIVERSAL HEALTH COVERAGE

Even in very developed countries, people of African descent faced barriers to access health care.⁶⁰ In some states, regional variation played a large role in the ways in which people of African descent were able to access health care.⁶¹ However, access to health care faces many varied barriers.⁶²

COMMENTARY ON SDG 3.14 | NON-DISCRIMINATION IN ACCESS TO HEALTH SERVICES

Racial discrimination also serves as a significant barrier to accessing health services for people of African descent.⁶³ The CERD addressed the obligation of States party in its General Recommendation 34.⁶⁴ The Working Group has observed this in its country visits globally.⁶⁵

⁶⁰ In Sweden, marginalized communities raised concerns about accessing health-care services on account of discrimination, costs of services, or because services do not respond adequately to cultural considerations. WGEPAD received reports that health clinics, banks and other essential services were being pulled out of some “ethnic” neighbourhoods. *A/HRC/30/56/Add.2*, para. 82.

⁶¹ In Italy, the Working Group’s country visit in 2015 revealed gaps in accessing the right to health and variances among the regions in providing health services. In the Lombardy region, for instance, while emergency health care is given to undocumented migrants, longer term health care such as that for cancer, is not similarly available. Statement to the media by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to Italy, 1-5 June 2015, Rome, 5 June 2015.

⁶² The “low level of assistance to a medical center of [Afro-descendants] could be due to any number of factors, such as the lack of availability, or accessibility, quality of the service, or acceptability. Carlos Quesada, WGEPAD 20th session, April 2017, Leaving no one behind, people of African descent and the Sustainable Development Goals.

⁶³ For example, in its 2018 country visit to Spain, the Working Group noted pervasive barriers for people of African descent to access their right to health comprehensively. The WGEPAD noted that, “[p]eople of African descent should have access to health care whenever necessary. The provision of universal health coverage and access to the public health system should be assured without any discrimination on any ground, including citizenship and ethnicity. The Government should ensure that health professionals are trained to handle cases of female genital mutilation, bearing in mind the right to privacy of patients. The Government should ensure that migrants and asylum seekers who cannot speak Spanish are assisted in the health-care system.”

Similarly, The Pan American Health Organization (PAHO) has reported that indigenous peoples and people of African descent in the Americas are subject to multiple disadvantages implicating their health, and recommended people of African descent and Indigenous communities should be included in law-making and in decisions-making affecting their lives to promote equitable access to public services. See PAHO, *Just Societies: Health Equity and Dignified Lives*.

⁶⁴ The Committee on the Elimination of Racial Discrimination instructed State parties to the ICERD to “[e]nsure equal access to health care and social security services for people of African descent” and to “[i]nvolve people of African descent in designing and implementing health-based programmes and projects.” See CERD General Recommendation No. 34 (2011), paras. 55-56.

⁶⁵ In Sweden, marginalized communities also raised concerns about accessing health-care services on account of discrimination or because services do not respond adequately to cultural considerations. WGEPAD received reports that health clinics, banks and other essential services were being pulled out of some “ethnic” neighbourhoods. (*A/HRC/30/56/Add.2*, para. 82). For example, in Spain, WGEPAD noted a deterioration in medical care, including disruption to the adequate follow-up of chronic and serious ailments, and the loss of effective prevention programmes. Women who did not have a health card and had become victims of gender-based violence and trafficking were particularly vulnerable, owing to the restrictions in the provision of health care and these included significant numbers of women of African descent. (*A/HRC/39/69/Add.2*, para. 44).

COMMENTARY ON SDG 3.22 | ENSURE COUNTER-NARCOTICS EFFORTS RESPECT COMMUNITIES OF AFRICAN DESCENT

With respect to counter-narcotics efforts, as the UN Special Procedures news release on 14 March 2019 noted, “the global war on drugs has disproportionately targeted people of African descent and disregarded the massive costs to the dignity, humanity and freedom of individuals.” *See* Fight against world drug problem must address unjust impact on people of African descent, say UN rights experts, Geneva (14 March 2019). States must address the racial discrimination in enforcement of drug laws, systemic and race-based denial of human rights, and ongoing acceptance of stark racial disparities in prosecution and incarceration that are not commensurate with actual rates of trafficking or use of narcotics or other legitimate criminal justice priorities.

SDG4. ENSURE INCLUSIVE AND EQUITABLE QUALITY EDUCATION AND PROMOTE LIFELONG LEARNING OPPORTUNITIES FOR ALL

- Right to education [UDHR art. 26; ICESCR art. 13], particularly in relation to children [CRC arts. 28, 29]; persons with disabilities [CRC art. 23(3), CRPD art. 24]; and indigenous peoples [UNDRIP art. 14]
- Equal rights of women and girls in the field of education [CEDAW art. 10]
- Right to work, including technical and vocational training [ICESCR art. 6]
- International cooperation [UDHR art. 28; DRtD arts. 3-4], particularly in relation to children [CRC arts. 23(4), 28(3)], persons with disabilities [CRPD art. 32], and indigenous peoples [UNDRIP art.39]

4.1 States should ensure access to education and promote access to new technologies that would offer Africans and people of African Descent, in particular women and children, adequate resources for education, technological development and long-distance learning in local communities.

4.2 In particular, States should promote the full and accurate inclusion of the history and contribution of Africans and people of African descent in the education curriculum.

4.3 States should ensure that quality education is accessible and available in areas where communities of African descent live, particularly in rural and marginalized communities, with attention to improving the quality of public education.

4.4 States should take measures to ensure that public and private education systems do not discriminate against or exclude children of African descent, and that they are protected from direct or indirect discrimination, negative stereotyping, stigmatization and violence from peers or teachers; to this end, training and sensitization should be provided to teachers and measures should be taken to increase the number of teachers of African descent working in educational institutions.

45. States should ensure that all children of African Descent have access to quality care and pre-primary education without any discrimination.

The WGEPAD welcomed the universal health-care system in Argentina, but was informed that some people of African descent experienced racial discrimination in accessing services. (A/HRC/42/59/Add.2, para. 44). In Panama, civil society representatives indicated that the health inequalities suffered by people of African descent were due to their limited access to health services and appropriate information and advice. The situation was exacerbated by social factors such as their social capital as well as by economic factors. They highlighted that those who were able to visit health-care centres often chose not to because of the racist attitudes and mistreatment they encountered there. (A/HRC/24/52/Add.2, para. 41).

- 4.6 States should ensure that people of African Descent can benefit from affordable and quality technical, vocational and tertiary training, including university.
- 4.7 States should ensure that educational system provides people of African Descent with relevant skills for employment, decent jobs and entrepreneurship.
- 4.8 States should incorporate a gender perspective in all programmes of action against racism, racial discrimination, xenophobia and related intolerance and to consider the burden of such discrimination which falls particularly on African women, and women of African descent, and ensuring their access to the resources of production on an equal footing with men, as a means of promoting their participation in the economic and productive development of their communities.
- 4.9 State must ensure that adequate programmes are in place to achieve literacy and numeracy among Afro-descendant population.
- 4.10 States should ensure that the knowledge and skills needed to promote sustainable development are accessible for people of African Descent without any discrimination.
- 4.11 States must ensure that education facilities attended by children of African Descent meet all necessary criteria such as being child, disability, and gender sensitive and providing safe, non-violent, inclusive and effective learning environment.
- 4.12 It is expected that States will substantially expand the number of scholarships available for people of African Descent coming from developing countries.
- 4.13 States should ensure that people of African Descent are sufficiently present among qualified teachers at all levels of education.

COMMENTARY ON SDG 4 | INCLUSIVE AND EQUITABLE EDUCATION

Education is recognized as a principal means to improve access to human rights and reduce poverty,⁶⁶ and there is broad recognition that the potential of children of African descent is stolen through unequal educational opportunities, inadequate teaching, schools that do not provide safe learning environments, and curricula that problematize race, rather than reflecting the history and contributions of people of African descent.⁶⁷ The targets and the WGEPAD guidelines in the area of the SDG 4

⁶⁶ According to the World Bank, education reduces the probability of poverty in Afro-descendant households. “Completing primary education can reduce the likelihood of Afro-descendants being poor by over 9 percent in Brazil, while completing secondary and tertiary education can reduce it by 16 percent and 23 percent respectively. In Colombia, Ecuador, Peru, and Uruguay, completing tertiary education can reduce the likelihood of Afro-descendants being poor by between 21 percent and 31 percent.” See 24th Session UN WGEPAD on March 2019, World Bank, Afro-descendants in Latin America: Toward a Framework of Inclusion, page 23.

⁶⁷ The Committee on the Elimination of Racial Discrimination (CERD) General Recommendation No. 34 invites State parties to the ICERD to: “Review all the language in textbooks which conveys stereotyped or demeaning images, references, names or opinions concerning people of African descent and replace it with images, references, names and opinions which convey the message of the inherent dignity and equality of all human beings,” “Ensure that public and private education systems do not discriminate against or exclude children based on race or descent,” “Take measures to reduce the school dropout rate for children of African descent,” “Consider adopting special measures aimed at promoting the education of all students of African descent, guarantee equitable access to higher education for people of African descent and facilitate professional educational careers,” “Act with determination to eliminate any discrimination against students of African descent,” and “Include in textbooks, at all appropriate levels, chapters about the history and cultures of peoples of African descent and preserve this knowledge in museums and other forums for future generations, encourage and support the publication and distribution of books and other print materials, as well as the broadcasting of television and radio programmes about their

draw from universal standards enshrined in Article 26 of the UDHR, Article 5 of International Convention on the Elimination of All Forms of Racial Discrimination and Article 13 of the ICESCR, particularly in relation to children (Article 28 and 29 of the CRC), persons with disabilities (Article 23(3) of the CRC) and indigenous peoples (Article 14 of UNDRIP).

COMMENTARY ON SDG 4.1 | ACCESS TO NEW TECHNOLOGIES

Students of African descent must have access to new and innovative technologies in order to learn the skills and develop their capacities toward the needs of the workforce and their communities today. This was one focus of the Durban Declaration and Programme of Action.⁶⁸ In its country visits, the Working Group has had the opportunity to see how different States have approach this obligation thus far.⁶⁹ There is a critical need to ensure that children of African descent, whose schools often have lesser resources, funding, and attention, may have equal access to important job skills in today’s economy and educational and research institutions. In addition, and particularly in the current climate, the ability to access remote, distance learning is of critical importance for students of African descent.

COMMENTARY ON SDG 4.2 | HISTORY AND CONTRIBUTIONS OF PEOPLE OF AFRICAN DESCENT IN SCHOOL CURRICULUM

Education has a critical role to be play in the process of mental liberation and symbolic decolonization. As the Durban Declaration and Programme of Action makes clear, the legacies of colonialism have proven difficult to dislodge.⁷⁰

history and cultures.” See CERD, “Racial discrimination against people of African descent,” General Recommendation No. 34 (2011).

⁶⁸ The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001, included focus on the obligation of States to ensure access to education and promote access to new technologies that would offer African and people of African descent, in particular women and children, adequate resources for education, technological development and long-distance learning in local communities, and further urged States to promote the full and accurate inclusion of the history and contribution of Africans and people of African descent in the education curriculum. See Durban Declaration and Programme of Action, para. 10.

⁶⁹ In Panama, the Government informed the Working Group that every school receives an annual budget of US\$ 40 per student to provide school materials and computers for all those in secondary education. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Panama, para 31, U.N. Doc. A/HRC/24/52/Add.2, (August 21, 2013).

Since 2002, in Belgium the Flemish government has implemented a programme for monitoring and overseeing equality of opportunity in education by giving priority treatment to classes with disadvantaged children. While these measures do not apply specifically to persons of foreign origin, they nevertheless recognize the priority needs of those pupils for whom Dutch is not the native language. Reception classes are organized for the newly arrived individuals, and the goal is to ensure integration into the Flemish society by means of learning the common language. When the newly arrived migrants are over school age, and non-EU citizens, they are required to participate in an “integration process” which has at its core the learning of the local language as a first step towards full participation in society. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 25, U.N. Doc. E/CN.4/2006/19/Add.1, (February 9, 2006).

⁷⁰ The Programme of activities for the implementation of the International Decade for People of African Descent (res. A/RES/69/16 adopted by the General Assembly on 18 November 2014) refers to education both under its “Recognition” as well as its “Development” pillars. Under the “Recognition” pillar (b) Education on equality and awareness-raising para.12. “States should inter alia:

(c) Promote greater knowledge and recognition of and respect for the culture, history and heritage of people of African descent, including through research and education, and promote full and accurate inclusion of the history and contribution of people of African descent in educational curricula;

Education ministries and other authorities have a key responsibility to ensure their textbooks, curricula, and perspectives embed comprehensive and truthful accounts of the history, including in recognition of the struggles and the quests for liberation of people of African descent.⁷¹ As for the textbook and some other educational materials, educators and publisher have a responsibility to ensure that they accurately reflect historical facts on tragedies and atrocities, in particular slavery, the transatlantic trade in African people, and colonialism. In many countries, these important historical markers are erased or whitewashed.⁷² The Working Group has also highlighted good practices of redress and commitments to historical accuracy.⁷³

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- (d) Promote the positive role that political leaders and political parties, leaders of religious communities and the media could further play in fighting racism, racial discrimination, xenophobia and related intolerance by, inter alia, publicly recognizing and respecting the culture, history and heritage of people of African descent;⁷⁰
 - (e) Raise awareness through information and education measures with a view to restoring the dignity of people of African descent, and consider making available the support for such activities to non-governmental organizations;
 - (f) Support education and training initiatives for non-governmental organizations and people of African descent in the use of the tools provided by international human rights instruments relating to racism, racial discrimination, xenophobia and related intolerance;
 - (g) Ensure that textbooks and other educational materials reflect historical facts accurately as they relate to past tragedies and atrocities, in particular slavery, the slave trade, the transatlantic slave trade and colonialism, so as to avoid stereotypes and the distortion or falsification of these historical facts, which may lead to racism, racial discrimination, xenophobia and related intolerance, including the role of respective countries therein, by:
 - (i) Supporting research and educational initiatives;
 - (ii) Giving recognition to the victims and their descendants through the establishment of memorial sites in countries that profited from and/or were responsible for slavery, the slave trade, the transatlantic slave trade and colonialism and past tragedies where there is none, as well as at departure, arrival and relocation points, and by protecting related cultural sites. (A/RES/69/16, para. 12)

⁷¹ During the visit to Netherland, the Working Group found that Zeeland Archives urged the Government to ensure the educational tools among schools, and at all levels in society, for breaking the silence about the country's role in the slave trade, which perpetuates the invisibility of people of African descent. The Working Group met members of civil society who raised concerns about the measures taken in the wake of the economic crisis at the time, which are having a particularly devastating impact on the fight against racism and discrimination. Financial cutbacks led to significantly reduced funding for civil society organizations, including those working on important research projects into racism, which are invaluable for designing policy and programmes to address concerns of people of African descent. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Netherland, para 68, U.N. Doc. A/HRC/30/56/Add.1, (July 20, 2015).

⁷² The history of the transatlantic slave trade, African enslavement and colonialism remains absent from education curricula in some states, like the Netherlands and Italy. *See* Statement by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to the Kingdom of the Netherlands, 26 June-4 July 2014, The Hague, 4 July 2014. *See also* Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Italy, 1-5 June 2015, Rome, 5 June 2015 (stating that the lack of knowledge of the history of the Italian slave trade, its colonial past, and of the cultures of Africa is contributing to modern day racism).

Following its 2017 visit to Guyana, the WGEPAD recommended the government: "review and ensure that textbooks and other educational materials reflect historical facts accurately and adequately as they relate to past tragedies and atrocities, such as enslavement, trade in enslaved Africans and colonialism. School curricula should also serve to promote interracial harmony and respect for the traditions and cultures of the different ethnic groups living in Guyana." Report of the Working Group of Experts on People of African Descent of its Mission to Guyana (para. 50)

⁷³ For example, the Working Group recommended that the example set by Norwalk School District in Connecticut should be followed across the US and other countries. The "Connecticut Adventure" was being studied by pupils aged nine and ten until district officials removed it on the grounds that its depiction of slavery was inaccurate, simplistic and offensive as the book said enslaved people in Connecticut were treated like family members, "taught to be Christian," and sometimes taught how to read and write. *See UN human rights*

COMMENTARY ON SDG 4.3 | ACCESS TO QUALITY PUBLIC EDUCATION

The right to education absolutely requires quality public education, as the Durban Declaration and Programme of Action acknowledges.⁷⁴ Yet, children of African descent are routinely denied access to quality public education in varied ways.⁷⁵ Students living in rural areas struggle to access updated methods and skills.⁷⁶ In some states, schools are not safe spaces but instead require students to traverse metal detectors, lack of books and desks, and a police presence in schools that has been proven to drive up the prosecution rates of children.⁷⁷ In some cases, schools are more focused on discipline, than learning, and children of African descent face high

expert panel backs US schools over ban on “offensive” slavery textbook, Geneva (5 January 2017).

⁷⁴ Under the “Development” head the Programme of activities stipulates that States should take all necessary measures to give effect to the right of people of African descent, particularly children and young people, to free primary education and access to all levels and forms of quality public education without discrimination. States should:

(a) Ensure that quality education is accessible and available in areas where communities of African descent live, particularly in rural and marginalized communities, with attention to improving the quality of public education;

(b) Take measures to ensure that public and private education systems do not discriminate against or exclude children of African descent, and that they are protected from direct or indirect discrimination, negative stereotyping, stigmatization and violence from peers or teachers; to this end, training and sensitization should be provided to teachers and measures should be taken to increase the number of teachers of African descent working in educational institutions. (A/RES/69/16, para. 22).

⁷⁵ The Working Group noted deficiencies for people of African descent in Spain with respect to their economic, social and cultural rights. It learned of the considerable challenges they face, such as a lack of job opportunities and inadequate access to quality health care, social security and secondary or tertiary education. A/HRC/39/69/Add.2, para 41. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Spain, para 41, U.N. Doc. A/HRC/39/69/Add.2, (August 14, 2018).

Also, In February 2017, the Ministry of Children and Youth Services in Canada announced the launch of the four-year Ontario Black Youth Action Plan to support and help reduce outcome disparities in schooling, post-secondary education and employment of 10,800 Black children, youth and families annually. In addition, the Ministry reportedly provided funding through the Ontario Association of Children’s Aid Societies to the One Vision One Voice project, which is aimed at working with Black community leaders to develop a more culturally appropriate practice framework to deliver child welfare services. *See also* UN experts express concern about racial bias in Dutch child welfare system, Geneva (12 November 2018).

⁷⁶ During the visit to Guyana, the working group found that rural areas were characterized to a considerable degree by underinvestment, while access to most resources and opportunities was significantly confined to Georgetown. Civil society entities reported that Afro-Guyanese villages were distinctly recognizable by their poor infrastructure and substandard housing and roads. The Working Group was also informed about the lack of a university in Linden, which meant that students wishing to obtain a higher education were forced to commute every day to Georgetown. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Guyana, para 25, U.N. Doc. A/HRC/39/69/Add.1, (August 13, 2018).

In Brazil, the Ministry of Education’s Caminho da Escola Programme, launched in 2007, provides safe quality transport for students in rural areas to access schools. The Ministry’s Plan of Articulated Action includes work with States and municipalities to develop technical and financial assistance for education in indigenous, Quilombola and rural areas. Afro-Brazilians have some of the highest rates of illiteracy. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Brazil, para 16, U.N. Doc. A/HRC/27/68/Add.1, (September 23, 2014).

⁷⁷ In the US, the Working Group observed that, throughout the country, there are police officers in schools, without appropriate training, arresting children for minor offences and dealing with behaviour that previously would be handled as part of a school disciplinary process, resulting in the criminalization of children’s behaviour and severe punishment. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to the United States of America, para 44, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2017).

out-of-school suspension rates even in preschool.⁷⁸ In several states, the Working Group learned of pervasive and systemic practices wherein children of African descent were diverted into non-mainstream or special education that limits their potential for tertiary education and certain careers later on.⁷⁹ In still other States,

⁷⁸ In the United States, according to the 2016 U.S. Department of Education Office for Civil Rights, persistent disparities in educational attainment exist among students of African descent. Black preschoolers make up more than half of all out-of-school suspensions in their age group. Black children represent 16 per cent of the pre-school population, but 48 per cent of all pre-school children receiving more than one out-of-school suspension were Black. Boys represented 79 per cent of pre-school children suspended once and 82 per cent of children suspended more than once. This is '*more than numbers and charts—they illustrate in powerful and troubling ways disparities in opportunities and experiences that different groups of students have in our schools*,' said John B. King Jr., the U.S. Secretary of Education. (Ahmed N. Reid, *Unequal Opportunity: Race, Education and the 2030 Sustainable Development Goals*, on the 20th Session Working Group of Experts on People of African Descent on April 4, 2017.). In 2014, Black students represented 16 per cent of student enrollment, but 27 per cent of students referred to law enforcement, and 31 per cent of students subjected to a school-related arrest. African American children are more likely to face harsh disciplinary measures than white children and are being pushed out of school into the criminal justice system — a phenomenon that has been described sadly as the '*school to prison pipeline*'. See www.aclu.org/issues/juvenile-justice/school-prison-pipeline?redirect=fact-sheet/what-schoolprison-pipeline; Also Ahmed N. Reid, *Unequal Opportunity: Race, Education and the 2030 Sustainable Development Goals*, on the 20th Session Working Group of Experts on People of African Descent on April 4, 2017. See <https://orcdata.ed.gov/downloads/CRDC-School-Discipline-Snapshot.pdf>.

⁷⁹ In its report after the Working Group's country visit to Belgium in 2019, the WGEPAD noted: At every interaction with representatives of civil society, the Working Group heard testimonies of the systematic practice of diverting children of African descent to vocational or manual training and out of the mainstream, general educational trajectory. Such practices severely impact the right of young persons to education and to childhood and the right of parents to free choice with respect to their children's education. Parents reported that they were struggling to keep their children from being diverted, resisting transfers to vocational education and fighting to avoid having their children diagnosed with behavioural or learning disorders, and that they were being threatened with the involvement of child protection services. A few parents discussed creative strategies to navigate these systems and secure their children's education, which included using the home school testing process and enrolling their children in boarding school. University students also reported being discouraged from continuing their education or progressing. See Report of the Working Group of Experts on People of African Descent - visit to Belgium from 4 to 11 February 2019, para 57. (A/HRC/42/59/Add.1,)

During a country visit to Germany, the Working Group reviewed educational outcomes of children of African descent, who were systematically recommended by teachers to follow educational paths that reduce their opportunities for higher education. In the past, Germany had a three-tier education system. After primary school, students attended either the highest level of school, which prepared students for university studies, the intermediate level of school or the lowest level of school, which prepared children for work or vocational training. Reform initiatives were undertaken and implemented in several states, according to the specific requirements of each state, resulting in a more diversified system. However, equal opportunity, including equal access to higher education and professional training, has still not been achieved, even in the new types of school. The Working Group noted the disproportionate dropout rate in schools, with learners from migrant backgrounds being twice as likely to drop out as those not from a migrant background. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Germany, para 38, U.N. Doc. A/HRC/36/60/Add.2, (August 15, 2017).

In the Netherlands, ethnic segregation in school is also a popular concern. According to information provided, pupils from ethnic minority groups are disproportionately referred to special education, based on allegations of behavioural and psychological problems. As pointed out by the Committee on the Elimination of Racial Discrimination, measures such as the establishment of the Mixed Schools Knowledge Centre and the role assigned to the Education Inspectorate in promoting integration have proved inadequate. The Working Group wishes to remind the Government of the role of schools in promoting mutual respect and understanding, and the need to take measures to eradicate all forms of ethnic segregation in schools, including through the review of admissions policies which may have the effect of creating or exacerbating this phenomenon and other disincentives to such segregation.

high dropout rates and illiteracy among students of African descent suggest that public education at the primary and secondary levels is not accomplishing its most basic objectives.⁸⁰

COMMENTARY ON SDG 4.4 | NON-DISCRIMINATION IN PUBLIC AND PRIVATE EDUCATION

In both public and private education, people of African descent face racial bias and discrimination. This correlates to lower levels of educational attainment.⁸¹ The Working Group has observed this in numerous country visits, and some States have taken steps in mitigation⁸² or made this part of a National Action Plan.⁸³ In many

WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Netherland, para 66, U.N. Doc. A/HRC/30/56/Add.1, (July 20, 2015).

⁸⁰ For example, in Netherland, the Working Group observes that dropout rates are particularly high for boys and is concerned that they feel alienated from the school environment. Further, the lack of free tertiary education is discouraging many from attending university. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Netherland, para 65, U.N. Doc. A/HRC/30/56/Add.1, (July 20, 2015).

In Brazil, between 1988 and 2008, illiteracy rates fell faster rate among Afro- Brazilians than among the white population but stark racial disparities remained. In 2008, illiteracy was still twice as common among Afro-Brazilians as among European descendants: 13.6 per cent compared to 6.2 per cent. The worst rates of illiteracy were in the north-east of Brazil, the region with the highest black population, where over 15 per cent of whites and 20 per cent of Afro- Brazilians were illiterate. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Brazil, para 32, U.N. Doc. A/HRC/27/68/Add.1, (September 23, 2014).

⁸¹ In Britain, not all ethnic groups have shared equally in the overall improvements in attainment at the five A-C benchmark level at GCSE (General Certificate of Education taken at 16 years). Black African and African Caribbean pupils are markedly less likely to attain five higher grade GCSEs than their White and Indian peers nationally. The gap is also particularly striking between black African and Caribbean pupils from higher socio economic groups and peers of the same social class in different ethnic groups. Thus, ethnic inequalities persist even when class differences are taken into account. See 12th Session UN WGEPAD on April 2013, Heidi Safia Mirza, Multiculturalism and teacher education: Tackling the underperformance of children of African descent, page 1.

In Latin America, people of African descent still have significantly lower levels of educational attainment—64 percent of Afro-descendants versus 80 percent of non-Afro-descendants at primary level. Comparing households with similar socioeconomic conditions, Afro-descendant children have a lower probability of completing formal education. In Uruguay, for instance, they are 14 percent less likely to complete primary education, and 24 percent less likely to complete secondary education. The results for secondary education did improve significantly in the past decade in any country in Latin America. On the contrary, today the gaps are more pronounced and the probability of completion is much lower (holding all else constant). This is due to the fact that Afro-descendants generally have higher dropout rates. In Colombia, for instance, Afro-descendant children have a higher probability of being below the age-appropriate grade and face a higher likelihood of dropping out. In Uruguay, while the national average of dropouts (ages under 18) is one in three, for Afro-Uruguayans it is two in three. At tertiary level, the gaps are even wider, and Afro-descendants are underrepresented in every country across the region. Overall, Afro-descendants represent 25 percent of the population aged 25 years and above, yet they account for only 12 percent of those with a tertiary-level degree. See 24th Session UN WGEPAD on March 2019, World Bank, Afro-descendants in Latin America: Toward a Framework of Inclusion, page 23, <https://openknowledge.worldbank.org/handle/10986/30201> License: CC BY 3.0 IGO. See also Economic Commission for Latin America and the Caribbean (ECLAC), on WGEPAD 24th Session on March 2019, First regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/6), p214, Santiago, 2019.

⁸² In USA, the federal Government does not have a large role in the implementation of educational programmes at the state level and there is a lack of general and unified policy and there are very few specifically targeted towards people of African descent. Magnet schools, which are public schools with specialized curricula that draw students from across the normal zoning boundaries established by education authorities, are one way by which the Government addresses the issue of racial segregation in education. Financial assistance may

be applied for by those magnet schools that intend to implement certain projects, such as a project for the reduction, elimination or prevention of minority group isolation. However, the members were informed that a majority of white parents are not great supporters of the inclusion programmes run by the Government. Report of the Working Group of experts on people of African descent. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to USA, para 29, U.N. Doc. A/HRC/15/18, (August 6, 2010). In Italy, the Government reported that a number of steps had been taken to address racism in schools, including the passage of a ministerial directive dated 27 December 2012 on special educational needs, which aims to ensure more inclusive practices in classrooms through individualized and personalized educational plans. Migrant pupils too can benefit from the directive. In 2013, a memorandum of understanding was signed by the Observatory for Protection against Acts of Discrimination and the Ministry of Education, University and Research to promote joint educational activities against all forms of racism and discrimination in schools. Specific guidelines dated 2014 provide a regulatory framework and suggestions for an inclusive approach to school organization and teaching. For example, each class can host a maximum of 30 per cent migrant pupils to facilitate effective inclusion. Since 2013/14, all schools have had to draft an annual plan on inclusion. *See* Report of the Working Group of Experts on People of African Descent on its visit to Italy, paras 57-58, U.N. Doc. A/HRC/33/61/Add.1, (August 12, 2016)

The legal system in Brazil was strengthened in order to expand educational opportunities by way of racial quota in universities for black, mixed race (Métis) and indigenous students. A decision by the Supreme Court of Brazil on 26 April 2012 ruled in favour of racial quota in universities for African descendant students is an example of how the right to education can be enforced in the spirit of expanding educational opportunities and indicates that the judicial system plays an essential role in protecting and enforcing the right to education as an entitlement. Decisions by courts across regions demonstrate how courts have upheld the right to education and equality of opportunities in education. Case law in several countries shows that individuals can claim their entitlement to equality of opportunity in education. *See* 12th Session UN WGEPAD on April 2013, Kishore Singh, Promotion of equality and opportunity in education for People of African Descent, page 5.

⁸³ Argentina launched its National Human Rights Action Plan (2017–2020) in December 2017, which included recognition of rights through activities that guarantee access to and education about equality, non-discrimination and awareness. Within these components are, inter alia, provisions for scholarships in education; incorporation into the educational curricula of the historical facts related to enslavement, the transatlantic slave trade and colonialism; quotas in employment; a platform for dialogue with organizations of people of African descent; anti-discrimination awareness-raising campaigns; training for public and law enforcement officials; and inclusion of places of historical importance of the Afrodescendent community as historical and cultural heritage. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 17, U.N. Doc. A/HRC/42/59/Add.2, (August 14, 2019).

In Brazil, In 1985 the Government implemented the National Didactic Book Programme to prevent the use of images that transmitted racism or prejudice against indigenous peoples and people of African descent.²⁹ Civil society members in Pernambuco complained of racist attitudes displayed by teachers towards their students concerning their culture, religion, hair and appearance. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Brazil, para 34, U.N. Doc. A/HRC/27/68/Add.1, (September 23, 2014). Law No. 10.369 of 2003 established guidelines and bases for national education and included mandatory teaching of Afro-Brazilian history and culture in educational institutions. *Id.*, para 16.

In the visit to Netherland, civil society organizations that met with the Working Group stressed that school curricula give very little to no attention to the history of enslavement. According to them, the vast majority of Dutch society is simply not educated on this topic. The black pages of the so-called “Dutch golden age” are rarely addressed, and if so, it is not done justice. While primary and secondary schools in the Netherlands are required by law to promote good citizenship and social integration, and the Ministry of Foreign Affairs commissioned the creation of a programme that schools can use to support teaching on citizenship and human rights, the Working Group is concerned by the absence of human rights education within the national curriculum, which is fundamental for fostering relations within society based on mutual respect and dialogue. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Netherland, para 64, U.N. Doc. A/HRC/30/56/Add.1, (July 20, 2015).

cases, legal reform⁸⁴ and/or affirmative action⁸⁵ are necessary to ensure equal access to education for children of African descent.

Recent global concerns and international initiatives underline the need for promoting good quality education with equitable approaches. At the 2010 Millennium Review Summit, the international community made renewed commitment: "to provide equitable educational and learning opportunities for all children" and to "ensuring quality education and profession through the school system." See 12th Session UN WGEPAD on April 2013, Kishore Singh, Promotion of equality and opportunity in education for People of African Descent, page 4; also citing United Nations General Assembly Resolution 65/1.

COMMENTARY ON SDG 4.5 | UNIVERSAL ACCESS TO DAY CARE AND PRE-SCHOOL

Disproportionately, people of African descent face widespread problems accessing quality pre-school and day care, both of which have been shown to influence students' later academic success.

COMMENTARY ON SDG 4.6 | AFFORDABLE, QUALITY TECHNICAL, VOCATION, AND TERTIARY EDUCATION

As these guidelines are issued, the world is grappling with COVID-19. This has presented new and unprecedented challenges with respect to educational equity and access to education that is highly dependent on access to technology. People of African descent face particular and extreme challenges in this regard in developed

⁸⁴ In Brazil, Law 10.639, known widely as "guidelines for national curriculum for teaching ethno-racial relations and Afro-Brazilian and African history and culture," was implemented in 2003. The purpose of Law 10.639 is to promote knowledge of Africa, and the recognition and appreciation of Afro-Brazilian and indigenous identity, culture and history within the Brazilian education curriculum. See 18th Session UN WGEPAD on April 11-15, Ahmed Reid, *Pedagogies of Inclusion: A redefinition of curriculum for the Recognition of People of African Descent*.

⁸⁵ Brazil has made progress by means of reserved places for Afrodescendent and indigenous students in public technical education institutes and universities through a programme of study grants for private universities (a quota of 10 per cent of places for Afrodescendants in the first phase of the selection process). The Bolivarian Republic of Venezuela, Colombia, Peru, the Plurinational State of Bolivia and Uruguay have also implemented affirmative actions in recent years (ECLAC, 2017a and 2017b). See Economic Commission for Latin America and the Caribbean (ECLAC), First regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/6), p211, Santiago, 2019).

In several countries, non-discrimination measures seek to provide access to education for people of African descent. For example, in Colombia, a program has been set up by the Office of the President to design strategies and action for the development of the Afro-Colombian people. Practical measures have already been adopted including access to basic and higher education and measures to include Afro-Colombians people in formal employment sector training. In Nicaragua, a law on dignified and fair treatment for indigenous and Afro-descendant peoples regulates and guarantees just and equal treatment in job opportunities and access to employment in the public and private sectors. In Uruguay, legislation was established to promote the participation of persons of African descent in education and employment. In Costa Rica, initiatives to increase employment and strengthen capacities for production and entrepreneurship for women of African descent have begun. For example, temporary day-care centres have also been established during the coffee harvest for indigenous women. In South Africa, in accordance with the Employment Equity Act, employers must identify barriers that adversely affect black people, and thereafter implement affirmative action measures in their Equity Employment Plans to address those barriers. See Lisa Wong, WGEPAD 16th Session on March 2015, and Item 6: Panel on Development and People of African Descent, p6.

and developing countries, exacerbating the risk that they will continue to be left behind.⁸⁶

COMMENTARY ON SDG 4.8 | EDUCATIONAL RESOURCES SHOULD ENHANCE GENDER EQUALITY AND NON-DISCRIMINATION

Enhancing non-discrimination and gender equality in education is particularly important for people of African descent, who have been shown to be impacted by both.⁸⁷ The Durban Declaration and Programme of Action urged States to commit to ensuring access to education, including access to free primary education for all children, both girls and boys, and access for adults to life-long learning and education, based on respect for human rights, diversity and tolerance, without discrimination of any kind.⁸⁸ In its country visits, the Working Group has observed racial disparities in schooling, even where very high rates of success exist.⁸⁹

COMMENTARY ON SDG 4.9 | LITERACY AND NUMERACY PROGRAMS

Literacy is a widespread problem among people of African descent. The Working Group's country visits have confirmed this pervasive concern in developed and less developed countries.⁹⁰

COMMENTARY ON SDG 4.10 | INVESTMENT IN KNOWLEDGE AND SKILLS TO PROMOTE SUSTAINABLE DEVELOPMENT

In its financial and development activities, the Working Group has observed many innovative activities on the ground. Investment in the potential of students of African descent necessarily involves ensuring their access to and familiarity with a

⁸⁶ For a robust analysis, see the UN Working Group of Experts on People of African Descent's recent thematic report, *COVID-19, systemic racism, and global protest*, A/HRC/45/44, September 2020 (<https://undocs.org/en/A/HRC/45/44>).

⁸⁷ This standard also implicates Article 10 of CEDAW (equal rights of women and girls in the field of education) and Article 6 of ICESCR (right to work, including technical and vocational training).

⁸⁸ Durban Declaration and Programme of Action, para. 121.

⁸⁹ In Brazil, education is compulsory for children between 6 and 14 years of age and there is currently an enrolment rate of 98 per cent for this age group. The 2 per cent not enrolled tends to be in marginalized, rural communities including Quilombola communities. Afro-Brazilian children and young people have traditionally had lower access to education than Brazilians of European descent. In 2008, young Brazilians of European descent attended school for eight years, while Afro-Brazilians had only six years of schooling. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Brazil, para 30, U.N. Doc. A/HRC/27/68/Add.1, (September 23, 2014).

The Ministry of Education's Literate Brazil Programme, created in 2003, targets illiteracy among adults, young people and the elderly. The Programme works throughout the country with particular focus on 1,928 municipalities with more than 25 per cent illiteracy rates. Between 2003 and 2010, an estimated 13 million people benefited from the Programme. White students are much more likely than Afro-Brazilian students to attend private schools. In 2008, at the first level of basic education, only 7.7 per cent of Afro-Brazilian students were in private institutions, compared to 18.2 per cent of students of European descent. At middle level, only 7.7 per cent of Afro-Brazilians were educated in private schools and 20.3 per cent of white students. para 33

⁹⁰ For example, civil society in the USA stated that there is an alarmingly high level of illiteracy among people of African descent. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to USA, para 32, U.N. Doc. A/HRC/15/18, (August 6, 2010). In addition, in the latest visit to Ecuador, the Working group found that Esmeraldas is one of the poorest provinces in Ecuador where 85 per cent of people live below the poverty line and 15 per cent are illiterate. See Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Ecuador, 16-20 December 2019.

broad range of skills and knowledge relating to promoting sustainable development.⁹¹

COMMENTARY ON SDG 4.12 | SCHOLARSHIPS FOR STUDENTS OF AFRICAN DESCENT FROM DEVELOPING COUNTRIES

The mandate to provide scholarships for people of African descent specifically recognizes the complex barriers, including racial bias and lesser access to funding and assistance that complicates their access to education. This is particularly true for students from developing countries who seek to access knowledge relevant to development to influence their communities once completing their education. Yet, many of the human rights concerns targeted by the SDGs would benefit from educated expertise from impacted Afrodescendant communities. Some States have taken measures to ensure scholarship assistance exists for students of African descent.⁹²

SDG5. ACHIEVE GENDER EQUALITY AND EMPOWER ALL WOMEN AND GIRLS

- Elimination of all forms of discrimination against women [CEDAW arts. 1-5] and girls [CRC art. 2], particularly in legislation, political and public life (art. 7), economic and social life (arts. 11, 13), and family relations (art.16)]
- Right to decide the number and spacing of children [CEDAW arts. 12, 16(1)(e); CRC art. 24(2)(f)]
- Special protection for mothers and children [ICESCR art. 10]
- Elimination of violence against women and girls [CEDAW arts. 1- 6; DEVAW arts. 1-4; CRC arts. 24(3), 35]
- Right to just and favourable conditions of work [ICESCR art. 7; CEDAW art. 11]

5.1 States must ensure that women and girls of African Descent are treated equally, without any discrimination to other parts of the population and recognizing the intersectional impact of discrimination may create particularly extreme vulnerability and unique challenges in this regard. When developing gender equality policies, States must take into account the nexus between race and gender and integrate a combination of racial and gender discrimination approaches and strategies which clearly recognize and address their specific needs and challenges. States should consider strategies that promote in-depth understanding of situations posing the greatest threat to women of African descent at the intersection of gender, race, and low socioeconomic status.

⁹¹ The Mandate of the Working Group of Experts on People of African Descent (res. 9/14 of the Human Rights Council) explicitly refers to education in the context of liaising with financial and developmental institutional and operational programmes and specialized agencies of the United Nations, with a view to contribute to development programmes intended for people of African descent, by allocating additional investments. (HRC 9/14 para. 8(f)(iii)).

⁹² In Argentina, there is coordination between the National Directorate of Pluralism and Interculturality and the National Directorate of Educational Scholarships to facilitate the access of the population of African descent to the scholarships supported by the Ministry. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 17, U.N. Doc. A/HRC/42/59/Add.2, (August 14, 2019)
In Panama, the Government has also committed additional resources to social protection programmes, such as the “Beca Universal” programme that grants an annual scholarship of US\$ 180 to students enrolled in public schools and to students in certain private schools who meet the required criteria. The Government also informed the Working Group that every school receives an annual budget of US\$ 40 per student to provide school materials and computers for all those in secondary education. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Panama, 31, U.N. Doc. A/HRC/24/52/Add.2, (August 21, 2013).

5.2 States must ensure that policies and programs aimed at suppressing trafficking and sexual or other exploitation adequately recognize and protect all women and girls of African descent.

5.3 States must ensure that women and girls of African descent are not subject to child, early or forced marriage and female genital mutilation. States should ensure that legislation prohibiting Child, Early and Forced Marriage and Female Genital Mutilation is effectively enforced and implemented through the strengthening of national accountability systems. States should ensure that those accountability systems are accessible to women and girls at risk of Child, Early and Forced Marriage and/or Female Genital Mutilation, including legal counsel and judicial remedies. Additionally, States should set up adequately budgeted policies, programmes and awareness raising measures, in order to address the social determinants that contribute to perpetuating these harmful practices, in partnership with concerned populations, as well as women's groups and local community and religious leaders.

5.4 States must ensure that unpaid care and domestic work of women and girls of African descent is adequately recognized and supported in public policies.

5.5 States must ensure that women of African descent are provided with equal opportunities for leadership at all levels of decision-making in all spheres of life.

5.6 States should ensure that women and girls of African descent have access to sexual and reproductive rights without any discrimination.

5.7 States should ensure that women of African descent have equal rights to economic resources as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources.

5.8 States should ensure access to education and promote access to new technologies that would offer Africans and people of African descent, in particular women and children, adequate resources for education, technological development and long-distance learning in local communities, and States should promote the full and accurate inclusion of the history and contribution of Africans and people of African descent in the education curriculum.

5.9 States must ensure that sound policies and adequate legislation for the promotion of gender equality adequately encompass women and girls of African descent. and that they are devised and implemented from a multi-stakeholder and a whole of government approach. States must ensure policies for the promotion of gender equality take into consideration the multiple and intersecting forms of discrimination faced by women of African Descent and promote affirmative actions to overcome historic patterns of disenfranchisement and exclusion. States must ensure that policies and legislation for gender equality are inclusive and take into consideration how women of African Descent are disproportionately represented in the informal markets, and offer social protection specifically designed for their economic empowerment.

COMMENTARY ON SDG 5

Even the disproportionate poverty and disadvantage among people of African descent has a gendered dimension.⁹³ Thus, achieving gender equality requires an

⁹³ For example, in its country visit to the United Kingdom, the Working Group found that women of African descent suffered discrimination compounded by racial or ethnic origin, socioeconomic status, and gender. Poverty has a gendered nature. For example, 97 per cent of the single parents on income support in 2011 were women. Although figures are constantly changing, in early 2012, 34 per cent of young women were jobless, compared with 31 per cent of young men, and 15 per cent of female pensioners are poor compared with 13 per cent of male pensioners. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Britain, paras 68-71, U.N. Doc. A/HRC/24/52/Add. 1, (August 5, 2013). In addition, as a large proportion of the people of African descent (both black African and black Caribbean) work in the public sector, particularly the NHS and care system, cuts to

acknowledgment of intersectionality.⁹⁴ This is particularly true for people of African descent who experience distinct and extreme gender inequality and gender-based violence and who may face conflicting political agendas in pursuit of their rights holistically. In addition, particularly extreme disparities in areas like health exist at the intersections of race and gender.⁹⁵ The Durban Declaration and Programme of Action references the gendered aspects of racial discrimination, offers specific interventions in law, policy, and practice to address intersectional discrimination, and urges States to consider intersecting and multiple forms of discrimination at the intersections of race and gender.⁹⁶ The Durban declaration further instructs states to “to incorporate a gender perspective in all programmes of action against racism,” and to recognize the particular burdens of racial discrimination faced by women of African descent.⁹⁷

The Working Group’s country visits demonstrate the importance of the Durban principles.⁹⁸ As the Working Group’s fact finding illustrates, intersectional

public services and benefits particularly impact women of African descent. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Britain, paras 68-71, U.N. Doc. A/HRC/24/52/Add. 1, (August 5, 2013).

⁹⁴ This has been evident in the country visits of the Working Group. For example, in Argentina, the WGEPAD found that people of African descent faced inequalities and multiple forms of discrimination on the grounds of their race, colour, gender, sexual orientation and religious beliefs. Afro-Argentine women, African women, and other women of African descent lived in very poor conditions and felt excluded from society. Many adolescent mothers were forced to leave school in order to look after their children. Women of African descent experience additional human rights concerns that relate to their job opportunities and the risk of being harassed and a victim of violence. Domestic workers, who are predominantly women, are invisible and subjected to long hours of work with no safeguards against abuse. (A/HRC/42/59/Add.2, para. 46)

⁹⁵ The Working Group’s country visits confirm that women and girls of African descent were also vulnerable to particular health risks. For example, Hypertension is particularly prevalent in women of African descent in the United Kingdom. Rates of HIV/AIDS are highest in African groups in the United Kingdom; twice as many African women as men are diagnosed with HIV/AIDS every year. Although women are more likely to access services, they are also likely to experience gender-based violence if they disclose their health status to their partner. Civil society representatives mentioned that while there was much discussion of men of African descent in the mental health system, there are also concerns about women’s experiences of the system. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Britain, paras 68-71, U.N. Doc. A/HRC/24/52/Add. 1, (August 5, 2013). Some research links these physical and mental health challenges to the experience of chronic racial stress.

⁹⁶ See Durban Declaration and Programme of Action at Paragraphs 18, 31, 50-52, 54, 59, 62, 66, 94, 133, 136, 139, 176, 212.

⁹⁷ See Durban Declaration at Paragraph 50. The Durban Declaration states that: racism, racial discrimination, xenophobia and related intolerance reveal themselves in a differentiated manner for women and girls, and can be among the factors leading to a deterioration in their living conditions, poverty, violence, multiple forms of discrimination, and the limitation or denial of their human rights. We recognize the need to integrate a gender perspective into relevant policies, strategies and programmes of action against racism, racial discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination. (DDPA, para. 50).

⁹⁸ In Canada, the Working Group noted the disproportionately high unemployment rates among African Canadians, many of whom are forced to take low-paying jobs with little security and poor prospects. The racialization of poverty is compounded by the feminization of poverty: African Canadians have higher unemployment and lower wages than white women or men. 25 per cent of African Canadian women are living below the Canadian poverty line, compared to 6 per cent of White Canadian women. African Canadian women and girls are reportedly targeted by the police and are increasingly in contact with the criminal justice system as one of the fastest growing prison populations. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Canada, para 57, U.N. Doc. A/HRC/36/60/Add. 1, (August 16, 2017).

In Argentina, women of African descent and African women live in very poor conditions and experienced societal exclusion. Many adolescent mothers were forced to leave school in order to look after their children. Women of African descent also experience additional human

approaches require conceptualizing race as a coalition of multiple identities, and recognize rather than erase the social and political realities of race in gendered and other analyses.⁹⁹ The patent need existed even in wealthy and well-resourced States.¹⁰⁰

For women of African descent, their lived experience differs from isolated discourses on either race or gender. At the intersections, extremes exist. In particular, extreme violence and vulnerability are found at the intersections of race, gender, sexuality and gender identity, disability, and other important identities.¹⁰¹

rights concerns that relate to their job opportunities and the risk of being harassed and a victim of violence. Domestic workers, who are predominantly women, are invisible and subjected to long hours of work with no safeguards against abuse. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 46, U.N. Doc. A/HRC/42/59, (August 14, 2019).

In a country visit to Spain, the Working Group collected numerous testimonies that women of African descent faced harassment and multiple forms of discrimination based on a presumption that they were sex workers. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Spain, para 28, U.N. Doc. A/HRC/39/69/Add. 2, (August 14, 2019).

⁹⁹ For example, in Germany, Muslims of African descent are a racial and religious minority and face increased difficulties in the enjoyment of their rights as a result of Islamophobia and Afrophobia. Muslim women of African descent face further discrimination when it comes to access to the labour market. Muslim students of African descent describe their experiences in school as traumatic, as they experience not only racism because of their African descent, but also anti-Muslim bias. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to USA, para 46, U.N. Doc. A/HRC/36/60/Add. 2, (August 15, 2017).

Similarly, in Sweden, the Working Group noted that discrimination on religious grounds was strongly related to appearance and dress. Muslims of African descent were targeted in particular. Muslim schoolgirls and women wearing *hijab*, or headscarves, were found to be especially vulnerable in public places, i.e., work or school. The intersectional discrimination intensified the violation of human dignity these women experienced. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Sweden, para 87, U.N. Doc. A/HRC/30/56/Add. 2, (August 25, 2015).

¹⁰⁰ In USA, homicides against transgender women of African descent have dramatically increased, as has the level of violence affecting them. Racial discrimination also disparately impacts the ability of African American women to maintain overall good health, control their sexuality and reproduction, survive pregnancy and childbirth, and parent their children. African American women in the United States die from pregnancy-related complications at a rate three to four times higher than that of white women. The Working Group is particularly concerned about the fact that 37 per cent of the households headed by African American women live below the poverty line. In particular, the Working Group of Experts on People of African Descent was concerned at the disproportionate number of African American women subjected to heightened levels of violence, including rape and sexual violence. It also deplores reports of police brutality and the increased number of killings of African American women by the police. Furthermore, it is disturbed at the persistent fatal consequences for women of the lack of gun control, particularly in cases of domestic violence. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to USA, para 56, U.N. Doc. A/HRC/33/61/Add. 2, (August 18, 2016).

¹⁰¹ “Afro-descendants were too often at the very bottom of a complex social structure developed over several centuries which had given rise to multiracial and multi-ethnic societies marked by patterns of unequal economic and social relationships.... [W]omen of African descent faced additional burdens and barriers: multiple discrimination in employment; domestic work, in which many Afro-descendent women were engaged, was considered to have no market value; and the intersection of race and poverty, which could have a serious detrimental impact on their reproductive rights.” *Racism, Racial Discrimination, Xenophobia and All forms of Discrimination: Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action: Report of the Working Group of Experts on People of African Descent on its 5th session*, 2005, p. 35, E/CN.4/2006/19.

COMMENTARY ON SDG 5.1 | EQUALITY AND NON-DISCRIMINATION

Achieving non-discrimination requires an explicit understanding of intersectionality and the need to conceptualize race as a coalition that recognizes the extremes of vulnerability and experience that exist at the intersections of race and gender.¹⁰² The varied manifestations of intersectional discrimination have been evident to the Working Group in its fact-finding country visits.¹⁰³ In 2000, the CERD Committee indicated racial discrimination against women warranted particular focus by member States,¹⁰⁴ which it supplemented in its 2011 General Recommendation 34.¹⁰⁵ In addition, U.N. covenants and treaty bodies have also acknowledged the realities of intersectionality and the intersecting discriminations of race and gender or gender identity.¹⁰⁶

¹⁰² The investigations of the Working Group explicitly incorporate an intersectional lens. For example, women of African descent in the Netherlands suffer compounded discrimination based on racial or ethnic origin, skin colour, socioeconomic status, gender, religion and other status, which requires intersectional analysis to understand the situation. Domestic violence, trafficking in persons and sexual exploitation are also manifestations of the intersecting forms of discrimination that women and girls of African descent may face. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Netherlands, para 88, U.N. Doc. A/HRC/30/56/Add.1(July 20, 2015)

¹⁰³ In Brazil, Afro-Brazilian women and girls face intersectional discrimination based on their gender and ethnicity. They are overrepresented in low-paid, often exploitative jobs such as domestic work. In 2004, 67 per cent of Afro-Brazilian women earned less than one USD per hour, compared to 60 per cent of Afro-Brazilian men and 43 per cent of white women. While access to adequate health care remains an issue for both men and women of African descent, women faced particularly life-threatening disparities in access to health services. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Brazil, para 83, U.N. Doc. A/HRC/27/68/Add. 1, (September 23, 2014).

¹⁰⁴ The CERD Committee methodology to consider the gendered aspects of racial discrimination instructs States to: (a) examine the form and manifestation of racial discrimination; (b) identify the circumstances in which racial discrimination occurs; (c) enquire on the consequences of racial discrimination; and (d) establish the availability and accessibility of remedies and complaint mechanisms for racial discrimination. See CERD Committee, General Recommendation No. 25 at Paragraph 5. Similarly, the CERD Committee's 2011 General Recommendation No. 34 recognized "some forms of racial discrimination have a unique and specific impact on women." The CERD Committee acknowledged the State's role to "design and implement measures aimed at eliminating racial discrimination, paying due regard to the Committee's general recommendation No.25 (2000) on gender-related dimensions of racial discrimination; [takes] into account, in all programs and projects planned and implemented and all measures adopted, the situation of women of African descent, who are often victims of multiple discrimination and includes in all reports to the Committee information on the measures taken to implement the Convention that specifically address racial discrimination against women of African descent." See CERD Committee, General Recommendation No. 34, Racial Discrimination against people of African Descent, article V, 3 October 2000. CERD encouraged States to adopt special measures to ensure equality in the exercise of their rights, and undertake initiatives specifically aimed at protecting the special rights of the girl child and the rights of boys in vulnerable situations. *Id.* at article VI.

¹⁰⁵ See CERD Committee, General Recommendation No. 25, *Gender related dimensions of racial discrimination*, 20 March 2000.

¹⁰⁶ The Committee on Eliminating All Forms of Discrimination Against Women (CEDAW) has also spoken directly to intersectional approach to non-discrimination, noting the core obligations of member states under Article 2 of the Convention to recognition and measures to counteract multiple and intersecting forms of discrimination. See CEDAW Committee, *General Comment 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, U.N. Doc. CEDAW/C/GC/28 (10 Dec. 2010), Paragraphs 18, 26. This has been reiterated throughout the work of the CEDAW. Referring specifically to the intersections of race and gender, the CEDAW noted:

Intersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in article 2. The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or

COMMENTARY ON SDG 5.2 | TRAFFICKING AND SEXUAL OR OTHER EXPLOITATION

The trafficking and sexual or other exploitation of all women and girls of African descent, which remain serious concerns globally and manifestations of multiple discrimination that women and girls of African descent may face. Offering these victims adequate social protection is a core responsibility of the State in its efforts to mitigate trafficking and the Working Group has offered analysis of this in its country reports.¹⁰⁷ In addition, States have the obligation to provide justice and

belief, health, status, age, class, caste and sexual orientation and gender identity.

Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men. States parties must legally recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them. They also need to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25.

CEDAW/C/GC/28, para. 18. *See also See e.g.*, CEDAW Committee, Report of the inquiry concerning Canada, UN Doc. CEDAW/C/OP.8/CAN/1, 30 March 2015, Paragraph 204 (“the Committee finds that an act of intersectional discrimination has taken place against the author”). *See also* CEDAW Concluding Observations (Netherlands), 2007 (calling on the Netherlands to take effective measures to eliminate racial discrimination against women, in society at large and within their communities and to increase its efforts to prevent acts of racism, particularly against women and girls); CEDAW Concluding Observations (Costa Rica), 2011 (noting structural discrimination and the need for special measures for indigenous women and women of African descent). *See also Cecilia Kell v Canada, Communication*, No. 19/2008, UN Doc. CEDAW/C/51/D/19/2008, 26 April 2012 (noting intersectional and structural discrimination and reiterated its interpretive guidance on intersectional discrimination in its General Recommendation No. 28).

In addition, other treaty bodies have noted the importance of focus on intersectional gender discrimination on the basis of race, and more. *See e.g.*, The Committee on Economic, Social, and Cultural Rights (CESCR) further acknowledges the importance of an intersectional approach to anti-discrimination in General Comment No. 20, Non-discrimination in economic, social and cultural rights, UN Doc. E/C.12/GC/20, 2 July 2009, Paragraphs 17, 34, noting that “[s]ome individuals or groups of individuals face discrimination on more than one of the prohibited grounds, for example women belonging to an ethnic or religious minority. Such cumulative discrimination has a unique and specific impact on individuals and merits particular consideration and remedying.” In addition, treaty bodies have also acknowledged intersectionality, even without specific reference to racial discrimination or people of African descent. *See e.g.*, Committee on the Rights of the Child General Comment No. 11, *Indigenous children and their rights under the Convention*, UN Doc. CRC/C/GC/11, 12 February 2009; CRC Committee, General Comment No. 6, Treatment of unaccompanied and separated children outside their country of origin, UN Doc. CRC/C/GC/2005/6, 1 September 2005; and CRC Committee, Draft General Comment on the Rights of Adolescents, 2015. The Committee on Persons with Disabilities (CRPD) also noted that national laws and policies “often lack a recognition of multiple and intersectional discrimination” faced by persons with disabilities. *See* CRPD Committee, General Comment No. 6, U.N. Doc. CRPD/C/GC/6 (26 Apr. 2018). *See also* CRPD Committee, General Comment on Art. 6, *Women and disabilities*, UN Doc. CRPD/C/14/R.1, 22 May 2015, Para 4 (women and girls with disabilities are often confronted with intersectional discrimination). In addition, the Human Rights Council has acknowledged that differential treatment may be necessary to create substantive equality in many circumstances. *See* HRC, General Comment No. 18, Non-Discrimination, 10 November 1989.

¹⁰⁷ The Working Group found that many of those trafficked for sex work in Spain and the rest of Europe were women of African descent, in part due to a proliferation of micro-networks involved in human trafficking. In its country visit to Spain, at the temporary migrant reception centre in Ceuta, the Working Group noted with concern that pregnant women and women with small children were facing difficulties in accessing basic needs. With respect to trafficking to Europe, women expelled from European countries were likely to be re-trafficked to Europe. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Spain, U.N. Doc. A/HRC/39/69, (August 14, 2018); Report of the Working Group of Experts on People of African Descent on its visit to Britain, paras 68-71, U.N. Doc. A/HRC/24/52/Add. 1, (August 5, 2013).

redress for victims of sexual violence.¹⁰⁸ Moreover, the right to be free from violence is explicitly extended to women, understanding the prevalence of sexual and other violence against women of African descent.¹⁰⁹

COMMENTARY ON SDG 5.3 | FEMALE GENITAL MUTILATION + FORCED MARRIAGE

Of particular concern, some girls and young women of African descent remain at risk of forced marriage and female genital mutilation (FGM).¹¹⁰ This remains true despite decades of advocacy, public awareness, educational campaigns, and reforms in law and policy.

COMMENTARY ON SDG 5.4 | UNPAID CARE AND DOMESTIC WORK

Recognition and support to the unpaid labor of women of African descent in care and domestic work remains a critical development concern.¹¹¹ This remains particularly true in the COVID-19 era, where people of African descent have assumed disproportionate risk in domestic and other service work and have experienced severe racial disparities in infection, severity, and mortality.

COMMENTARY ON SDG 5.5 | EQUAL OPPORTUNITIES FOR LEADERSHIP AT ALL LEVELS OF DECISION-MAKING

The lack of equal opportunity that is pervasive for all women often has the added impact of rendering women of African descent wholly invisible. In developed and less developed countries, women of African descent face less access and opportunities for leadership roles despite equal or better credentials.¹¹²

¹⁰⁸ For example, Committee Against Torture (CAT) has noted its concern that victims of sexual violence face formidable obstacles in their efforts to seek justice, particularly for indigenous women and Colombian women of African descent. CAT, Concluding Observations (Colombia).

¹⁰⁹ Article 3 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women provides that “Every woman has the right to be free from violence in both the public and private spheres.” Article 6 (a) sets forth “[t]he right of women to be free from all forms of discrimination.”

¹¹⁰ The Working Group has encountered this concern in context, in its country visits. For example, in the United Kingdom, the Government estimates that 24,000 girls under the age of 15 are at risk of FGM and is particularly concerned about such procedures taking place during summer holidays from school. The United Kingdom Female Genital Mutilation Act, which was introduced in 2003 and came into effect in March 2004, made it illegal to practice FGM in the country, illegal to take girls who are British nationals or permanent residents of the United Kingdom abroad for FGM whether or not it is lawful in that country, illegal to aid, abet, counsel or procure the carrying out of FGM abroad, with a penalty of up to 14 years in prison and/or a fine. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Britain, paras 68-71, U.N. Doc. A/HRC/24/52/Add.1 (August 5, 2013).

¹¹¹ In Argentina, women of African descent frequently work in domestic service and other informal economy jobs, without access to the benefits of registered employment and representation. One exception and exemplar, the Central Workers of the Popular Economy, is a social organization that has incorporated informal workers, many of them street vendors of Senegalese origin. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 42, U.N. Doc. A/HRC/42/59, (August 14, 2019). In Portugal, women of African descent were typically forced to work several jobs concurrently, in order to support their families. Without adequate adult guidance, their children developed behavioural problems including involvement in gangs and petty crime. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Portugal, para 62, U.N. Doc. A/HRC/21/60/Add. 1, (August 13, 2012).

¹¹² For example, in the Netherlands, despite being better educated than men, women have limited opportunity even at high levels. Women have limited political participation; in 2014, men held 15 of the Government seats in the National Parliament, while women occupied only 6. Women held only two of the nine cabinet posts in the Government. None of these women

COMMENTARY ON SDG 5.7 | EQUAL RIGHTS TO ECONOMIC RESOURCES, CONTROL OF LAND, PROPERTY, FINANCIAL SERVICES, INHERITANCE, NATURAL RESOURCES.

Development analyses confirm that lack of access to economic and financial resources, assets, and land are particularly extreme among women of African descent.¹¹³

COMMENTARY ON SDG 5.8 | ACCESS TO EDUCATION AND NEW TECHNOLOGIES, INCLUSION OF THE HISTORY AND CONTRIBUTION OF AFRICANS AND PEOPLE OF AFRICAN DESCENT IN THE EDUCATION CURRICULUM.

Achieving SDG 5 also requires specific attention to the social conditioning education provides. In the specific case of history education, despite great strides since the 1970s, many texts do provide the kind of information children need to rethink or reframe prevailing societal views of women as the subordinated sex; instead, gender stereotypes abound. Many still believe that the woman's place is in the house, that women are more suited to inside work, and that they have inherent physical and psychological characteristics predisposing them to non-marketable roles such as child-rearing and home maintenance. Masculinity is presented as essentialist; i.e. intrinsically different natures are attributed to men and women. These attitudes find legitimacy in the larger society and are reinforced through education. The treatment of resistance is a case in point, with many texts ignoring women's fundamental role in protest and social change movements.¹¹⁴

In addition, as these guidelines are issued, the world is grappling with COVID-19. This has presented new and unprecedented challenges with respect to educational equity and access to education that is highly dependent on access to technology. People of African descent face particular and extreme challenges in this regard in developed and developing countries, exacerbating the risk that they will continue to be left behind.¹¹⁵

COMMENTARY ON SDG 5.9 | POLICIES AND LEGISLATION FOR GENDER EQUALITY

Individual states have also responded to their treaty obligations by developing relevant policy and legislation.¹¹⁶ The Working Group's country visits have confirmed the importance of this to create and enforce meaningful equality.¹¹⁷

were of African descent. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Netherland, para 89, U.N. Doc. A/HRC/30/56/Add. 1, (July 20, 2015).

¹¹³ The World Bank's 2012 report, *Removing Barriers to Exclusion* states that women tend to have less secure property rights and less capacity to act on their own in many sub-Saharan countries. The World Bank's 2016 publication, *Getting to Equal* it observes that obstacles to women's entrepreneurship include cultural and institutional barriers to land ownership, access to finance, taxes and permits, international trade, networking and advocacy, which are more pronounced in Africa. (Hilary Gbedemah, *Leaving no one behind*, People of African Descent and the Sustainable Development Goals Geneva, Working Group of Experts on People of African Descent (WGEPAD) 20th session).

¹¹⁴ See Verene A. Shepherd, *Structural Discrimination & Knowledge Production in Post-Colonial Societies: Examples from the Caribbean*, at 9-10, 9th SESSION UN WORKING GROUP OF EXPERTS ON PEOPLE OF AFRICAN DESCENT (13 April 2010).

¹¹⁵ For a robust analysis, see the UN Working Group of Experts on People of African Descent's recent thematic report, *COVID-19, systemic racism, and global protest*, A/HRC/45/44, September 2020 (<https://undocs.org/en/A/HRC/45/44>).

¹¹⁶ In some countries, legal and policy reform has focused specifically on gendered violence. See e.g., *Working Group acknowledges the adoption of Law No. 26.485 of 2009 on violence*

SDG 6. ENSURE AVAILABILITY AND SUSTAINABLE MANAGEMENT OF WATER AND SANITATION FOR ALL

- Right to safe drinking water and sanitation [ICESCR art. 11]
 - Right to health [UDHR art. 25; ICESCR art. 12]
 - Equal access to water and sanitation for rural women [CEDAW art. 14(2)(h)]
- 6.1 States must ensure that people of African Descent have access to safe and affordable drinking water as well as adequate and equitable sanitation and hygiene.
- 6.2 States must increase investment in management of freshwater ecosystems and sanitation facilities on a local level for people of African Descent.
- 6.3 States must improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally.
- 6.4 States must pay special attention to the needs of African women and girls and those in vulnerable situations, while achieving access to adequate and equitable sanitation and hygiene for all and end open defecation.

COMMENTARY ON SDG 6

The right to water, which impacts not only their right to health but all other rights and effective access to development, yet people of African descent are being left behind.¹¹⁸ In many communities, people of African descent face barriers to access well-defined human rights in this regard.¹¹⁹ The Durban Declaration and Programme

against women and Law No. 4.355 instituting the Day of the Afro Woman on 25 July in Buenos Aires.

¹¹⁷ In Guyana, the Working Group found that women of African descent, who were often the sole breadwinners for their families, were afraid or reluctant to report domestic violence or sexual abuse crimes, for fear of stigmatization within their communities. Although the participation of women in the labour force was rising, women were increasingly doing low-paying jobs and the Working Group was concerned at the high dropout rates of girls. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Guyana, para 28, U.N. Doc. A/HRC/39/69/Add. 1, (August 13, 2018). In Panama, the Working Group commended the social programmes that the country had established to empower women living in extreme poverty given that, as in many other countries, women of African descent continued to suffer multiple discrimination, to exhibit high levels of poverty and social exclusion and to face obstacles that prevented them from enjoying basic rights. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Panama, para 83, U.N. Doc. A/HRC/24/52/Add. 2, (August 21, 2013).

¹¹⁸ According to ECLAC report, one-quarter of the Afro-descendent population in Ecuador (25 per cent) lack access to drinking water. Deprivation of sanitation services, ranged from 0.5 per cent in Costa Rica to 22.3 per cent of Afrodescendants in Bolivia. In Brazil, Colombia and Uruguay, Afro-descendants were well over twice as likely as the rest of the population to suffer from serious deprivations. See WGEPAD 24th Session on March 2019, citing Economic Commission for Latin America and the Caribbean (ECLAC), *First regional report on the implementation of the Montevideo Consensus on Population and Development* (LC/CRPD.3/6), p 212 (Santiago, 2019).

¹¹⁹ The International Covenant on Economic, Social and Cultural Rights guarantees the right to water at Articles 11 and 12. Water is included within the meaning of the rights indispensable to an adequate standard of living in Article 11. At the same time, water is inextricably linked to the right to the highest attainable standard of health in Article 12. In its General Comment No. 15 of 2002, the UN Committee on Economic, Social and Cultural Rights elaborated the normative content of the right to water. The Committee determined that the right to water was broad and inclusive. Water must be adequate for human dignity, life and health. Water must be available. Water supply must be sufficient and

of Action sets forth how these gaps in economic and social conditions are a primary mechanism for the State to provide access to development and improve social indicators for communities of African descent.¹²⁰

COMMENTARY ON SDG 6.1 | ACCESS TO SAFE DRINKING WATER AND SANITATION

With respect to safe drinking water and sanitation, severe deprivations that may result in health inequality and widen the inequality gap between the Afro-descendent population and others. In its country visits, the Working Group has frequently observed disproportionate lack of access to water and sanitation hygiene resources.¹²¹

COMMENTARY AT SDG 6.2 | INVESTMENT IN WATER AND SANITATION

State infrastructure planning and investment should reflect and redress the structural and systematic lack of access to water and sanitation faced disproportionately in communities where people of African descent live, according to the Durban Declaration and Programme of Action.¹²² The Working Group has observed this urgent need first hand in its country visits.¹²³

continuous for personal and domestic uses. Water must be of adequate quality. Water must be safe and free from microorganisms, chemical substances and radiological hazards that constitute a threat to a person's health. Water must be physically and economically accessible. In its accessibility, there must be no discrimination against people of African descent. Information concerning water must also be accessible to all. People of African descent have the right to seek, receive and impart information on the right to water.

¹²⁰ The Durban Declaration urges States to take into account economic and social indicators, including, water, sanitation, energy and communications services, in order to elaborate social and economic development policies with a view to closing the existing gaps in social and economic conditions. *See* Durban Declaration and Programme of Action at Paragraph 92(c).

¹²¹ Access to clean water was identified as a problem among many Afro-Ecuadorian communities, including the communities that the experts visited in Guayaquil. In one of these communities, the experts were informed that drinking water had only recently been introduced and only then as a result of the collective efforts of the residents themselves. Access to water was also identified as a problem for the Afro-Ecuadorians living in the Chota valley with whom the experts met: in this case, it was the insufficient quantity of water to irrigate crops that was of concern. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Panama, para 24, U.N. Doc. A/HRC/13/59/Add. 2, (January 6, 2010).

In its country visit to Brazil, the Working group found that a total of 52 per cent of Afro-Brazilians lack housing with adequate sanitation, compared to 28 per cent of European descendants, and 26 per cent of Afro-Brazilians live in households without running water, compared to 8 per cent of European descendants. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Brazil, para 8, U.N. Doc. A/HRC/27/68/Add. 1, (September 23, 2014).

At the end of a country visit to Argentina from 11-18 March 2019, the Working Group noted the lack of basic necessities for poor communities of African descent in Santiago del Estero, Argentina, including ongoing and systemic lack of access to clean and safe water. Similarly, in Peru, many Afrodescendant communities lacked access to clean and safe water, sometimes because of the government's tolerance of agribusiness actions to drill deeper than community wells and leech water communities of African descent had relied upon for decades or centuries.

¹²² The Durban Declaration asks States to consider positively concentrating additional investments in health-care systems, education, public health, electricity, drinking water and environmental control, as well as other affirmative or positive action initiatives, in communities of primarily African descent also to develop programmes intended for people of African descent allocating additional investments to health systems, education, housing, electricity, drinking water and environmental control measures. *See* Durban Declaration at paragraphs 5, 8c.

¹²³ In Ecuador, the Working group also found that whether in rural or urban settlements, people of African descent often live in the areas that have the most precarious infrastructures and lack basic services such as water supply, electricity, sanitation and public housing

COMMENTARY AT SDG 6.3 | IMPROVED WATER QUALITY, REDUCED POLLUTION, DUMPING, HAZARDOUS WASTE DISPOSAL

In its country visits, the Working Group has observed how people of African descent frequently navigate compromised water quality without redress, remedy, or protection from the State. The need for adequate community investments is equally urgent in developed countries where persistent and ongoing water quality issues evidence direct but redressable challenges to the lives of people of African descent.¹²⁴ This includes the systematic contamination of water sources with impunity and without State protection for people of African descent.¹²⁵ In addition, even in well-resourced developed States, communities of African descent disproportionately endure the siting of hazardous waste facilities, landfills, incinerators, and other threats to community water supply.¹²⁶ These siting patterns

programmes. Whether in rural or urban settlements, people of African descent often live in the areas that have the most precarious infrastructures and lack basic services such as water supply, electricity, sanitation and public housing programmes. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Ecuador, para 28, U.N. Doc. A/HRC/13/59/Add. 2, (January 6, 2010).

During the visit to Panama, the Working group was concerned about the information provided by Panama the Committee on the Elimination of Racial Discrimination that the indigenous and Afro-Panamanian communities “do not have effective access to basic services such as water supply, electricity, sanitation, education, public housing programmes and microcredit”. The Working Group’s consultations during the visit revealed that this situation has continued into 2013. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Panama, para 23, U.N. Doc. A/HRC/24/52/Add. 2, (August 21, 2013).

¹²⁴ The pervasive lead situation in the water in Flint, Michigan in the United States is merely one example See e.g., *Flint: Fundamentally about human rights – UN experts underline* (3 Mar. 2016).

¹²⁵ In Ecuador, the Working group visited Esmeraldas, one of the poorest provinces in Ecuador where people of African descent suffer from environmental racism, with systematic contamination of their water supplies and the environment, intimidation of their communities, and an insufficient response by the State. See *Statement to the media by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to Ecuador*, 16-20 December 2019. In Ecuador, the most common diseases among Afro-Ecuadorians are related to unsanitary living conditions, often characterized by high levels of environmental contamination, poor access to clean water and badly managed disposal of waste materials. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Ecuador, para 9, U.N. Doc. A/HRC/13/59/Add. 2, (January 6, 2010).

¹²⁶ The Working Group’s country 2016 visit to the United States of America found that the highest polluting industrial facilities, across a range of sectors from farming, mining to manufacturing, were situated in poor and minority neighborhoods, including those of people of African descent. African Americans were disproportionately exposed to environmental hazards that impact on their health and standard of living, including being forced to live in disadvantaged areas with hazardous environments (e.g. in proximity to industrial toxicity, power stations, flood zones and so on) and without access to social and commercial facilities. The most polluting industrial facilities, across a range of sectors from farming and mining to manufacturing, are more likely to be situated in poor and minority neighborhoods, including those of people of African descent. For instance, the Working Group expressed concern at the health risks to African Americans on account of incinerator project in Curtis Bay, Baltimore, and the lead-contaminated water in Flint, Michigan. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to USA, para 52, U.N. Doc. A/HRC/33/61/Add. 2, (August 18, 2016).

Similarly, in Canada, the Working Group found that landfills, waste dumps, polluting industries and other environmentally hazardous activities are disproportionately situated near neighbourhoods where many people of African descent live, creating serious health risks for them. For example, the African Nova Scotian community of Lincolnville has been dealing with the social, economic and health effects of first- and second-generation landfills since 1974. There has been no consultation with African Canadian communities and no response has been provided to their concerns about environmental hazards. See Report of the Working Group of Experts on People of African Descent on its visit to Canada, para 63, U.N. Doc. A/HRC/36/60/Add.1 (August 16, 2017); see also Statement to the media by the United

often reflect racialized decision-making, specifically and persistently disadvantaging people of African descent.¹²⁷

COMMENTARY AT SDG 6.4 | ACCESS TO WATER AND SANITATION FOR RURAL WOMEN

In its country visit to Ecuador in 2019, the Working Group observed the effects of pollution on rivers and creeks, where people of African descent especially women and children drink, bathe and wash their clothes. Access to safe and healthy water and sanitation must be ensured.

SDG 8. PROMOTE SUSTAINED, INCLUSIVE AND SUSTAINABLE ECONOMIC GROWTH, FULL AND PRODUCTIVE EMPLOYMENT AND DECENT WORK FOR ALL

- Right to work and to just and favourable conditions of work [UDHR art. 23; ICESCR arts. 6, 7, 10; ICEARD art. 5; CRPD art. 27; ILO Core Labour Conventions and ILO Declaration on Fundamental Principles and Rights at Work]
- Prohibition of slavery, forced labour, and trafficking of persons [UDHR art. 4; ICCPR art. 8; CEDAW art. 6; CRC arts. 34-36]
- Equal rights of women in relation to employment [CEDAW art. 11; ILO Conventions No. 100 and No. 111; ICESCR art.7]
- Prohibition of child labour [CRC art. 32; ILO Convention No. 182; ICESCR art. 10]
- Equal labour rights of migrant workers [CMW art. 25; UDHR art. 23]

8.1 States should implement development-oriented policies that support productive activities, job creation, entrepreneurship as well as creativity and innovation among people of African Descent. [ICESCR arts. 6, 7]

8.2 States should encourage formalization and growth of micro-, small- and medium-sized enterprises set up by people of African Descent, including through access to financial services.

8.3 States should implement programs that aim to ensure full and productive employment for all women and men of African Descent, including for young people and persons with disabilities. Women should be guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work [ICESCR arts.7]

8.4 States must take measures to ensure that people of African Descent benefit from equal pay for work of equal value. [ICESCR arts.7]

8.5 States should undertake measures to substantially reduce the proportion of youth of African Descent not in employment, education or training.

8.6 States must take all effective measures to eradicate forced labour, end modern slavery and human trafficking among people of African Descent.

8.7 States must secure the prohibition and elimination of child labour, paid employment of child labour should be prohibited and punishable by law, [ICESCR art. 10]¹²⁸; including recruitment and use of child soldiers.

Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Canada, 17-21 October 2016, Ottawa, 21 October 2016.

¹²⁷ In addition, there are racialized inequities in the siting of hazardous waste disposal and noting that "the impacts of toxics and pollution throughout the life cycle of consumption and production ... are visible across various economic sectors and industrial activities. They illustrate violations and/or abuse of various human rights, particularly of the most vulnerable in society, including the rights of ... minority communities." *See Report of the Special Rapporteur on the human rights obligations related to environmentally sound management and disposal of hazardous substances and waste (2012)*, U.N. Doc. A/HRC/21/48, para. 32-33.

8.8 Labour rights of workers of African Descent, in particular women, migrants and those in precarious employment, must be adequately protected.

COMMENTARY ON SDG 8

People of African descent experience barriers to employment and opportunity, discrimination and harassment in the workplace, and disproportionate forcible labour and trafficking, contrary to applicable law.¹²⁹ The targets and the WGEPAD guidelines in the area of the SDG 8 draw from the standards concerning the right to work and to just and favorable condition of work enshrined in article 23 (Universal Declaration of Human Rights), articles 6, 7, 10 (International Covenant on Economic, Social and Cultural Rights), art. 27 (Convention on the Rights of Persons with Disabilities) and the ILO Declaration on Fundamental Principles and Rights at Work. In addition, they draw from standards concerning prohibition of slavery, forced labor, and trafficking of persons enshrined in art. 8 (ICCPR), art. 6 (Convention on the Elimination of All Forms of Discrimination against Women), art. 34 and 36 (Convention on the Rights of the Child), art. 27 (Convention on the Rights of Persons with Disabilities). The guidelines also draw from standards concerning Equal Right of Women in relation to Employment enshrined in article 11 (CEDAW) and ILO Convention No. 100 and No. 111).

COMMENTARY ON SDG 8.1 | DEVELOPMENT-ORIENTED POLICIES TO SUPPORT JOB CREATION, ENTREPRENEURSHIP

People of African descent also benefit less from development and policies that support entrepreneurship and job creation, despite Article 6 of ICESCR's requirement that States party ensure rights to work and Article 7's recognition of the right to the enjoyment of just and favourable conditions of work¹³⁰ The Durban Declaration also emphasizes the role of the State in ensuring equal opportunity and in creating the conditions for effective participation in economic and other decision-making.¹³¹ The CERD has also spoken consistently.¹³² The Working Group has observed the critical importance of this State role, in its presence and in its absence,

¹²⁸ ICESCR art. 10. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

¹²⁹ See e.g., European Charter of Fundamental Rights covers, Article 31, with respect to the right to fair and just working conditions

¹³⁰ ICESCR art.6. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

¹³¹ The Durban Declaration encourages "States to develop or elaborate national action plans to promote diversity, equality, equity, social justice, equality of opportunity and the participation of all," aiming at "creating conditions for all to participate effectively in decision-making and [realizing] civil, cultural, economic, political and social rights in all spheres of life on the basis of non-discrimination;" to cooperate with non-governmental organizations and get them more involved into the implementing process of these action plans. See Durban Declaration and Programme of Action at paragraph 99 ("encouraging States in developing and elaborating such action plans, to establish, or reinforce, dialogue with non-governmental organizations in order to involve them more closely in designing, implementing and evaluating policies and programmes.").

¹³² CERD requires states to develop and implement special measures aimed at promoting the employment of African descent in both the public and private sectors, adopt or make more effective legislation prohibiting discrimination in employment. Denial of citizenship for long-term or permanent residents could result in the creation of disadvantage for the people affected in terms of access to employment. (CERD 21, 49, 50, 58, 59).

in its country visits,¹³³ including where the State did not step in to ensure social protection.¹³⁴ In several states and regions, policy and legislation to support non-discrimination, employment, job creation and more have been codified.¹³⁵ However, many people of African descent still struggle to maintain an adequate standard of living and to make ends meet despite working full time jobs.¹³⁶

COMMENTARY ON SDG 8.3 | EQUAL OPPORTUNITY

Even in developed countries with strong economies and strong economic recovery, people of African descent face barriers to employment and adequate standard of living.¹³⁷ This is also observable in less developed nations.¹³⁸ In addition,

¹³³ For example, in Brussels, the Working Group observed some initiatives to combat racism, racial discrimination, xenophobia and related intolerance. In Brussels, Antwerp, Liège, Namur and Charleroi, the Working Group received information about social integration and intercultural initiatives for new arrivals, including referral to language programs. However, these failed to confront ongoing disparities and discrimination facing multi-generational residents of Belgium who were people of African descent. (See Report of the Working Group of Experts on People of African Descent - visit to Belgium from 4 to 11 February 2019. A/HRC/42/59/Add.1).

¹³⁴ For example, regarding “full and productive employment,” the Working Group was informed in Guyana that the once thriving bauxite mining industry, which had provided significant employment opportunities any, had been affected by the fluctuating prices of and decrease in demand for bauxite on the world market, resulting in the downscaling of the workforce within that industry. Many miners who had been laid off after working for decades had received low severance pay and had no access to their pension. The Working Group was also informed about the disregard to issues arising from the health and safety concerns of mineworkers, who were predominantly of African descent. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Guyana, para 29, U.N. Doc. A/HRC/39/69/Add.1 (August 15, 2018). These conditions persisted despite the Prevention of Discrimination Act of 1997 in Guyana, which aimed to eliminate discrimination in employment, training, recruitment and membership or professional bodies, and promotes equal remuneration for men and women performing work of equal value. It prohibits discrimination on the grounds of race, sex, religion, colour, ethnic origin, indigenous population, national extraction, social origin, economic status, political opinion, disability, family responsibilities, pregnancy, marital status or age, and places restrictions on the employment of minors. The law allows for the introduction of affirmative action or temporary special measures to promote equality of opportunity in employment. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Guyana, para 13, U.N. Doc. A/HRC/39/69/Add.1 (August 15, 2018).

¹³⁵ For example, the European Commission against Racism and Intolerance (“ECRI”) recommended to States on its General Policy Recommendation No. 14 to “take steps to eliminate racial harassment in employment and, to that end, conduct campaigns against racial harassment in employment and encourage employers to establish mechanisms to prevent such harassment, racism and intolerance in the workplace, including the adoption and implementation of anti-harassment policies.” In the European Union, the Racial Equality Directive implements the principle of equal treatment between persons irrespective of racial or ethnic origin in employment in both the public and private sector. Moreover, it calls for the adoption of positive measures to prevent or compensate for disadvantages linked to racial or ethnic origin.

¹³⁶ For example, in the EU, according to the European Union Agency for Fundamental Rights, 55 per cent of the respondents (a total of 5,803) to the survey have a household income below the at-risk-of-poverty threshold after social transfers in the country where they live.

¹³⁷ In its country visit to the United States the Working Group learned of significant challenges to employment, adequate wage and salary, and equal opportunity for people of African descent, despite a booming economy. Yet, despite the recovery of the United States economy, the impact of the 2008 and 2009 recession on African Americans was still very apparent and unabated. At that time, the unemployment rate among African Americans is almost twice the national unemployment rate. In 2014, the annual income for African Americans was just under half the income of white Americans who are not Hispanic. Today, the skyrocketing unemployment and impact of the COVID-19 epidemic presents even a starker picture. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to the United States of America, para 54, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016). Similarly, in the Netherlands, the Working Group noted positively that the

intersectional populations of African descent, including women,¹³⁹ face particular challenges in employment and equal opportunity.¹⁴⁰ Women of African descent disproportionately experience glass ceilings, glass cliffs, and open denials of access to opportunity.¹⁴¹ The lack of equal opportunity for people of African descent is often apparent in their lack of access to suitable employment for which they are well-educated and credentialed, i.e., “downgrading.”¹⁴² Nor have countries

Government provides a range of financial benefits for unemployed people, but also that people of African descent were overly represented in these rolls, data that provides a good indication of poverty rates. WGEPAD, Report of the Working Group of Experts on People of African Descent on its sixteenth session: Mission to the Netherlands, para 55, U.N. Doc. A/HRC/30/56/Add.1 (July 20, 2015).

¹³⁸ Overall, in Latin America, Afro-descendants have higher levels of unemployment in all countries, and among those employed, a larger share of them work in low-skilled occupations. On average, Afro-descendants have nearly twice the rate of unemployment of non-Afro-descendants in many countries, at about 13 percent versus 6 percent. Furthermore, about 75 percent of the Afro-descendant population works in low-skilled occupations, compared with around 69 percent of the non-Afro-descendant population. Afro-descendants are also more likely to work in informal jobs in most countries, after controlling for all other factors. In Brazil and Uruguay, the likelihood of working in the informal sector is around 3 percent higher for Afro-descendant workers, while showing no improvement in the 2005–15 period for Brazil. See 24th Session UN WGEPAD on March 2019, World Bank, Afro-descendants in Latin America: Toward a Framework of Inclusion, p. 81-82.

The United Nations Economic Commission for Latin America and the Caribbean (ECLAC) notes that labour markets in Latin America exhibit “large ethnic, racial and gender divides in terms of employment access and quality, rights and social protection, among other factors, representing a critical obstacle to efforts to overcome poverty and inequality in the region” (Afrodescendent women in Latin America and the Caribbean: Debts of equality, 2018). Consequently, it recommends States and the private sector to adopt concrete measures for the sustained inclusion of Afrodescendent women in formal employment, in order to ensure their social protection and their right a decent old age.

¹³⁹ In Canada, the Working Group noted the disproportionately high unemployment rates among African Canadians were even more concentrated among women, observing that the racialization of poverty is compounded by the feminization of poverty: the unemployment rate for African Canadian women is 11 per cent compared to 7 per cent for the general Canadian population and, when employed, African Canadian women earn 37 per cent less than White men and 15 per cent less than their White women. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to Canada, para 57, U.N. Doc. A/HRC/36/60/Add.1 (August 18, 2017).

¹⁴⁰ In Brazil, professional Afro-descendants made on average over 40 percent less than their white peers, while those working as skilled agricultural or fishery workers made over 51 percent less. There, wage gaps have only widened in the past two censuses, women of African descent were among the most vulnerable groups in the country: Afro-Brazilian women earned 46 percent less than white Brazilian women on average, but also made 32 percent less than men of African descent. See 24th Session UN WGEPAD on March 2019, World Bank, Afro-descendants in Latin America: Toward a Framework of Inclusion, para 82.

¹⁴¹ ECLAC has made recommendations regarding the underrepresentation of Afrodescendent women in managerial positions: “The implementation of affirmative action or policies by firms to include Afrodescendent women and men in their staff is very important for their sustained integration into formal employment and should be encouraged by States. Such policies or affirmative actions include the establishment of special programmes to hire persons of African descent, capacity-building programmes to improve the qualifications of Afrodescendants for positions not traditionally held by them or positions at a higher level in the employment hierarchy, and the adoption of targets and programmes reduce salary inequalities between Afrodescendants and non-Afrodescendants and to increase Afrodescendent presence in management positions.”

¹⁴² In its 2019 country visit to Belgium, the Working Group of Experts on People of African Descent noted that Belgians of African Descent faced “downgrading” and other employment challenges, they are disadvantaged, especially compared with people of Belgian or European origin in the employment rate, unemployment rate and levels of precarious employment. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 51, U.N. Doc. A/HRC/42/59/Add.1 (August 14, 2019). Consistent with this, a European Union Agency for Fundamental Rights survey demonstrated that, in the EU,

responded to these concerns when raised specifically.¹⁴³ As these guidelines are issued, the world is grappling with COVID-19. This has presented new and unprecedented challenges with respect to equity and equity that is highly dependent on access to technology. People of African descent face particular and extreme challenges in this regard in developed and developing countries, exacerbating the risk that they will continue to be left behind.¹⁴⁴

COMMENTARY ON SDG 8.4 | EQUAL PAY FOR EQUAL WORK

Significant disparities in wages and salaries disadvantage people of African descent in the workforce globally.¹⁴⁵ This concern has not been abated by development, as it persists widely in the developed world.¹⁴⁶

people of African descent frequently are engaged in low quality employment that does not correspond to their level of education.

¹⁴³ In 2019, ECRI reported high levels of perceived discrimination on the labor market in the Netherlands, specially, on the youth unemployment. *See* ECRI, Netherlands Country Report, 4 June 2019. It recommended promoting equality, awareness raising and positive measures as efficient tools to promote equality and address discrimination in the labor market.¹⁴³ Although the recommendations are sound, these findings is particularly concerning given the findings in the Working Group's 2014 country visit to the Netherlands. After its country visit in 2014, the Working Group has suggested measures against employers who knowingly discriminate, including the 'naming and shaming' of companies that undertake discriminatory practices. *See* Statement by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to the Kingdom of the Netherlands, 26 June-4 July 2014, The Hague, 4 July 2014.

¹⁴⁴ For a robust analysis, see the UN Working Group of Experts on People of African Descent's recent thematic report, *COVID-19, systemic racism, and global protest*, A/HRC/45/44, September 2020 (<https://undocs.org/en/A/HRC/45/44>).

¹⁴⁵ According to the World Bank, one of the biggest gaps between Afro-descendants and non-Afro-descendants is in income and equal pay for their labor. Afro-descendants tend to earn 16 percent less for the same types of jobs in Brazil, 11 percent less in Uruguay, and 6.5 percent less in Peru under the same conditions. They are also confronted with glass ceilings in their career development, representing as little as 0.8 percent of the managers in Uruguay and under 6 percent in Brazil. *See* 24th Session UN WGEPAD on March 2019, World Bank, Afro-descendants in Latin America: Toward a Framework of Inclusion, para 22. According to the 2010 census in Brazil, professional Afro-descendants made on average over 40 percent less than their white peers, while those working as skilled agricultural or fishery workers made over 51 percent less. These wage gaps *widened* since the prior census. Whereas in 2000 Afro-Brazilians earned on average 51 percent less than other Brazilians, in 2010 they earned 54 percent less. One of the most vulnerable groups in the country were Afro-Brazilian women, who not only made on average 46 percent less than white Brazilian women, but also made 32 percent less than male Afro-descendants. *Id.* at p. 82.

¹⁴⁶ For example, in its country visit to Germany, the Working Group found that people of African descent continue to be underrepresented in management positions and they are often on the lowest rungs of Germany society. They end up with the jobs that nobody else wants. Civil society sources reported that racial discrimination on the job market began when employers lost interest upon reading a foreign name, making it very difficult to get into formal employment, despite the individual's (certified) qualifications. Civil society sources reported instances of differential treatment faced by people of African descent, with disproportionately lower remuneration for work done in comparison with others. People of African descent are driven into poverty, which forces them into depression and brings a serious risk of mental health issues. Civil society sources also reported experiences of racial discrimination by medical doctors or nurses against patients, with stereotypical inferences being drawn from the patient's complaints. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to Germany, para 42, U.N. Doc. A/HRC/36/60/Add.2 (August 15, 2017).

The situation is the same in the United States of America, where people of African descent continue to be underrepresented in management positions. In 2013, people of African descent accounted for only 7 per cent of workers in management occupations. Instead, African Americans disproportionately work in temporary jobs with less security and lower salaries. Nearly half a million African Americans earn the minimum wage. The U.S. Equal Employment Opportunity Commission continues to receive more than 30,000 complaints a

COMMENTARY ON SDG 8.5 | YOUTH EMPLOYMENT AND TRAINING

Youth of African descent also face considerable barriers to the education, training, and job skills that could allow them to be competitive in the modern economy. In its country visits, the Working Group has observed this concern in developed and less developed countries.¹⁴⁷

COMMENTARY ON SDG 8.6 | END MODERN SLAVERY, FORCED LABOUR, TRAFFICKING IN PERSONS

Issues of modern slavery, forced labour, and trafficking in persons have always disproportionately affected people of African descent, including because of their invisibility in some to the societies where they live.¹⁴⁸ However, there must be zero tolerance for these atrocities, clearly prohibited by law,¹⁴⁹ which are redressable

year concerning racial discrimination. WGEPAD, *Report of the Working Group of Experts on People of African Descent on its mission to the United States of America*, ¶ 55, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016). See also Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to USA, 19-29 January 2016.

The Working Group observed similar issues in its visit to Italy. There, the Working Group was informed that people of African descent who are irregular migrants are often employed in construction, agriculture, gardening and clothes manufacturing and suffer exploitation in the form of unfavourable contracts, unequal pay and poor working conditions. The severe exploitation of people of African descent by organized criminal groups was reported in the areas of agriculture, construction, domestic help and labour-intensive manufacturing. The Government informed the Working Group that steps were being taken in the area of employment. WGEPAD, *Report of the Working Group of Experts on People of African Descent on its mission to Italy*, para 63, 64, U.N. Doc. A/HRC/33/61/Add.1 (August 12, 2016).

In Spain, reports civil society reported that people of African descent were discriminated against in recruitment processes, sometimes very openly. They explained that even educated people of African descent did not have access to jobs at the same level as other Spanish nationals, even if they had similar educational qualification, because of the colour of their skin. There, Working Group was also concerned about the widespread exploitation of migrants, including people of African descent, who face racial discrimination and exploitation in the workplace. Employers of immigrants do not respect labour laws in terms of working conditions and payment of the minimum wage. Workers in the informal sector of the economy, such as street vendors, find themselves in a particularly vulnerable situation, with no social security or rights, and also experience harassment by law enforcement officials. Regardless of their levels of education, they do not have access to skilled jobs because of discrimination. Precarious contracts also make it impossible to apply for resident status. (See WGEPAD, *Report of the Working Group of Experts on People of African Descent on its visit to Spain*, para 45, and UN Doc. A/HRC/39/69/Add.2 (August 14, 2018).

¹⁴⁷ In its 2016 country visit to the United States, the Working Group expressed particular concern about high unemployment among young African Americans without a high school diplomas. WGEPAD, *Report of the Working Group of Experts on People of African Descent on its mission to the United States of America*, para 54, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016).

¹⁴⁸ For example, in Latin America, the use of forced labor and slavery resulted in the subordinate place of Afro-descendants in the society. Even today, people of African descent suffer from high levels of material poverty and social and political exclusion. *See generally* Economic Commission for Latin America and the Caribbean (ECLAC), WGEPAD 24th Session on March 2019, First regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/6), p205, Santiago, 2019. Moreover, the '(...) invisibility and denial of the Afro-descent presence in the region' worsen the situation.

¹⁴⁹ For example, Art. 5 of the African Charter on Human and Peoples Rights prohibits all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment. In the European human rights system, Article 4 of the European Convention on Human Rights prohibits slavery and forced labour. The Council of Europe Convention on Action against Trafficking in Human Beings labels trafficking of

within the original time frame of SDG implementation.¹⁵⁰ Courts have confirmed this.¹⁵¹ The Working Group has a particular interest in ending slavery, given the ongoing legacies of the trade and trafficking in enslaved Africans in the 15th century and beyond.¹⁵² The Durban Declaration also offers positive and punitive measures to impact the trafficking in persons.¹⁵³ Yet, these concerns persist, including in developed countries.¹⁵⁴

COMMENTARY ON SDG 8.7 | CHILD LABOUR

Child labour is of particular concern for communities of African descent in developing countries, which disproportionately impacted by this type of

humans as a human rights violation and calls to all States parties to protect the human rights of victims of trafficking.

¹⁵⁰ Several mandates have noted the insufficient steps taken to curb atrocities like child trafficking. The Committee on the Rights of the Child noted on its Concluding Observations (Colombia) the widespread trafficking of children, particularly girls, affecting displaced, Afro-Colombians and indigenous children, and the insufficient measures taken to identify and assist child victims, and recommended to enforce the legislation, by actively identifying, investigating and prosecuting offences, as well as, strengthen prevention, protection, recovery and social reintegration programmes.

¹⁵¹ In the case, *Hacienda Verde v. Brazil* the Inter-American Court interpreted the term “slavery.” The Court held that the concept of slavery has evolved such that it is no longer confined to exercising a right of “ownership.” Rather, the Court adopted an approach which focuses on control exercised over a person that significantly restricts or deprives them of their individual freedom, with the intent to exploit them through the use, management, benefit, transfer or divestment of their person. The Court indicated that in cases of servitude, slavery, human trafficking and forced work, states have an enhanced due diligence obligation to prevent and end such crimes. They must adopt measures to address and provide an adequate legal framework and implement it effectively, strengthen institutions, immediately investigate any evidence or complaint of slavery or trafficking of persons.

¹⁵² In November 2018, UN human rights experts urged that the Government of Libya must take urgent action to end the country’s trade in enslaved people as slavery was an outrageous reality in Libya. An estimated 700,000 migrants were in Libya, a major transit country for those trying to reach Europe and the enslavement of migrants derived from the situation of extreme vulnerability in which they found themselves. The experts urged that the Government and the international community must take immediate and decisive action to ensure this crime not to continue and prioritize the release of all enslaved people, and act in solidarity to support the investigation of atrocious crimes occurring in the country. *See Libya must end “outrageous” auctions of enslaved people, UN experts insist*, Geneva (30 November 2017).

¹⁵³ The Durban Declaration and Programme of Action offers various measures to prevent human trafficking, include encourage the business sector, in particular the tourist industry and Internet providers, to develop codes of conduct preventing trafficking, urge states to enact and implement laws against trafficking, protocols be made to suppress and punish trafficking, calls upon states to criminalize all sorts of trafficking, provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking. Urges States to take or strengthen measures to address root causes that make persons vulnerable to trafficking, encourages States to cooperate with non-governmental organizations to undertake campaigns preventing women from becoming victims of trafficking, encourages States to conclude bilateral, sub-regional, regional and international agreements to address the problem of trafficking in women and children, recommends the General Assembly consider declaring a United Nations year or decade against trafficking in persons. DDPA Sections 30, 38, 63, 64, 78, 125, 138, 173, 174, 175, 186, 201. Consistent with the DDPA, The ILO and the FAO have called on States to collect data in relation with child labour in agriculture, noting the association between children of African descent, forced labour, and the agricultural sector. *ILO & FAO, Estudio regional sobre trabajo infantil en la agricultura en América Latina y el Caribe*.

¹⁵⁴ In addition, the ILO has reported that trafficking in children and adults for domestic work has been documented among and between the countries from the Americas and the Caribbean to the US and Canada, as well as internally in Haiti, Indonesia and Morocco. *See ILO, “Practical Guide to Ending Child Labour and Protecting Young Workers in Domestic Work”*.

exploitation,¹⁵⁵ despite clear legal guidance prohibiting child labour.¹⁵⁶ In many places, business enterprises are complicit in the exploitation of young children as laborers and without adequate oversight or redress by the States in which they operate.¹⁵⁷ As the Working Group noted in some country visits, even once on notice, these conditions often are allowed to persist. In addition, while some indications exist that these are not the practices of large international agribusiness enterprises and the like. The Working Group has observed otherwise and understands this to be a pervasive problem in States where children of African descent face inadequate social protection.¹⁵⁸ The use of child labour is linked to, lack of development and related socio-economic conditions and could perpetuate poverty and racial discrimination by disproportionately denying children from affected groups the opportunity to acquire the capabilities needed to live a productive life and to benefit from economic growth.¹⁵⁹

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- ¹⁵⁵ PAHO has noted that child labour issues disproportionately affect Indigenous children and children of African descent. See Pan American Health Organization on Equity and Health Inequalities Commission, “JUST SOCIETIES Health Equity and Dignified Lives”.
- ¹⁵⁶ Child Labour and the exploitation of children is widely prohibited internationally. See Art.32, Convention of the Rights of the Child and ILO Convention No. 182. Article 32 of the European Charter of Fundamental Rights stipulates the prohibition of child labor and protection of young people at work. Article 19 of the American Convention on Human rights provides that, “Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state”. In *Rosendo Cantu and others v. Mexico*, the Inter American Court noted States must act as guarantor with greater care and responsibility, taking special measures to protect a child’s best interest. Moreover, the Court added that States must pay special attention to the needs and rights of the child, especially considering their situation of vulnerability. This obligation could only be enhanced in the case of children of African descent, who are exposed to multiple forms of discrimination.
- ¹⁵⁷ The Inter-American Commission of Human Rights noted that other forms of impact on children include illegal child labor, the presence of children in the vicinity or interior of business facilities, the recruitment of children as domestic servants in workers’ accommodations, and the exposure of children to industrial products, among others. See IACHR, *Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities*. Similarly, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance noted particular concerns along these lines in the extractive industries. See *Global extractivism and racial equality*. The Special Rapporteur noted that: “(...) Children have the right to be protected from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral, or social development. Labour-related human rights violations also exist beyond the African continent, and have been regularly documented in the Americas, Asia, Europe and the Pacific.”
- ¹⁵⁸ Despite the ILO’s claim that “child labour occurs predominately among migrant families or smallholder families based near mills, rather than in large agroindustry,” see ILO, *Child labour in the primary production of sugarcane* (2017), the Working Group has also observed exploitative practices of child labor at the hands of agribusiness. During the WGEPAD country visit to Ecuador, they found that the children of African descent are forced to work instead of going to school. Both parents and children lack identity documents and access to health care and other services. The WGEPAD recommended registration of the children of the Furukawa workers and the provision of scholarships to schools and universities. See Statement to the media by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to Ecuador, 16-20 December 2019.
- ¹⁵⁹ See Durban Declaration and Programme of Action, para 74. In addition, the ILO notes that child labourers in the sector are predominantly male (70-80 per cent), adolescents, and are likely to be from ethnic minorities, such as indigenous peoples or the Afro-Colombian community, as well as Afrodescendants in Mexico and Bolivia. However, in Ecuador and other States.

COMMENTARY ON SDG 8.8 | LABOUR RIGHTS, PARTICULARLY WOMEN, MIGRANTS,
PRECARIOUS EMPLOYMENT

Despite longstanding presence in the countries where they live, people of African descent often face significant exploitation at the hands of business and lack effective access to labour rights.¹⁶⁰ Migrants and recent arrivals also face wage exploitation and racial discrimination in securing employment.¹⁶¹ In many countries, people of African descent are relegated to the informal economy, and exploitation, because of discrimination.¹⁶² This is contrary to DDPA requirements specific to migrant workers and non-discrimination,¹⁶³ as well as other relevant law.¹⁶⁴

¹⁶⁰ For example, in its country visit to Ecuador, the WGEPAD also expressed deep concerns about the ongoing violations of the human rights of plantation workers and their families by the Japanese company, Furukawa Plantaciones CA. Afro-descendant workers, who comprise the majority of workers, work and depend on the extraction of abaca fiber without employment contracts or social security. For 56 years, Ecuadorians of African descent have worked for the company under deplorable conditions. They live in camps without basic amenities like drinking water, electricity, public lighting, sanitation or toilet facilities, and more. See Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Ecuador, 16-20 December 2019.

¹⁶¹ The country visits of the Working Group have revealed untenable conditions for migrant workers. In Canada, many seasonal migrant workers of African descent are subjected to deplorable working conditions. They are exploited and are reportedly denied access to basic health services. They are required to pay taxes into Canadian social benefit programs which they often cannot access, the situation is reminiscent of indentured labour. Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Canada, 17-21 October 2016, Ottawa, 21 October 2016. Migrant workers are living in appalling conditions in Spain, particularly in Almeria. In addition to rampant wage exploitation, the Working Group heard accounts from migrant workers living in shacks made of old boxes and plastic sheeting, without sanitation or access to drinking water. The Working Group learned that migrants also faced structural racial discrimination in housing and social services where they lived, with limited access to water and electricity and infrequent garbage collection, which they also attributed to structural discrimination. Migrant workers were subject to harassment, extortion and beatings at the hands of the Guardia Civil (police), allegedly in collusion with the employers. Between 2013 and 2016, the Ministry of Employment and Social Security had conducted a campaign against discrimination against migrant workers. See Report of the Working Group of Experts on People of African Descent on its visit to Spain, para 16, U.N. Doc. A/HRC/39/69/Add.2 (August 14, 2018).

In Indonesia and Malaysia, African asylum seekers arriving undocumented are officially not allowed to work. Receiving no financial support for housing or food, they need to find illegal work to support themselves and their families. Illegal work puts them at risk, not only of detection and imprisonment, but also of exploitation. Some asylum seekers work for employers that provide makeshift housing where they work long hours for minimal pay. See 16th Session UN WGEPAD on 30 March to 2 April 2015, Ricardo A. Sunga, Reflections on the African Diaspora in Asia.

¹⁶² Similarly, the WGEPAD following its country visit to Argentina pointed out that People of African descent are often discriminated against in access to employment in the public and private sectors. In many cases, they have been confined to the informal job sector, which expose them to exploitation. The Working Group recommended the adoption of affirmative measures to in order to ensure that Afro-Argentines and people of African descent are employed in the public and private sectors at all levels. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 42, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019).

¹⁶³ The DDPA instructs States to eliminate racial discrimination against migrant workers in relates to issues of employment etc., to work with indigenous people to stimulate their access to economic activities and increase their level of employment, to take all possible measures to promote the full enjoyment by all migrants of rights including in the event of unemployment. (See DDPA, Paragraphs 8c, 16, 49, 51,71)

¹⁶⁴ See e.g., Art. 25, Convention on Migrants Workers, mandating equal labour rights of migrant workers.

SDG 9. BUILD RESILIENT INFRASTRUCTURE, PROMOTE INCLUSIVE AND SUSTAINABLE INDUSTRIALIZATION AND FOSTER INNOVATION

- Right to enjoy the benefits of scientific progress and its application [UDHR art. 27; ICESCR art. 15(1) (b)]
- Right to access to information [UDHR art. 19; ICCPR art. 19(2)]
- Right to adequate housing, including land and resources [UDHR art. 25; ICESCR art. 11]
- Equal rights of women to financial credit and rural infrastructure [CEDAW art. 13(b), art. 14(2)]

9.1 States should ensure that people of African Descent benefit from quality, reliable, sustainable and resilient infrastructure that supports their economic development and human well-being.

9.2 States should ensure that people of African Descent have access to small-scale industrial and other enterprises.

9.3 States should undertake efforts with view of ensuring that people of African Descent have access to financial services, including affordable credit.

9.4 States should ensure that people of African Descent have access to information and communications technology.

COMMENTARY ON SDG 9 | RESILIENT INFRASTRUCTURE, INCLUSIVE INDUSTRIALIZATION, INNOVATION

The targets and the WGEPAD guidelines in the area of the SDG 9 draw from standards concerning the right to enjoy the benefits of scientific progress and its application (art. 2, UDHR; art. 15. 1, b, ICESCR), right to access to information (art. 19, UDHR; art. 19.2 ICCPR) the right to adequate housing, including land and resources (art. 25, UDHR; art. 11, ICESCR), the equal rights of women to financial credit and rural infrastructure (art. 13. b AND 14.2, CEDAW).

COMMENTARY ON SDG 9.3 | ACCESS TO FINANCIAL SERVICES, AFFORDABLE CREDIT

In some developed states, legalized racial discrimination facilitated lesser access to credit, home ownership, and wealth, with impacts that persist today.¹⁶⁵

COMMENTARY ON SDG 9.4 | ACCESS TO INFORMATION AND COMMUNICATIONS TECHNOLOGY

As these guidelines are issued, the world is grappling with COVID-19. This has presented new and unprecedented challenges with respect to employment, health,

¹⁶⁵ During its visit to the United States of America, the Working Group expressed concern at persistent, de facto residential segregation in many of the metropolitan areas in the United States. The Working Group was also informed that people of African descent were more likely than other people with similar borrower characteristics to be victims of predatory lending, to receive higher-cost loans and to lose their homes to foreclosure. In the Working Group's meeting with the Department of Housing and Urban Development, a series of maps were shown which not only starkly depicted high concentrations of African American families in low-income neighbourhoods and districts, but also reflected the correlation between racial segregation and socioeconomic disparities in access to health, education, and even access to adequate food, between the African American population and the white population. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to the United States of America, para 50, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016).

and educational equity and access that is highly dependent on access to technology. There has not been a robust response across all states to ensure expanded access to new technologies and broadband, including via the use of mobile hotspots. People of African descent face particular and extreme challenges in this regard in developed and developing countries, exacerbating the risk that they will continue to be left behind.¹⁶⁶

SDG10. REDUCE INEQUALITY WITHIN AND AMONG COUNTRIES

- Right to equality and non-discrimination [UDHR art. 2; ICESCR art. 2(2); ICCPR arts. 2(1), 26; CERD art. 2(2); CEDAW art. 2; CRC art. 2; CRPD art. 5; CMW art. 7; DRtD art. 8(1)]
- Right to participate in public affairs [UDHR art. 21; ICCPR art. 25; CEDAW art. 7; ICERD art. 5; CRPD art. 29; DRtD art. 8(2)]
- Right to social security [UDHR art. 22; ICESCR arts. 9-10; CRPD art. 28]
- Promotion of conditions for international migration [CMW art. 64]
- Right of migrants to transfer their earnings and savings [CMW art. 47(1)]

10.1 States should look at the proportion of people of African Descent with low income as compared to average population and provide desegregated data thus allowing better knowledge of the situation to address inequality issues. Number of jobs made available to people of African descent and desegregated data on the matter should be made available.

10.2 Data should be made available on people of African descent living with disabilities. Specific program should be developed to ensure that their average person of African descent living below the poverty line with disabilities does not exceed the national average.

10.3 States should make sure that discriminatory legislation is changed and is in compliance with the international standards they have signed.

10.4 States should implement CERD recommendations on racial discrimination and look at the administration of justice when the proportion of people of African descent in detention is higher than the average population.

10.5 Baseline studies should be made by member states about discrimination of people of African descent to address the areas that need adjustment.

10.6 States should adopt policies, especially fiscal, wage and social protection policies, that include people of African descent.

10.7 Data collection about inequality of income for people of African Descent should be undertaken by all states where there are people of African Descent.

10.8 Voter education and access to voting centers should be ensured by legislation and implemented.

10.9 Human rights education should be developed in schools so that people of African descent, know, understand their human rights and can contribute to promoting and achieving them.

10.10 Member states should implement UPR recommendations towards migrants, particularly African migrants.

10.11 They should adjust their legislation and bridge gaps when they have signed the convention on the rights of migrants and their families.

10.12 They should ratify the convention and adjust their national laws if they have not done so, develop and implement policies towards migrants

10.13 States should ensure non-discrimination of migrants of African descent.

¹⁶⁶ For a robust analysis, see the UN Working Group of Experts on People of African Descent's recent thematic report, *COVID-19, systemic racism, and global protest*, A/HRC/45/44, September 2020 (<https://undocs.org/en/A/HRC/45/44>).

COMMENTARY ON SDG 10 |REDUCE INEQUALITY

Reducing inequality involves both concrete metrics and an abstract commitment to inclusion and belonging.¹⁶⁷ Historically and currently, it is the advocacy of rights-holders that motivates states to ensure human rights.¹⁶⁸ On 17 June 2020, following advocacy and demands for racial justice from families and civil society, the UN Human Rights Council held an urgent debate on “current racially inspired human rights violations, systemic racism, police brutality and violence against peaceful protests”. On 19 June 2020, the Human Rights Council adopted by consensus resolution 43/1 entitled “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers”. Despite a robust framework to reduce inequality, implementation remains a key challenge, in many states, that is certainly linked to political will. This robust framework defined the targets and the WGEPAD guidelines in the area of the SDG 9, including standards concerning the right to equality and non-discrimination (art. 2, UDHR; art. 2.2, ICESCR; arts. 2 and 26.1 ICCPR; art. 2.2, ICERD; art. 2, CEDAW; art. 2, CRC; art. 5, CRPD; art. 7, CMW; art. 8.1, DRtD) the right to participate in public affairs (art. 2, UDHR; art. 25, ICCPR; art. 7, CEDAW; art. 5, ICERD; art. 29, CRPD; art. 8.2, DRtD), the right to social security (art. 22, UDHR; arts. 9-10, ICESCR; art. 28, CRPD) the promotion of conditions for international migration (art. 64, CMW) and the right of migrants to transfer their earnings and savings (art. 47.1, CMW)

COMMENTARY ON SDG 10.1 |UNDERSTAND AND REDRESS INEQUALITY IN STANDARD OF LIVING AND INCOME

People of African descent disproportionately live in poverty and with lower income, a direct legacy of colonization and the trade and trafficking in enslaved Africans which continue to shape mindsets and opportunities to which these communities may be subject. The country visits of the Working Group have illustrated this pervasive and structural discrimination,¹⁶⁹ and how it may vary by region.¹⁷⁰

¹⁶⁷ Critically, the inequality based on existential awareness, feelings of social worth and spiritual value are at the contemporary core of what has derailed the journey towards social integration, nationhood and human development. See 9th Session UN WGEPAD on April 13, 2010, Verene A. Shepherd, *Structural Discrimination & Knowledge Production in Post-Colonial Societies: Examples from the Caribbean*, page 18.

¹⁶⁸ ‘There can be no improvement of the situation of people of African descent if there is no local movement, initiative and group of right-holders advocating for their rights.’ Glenn Payot, 16th Session of the Working Group of Experts on People of African Descent Geneva, 2015, 30 March -2 April 2015 Panel to commemorate the 50th anniversary of the adoption of the ICERD, page 5.

¹⁶⁹ In Canada the Working Group of Experts on People of African Descent found that “poverty among single-parent, mother-led families stood at 65 per cent for African Canadian families compared to 26 per cent for European Canadian families.”. (*See Report of the Working Group of Experts on People of African Descent - visit to Canada from 17 to 21 October 2016, A/HRC/36/60/Add.1*)

¹⁷⁰ In Asia, the Working Group has recommended to undertake a comprehensive review of domestic legislation with a view to identifying and abolishing provisions that entail direct or indirect discrimination. Refugee laws that prescribe detention during the pendency of refugee status determination should be revisited. Laws must offer immediate as well as durable solutions to issues of health, education, employment and housing, experienced by asylum seekers, who live in situations of discrimination in multiple ways. Strengthening legal protection for economic, social and cultural rights of migrants, especially undocumented ones, who are among the most vulnerable in society, should also be considered. Migrants should not be detained, unless they present a danger for themselves or others, or would abscond from future proceedings. Non-custodial measures should be considered including establishing procedural paths to access residence permits. Legislation regarding citizenship and naturalization should not discriminate against people of African descent and should pay sufficient attention to possible barriers to naturalization that may exist for long-term or permanent residents of African descent. See 16th Session UN WGEPAD on 30 March to 2

COMMENTARY ON SDG 10.3 | ENSURE NON-DISCRIMINATION IN LAW AND COMPLY WITH TREATY OBLIGATIONS

States are required to ensure people of African descent benefit from non-discriminatory law and compliance with treaty obligations. Courts have affirmed this.¹⁷¹ Some States have made important legislative reforms.¹⁷² Yet, some states struggle to ensure these basic human rights commitments.¹⁷³

COMMENTARY ON SDG 10.4 | IMPLEMENT CERD RECOMMENDATIONS REGARDING ADMINISTRATION OF JUSTICE, DETENTION, ESPECIALLY FOR DETAINED PERSONS

People of African descent continue to experience racial discrimination in the administration of justice at every level, from police encounters to incarceration. This

April, 2015, Ricardo A. Sunga, Reflections on the African Diaspora in Asia; also citing Report by the Special Rapporteur on the Human Rights of Migrants, Mission to Italy, François Crépeau, UN Doc A/HRC/23/46/Add.3, 30 April 2013, para 85 and 105; General Comment No. 34 of the Committee on the Elimination of Racial Discrimination, UN Doc CERD/C/GC/34, 3 October 2011, para 47.

¹⁷¹ Furthermore, the IAHR Court has concluded through its jurisprudence that (*See Nadege Dorzema and others v. Dominican Republic; Artavia Murillo and others v. Costa Rica*) that States must abstain from producing discriminatory regulations or those with discriminatory effects. This prohibition covers cases of indirect discrimination, which implies that a law or practice that appears to be neutral has particularly negative repercussions on a person or group with specific characteristics. Moreover, it has also recognized the notion of intersectional discrimination (*Hacienda Brasil Verde Workers v. Brazil; Gonzales Lluy and others. v. Ecuador*)

¹⁷² Since December 2015, the Argentina government has adopted the programme “Justice 2020”, which serves as a digital platform of the Ministry of Justice and Human Rights and is based on citizen participation. The Ministry of Justice has also initiated a project to combat prejudice and racial stigmatization on the theme of visibility and the promotion of rights of the Afrodescendant community. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 48, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019). Despite having a legal, policy and institutional framework to combat discrimination, Argentina faces shortcomings in the implementation of protection measures against racial discrimination.

The experiences of people of African descent with law enforcement indicate the prevalence of structural discrimination. As reported by civil society, racial profiling of Afro-Argentines, people of African descent and Africans is prevalent among law enforcement agents. Negative stereotypes of people of African descent to the effect that they are dangerous, violent criminals involved in drug trafficking and sex work have contributed to excessive policing, resulting in selective and discretionary mechanisms for carrying out arbitrary detentions and investigations. Excessive policing is reportedly manifested in the heavy presence and vigilance on the part of the security forces in popular areas mostly inhabited by “non-whites”; an excessive number of non-white people in places of detention, both in pretrial detention centres and in penitentiaries; and excessive use of force by the security forces, a phenomenon known as “easy trigger”. In that connection, the lack of representation of people of African descent in the police is also of particular concern in the light of widespread racial profiling and represents a risk of potential police-community tensions. *See* Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 30, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019).

¹⁷³ During the visit to Argentina, the Working Group found that the national law against discrimination is antiquated and needs to be reformed. They suggested that definition of racial discrimination should conform to international standards. It is recommended that special attention be paid to the needs and interests of groups that suffer multiple forms of discrimination and specific policies implemented, including production and dissemination of data and statistics on the situation of those groups, promotion of their participation in decision-making spaces and full access to their rights. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 21, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019).

includes significant racial profiling in many states.¹⁷⁴ Racial discrimination in sentencing and the disproportionate presence of people of African descent in detention is a racial disparity that is also key indicator of unequal justice. This is true in developed countries¹⁷⁵ and less developed countries¹⁷⁶ States should implement

¹⁷⁴ There is a problem concerning racial profiling. During the visit to Belgium, the Working Group notes that representatives of both civil society and law enforcement acknowledge the prevalence of racial profiling in policing. They also found that little has been done to prevent, detect or combat ethnic profiling and to fulfil the right to non-discrimination. Ethnic profiling is difficult to document, particularly in Belgium, where data collection is limited, and that the lack of research and data on identity checks is hampering an adequate response to the problem. Without the police force conducting studies and analysing the issue, certain forms of discrimination may continue to be overlooked and will remain difficult to address. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 40, 41, U.N. Doc. A/HRC/42/59/Add.1 (August 14, 2019).

In Spain, the Working Group found that racial profiling of people of African descent is endemic. Spanish legislation still lacks a specific prohibition of racial profiling and the existing criteria for law enforcement agents to conduct identity checks remain insufficient. In Spain, civil society reported that people of African descent are constantly assumed to be undocumented, and thus disproportionately stopped for street checks in comparison to people of other ethnicities and in the absence of any security concerns. Being racially profiled is the lived reality of people of African descent. Civil society reported that black people run the risk of being singled out 42 times more often in ports and public transport, simply because of the colour of their skin. That widespread practice not only discriminates against foreigners and Spanish nationals from ethnic minority backgrounds, but also fuels racism, as those who witness such stops presume the victims to be engaged in criminal activities. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Spain, para 19, 20, U.N. Doc. A/HRC/39/69/Add.2 (August 14, 2018).

In Guyana, the Working Group found that, even though the majority of the members of the Guyana police force is Afro-Guyanese, civil society entities continue to report a high incidence of racial profiling by the police force, which had a significant impact on persons of African descent. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Guyana, para 20, U.N. Doc. A/HRC/39/69/Add.1 (August 15, 2018). The situation is the same in Germany. Civil society sources reported that stops, identification checks, searches and other controls by police are usually targeted at minority groups, including people of African descent. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to Germany, para 25, U.N. Doc. A/HRC/36/60/Add.2 (August 15, 2017).

However, the Working Group recognizes that the US has taken some steps at the federal and state level to curb racial profiling. For example, in 2014, the City of New York withdrew an appeal in connection with the landmark *Floyd v. City of New York* case and agreed to join a remedial process ordered by a federal judge, who had found the City liable for a decade-long pattern of discriminatory and unconstitutional stop-and-frisk practices that disproportionately affected the black and Latino communities. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to the United States of America, para 27, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016).

¹⁷⁵ In Canada, the Working Group shows particularly concerns about the overrepresentation of African Canadians in the criminal justice system, which may be attributed to racial bias at all levels of the system, from racial profiling to the exercise of prosecutorial discretion, the imposition of pretrial incarceration and disparities in sentencing. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to Canada, para 34, U.N. Doc. A/HRC/36/60/Add.1 (August 18, 2017).

On WGEPAD country visit to Italy, the Working Group was reported that 40 percent of detainees in pretrial detention are Africans or people of African descent, while 10 per cent in detention in general are Africans or people of African descent. Problems in accessing counsel and an interpreter have also been reported. The Working Group heard reports of racial profiling and that Africans and people of African descent are more likely to be asked to show identity documents. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Italy, para 51, U.N. Doc. A/HRC/33/61/Add.1 (August 21, 2016).

In the United Kingdom, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance noted an overrepresentation of African descent males in prisons and detention centres, as well as, a differential treatment of racial and ethnic minorities in the criminal justice system (2018). 2017 data revealed that people of African descent, in particular young African and Caribbean men, subject to deadly force by

new CERD General Recommendation No. 36 Preventing and Combating Racial Profiling by Law Enforcement Officials and other relevant General Recommendations.

COMMENTARY ON SDG 10.5 | BASELINE STUDIES ON DISCRIMINATION AGAINST PEOPLE OF AFRICAN DESCENT

In many States, baseline information is still necessary to fully depict the situation of people of African descent.¹⁷⁷ In other States, the availability of data offers clear directions for reform and redress, in part by seeking to understand and diminish racial disparities.¹⁷⁸ This must include analyses of State interventions against people of African descent, including by law enforcement.¹⁷⁹

restraint and restraint equipment, were twice as likely to die after the use of force by police officers and the subsequent lack or insufficiency of access to appropriate healthcare and “the deaths reinforce the experiences of structural racism, over-policing and criminalisation of people of African descent and other minorities in the UK.” *See* UN human rights experts say deaths in custody reinforce concerns about ‘structural racism’ in UK, Geneva (27 April 2018). In Canada, according to the Office of the Correctional Investigator of Canada, in 2015-16, Black inmates represented 9 percent of the federal prison population and 7.5 percent of the federal supervised population although Black Canadians comprise just 3 percent of the Canadian population. In terms of correctional outcomes, Black inmates in federal custody are overrepresented in maximum security, segregation (or solitary confinement) and use of force incidents.

In the US, African Americans are overrepresented in the penitentiary system, accounting for 36 percent of sentenced federal and state prisoners. African American women constitute 21 per cent of the imprisoned female population. The incarceration rate for African American males is 5.9 times higher than the rate for white males, while the rate for African American females is 2.1 times higher than the rate for white females.

¹⁷⁶ In Brazil, during WGEPAD country visit that most victims of torture in Brazilian prisons were Afro-Brazilians. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Brazil, para 67, U.N. Doc. A/HRC/27/68/Add.1 (September 23, 2014). According to civil society sources Afro-Brazilians receive higher sentences than their white counterparts for the same crime, and are more likely to suffer discrimination in prison. The Institute for Applied Economic Research found that black people were twice as likely to be killed by the police as whites in cities like Rio de Janeiro.

On WGEPAD country visit to Panama, the Working Group was reported that people of African descent are disproportionately represented in Panamanian prisons. Incarcerated people interviewed said that white and mestizo inmates received better treatment, such as being placed in less crowded cells, and that the authorities were more likely to use restraint, force or disciplinary measures on people of African descent in custody than on other groups. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Panama, para 74, U.N. Doc. A/HRC/24/52/Add.2 (August 21, 2013)

In Guyana, the Working Group was informed that the majority of inmates and detainees were of Afro-Guyanese origin. It is seriously concerned at the overcrowding and substandard conditions witnessed in prison facilities. The Working Group also learned that the overcrowding could, to some extent, be attributed to the prevalence of lengthy pretrial detention. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Guyana, para 21, U.N. Doc. A/HRC/39/69/Add.1 (August 15, 2018).

¹⁷⁷ Concerning studies, the DRRP encourages specialists, organizations and associations undertake objective, accurate research to inform anti-racism and non-discrimination policy (DRRP art. 8.2; 8.3)

¹⁷⁸ For example, in the EU, the Second European Union Minorities and Discrimination Survey (EU-MIDIS II) looked at overall prevalence of discrimination, finding that skin colour accounts for 27 per cent of discrimination reported, when described by type. (*See* Rossalina Latcheva, *Being Black in the EU* at 24th Session of the Working Group of Experts on People of African Descent)

In Ecuador, the Working Group found that Afro-Ecuadorians and people of African descent continue to suffer racial discrimination, particularly with regard to their access to justice, security, land, clean water, education, healthcare, housing and economic opportunity. Data corroborated inequality faced by the people of Africa descent. Ecuadorians of African descent make up 7.2 per cent of the Ecuadorian population. Yet they make up 40 per cent of Ecuadorians living in poverty. According to INEC the province of Esmeraldas where 68.25

COMMENTARY ON SDG 10.7 | DATA COLLECTION

The collection of data disaggregated by race is a principal means of understanding,¹⁸⁰ targeting, and monitoring¹⁸¹ inequalities in access to human rights.¹⁸² In some areas, data offers evidence of the experiences of discrimination and exclusion experienced by people of African descent locally and transnationally.¹⁸³ Yet many States decline to collect or maintain such data on the basis of race¹⁸⁴ (although some States keep anonymized racialized data and all states

per cent of the population is Afro-descendant is one of the poorest and most excluded in Ecuador, 84.6 per cent live below the poverty line, 15.3 per cent are illiterate, and 23 per cent have basic services. According to official data that region also has the highest rates of maternal mortality, gender based violence and teen pregnancy. *See* Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Ecuador, 16-20 December 2019.

¹⁷⁹ In Portugal, the Working Group was informed by a non-governmental organization that the rate at which people of African descent are killed by the police in Portugal was higher than any other country of the European Union. Several members of a predominantly Afro-descendant community informed the Working Group of incidents of police brutality and cases where the police had broken into homes in the neighbourhood of Cova da Moura without a search warrant on the pretext of looking for somebody. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Portugal, para 45, U.N. Doc. A/HRC/21/60/Add.1 (August 13, 2012).

¹⁸⁰ CERD General Recommendation 34 asks states to take steps to identify communities of people of African descent living in their territories, especially through the collection of disaggregated data on the population. CERD General Recommendation 34 at Para. 9. CERD instructs, in pertinent part, that States complete this while "bearing in mind the Committee's general recommendations, particularly general recommendations Nos. 4 (1973) on demographic composition of the population (art. 9); 8 (1990) on identification with a particular racial or ethnic group (art. 1, paras. 1 and 4), and 24 (1999) on reporting of persons belonging to different races, national/ethnic groups, or indigenous peoples (art. 1)."

¹⁸¹ Administrative data have also been used in monitoring racial profiling in policing and hate crimes. In the United States of America for instance, various administrative data, including stops made by officers, police arrest, driver's license, motor vehicle traffic accident, moving violations, hit rates (contraband found) from searches, have been used in assessing racial profiling in policing. In the US, the Hate Crime Statistics Act of 1990 led to the development and implementation of the National Hate Crime Data Collection Program. While the use of administrative data has facilitated the assessment of racism/intolerance in these two instances, its limitations have also been highlighted by several researches, calling for the use of auxiliary data sources, such as surveys, direct observations and events-based data, and the continued refinement of data collection and methodologies for assessment. *See* G. Ridgeway and J. MacDonald, "Methods for assessing racially biased policing", in *Race, Ethnicity, and Policing: New and Essential Readings*, S. Rice and M. White, eds. (New York University Press, 2010).

¹⁸² 'The data are necessary for government to act. To act not only on the material symptoms (poverty, or lack of education), but on the very specific reasons why People of African descent are more likely to be poor, punished, uneducated, less likely to own their home etc. In order to fight structural discrimination, it is very important to go beyond anecdotal evidence. The final result should be a change in the way victims of discrimination are protected. Instead of protecting only those individuals who can prove they have been illegally discriminated against, the state should move toward remedying systemic discrimination, introducing positive action and being proactive, instead of reactive, in the fight with discrimination.' Pastor Elias Murillo Martínez, *Affirmative Action Measures or Special Measures: For Redressing Historical Injustices and Structural Discrimination against Afro-Descendants*, WGEPAD 10th Session on 2011.

¹⁸³ For example, in the EU, the Second European Union Minorities and Discrimination Survey (EU-MIDIS II) looked at overall prevalence of discrimination, finding that skin colour accounts for 27 per cent of discrimination reported, when described by type. (*See* Rossalina Latcheva, *Being Black in the EU* at 24th Session of the Working Group of Experts on People of African Descent)

¹⁸⁴ In its 2017 country visit to Germany, the Working Group found that people of African descent remained invisible as official statistics were only available about foreign born or people with parents born abroad and for African refugees and migrants. Statement to the media by United

collect data on gender, an equally important area of discrimination where the use of data is actively used to measure progress).¹⁸⁵ This actively facilitates violation of the human rights of people of African descent.¹⁸⁶ Even where data is kept, often there is a lack of specific information relating to people of African descent, who face systemic barriers and exclusion.¹⁸⁷ In addition, data does not stand alone, it requires understanding of context and accurate interpretation: States must also humanize data and ensure that people of African descent are represented in data science, policy, and governmental positions where data and its interpretation plays a significant role.¹⁸⁸ All relevant data to human rights indicators should be able to be disaggregated by race.¹⁸⁹ In 2020 ECLAC and OHCHR issued a publication¹⁹⁰ with a selection of indicators for measuring the inequality and exclusion faced by people of African descent, in accordance with the framework for human rights indicators recommended by international human rights mechanisms (United Nations, 2012 and 2018) and with the commitment made in the 2030 Agenda that it “is to be implemented in a manner that is consistent with the rights and obligations of States under international law”

Recognition is closely related to data, and the ability to cognize people of African descent as long-standing members of diaspora communities. Afro-descendants and

Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to Germany, 20-27 February 2017, Berlin (27 February 2017). They were grouped under the all-embracing concept of “people of a migrant background” thereby rendering invisible German citizens of African descent beyond the second generation. Despite the wealth of information and data on socio-economic indicators, there was a serious lack of race-based data and research that could inform policy to improve the situation of people of African descent. The Federal Statistical Office was considering enlarging its micro-census to include indicators such as language spoken in households. However, the lack of disaggregated data on people of African descent and Africans obscured the magnitude of structural and institutional racism they face. *Also see* Germany racial profiling: UN experts highlight situation of people of African descent, Berlin/Geneva (27 February 2017).

¹⁸⁵ For example, the Working Group has observed a serious deficiency of data on people of African descent in several European countries. See 24th Session UN WGEPAD on March 2019, Michał Balcerzak, Item 6: Thematic Discussion, People of African Descent in Europe.

¹⁸⁶ Ahmed Reid, then-Chairperson of the Working Group said, “Mapping and analysis of disaggregated data are crucial to inform policy priorities relating to equality and human rights for people of African descent. Data must inform the development of legislation, policies, and other measures aimed at addressing racism, racial discrimination, Afrophobia, xenophobia and other related intolerance against people.” See *Swift and decisive action needed to end racial discrimination, say UN experts*, Geneva (24 September 2019).

¹⁸⁷ In Canada, despite the wealth of information and data on socio-economic indicators, there is a serious lack of race-based data and research that could inform prevention, intervention and treatment strategies for African Canadians. Authorities acknowledged that disaggregated data along ethnic lines is necessary to understand the human rights concerns of African Canadians. The Working Group is concerned that the category “visible minorities” obscures the realities and specific concerns of African Canadians. Statement to the media by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to Canada, 17-21 October 2016, Ottawa, 21 October 2016.

¹⁸⁸ See 24th Session UN WGEPAD on March 28, 2019, Sabelo Gumedze, Data and Racial Justice.

¹⁸⁹ In its country visit to Guyana, the Working Group noted that data collection should reflect economic and social indicators, including, where appropriate, health and health status, infant and maternal mortality, life expectancy, literacy, education, employment, housing, land ownership, mental and physical health care, water, sanitation, energy and communications services, poverty and average disposable income. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Guyana, para 26, U.N. Doc. A/HRC/39/69/Add.1 (August 15, 2018).

¹⁹⁰ Economic Commission for Latin America and the Caribbean (ECLAC)/Office of the United Nations High Commissioner for Human Rights (OHCHR), *People of African descent in Latin America and the Caribbean: developing indicators to measure and counter inequalities* (LC/TS.2019/62), Santiago, 2020. https://www.un.org/sites/un2.un.org/files/19-00854_people_of_african_descent-web.pdf

their particular needs are not truly recognized in society.¹⁹¹ It is essential to eliminate the social and economic denial of people of African descent, starting with recognition. Some States have done this in their central legal instruments.¹⁹² In other States, very little recognition exists, although racial discrimination persists.¹⁹³

¹⁹¹ Mirjana Najcevska talks about this ‘invisibility’ African descent’s identity. ‘First, invisibility exists as a result of insufficient statistical data on people of African descent (for example, as in many European countries where people of African descent are not specifically identified in national statistics; Second, a significant number of international mechanisms treat discrimination based on ethnicity or belonging to a minority group and most governments have ratified international human rights treaties that protect ethnic minorities. However, Afro-descendants, still need to “demonstrate” that they are a “minority” to gain special human rights benefits; Third, there is invisibility because of a general approach to combating discrimination without a specified approach relating to people of African descent. In the absence of a specialized human rights protection regime for Afro-descendants, the implementation of positive action instruments is questionable.’ Mirjana Najcevska, Overview of the current situation of people of African descent and reflections on positive action 10th session of the Working Group of Experts on People of African Descent, 2011.

¹⁹² In Ecuador, the new constitution (as reformed in 2008) devotes an entire chapter to the rights of communities, people and nationalities, including the Afro-descendant population. The 2009 constitution of the Plurinational State of Bolivia also recognizes Afro-descent, stating that Afro-descent communities are part of the Bolivian people. In Colombia, interpreting the 1991 constitution with international treaties make it possible for the country to recognize itself as multicultural and multi-ethnic country and the Constitutional Court, judgment T-025 of 2004, recognized the Afro-descendant population as special subjects of constitutional protection, which justifies the “adoption of positive differentiation measures, which are adapted to their situation of special vulnerability and defenselessness, and which, through preferential treatment, are conducive to ensuring the effective exercise of their rights.” Additionally, in January 2009, the Constitutional Court issued order 005-09 for the protection of the fundamental rights of the Afro-descendant population that is victimized by forced displacement, within the framework of the unconstitutional state of affairs declared in judgment T-025 de 2004.39. (Carlos Quesada, WGEPAD 20th session, April 2017, Leaving no one behind, people of African descent and the Sustainable Development Goals.). After, the passing of Law No. 70 of 1993, which helps to protect Black communities' rights and fight against discrimination, the Brazilian constitution implicitly recognizes Afro-descent as collective subjects of law. *See* Economic Commission for Latin America and the Caribbean (ECLAC), WGEPAD 24th Session on March 2019, First regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/6), p. 206, Santiago, 2019.

¹⁹³ On the other hand, in Asia, to demonstrate, it is difficult to speak of justice, where people of African descent are hardly given any recognition. Glenn Payot, in the Working Group’s 16th session, also noted that the first challenge on promoting equality through development is the lack of recognition that there is a problem, and – related to this point – the lack of data and statistics. Take Europe as an example, social issues and inequality are presented largely as matters of class and geography, which overlooks the issue of real equality in the social and economic spheres. Glenn Payot, 16th Session of the Working Group of Experts on People of African Descent Geneva, 2015, 30 March -2 April 2015 Panel to commemorate the 50th anniversary of the adoption of the ICERD, p. 3. Without voice or visibility, people of African descent have diminished opportunity to seek justice. There is, for instance, little documentation on people of African descent in the Indian Ocean world and in Arab States on account of the slave trade and of different forms of migration. In their invisibility and silence, people of African descent in Asia face considerable challenges to obtaining justice. *See* Ricardo A. Sunga III, Reflections on Reparatory Justice, 18th session of the United Nations Working Group of Experts on People of African Descent, Geneva, April 2016; Citing also to Gwyn Campbell (who talks about there is a lack of an Asian African diasporic consciousness because of assimilation), ‘Chapter Three: The African-Asian Diaspora: Myth or Reality?’ in Shihan de Silva Jayasuriya and Jean-Pierre Angenot (eds), *Uncovering the History of Africans in Asia* (Brill 2008).

COMMENTARY ON SDG 10.8 | ACCESS TO VOTING AND VOTER EDUCATION

People of African descent, although frequently in the minority, have long struggled to access electoral processes, as voters and as candidates.¹⁹⁴ Even where women make progress, women of African descent do not, and people of African descent remain underrepresented in democratic institutions.¹⁹⁵

COMMENTARY ON SDG 10.9 | HUMAN RIGHTS EDUCATION

Advocacy of rights-holders is a central factor that motivates States to meet their obligations to promote and protect human rights.¹⁹⁶ For people of African descent, who disproportionately face barriers to the exercise and enjoyment of human rights, understanding human rights is a critical component of achieving them, as State treaty obligations and commitments to not guarantee implementation or political will. States should ensure that curricula and public awareness materials offer information and resources relevant to understanding human rights.

COMMENTARY ON SDG 10.11 | ADJUST LEGISLATION AND BRIDGE GAPS TO CONVENTION ON THE RIGHTS OF MIGRANTS AND THEIR FAMILIES

In some States, legal efforts to guarantee the human rights of migrants have been decidedly mixed.¹⁹⁷ Gaps in services and access to human rights persist.¹⁹⁸ The

¹⁹⁴ Concerning voting rights, CERD General Recommendation 34 asks states to respect the rights of African Descent, take measures to ensure their rights to participate in elections, to vote, and to stand for election, and to eliminate obstacles for such participation. (para. 42; 43; 44).

¹⁹⁵ ECLAC has noted that the representation of women of African descent is low even in countries where women are increasingly participating in the executive and legislative branches. (Afro-descendant women: our gaze fixed on the intersections of race- and gender-based organizing, ECLAC). In Europe, similarly, people of African descent are also under-represented (UN Independent Expert on Minority Issues, Report of the independent expert on minority issues, Addendum: Mission to France, UN Doc. A/HRC/7/23/Add.2 (4 March 2008)).

¹⁹⁶ ‘There can be no improvement of the situation of people of African descent if there is no local movement, initiative and group of right-holders advocating for their rights.’ Glenn Payot, 16th Session of the Working Group of Experts on People of African Descent Geneva, 2015, 30 March -2 April 2015 Panel to commemorate the 50th anniversary of the adoption of the ICERD, p. 5.

¹⁹⁷ The Working Group also recognizes the efforts made by Argentina in relation to the human rights of migrants. The adoption of Migration Law No. 25.871 (2004), which regulates the country’s migration policies, has been internationally recognized for its strong human rights approach to migration, integrating foreigners and nationals on an equal footing, guaranteeing foreigners core rights, including due process of law in all migratory procedures, and promoting the regularization of irregular migrants as a principle, rather than making them subject to administrative detention and expulsion measures. Yet, recently the Minister of Security, the Minister of the Interior and the Director of the National Migration Directorate have announced the imminent amendment of the Migration Law and its regulatory decree No. 616/2010 through an emergency decree with a more rigid security perspective. Following the announcements of the amendment of the Migration Law, more than 130 migrant organizations, human rights groups, ecclesiastical movements and other civil society organizations have expressed the concern that this could imply a regression in the country’s migration policy and have publicly exhorted the Government to maintain the human rights approach established by the Migration Law. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 32, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019).

In November 2018, Italy adopted the Law on Immigration and Security. This involved tightening of immigration rules and promised to have serious impact on migrants’ lives. UN human rights experts urged the Government to reverse course. The law codified abolition of humanitarian protection statutes, the exclusion of asylum seekers from access to reception centres focusing on social inclusion, and the extended duration of detention in return centres

Working Group has urged States to create legal pathways for migration and to embrace their obligations to refugees.¹⁹⁹

COMMENTARY ON SDG 10.13 | NON-DISCRIMINATION FOR MIGRANTS

Migrants of African descent face particularly harsh conditions, including racial discrimination and even, in some cases, refoulement.²⁰⁰ Courts have affirmed this.²⁰¹

and hotspots fundamentally undermined international human rights principles, leading to violations of international human rights law. People of African descent and Roma people have been especially impacted in this climate of intolerance. *See* Legal changes and climate of hatred threaten migrants' rights in Italy, say UN experts, Geneva (21 November 2018). Measures have been taken to ensure non-discrimination of migrants of African descent. In Belgium, at both the federal level and the regional level (in Flanders, Wallonia and Brussels), measures are taken to integrate people of a migrant background into the labour market and to tackle discrimination, including on the basis of ethnic origin. The Government of the Brussels-Capital Region was using "mystery calls", a process involving the use of testers, whereby employers may be identified as potentially discriminating unlawfully. Social inspectors would present themselves as jobseekers in order to investigate offences under the Anti-Discrimination Law. The Attorney-General circulated legal guidance for inspectors regarding the relevant techniques for establishing evidence pursuant to the new legislation. Nevertheless, there is a lack of coordination across policy domains and between political levels to address the challenge of integrating people with a migrant background into work. Unia has stated that 27 per cent of complaints of employment discrimination received in 2017 involved "racial" criteria, and that most complaints concerned employment opportunities. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 56, U.N. Doc. A/HRC/42/59/Add.1 (August 14, 2019).

¹⁹⁸ In its country visit to the UK, the Working Group heard allegations from migrants in irregular situations of being prevented from having access to adequate health care, or from renting decent accommodation. Migrants can be detained without having committed a recognizably criminal offence. Yet the association of irregular migration with criminality promotes the stigmatization of migrants and encourages a climate of xenophobia and hostility against them. The Working Group is of the view that human rights should be at the forefront of any discussion on migration in the country. WGEPAD, Report of the Working Group of Experts on People of African Descent on its twelfth session, Addendum: Mission to the United Kingdom of Great Britain and Northern Ireland, para 72, U.N. Doc. A/HRC/24/52/Add.1 (August 5, 2013).

¹⁹⁹ On 21 March 2018, the international day for the elimination of racial discrimination, the Working Group issued a statement urging States to provide legal pathways for migration and take the other concrete steps necessary to create an international framework that prioritizes substantive equality for all. States and other actors must also remain vigilant and redouble their efforts with respect to addressing structural manifestation of racial discrimination and inequality, all of which are prohibited under international human rights law. *See* WGEPAD, *Confronting the Two Faces of Racism: Resurgent Hate and Structural Discrimination* (Mar. 2018).

²⁰⁰ On 4 February 2018, Israeli authorities reportedly began issuing deportation notices under the new policy to deport Eritrean and Sudanese nationals, which violated international human rights and refugee law. Under the policy, tens of thousands of Eritrean and Sudanese nationals - who were among the largest groups of foreign nationals seeking refuge in Israel - would be forcibly sent to unnamed third countries. UN called on the authorities to immediately suspend and revise the policy and its implementation. This policy specifically targeted individuals from sub-Saharan Africa and by singling out Eritrean and Sudanese nationals, the policy clearly breached the prohibition of discrimination on the basis of race and national origin. *See Israel: UN experts urge immediate halt of plans to deport Eritrean and Sudanese nationals*, Geneva (1 March 2018). Similarly, in the Dominican Republic, 19,000 Haitian people had reportedly left Dominican Republic due to fear and amidst concerns at violations in deportations amounting to refoulement. Therefore, the Working Group called on the Government of the Dominican Republic to take steps to prevent arbitrary deportations and to adopt measures to address allegations of racial profiling during proceedings involving people of Haitian descent. *See Dominican Republic: UN experts concerned over fears of arbitrary deportation and racial profiling*, GENEVA (28 July 2015).

²⁰¹ Concerning the right to equality and non-discrimination, the Inter American Human Rights Court has held that the principle of equality before the law, equal protection before the law

In its country visits, the Working Group has observed unacceptable condition, attitudes, and violations of human rights.²⁰² Concerning migrant workers, the DRRP instructs host countries to take proper measures to afford African Descent security and respect. (DRRP. art. 9.3).

SDG11. MAKE CITIES AND HUMAN SETTLEMENTS INCLUSIVE, SAFE, RESILIENT AND SUSTAINABLE

- Right to adequate housing, including land and resources [UDHR art. 25; ICESCR art. 11;UDRP. para. 33; 49; 92 c; 100; 108; ICEARD art. 5]
- Right to participate in cultural life [UDHR art. 25, art. 27; ICESCR art. 15; ICERD arts. 5, 7; CRPD art. 30; CRC art. 31; UDRP. para. 34; CERD 4b; DRRP art.5]
- Accessibility of transportation, facilities and services particularly of persons with disabilities [CRPD art. 9(1)]; UDRP. para. 57], children [CRC art. 23], and rural women [CEDAW art. 14(2)]
- Protection from natural disasters [CRPD art. 11]
- Right to protect cultural heritage (CERD 4c)

11.1 States should provide people of African descent with access to adequate, safe and affordable housing and basic services.

11.2 States must ensure that all slums dwellings of people of African descent are upgraded.

11.3 States must put in place proper infrastructure for people of African descent with special needs, including women, children, persons with disabilities and older persons.

11.4 States must ensure that that people of African descent may participate in all urbanization projects and initiatives.

11.5 States must ensure the protection and promotion of the heritage and contributions of people of African descent

11.6 States should put in place disaster management programmes for people of African descent.

11.7 States should develop environmental management programmes aimed at protecting people of African descent.

11.8 States must ensure that people of African descent have access to safe, inclusive and accessible green and public spaces.

11.9 States must develop infrastructure that will not negatively impact people of African descent.

11.10 States must develop policies on disaster risk management taking into account the special needs of people of African descent.

and non-discrimination belongs to jus cogens. *See* IACHR, Advisory Opinion Oc-18/03 “Juridical Condition and Rights of Undocumented Migrants.” The Court stated, “States must abstain from carrying out any action that, in any way, directly or indirectly, is aimed at creating situations of de jure or de facto discrimination.”

²⁰² In its country visit to Spain, the Working Group found that migrants also faced structural racial discrimination in housing and social services where they lived, with limited access to water and electricity and infrequent garbage collection, which they also attributed to structural discrimination. Migrant workers were living in appalling conditions in Spain, particularly in Almería. Besides rampant wage exploitation, the Working Group heard accounts from migrant workers living in shacks made of old boxes and plastic sheeting, without sanitation or access to drinking water. Migrant workers also complained that they were periodically subjected to harassment, extortion and beatings at the hands of the Guardia Civil, allegedly in collusion with the employers. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Spain, para 46, U.N. Doc. A/HRC/39/69, (August 14, 2018).

11.11 States must secure financial and technical assistance aimed at building sustainable and resilient buildings aimed at addressing the needs of people of African descent.

COMMENTARY ON SDG 11 | SAFE AND INCLUSIVE CITIES AND SETTLEMENTS

Particularly in developed countries, people of African descent are disproportionately concentrated in urban environments. SDG 11 acknowledges the particular challenges faced by people in urban contexts, but it must be read in light of racial disparities within urban contexts that persist via political decision-making. While this is contrary to human rights, it also facilitates the ongoing diversion of wealth and attention from inhumane conditions and limits the potential for innovation, excellence, and success.

COMMENTARY ON SDG 11.1 | ACCESS TO HOUSING AND BASIC SERVICES

Discrimination in housing and rental markets also exists, as observed by the Working Group during several fact-finding country visits.²⁰³ In some cases,

²⁰³ This is reported as a concern in the country visits of the Working Group. For instance, people of African descent in Belgium reported being immediately rejected by landlords who could detect an African accent over the phone or recognized their names as African, which was confirmed by “tester” projects reported by Unia. Some were informed that an apartment was unavailable only once they had met the landlord face to face. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 60, U.N. Doc. A/HRC/42/59/Add.1 (August 14, 2019). In its Diversity Barometer: Housing, published in 2014, Unia stated that landlords named sub-Saharan Africans, among others, as being undesirable. This was often due to negative and incorrect stereotypes and prejudices, such as a belief that sub-Saharan Africans lacked hygiene. Furthermore, sub-Saharan Africans received explicitly racist and offensive statements from neighbours and landlords, which was linked to the negative image conveyed through the media and political discourse about Muslims and French-speaking Africans. The area of Belgium and the language spoken in that area also played a part. French-speaking Africans encountered particular difficulties in the Flemish Region. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 60, U.N. Doc. A/HRC/42/59/Add.1 (August 14, 2019). See also Unia, *Baromètre de la diversité – Logement* (Brussels, 2014).

In Santiago del Estero province, Afro-Argentines are reported to be living in appalling conditions because of extreme poverty. The Working Group also learned that budgetary allocations for housing had declined, thus affecting Afro-Argentines living there. The Working Group was informed that there was no specific provision for or focus on people of African descent in the housing policy and programmes of the province and that Afro-Argentines in San Felix were living in overcrowded houses. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 45, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019).

In Germany, competition for rented housing among low-earning and middle-income families has given considerable latitude to property owners in selecting their tenants, resulting in exclusions of on the basis of race licensed by applicable law. Under section 19 (3) of the General Equal Treatment Act, property owners can refuse to rent apartments to persons applying for accommodation, with a view to creating and maintaining socially stable residential structures, balanced housing estates or balanced economic, social and cultural conditions. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to Germany, para 43, U.N. Doc. A/HRC/36/60/Add.2 (August 15, 2017).

The Working Group were also informed of difficulties faced by Afro-Ecuadorian families when seeking rented accommodation because of racist attitudes on the part of landlords. This is particularly so in the case of large families seeking accommodation. Access to clean water was identified as a problem among many Afro-Ecuadorian communities, including the communities that the experts visited in Guayaquil. In one of these communities, the experts were informed that drinking water had only recently been introduced and only then as a result of the collective efforts of the residents themselves. Access to water was also identified as a problem for the Afro-Ecuadorians living in the Chota valley with whom the experts met: in this case, it was the insufficient quantity of water to irrigate crops that was of concern.

decision-making by property owners on the basis of an individual's name and appearance. Competition for housing rentals offers considerable latitude to property owners in selecting their tenants, which may license racial bias via the use of unfettered discretion.²⁰⁴ In addition, even access to public housing is increasingly limited as policy decisions to limit or eradicate public housing in some states fail to offer meaningful alternatives or award affordable housing tax subsidies, credits, and payments for rental or purchase at income levels far exceeding the lower or middle income prices accessible to people of African descent in these communities.²⁰⁵

COMMENTARY ON SDG 11.2 | UPGRADE OF SLUM DWELLINGS

In many States, people of African descent disproportionately are forced to live in slums and inadequate housing.²⁰⁶ Perversely, these living conditions become the most visible indicator of people of African descent, fueling racial bias and discrimination, despite their actually signaling profound failures of social protection.²⁰⁷ Migrants of African descent face particular challenging accessing adequate housing and basic services, including in very developed countries.²⁰⁸

WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Ecuador.

In its country visit to Sweden, the Working Group witnessed residential areas with large communities of people of African descent – such as Husby in Stockholm and Rosengård in Malmö – and ongoing ways cities are ethnically separated. The European Commission against Racism and Intolerance noted in its 2012 report that discrimination in the housing market – which particularly affects Afro-Swedes, Romas, Muslims and asylum seekers – contributes to educational segregation and inequality. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to the United States of Sweden, para 78, U.N. Doc. A/HRC/30/56/Add.2 (August 25, 2015).

²⁰⁴ The Working Group was also informed about “racial steering”, a practice employed by real estate brokers to guide prospective property buyers either towards or away from neighbourhoods on the basis of their race. In many of the places it visited, the Working Group heard from civil society that gentrification had had a detrimental and disparate impact on African Americans. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to the United States of America, para 51, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2017).

Similarly, in Germany, under section 19 (3) of the General Equal Treatment Act, property owners can refuse to rent apartments to persons applying for accommodation, with a view to creating and maintaining socially stable residential structures, balanced housing estates or balanced economic, social and cultural conditions. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Germany, para 43, U.N. Doc. A/HRC/36/60/Add.2. (August 15, 2017).

²⁰⁵ In the United States, the Working Group was informed about the destruction of public housing in cities where public funding for new houses was insufficient to meet the demands for new housing or public funding to build new public housing was barred by law. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to USA, para 52, U.N. Doc. A/HRC/33/61/Add. 2, (August 18, 2016).

²⁰⁶ For example, during its country visit, the Working Group found that, in Santiago del Estero province, Afro-Argentines were living in appalling conditions because of extreme poverty. The Working Group also learned that budgetary allocations for housing had declined, thus affecting Afro-Argentines living there. WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 45, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019).

²⁰⁷ For example, in its country visit to Guyana, the Working Group was informed, and observed, that Afro-Guyanese villages were distinctly recognizable by their poor infrastructure and substandard housing and roads. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Guyana, para 25, U.N. Doc. A/HRC/39/69/Add.1 (August 15, 2018).

²⁰⁸ Consistently, the Working Group's country visits confirm this systemic violation of basic rights. The Working Group heard accounts from migrant workers living in shacks made of old boxes and plastic sheeting, without sanitation or access to drinking water. The Working Group learned that migrants also faced structural racial discrimination in housing and social services where they lived, with limited access to water and electricity and infrequent garbage collection, which they also attributed to structural discrimination. See WGEPAD, Report of

COMMENTARY ON SDG 11.4 | PARTICIPATION IN URBANIZATION INITIATIVES

Promotion of residential integration at the planning stage of urban development schemes and other human settlements, as well as while renewing neglected areas of public housing is required so as to counter social exclusion and marginalization.²⁰⁹ In some states, housing and homeownership was legally segregated and racially discriminatory, which is still apparent in these industries and neighbourhoods today.²¹⁰ In other States, people of African descent face exclusion, discrimination, and burdens to their rights to an adequate standard of living, yet no recognition or redress for this is set forth in law or policy.²¹¹

COMMENTARY ON SDG 11.5 | PROTECTION OF HERITAGE SITES OF PEOPLE OF AFRICAN DESCENT

States should recognize the value and diversity of the cultural heritage of African descent and affirm the importance and necessity of ensuring their full integration

the Working Group of Experts on People of African Descent on its visit to Spain, para 46, U.N. Doc. A/HRC/39/69/Add.2 (August 14, 2018) Also see Spain: End racial profiling and invisibility of people of African descent, UN experts urge, Geneva/Madrid (26 February 2018). A statement was presented. See Statement to the media by the United Nations Working Group of Experts on People of African Descent, on the conclusion of its official visit to Spain, 19-26 February 2018, Madrid (26 February 2018).

During its visit to Italy, the Working Group visited a centre for Sudanese refugees created in 2004 and hosted by the municipality of Rome. It has been self-managed by around 120 refugees or asylum seekers, some of whom have been living in the centre for 10 years. The Working Group was informed that the residents had received a formal written communication from the municipality on 18 May 2015 telling them that they would have to leave the centre by the end of that month. During its visit, the Working Group was informed that the date had been postponed for another one or two months. The obligation of States to refrain from and protect against forced evictions arises from several international legal instruments that protect the human right to adequate housing and other related human rights. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to Italy, para 65, U.N. Doc. A/HRC/33/61/Add.1 (August 12, 2016).

²⁰⁹ UDRP, para 102. Urges States to promote residential integration of all members of the society at the planning stage of urban development schemes and other human settlements, as well as while renewing neglected areas of public housing, so as to counter social exclusion and marginalization

²¹⁰ During its visit to the United States of America, the Working Group expressed concern at persistent, de facto residential segregation in many of the metropolitan areas in the United States. The Working Group was also informed that people of African descent were more likely than other people with similar borrower characteristics to be victims of predatory lending, to receive higher-cost loans and to lose their homes to foreclosure. In the Working Group's meeting with the Department of Housing and Urban Development, a series of maps were shown which not only starkly depicted high concentrations of African American families in low-income neighbourhoods and districts, but also reflected the correlation between racial segregation and socioeconomic disparities in access to health, education, and even access to adequate food, between the African American population and the white population. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to the United States of America, para 50, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016).

²¹¹ For example, during its country visit to Argentina, the Working Group reported that, in Santiago del Estero province, Afro-Argentines were living in appalling conditions because of extreme poverty. Afro-Argentines in San Felix were living in severely overcrowded homes. Budgetary allocations for housing had declined, further affecting Afro-Argentines living there. Yet, no specific provisions focused on the needs of people of African descent in the housing policy and programmes of the provinces. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 45, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019). The Working Group urged Argentina to ensure full implementation of the right to an adequate standard of living, including the right to adequate housing for people of African descent, coupled with the development of adequate infrastructure in rural areas where people of African descent live.

into social, economic and political life with a view to facilitating their full participation at all levels in the decision-making process.²¹² The Working Group's country visits have offered some insights on State practice in this regard.²¹³

COMMENTARY ON SDG 11.7 | ENVIRONMENTAL PROTECTION PROGRAMMES

Environmental harm associated with racism in decision-making was witnessed by the Working Group in several of its country visits, in both developed and less developed countries.

While many political decision-makers might claim these environmental and siting decisions are not racially motivated, the disregard of human rights for a particular population of people is as racist as targeting them directly. Understanding the political machineries that site waste facilities, prisons, and factories in urban areas where people of African descent are disproportionately concentrated, despite massive and intergenerational impacts to public health, offers a clear mechanism for redress, grounded in the questions of who is most harmed, how racial equality and racial justice are guaranteed, and how do these outcomes disproportionately burden people of African descent.

COMMENTARY ON SDG 11.8 | ACCESS TO GREEN AND PUBLIC SPACE

In many places, public areas pose threats for people of African descent. Hate crimes remain an antithesis of peaceful and inclusive societies.²¹⁴ However, people of African descent also experience consistent harassment in the pursuit of ordinary life activities, often at the hands of people instrumentalizing the State to facilitate racial injustice.²¹⁵

²¹² See UDRP. paras 4 and 6, 15b, 32, 34, 40.

²¹³ For example, Brazil has developed a number of initiatives enshrined in the Constitution, constitutional legislation and public policies for racial equality since 2003, such as teaching African and Afro-Brazilian history and culture in education institutions, recognizing and defining the process for land titles for Quilombola communities, the adoption of Statute on Racial Equality in 2010, and ruling in 2012 on the constitutionality of racial quotas for accessing higher education, etc. However, the comprehensive legal framework and a wide body of public policies, the dismantling of racial discrimination remains slow. Black people in the country still face structural, institutional and interpersonal racism. Statement by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Brazil, 3-13 December 2013, Geneva (10 January 2014) (finding that institutional racism is embodied in unequal educational and health facilities, the lack of housing of Afro-Brazilians, unemployment of women and girls). Specifically, Afro-Brazilian women earn significantly less than both men of African descent and White men and women.

²¹⁴ In the case of Sweden, the Working Group noted that despite the Government efforts, the level of racist violence and Afrophobic hate crimes against people of African descent and the structural discrimination faced by Afro-Swedes was an extensive social problem that had not been sufficiently addressed. The Working Group also learnt that Afrophobic hate crimes were characterized by a high proportion of physical violence, which often took place in public areas, such as schools, places of work, residential areas, shopping malls and restaurants. (See 20th Session UN WGEPAD, on 5 April 2017, Sabelo Gumedze, Promoting Peaceful and Inclusive Societies for Sustainable Development: Leaving No Person of African Descent Behind.).

In the United States, in June 2015, the appalling attack on the Emanuel African Methodist Church in Charleston, South Carolina and the killing of nine African Americans resulted in attention of Working Group, which decried the racialized violence and welcomed the prompt action by the authorities to investigate this hate crime. (See Charleston shooting: UN experts deplore killings of African Americans and urge measures against racist crimes, GENEVA (19 June 2015).

²¹⁵ In the United States, the #LivingWhileBlack emergency calls to the police for people of African descent barbecuing in the park, selling water outside of baseball games, and more offer clear picture of the policing of bodies of people of African descent by private citizens in public spaces. In Latin America, Afro-descendants have reported being subjected to higher levels of surveillance and hostile treatment in public spaces, including mistreatment by

COMMENTARY ON SDG 11.9 | INFRASTRUCTURE

Despite longstanding presence in urban areas, many communities of African descent are subject to racially politicized decisions about allocation of public goods and resources, siting of waste facilities, and infrastructure investments. These reflect political disinterest and a legacy of ongoing exploitation of people of African descent.²¹⁶ In some cities, significantly higher rates of chronic conditions like asthma or malnutrition, as well as subpar educational facilities and increased state surveillance, reflect allocation of resources and infrastructure, as well as a massive disinvestment and deprioritization of communities of African descent.²¹⁷ In addition, many urban areas were developed explicitly with reference to racial segregation as a priority and patterns of racial exclusion and racial violence persist.²¹⁸ These continue to influence infrastructure development and to exclude people of African descent, even as laws have changed.²¹⁹ This is particularly evident in gentrification practices.²²⁰

security forces. According to the Inter-American Commission on Human Rights, Afro-descendants are subject to “double victimization,” as they tend to be excluded from the protection of state security forces while being more likely to be affected by institutionalized violence, including tougher judicial treatment. See 24th Session UN WGEPAD on March 2019, World Bank, Afro-descendants in Latin America: Toward a Framework of Inclusion, page 67-68, <https://openknowledge.worldbank.org/handle/10986/30201> License: CC BY 3.0 IGO.

- ²¹⁶ The Durban Declaration and Programme of Action recognizes that particular deficits exist for people of African descent living in urban contexts and that safe and sustainable living conditions in urban contexts require particular attention to people of African descent. See Durban Declaration and Programme of Action at Paragraph 5, 8(c), 23, 111 (urging states to concentrate additional investments in communities of African descent to promote environmental control, safe drinking water, public health, and resilient cities). See also Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003), arts. 18 and 19; African Commission on Human and Peoples’ Rights, Resolution 153 on Climate Change and Human Rights and the Need to Study its Impact in Africa (2009).
- ²¹⁷ In addition, in urban areas in the most developed countries, race-based politics often drive habitability efforts. See e.g., *Watered Down Justice*, a report by Natural Resources Defense Council (NRDC), Environmental Justice Health Alliance for Chemical Policy Reform, and Coming Clean demonstrating that race (not class) was a primary driver of which urban communities in the United States saw safe water standards enforced. The pervasive lead situation in the water in Flint, Michigan in the United States is merely one example. See e.g., *Flint: Fundamentally about human rights – UN experts underline* (3 Mar. 2016).
- ²¹⁸ For example, in Latin America, Afro-descendants have reported being subjected to higher levels of surveillance and hostile treatment in public spaces, including mistreatment by security forces. According to the Inter-American Commission on Human Rights, Afro-descendants are subject to “double victimization,” as they tend to be excluded from the protection of state security forces while being more likely to be affected by institutionalized violence, including tougher judicial treatment. See 24th Session UN WGEPAD on March 2019, World Bank, Afro-descendants in Latin America: Toward a Framework of Inclusion, page 67-68, <https://openknowledge.worldbank.org/handle/10986/30201>.
- ²¹⁹ During its visit to the United States of America, the Working Group expressed concern at persistent, de facto residential segregation in many of the metropolitan areas in the United States. The Working Group was also informed that people of African descent were more likely than other people with similar borrower characteristics to be victims of predatory lending, to receive higher-cost loans and to lose their homes to foreclosure. In the Working Group’s meeting with the Department of Housing and Urban Development, a series of maps were shown which not only starkly depicted high concentrations of African American families in low-income neighbourhoods and districts, but also reflected the correlation between racial segregation and socioeconomic disparities in access to health, education, and even access to adequate food, between the African American population and the white population. WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to the United States of America, para 50, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016).

SDG13. TAKE URGENT ACTION TO COMBAT CLIMATE CHANGE AND ITS IMPACTS

- Right to health including the right to safe, clean, healthy and sustainable environment [UDHR art. 25(1); ICESCR art. 12; CRC art. 24; CEDAW art. 12; CMW art. 28]
- Right to adequate food & right to safe drinking water [UDHR art. 25(1); ICESCR art. 11; DDPA para. 5, 8c, 176]
- Right of all peoples to freely dispose of their natural wealth and resources [ICCPR, ICESCR art. 1(2)]

13.1 States must develop disaster reduction strategies aimed at protecting people of African descent.

13.2 States must develop policies of climate change aimed at protecting people of African descent.

13.3 States must develop educational programmes aimed at raising awareness on the part of people of African descent on climate change mitigation, adaptation, impact reduction and early warning.

13.4 Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

13.5 All programmes aimed at reducing all forms of violence against people of African descent must ensure that from their inception, development, and implementation, people of African descent must not be left behind.

13.6 States must ensure that the abuse, exploitation, trafficking and all forms of violence against and torture of children of African descent is adequately prevented or prosecuted.

13.7 States must adopt measures which promote the rule of law and ensure that people of African descent are provided equal access to justice on same terms as all population.

13.8 States must adopt measures aimed at addressing the illicit financial flows and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime.

13.9 States should ensure that due to corruption people of African descent are not disadvantaged in any area, and in particular fair access to public procurement, bank loans and entrepreneurship.

13.10 States should adopt measures which ensure an effective, accountable and transparent system of governance.

13.11 States should ensure that people of African descent are included in participatory and representative decision-making at all levels.

13.12 States must participate in institutions of global governance.

13.13 States should ensure that every person of African descent is provided with legal identity, including birth registration.

13.14 States should ensure that people of African descent are provided with public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.

13.15 States must prevent violence and combat terrorism and crime.

²²⁰ In its country visit to Canada, the Working Group reported on how gentrification, facilitated without reference to the impact of access of people of African descent, has had a detrimental and disparate impact on African Canadians with regard to access to adequate housing, especially in cities such as Montreal, Quebec. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to Canada, para 63, U.N. Doc. A/HRC/36/60/Add.1 (August 18, 2017).

13.16 States must promote and enforce non-discrimination laws and policies for sustainable development.

COMMENTARY ON SDG 13 | URGENT ACTION TO COMBAT CLIMATE CHANGE

For people of African descent, urgent action is essential to combat climate change and its impacts, which threaten to cause particular harm in their communities. These rights are grounded in the IESCR Article 12.²²¹ Thus, the environmental and climate inequalities that plague the international community are of particular concern to people of African descent, who are among the poorest of the poor, and who are too often invisible in the process of environmental and climate justice.

COMMENTARY AT SDG 13.1 | DISASTER REDUCTION STRATEGIES

States must develop disaster reduction strategies that strengthen resilience and adaptive capacity of people of African descent to climate-related hazards and natural disasters in all countries.

COMMENTARY AT SDG 13.2 | CLIMATE CHANGE POLICIES

The Working Group reiterates the importance of looking at climate change via the lens of the persons who are most affected, and who may bear the brunt of the policy and legislative decision-making in which they may play little or no role.²²² In many

²²¹ Article 12 of the International Covenant on Economic, Social and Cultural Rights states in this regard:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

ECOSOC, Art. 12.

²²² In 2018, The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment proposed sixteen Framework Principles on Human Rights and the Environment. Framework principle 14 urges States to take measures to protect the rights of those who are most vulnerable to, or at particular risk from environmental harm. Framework principle 15 mandates that States comply with their obligations to indigenous peoples and members of traditional communities, including by including them in decision-making and ensuring fairness and equity in the benefits of activities relating to their lands, territories or resources. Framework principle 16 asks States to respect, protect and fulfill human rights in environmental action and sustainable development. See Framework Principles on Human Rights and the Environment, U.N. Doc. A/HRC/37/59 (24 Jan. 2018).

The Special Rapporteur on the Environment also notes how non-discrimination rights also mandate equal enjoyment of rights relating to a safe, clean, healthy and sustainable environment. See e.g., Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, U.N. Doc. A/HRC/37/59 (24 Jan. 2018). Racial discrimination may drive discrimination with respect to environmental resources and access and present a particular risk to people of African descent: Indirect discrimination can also include measures such as authorizing toxic and hazardous facilities in large numbers in communities that are predominantly composed of racial or other minorities, thereby disproportionately interfering with their rights, including their rights to life, health, food and water. Like directly discriminatory measures, such indirect differential treatment is prohibited unless it meets strict requirements of legitimacy, necessity and proportionality. More generally, to address indirect as well as direct discrimination, States must pay attention to historical or persistent prejudice against groups of individuals, recognize

countries, communities of people of African descent are closely tied to climate issues, due agricultural livelihoods or based on the locations of their communities (e.g., locations vulnerable or ripe for redevelopment as the climate crisis redefines things like “beachfront property.”) The question of climate change must be framed in the light of environmental inequalities and should take into consideration people of African descent who continue to be trapped in a structural neglect and institutional invisibility.²²³

COMMENTARY AT SDG 13.3 | EDUCATION AND AWARENESS-RAISING

To be partners in the process, people of African descent have a right to know. States must develop educational programmes aimed at raising awareness on the part of people of African descent on climate change mitigation, adaptation, impact reduction and early warning.

COMMENTARY AT SDG 13.12 | PARTICIPATION IN GLOBAL GOVERNANCE

State participation in global governance is necessary for people of African descent to realize their rights, and to avoid devastation in the climate crisis.²²⁴ Many States are delinquent or resistant, despite turning a blind eye to much larger sums of money lost in tax revenue that States fail to collect from hidden accounts and financial trickery.²²⁵ The Working Group has urged States to center human rights in considering the climate crisis and the importance of intergovernmental cooperation.²²⁶

COMMENTARY AT SDG 13.13 | LEGAL IDENTITY + BIRTH REGISTRATION

Birth registration and identity documents are necessary to access and enjoy many human rights, yet many people of African descent lack these basic instruments.²²⁷

that environmental harm can both result from and reinforce existing patterns of discrimination, and take effective measures against the underlying conditions that cause or help to perpetuate discrimination.

A/HRC/37/59, para. 9. Various instruments also set forth the obligation to ensure equality in access to clean water and environmental resources. See e.g., Committee on Economic, Social and Cultural Rights, General Comment No. 15: The Right to Water (2003).

²²³ Michael McEachrane, Standing on Common Ground: Durban, the Decade and Colonial Legacies, WGEPAD 20th Session, Item 12 – International Decade for People of African Descent & Durban Follow-up, UN Geneva, on Thursday 6 April 2017.

²²⁴ The UN experts issued an urgent call for action to ensure a future based on equality, justice and solidarity via a statement making the 31st anniversary of the Declaration on the Right to Development on 4 December. See Urgent need to speed up world action to realize Right to Development - UN experts, Statement marking anniversary of UN Declaration on Right to Development, Geneva (30 November 2017). In the statement, the experts stressed the critical need to act on sustainable development, including working for equality and justice, allocating resources, etc. Governments and individuals hold the responsibility for development and women are equal participants and beneficiaries in this development process.

²²⁵ Current figures suggested that donor countries are lagging far behind their long-standing commitment to devote 0.7 per cent of their Gross National Income to development. Meanwhile around \$7.6 trillion of personal wealth is said to be hidden in offshore accounts, costing governments an estimated \$190 billion in lost taxes every year. See 30th anniversary of the adoption of the Declaration on the Right to Development by the UN General Assembly on 4 December 1986, 2 December 2016.

²²⁶ The Working Group, along with the other Special Procedures, jointly published a statement to urge States to urge that human rights be at the core of climate change governance and to encourage them to adopt the Geneva Pledge for Human Rights in Climate Action because climate change threatens people’s rights to life, health, food, and water, among many others. Joint statement by UN Special Procedures on the occasion of World Environment Day (5 June 2015).

²²⁷ Regarding the right to legal personality, General Recommendation No. 34 adopted by the Committee on the Elimination of racial Discrimination recommended States to ensure that

The Working Group has called on States to ensure that every person of African descent is provided with legal identity, including birth registration.²²⁸ The CERD has also made this recommendation, recognizing it remains a significant barrier to the realization of rights in some States.²²⁹ For some migrants of African descent, the lack of documentation may occasion significant violations of human rights not only for themselves, but also for their families.²³⁰

COMMENTARY AT SDG 13.16 | NON-DISCRIMINATION

Non-discrimination is central to health and environmental rights.²³¹ Yet, people of African descent face discriminated in accessing health, environmental and climate rights. As set forth in the Programme of Activities for the Implementation of the International Decade for People of African Descent, they are descendants of the victims of the transatlantic slave trade or more recent migrants. The Durban Declaration and Programme of Action acknowledged that people of African descent were victims of slavery, the slave trade and colonialism, and continue to be victims of their consequences. Regrettably, despite advances, racism, racial discrimination, xenophobia and related intolerance, both direct and indirect, de facto and de jure, continue to manifest themselves in inequality and disadvantage.

legislation regarding citizenship and naturalization does not discriminate against people of African descent, moreover, it noted that denial of citizenship for long-term or permanent residents could result in the creation of disadvantage for the people affected in terms of access to employment and social benefits.

²²⁸ For example, in June 2014, the Working Group called on the Government of the Dominican Republic to adopt the necessary legal measures to restore Dominican citizenship for all those born in the country, but not registered at birth, which is an essential step to effectively reinforce the fight against discrimination and social exclusion faced mostly by people of African descent in the country. (UN experts urge Dominican Republic to restore citizenship for those born in the country but not registered at birth, Geneva, 20 June 2014). During its country visit to Ecuador, the Working Group found that the children of African descent are forced to work at international agribusiness, instead of going to school. Both parents and children lack identity documents, as well as access to health care and other services. The WGEPAD called on Ecuador to ensure the registration of the children of the Furukawa workers and the provision of scholarships to schools and universities. See Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Ecuador, 16-20 December 2019.

²²⁹ For example, for Colombia, CERD recommended to strengthen efforts to ensure that all Afro-Colombian and indigenous children are registered immediately after birth, and to facilitate cost-free registration of those who were not registered at birth. See CERD, Concluding Observations (Colombia).

²³⁰ During its country visit to Belgium, the Working Group heard considerable testimony from civil society representatives and community members on intersectionality. People who meet the criteria for multiple marginalized groups may be particularly vulnerable and face extreme violence and harassment, yet they often remain invisible or deprioritized even within communities of African descent. This is particularly true for undocumented people of African descent, whose lives are particularly precarious and who have lacked regularization for years. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 63, U.N. Doc. A/HRC/42/59/Add.1 (August 14, 2019). In another example, in Portugal, many people of African descent have difficulty in acquiring Portuguese citizenship, impacting children born - who would receive Portuguese nationality provided that their parents' situation was regularized at the time of birth. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Portugal, para 41, U.N. Doc. A/HRC/21/60/Add.1 (August 12, 2013).

²³¹ The International Covenant on Economic, Social and Cultural Rights states in article 2: "The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

SDG 16 PROMOTE PEACEFUL AND INCLUSIVE SOCIETIES FOR SUSTAINABLE DEVELOPMENT, PROVIDE ACCESS TO JUSTICE FOR ALL AND BUILD EFFECTIVE, ACCOUNTABLE AND INCLUSIVE INSTITUTIONS AT ALL LEVELS

- Right to life, liberty and security of the person [UDHR art. 3; ICCPR arts. 6(1), 9(1); ICPED art. 1] including freedom from torture [UDHR art. 5; ICCPR art. 7; CAT art. 2; CRC art. 37(a)]
- Protection of children from all forms of violence, abuse or exploitation [CRC arts. 19, 37(a)], including trafficking (CRC arts. 34-36; CRC-OP1)]
- Right to access to justice and due process [UDHR arts. 8, 10; ICCPR arts. 2(3), 14-15; CEDAW art. 2(c)]
- Right to legal personality [UDHR art. 6; ICCPR art. 16; CRPD art. 12]
- Right to participate in public affairs [UDHR art. 21; ICCPR art. 25]
- Right to access to information [UDHR art. 19; ICCPR art. 19(1)]

16.1 All programmes aimed at reducing all forms of violence against people of African descent must ensure that from their inception, development, and implementation, people of African descent must not be left behind.

16.2 States must ensure that the abuse, exploitation, trafficking and all forms of violence against and torture of children of African descent is adequately prevented or prosecuted.

16.3 States must adopt measures which promote the rule of law and ensure that people of African descent are provided equal access to justice on same terms as all population.

16.4 States must adopt measures aimed at addressing the illicit financial flows and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime.

16.5 States should ensure that due to corruption People of African descent are not disadvantaged in any area, and in particular fair access to public procurement, bank loans and entrepreneurship.

16.6 States should adopt measures which ensure and effective, accountable and transparent system of governance.

16.7 States should ensure that people of African descent are included in participatory and representative decision-making at all levels.

16.8 States must participate in institutions of global governance

States should ensure that every person of African descent is provided with legal identity, including birth registration.

States should ensure that people of African descent are provided with public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.

States must prevent violence and combat terrorism and crime.

States must promote and enforce non-discrimination laws and policies for sustainable development.

COMMENTARY AT SDG 16 | PEACEFUL AND INCLUSIVE SOCIETIES

Access to justice is a key component to peaceful societies, as appropriate conflict resolution mechanisms are key in violence prevention and serve as violence interrupters.²³² Courts have confirmed the importance of anti-racism to peace and

²³² At the 14th Session of the Working Group of Experts on People of African Descent, the High Commissioner for Human Rights emphasized the essential components of access of justice involved the equal ability to bring a claim to an appropriate judicial body, a fair hearing,

prosperity, and mandated active measures to investigate and redress racist violence.²³³

COMMENTARY AT SDG 16.1 | REDUCTION OF VIOLENCE

People of African descent disproportionately experience violence, including via weaponized hate speech, due to permissible environments that license racial bias, discrimination, and the marshalling of violence against them. Extrajudicial violence and executions, including at the hands of the State, remain significant concerns for people of African descent in some States.²³⁴ However, hate speech is also a form of violence, which greatly impacts the use and enjoyment of human rights by people of African descent.²³⁵ In addition, people of African descent navigate considerable systemic racism grounded in valorizing the historic trade and trafficking in enslaved

adequate review of the administration of justice, and the availability of legal aid for the needy but that people of African descent are still facing many kinds of discriminatory treatments, such as obstacles to justice and longer sentences. See [Opening Address](#) by Navi Pillay High Commissioner for Human Rights at the 14th Session of the Working Group of Experts on People of African Descent (31 March 2014).

²³³ The European Court of Human rights has reiterated the importance of an intersectional analysis in its jurisprudence (*B.S V. Spain*) and emphasized the importance of taking into consideration the particular vulnerability of women of African descent: where the State authorities investigate violent incidents, they have an additional **obligation to take all reasonable measures to identify whether there were racist motives and to establish whether or not ethnic hatred or prejudice may have played a role in the events**. The authorities must do what is reasonable in the circumstances to collect and secure the evidence, explore all practical means of discovering the truth and deliver fully reasoned, impartial and objective decisions, **without omitting suspicious facts that may be indicative of racially induced violence**.

²³⁴ In Brazil, Marielle Franco and her driver Anderson Gomes, were shot dead in their car on 14 March 2018 and two former policemen suspected of participating in the murder were arrested on 12 March 2019. Her death was “alarming as it clearly aimed to intimidate all those fighting for human rights and the rule of law in Brazil” and “an attack on the heart of a democratic society and an emblematic case of the threats faced by human rights defenders in Brazil.” UN and IACHR experts noted that “if the State fails to deliver justice in this case, it would send an alarming message to human rights defenders, in particular those facing threats and attacks.” [Brazil must ensure justice for rights defender Marielle Franco killed a year ago](#), say UN and IACHR experts, Geneva/Washington DC (14 March 2019); Brazil: UN experts alarmed by killing of Rio human rights defender who decried military intervention, Geneva (26 March 2018).

In Canada, on December 10, 2018, The Globe and Mail reported: “While black people made up only 8.8 per cent of Toronto’s population in 2016, the report found they were involved in seven out of 10 cases of fatal shootings by police during the latter period. It found that black people (and specifically black men) were overrepresented in everything from investigations into use of force and sexual assault by police, to inappropriate or unjustified searches and charges.” The data came from a study conducted by the Ontario Human Rights Commission. Rev. Dr. Karen Georgina Thompson, *The Trauma of Black Living*, 24th Session UN WGEPAD, on March 27, 2019; also <https://www.theglobeandmail.com/canada/toronto/article-reportreveals-racial-disparities-in-toronto-polices-use-of-force/>.

²³⁵ In 2019, thirty independent UN experts published an open letter calling on States and social media firms to take action to curb the spread of hate speech. The experts called on States to double their efforts to hold accountable those who have incited or perpetrated violence against migrants and other vulnerable groups. See *Hate speech: UN experts make joint call for action by states and social media firms*, Geneva (23 September 2019). Traditional and social media companies were asked to exercise due diligence to ensure that they do not provide platforms for hate speech and for incitement to hatred and violence. States were asked to actively work towards policies that guarantee the rights to equality and non-discrimination and freedom of expression, as well as the right to live a life free of violence through the promotion of tolerance, diversity and pluralistic views; these are the centre of pluralistic and democratic societies.

persons²³⁶ and ongoing social practices that dehumanize people of African descent, like Zwarte Pete and blackface, laying groundwork for violence and inhuman treatment.²³⁷

COMMENTARY AT SDG 16.2 | ENDING ABUSE, EXPLOITATION, TRAFFICKING, ALL FORMS OF VIOLENCE AGAINST CHILDREN.

Sustainable development requires in particular, eradicating the exploitation of children, and all forms of violence used against them, including arbitrary detention and being prematurely considered to be an adult in criminal justice proceedings.²³⁸ This is also a significant concern in very developed countries²³⁹ and less developed countries.²⁴⁰

²³⁶ Similarly, the United States is also not acting with due diligence to protect the rights of African American communities, as evidenced by the lack of gun control, “Stand Your Ground” laws, and more. Hate crime groups, including white supremacist terror groups remain active in the US targeting the Black community as was seen in the attack at the church in Charleston in 2015. The Confederate flag is considered as a symbol of hate for many African Americans and despite campaigns to have it removed, it still is used by some local authorities. In 2017, a violence happened in Charlottesville, Virginia and the racial hatred was displayed by right-wing extremists, white supremacists and neo-Nazi groups, as racism and xenophobia were on the rise across the USA, a group of United Nations human rights experts warned in the wake of it and made an urgent renewed call to the US authorities to step up its work to tackle the issue. *See US racism on the rise, UN experts warn in wake of Charlottesville violence, Geneva (16 August 2017).*

²³⁷ The inequality of Afro-descent is also related to negative racial stereotypes. For example, the image of Zwarte Piet is closely related to enslavement, racism, and discrimination. The use of image reinforces the unequal power relations between the characters of Zwarte Piet and Sinterklaas. However, such images are still used in various advertisements and affect people's images of African descent and, thus, result in discrimination based on those negative stereotypes²³⁷. *See Ahmed Reid, Draft report on negative stereotypes, on the 24th session of the Working Group on March 25, 2019. See also WGEPAD, Negative Racial Stereotypes (A/74/274); Negative racial stereotyping violates human rights of people of African descent, say UN experts, New York (30 October 2019) (t racial stereotyping and negative characterisations of people of African descent, which were created to justify the enslavement of Africans, continue to harm people and violate their human rights.).*

²³⁸ In the Americas, there has been an increase in the number of arbitrary detentions of adolescents based on their appearance or the belief that they may belong to a gang or criminal group, despite children's right to protection of from all forms of violence, abuse or exploitation, and access to justice and due process. *See Inter American Commission of Human Rights, Violence, Children and Organized Crime.* The situation described by the Commission contributes to the stigmatization of social groups, including people of African descent. The IACHR pointed to the situation in the United States, Brazil and Panama, where the principal victims of police abuse and violence are persons of African descent. In Panama, young people of African descent faced alarmingly high rates of violence, including at the hands of law enforcement officers. Panamanians of African descent tended to enter criminal justice institutions at a very young age, which was criminogenic. Particularly alarming in Panama, the age of criminal responsibility had recently been lowered from 14 to 12 years, which is not in conformity with international standards. The police too often target young people of African descent, breeding anger, frustration and a certain lack of faith in the police force. Young people of African descent invest considerable sums of money in their appearance and clothes in order to avoid racial profiling and negative interactions with security officers. *See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Panama, para 57, U.N. Doc. A/HRC/24/52/Add.2 (August 21, 2013).*

²³⁹ In its country visit to America, the Working Group expressed serious concern that life imprisonment sentences can still be imposed on children convicted of homicide, that in 15 states children can still be tried as adults, and that around 10,000 children are housed in adult prisons and jails on any given day in the United States. *See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to the United States of America, para 36, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2017).* According to the Equal Justice Initiative, 70 percent of the children sentenced to life in prison are African Americans. *See*

COMMENTARY AT SDG 16.3 | RULE OF LAW AND ACCESS TO JUSTICE

The fair and equal operation of the rule of law is a significant requirement for peaceable societies and effective development. Racial profiling operates to counter this.²⁴¹ As discrimination against people of African descent was initially sanctioned by law, due care is required to dismantle the ways in which the rule of law continues to operate to perpetuate racial discrimination.²⁴² Many courts have come to recognize this and embed these methods into their reasoning. The Working Group strongly recommends that the international community declare an international decade for people of African descent to make the challenges they face more visible, to identify solutions, and to engage in a sustained campaign to eradicate structural discrimination against people of African descent.²⁴³

The Working Group also recommends that States guarantee quality legal aid to facilitate access to justice in all areas, as well as timely review²⁴⁴ and support for mechanisms of alternative dispute resolution, which often prove to be particularly effective in dealing with racism against people of African descent. In addition, the Working Group urges States to adopt special measures to facilitate increased representation of people of African descent in the judiciary and in law enforcement.²⁴⁵ The Working Group has also called for attention to the incidence of

Equal Justice Initiative, “All children are children: challenging abusive punishment of juveniles”.

²⁴⁰ In Ecuador, the Working Group visited the juvenile detention center in Esmeraldas where 90 per cent of detainees were people of African descent. They are deeply concerned by the lack of access to legal aid, clean water, inadequate food, insufficient recreation, poor living conditions and insecurity. *See* Statement to the media by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to Ecuador, 16-20 December 2019.

²⁴¹ On 21 March 2017, UN human rights experts called on governments to take action to stem fear and misinformation about minorities and migrants, which were fueling racial hatred and racial profiling. Differences in treatment of people of African descent and other minorities in the law enforcement and criminal justice systems were not only ineffective, but pernicious. The Working Group noted that racial profiling breached the basic right of individuals targeted thereby denying them equal protection of the law, and Member States should seriously address the structural racism such people already suffer on account of their ethnicity or minority status. *See* States urged by UN experts to act now against racial profiling and incitement to racial hatred, Geneva (21 March 2017).

²⁴² In this regard, CERD General Recommendation 34 asks states to review and enact or amend legislation, and fully implement legislation and other measures already in place to eliminate discrimination. In particular, States are instructed to introduce into criminal law the provision enforcing severe punishment on offense with racist motivation or aim, ensure the prosecution of all persons who commit racially motivated crimes, and adequate compensation for the victims. No inhuman or degrading or discriminating measures should be taken during the enforcement process. (*See* para. 10; 12; 36; 37; 38; 39); The DRRP restates the same requirement in article 6.2 and article 7.

²⁴³ *See* 9th Session UN WGEPAD on April 2010, Report of the Working Group of Experts on People of African Descent on its ninth session, A/HRC/14/18, page 20.

²⁴⁴ Under the Inter American Convention on Human Rights framework, States are required to provide effective judicial remedies to victims of human rights violations, in accordance with the rules of due process of law. This is particularly important in cases of use of force by state agents. *See Favela Nova Brasilia v. Brazil* (human rights violation involving an Afro-Brazilian). In this regard, the court has indicated that the right of access to justice means that the settlement of the dispute must take place within a reasonable time, since a prolonged delay can constitute, in itself, a violation of judicial guarantees.

²⁴⁵ In Ecuador, the Working Group noted two cases, Michel Arce and Andres Padilla, involving racial discrimination, hate speech and police violence against Afro Ecuadorians. Arce was a cadet at a police academy who was on the receiving end of cruel, inhuman and degrading treatment, and racial discrimination from his police instructor. This was the first case in Ecuador in which a person was convicted for the crime of racial hatred. On the other hand, Padilla was shot by a member of the Special Operations Group of the National Police (GOE), in a control operation that was carried out in the sector called Mascarillas in the province of Imbabura. The Police Officer was punished with the minimum penalty (3 years 4 months)

racial profiling, which has been a pervasive issue of concern throughout its country visits,²⁴⁶ and which results in harassment, violence, and selective enforcement of the law against people of African descent, a particularly pervasive form of racial discrimination globally.²⁴⁷ Finally, to effectively access rule of law, people of

established for the crime of overreach in the execution of an act of service of the members of the Armed Forces and National Police.

²⁴⁶ The Working Group noted, with alarm, that racial profiling by police and law enforcement is a common practice in the United States and seriously damages the trust between African Americans and law enforcement officials. This damage is enhanced by the general lack of accountability for police officers involved in killing of People of African Descent. In addition to the most recent and well-known cases of killing of unarmed African Americans, such as the cases of Eric Garner, Michael Brown, Tamir Rice, Walter Scott, Freddie Gray and Laquan McDonald, and Trayvon Martin, the Working Group also received information about many, many other cases. The Working Group also has met a considerable number of relatives of African Americans killed by police officers that are still seeking justice for their loved ones including Tyron West, Tyron Lewis, Jonathon Sanders, Oscar Grant, Tony Robinson, Marlon Brown, India Kager, Ronald Johnson, Mohamed Bah and Alonso Smith. Despite efforts by the U.S. Department of Justice at the time, there is still a lack of an official national system to track killings committed by law enforcement officials. Media sources, including The Washington Post and The Guardian, identified between 38 and 75 cases of unarmed African Americans killed by the police in 2015. Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to USA, 19-29 January 2016.

The deaths of Philando Castile in Minnesota and Alton Sterling in Louisiana at the hands of the police also shows the routine, excessive use of force by the police against African Americans in the United States. African Americans are reportedly shot at more than twice the rate of white people. The Working Group has repeatedly condemned police killings of African Americans and called for justice. See USA / People of African descent: UN expert group condemns recent killings, GENEVA (8 July 2016).

²⁴⁷ In Belgium, the Working Group noted that representatives of both civil society and law enforcement acknowledge the prevalence of racial profiling in policing. Counter-terrorism policies have reportedly contributed to an increase in racial profiling by law enforcement authorities. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 40, U.N. Doc. A/HRC/42/59/Add.1 (August 14, 2019). In Argentina, the Working Group the experiences of people of African descent indicated structural discrimination in law enforcement. Racial profiling of Afro-Argentines, people of African descent, and Africans was prevalent among law enforcement agents. Negative stereotypes of people of African, including of criminality, involvement in drug trafficking, and involvement in sex work have contributed to excessive policing, resulting in selective and discretionary mechanisms for carrying out arbitrary detentions and investigations. "Easy trigger" is the popular term for the excessive use of force against people of African descent, given the selective policing and heavy police presence in afrodescendant and other non-white areas, resulting in an excessive number of non-white people in places of detention, both in pretrial detention centres and in penitentiaries. The lack of representation of people of African descent in the police was also of particular concern in the light of widespread racial profiling, representing a risk of police-community tensions. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Argentina, para 30, U.N. Doc. A/HRC/42/59/Add.2 (August 14, 2019).

In Spain, the Working Group reported that being racial profiled is pervasive and the lived reality of people of African descent. Civil society reported that black people run the risk of being singled out 42 times more often in ports and public transport, simply because of the colour of their skin. This widespread practice not only discriminates against foreigners and Spanish nationals from ethnic minority backgrounds, but also fuels racism, as those who witness such stops presume the victims to be engaged in criminal activities. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Spain, ¶19, U.N. Doc. A/HRC/39/69/Add.2 (August 14, 2018).

In Guyana, even though the majority of the members of the Guyana police force is Afro-Guyanese, a high incidence of racial profiling was perpetuated by the police force, which had a significant impact on persons of African descent. Allegations of extrajudicial killing by the police over the course of decades, and the failure to effectively pursue justice further compromised access to justice. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Guyana, para 20, U.N. Doc. A/HRC/39/69/Add.1 (August 15, 2018).

African descent must have some understanding of the law; lack of awareness of the law may render State mechanisms less apparent as resources for conflict resolution.²⁴⁸

A similar situation was noted in Germany, where the Working Group found that racial profiling by police officials is endemic. Civil society sources reported that stops, identification checks, searches and other controls by police are usually targeted at minority groups, including people of African descent. Boys and young men experience day-to-day confrontation with law enforcement officials, with a high risk of imprisonment. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Germany, para 25, U.N. Doc. A/HRC/36/60/Add.2 (August 15, 2017).

In Canada, the Working Group also noted clear evidence of endemic racial profiling by law enforcement. Arbitrary use of “carding”, or street checks — the police practice of stopping, questioning and documenting people suspected of a crime — disproportionately affects people of African descent. Besides, excessive use of force and killings by the police, especially in response to cases involving vulnerable people of African descent, who are mentally ill or otherwise in crisis. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Canada, para 37, U.N. Doc. A/HRC/36/60/Add.1 (August 16, 2017).

In the United States, African Americans are disproportionately targeted for police surveillance, and experience and witness public harassment, excessive force and racial discrimination. Due to racial bias, there is fear of approaching the police for help and there is also a failure on the part of the State to provide protection. Reports show that racial profiling is a rampant practice among law enforcement officials. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its mission to the United States of America, para 24, U.N. Doc. A/HRC/33/61/Add.2 (August 18, 2016). In the US, with 2.3 million people incarcerated and 4.8 million on parole or probation, mass incarceration has had a disproportionately impact on People of African descent. The Bureau of Justice Statistics (2014) shows that 36 per cent of the sentenced state and federal prisoners are African Americans. African American women are also increasingly being targeted by the criminal justice system. The costs of mass incarceration practices must be measured in human lives, and particularly the generations of young Black who serve long prison sentences and are lost to their families and communities. African Americans represent 41.7 percent of death row population and out of 28 inmates executed in 2015, 10 were African Americans. State laws that established mandatory minimum sentences and zero tolerance policies have been applied with racial bias. Thousands of young African Americans have been placed in detention centres without addressing the root causes of crime, or guaranteeing better security to their communities; nor have they been offered effective rehabilitation. See also Statement to the media by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to USA, 19-29 January 2016, WASHINGTON D.C. (29 January 2016).

In Sweden, the government implemented the European Council campaign “No Hate Speech Movement” and the EU project “Good Relations” as measures to combat racism. However, regarding hate crimes in Sweden, the Working Group noted during its country visit to Sweden that the level of racist violence and Afrophobic hate crimes in Sweden against people of African descent and the structural discrimination faced by Afro-Swedes is still an extensive social problem that has not been addressed sufficiently to date. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Sweden, para 50, U.N. Doc. A/HRC/30/56/Add.2 (August 25, 2015). According to the available statistics, Afro-Swedes are most exposed to hate crimes, and reports of Afrophobic hate crimes have increased by 24 per cent since 2008. In this context, hate crime units and investigators are insufficient. Many cases are reported but few are investigated and prosecuted. The Swedish Police is facing serious knowledge, security and capacity gaps in dealing with Afrophobic hate crimes. There has been a rise of ultra nationalist right wing groups and political parties and the Working Group is concerned that there is a heightened xenophobic and racist attitude against Afro-Swedes and Africans. See Statement to the media by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to Sweden, 1-5 December 2014, Stockholm, 5 December 2014.

²⁴⁸ In its 2013 country visit, the Working Group reported that victims of racism and discrimination face several barriers to accessing justice and seeking remedies, among them, the lack of awareness or knowledge of existing protective laws which may prevent them from reporting cases or pressing charges. Moreover, Afro-Brazilians are overrepresented in the criminal justice system. *Statement by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to Brazil, 3- 13 December 2013, Geneva (10 January 2014).*

COMMENTARY AT SDG 16.5 | ANTI-CORRUPTION

For people of African descent in many States, the legitimacy of State institutions is compromised by historical and ongoing misconduct, failures at social protection, and decision-making openly tainted by racial bias.²⁴⁹

COMMENTARY AT SDG 16.6 | ACCOUNTABLE AND TRANSPARENT GOVERNANCE

The frequent absence or token presence of people of African descent at high levels of government and policymaking creates a particularly important need for accountable and transparent governance, as well as for efforts to ensure government is representative and that public service is accessible.

COMMENTARY AT SDG 16.7 | PARTICIPATORY AND REPRESENTATIVE DECISION-MAKING

The lack of representation of people of African descent in leadership, decision-making bodies, and public affairs is a significant barrier to the full and fair achievement of human rights.²⁵⁰ The Working Group has observed the lack of representation of people of African descent in many, many country visits in both developed and less developed countries.²⁵¹ This also impacts the quality and the relevance of political and leadership discourse.²⁵²

²⁴⁹ For example, in Latin America and the Caribbean, Afro-descendants report to the Inter-American Commission on Human Rights that even when they are victims of crimes, they do not lodge formal complaints to the police because they simply do not trust State institutions and they fear being re-victimized. *See* Regional Meeting for Latin America & the Caribbean: International Decade for People of African Descent, 3 December 2015.

²⁵⁰ The CERD has acknowledged this. Regarding the right to participate in public affairs, the Committee recommended on the General Recommendation No. 34 to States to take measures to guarantee people of African descent the right to participate in elections, to vote and stand for election on the basis of equal and universal suffrage and to secure equal opportunities in all central and local government bodies. CERD, General Recommendation No. 34. Similarly, The Organization of American States, in adopting a Plan of Action for the International Decade for People of African Descent in the Americas, recommended that States promote the inclusion of people of African descent in local governance including localities and municipalities.

²⁵¹ For example, in the WGEPAD country visit to Spain noted that lack of representation of people of African descent was endemic at State, regional and municipality levels, as well as in all three branches of power. In that connection, the lack of representation of people of African descent in the police is of particular concern, given widespread racial profiling, and represents a risk of exacerbated tensions between the police and communities. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Spain, para 25, U.N. Doc. A/HRC/39/69/Add.2 (August 14, 2018). In Spain, the Working Group did not meet a single person of African descent in its extensive meetings with the authorities. The only exception was a meeting with the one member of the national parliament who is of African descent, which confirmed how marginal representation of people of African descent remains in the legislature. That is in sharp contrast to reports that persons of African descent in Spain represent up to 2 million people based on different estimates reported by civil society. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Spain, para 24, U.N. Doc. A/HRC/39/69/Add.2 (August 14, 2018).

During WGEPAD country visit to Portugal, the Working Group noted that there is no effective political representation of people of African descent in Portugal and that there was only one parliamentarian of African descent in the Portuguese parliament. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Portugal, para 40, U.N. Doc. A/HRC/21/60/Add.1 (August 12, 2013) Commentary at SDG 16.8 | global governance.

Similarly, people of African descent in Panama were underrepresented in public services positions and only a few of them occupied important political positions. The Working Group noted with satisfaction the fact that the Minister of Education and certain other very high-level politicians were people of African descent fully committed to the fight against racism in

COMMENTARY AT SDG 16.9 | LEGAL IDENTITY

Birth registration and identity documents are necessary to access and enjoy many human rights, yet many people of African descent lack these basic instruments.²⁵³ The Working Group has called on States to ensure that every person of African descent is provided with legal identity, including birth registration.²⁵⁴ The CERD has

the country. However, proportionately, the number of people of African descent holding elective executive positions or belonging to political parties is substantially lower than it should be based on their number in the general population. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Panama, para 43, U.N. Doc. A/HRC/24/52/Add.2 (August 21, 2013).

Currently, there are significantly low numbers of people of African descent participating in public affairs. For example, in its country visit to Netherlands, the Working Group noted that the majority of justice officials, including lawyers, are of white Dutch descent in both the Netherlands and Curaçao. Moreover, there was a lack of participation of Curaçaoans in the political process involved in the development of legislation of the Netherlands. Budget cuts to Curaçao directly impacted policy and programming that would have been instrumental to combat racial discrimination. Curaçaoans expressed significant dissatisfaction that, due to their limited political participation, the voice of Curaçao is absent the international arena, minimizing their autonomous status. See WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Netherlands, para 86, U.N. Doc. A/HRC/30/56/Add.1 (July 20, 2015); see also Statement by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to the Kingdom of the Netherlands, 26 June-4 July 2014, The Hague, 4 July 2014, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14840&LangID=E>.

In Britain, people of African descent have historically been underrepresented in British politics both as political figures and as active participants in political processes. Very low numbers of people of African descent working as employees in the United Kingdom administration of justice system. In 2011, 2.6 percent of staff working at the Headquarters of the National Offender Management Service and 2.5 per cent of staff in Her Majesty's (HM) Prison Service were "Black". The Working Group notes the efforts made to increase the number of people of African descent working across the justice system, particularly within the police service; however, more needs to be done. WGEPAD, Report of the Working Group of Experts on People of African Descent on its twelfth session, Addendum: Mission to the United Kingdom of Great Britain and Northern Ireland, para 65, 67, U.N. Doc. A/HRC/24/52/Add.1 (August 5, 2013).

²⁵² Finally, the Working Group of experts on people of African descent has noted that "Political discourse was framed by political elites, and people of African descent were underrepresented in political life" (A/HRC/33/61). Following the same reasoning, the Inter American Human Rights Commission, noted that the amount of Afro-descendant representatives who hold elective executive positions or in political parties is substantially lower than the percentage of the population they represent (The situation of People of African Descent in the Americas, OAS). Laurens Hueting emphasized on the 14th Working Group session that 'diversity in the judiciary enhanced the legitimacy of the judiciary and improved the quality of legal decision-making, thus helping to safeguard judicial impartiality'. Laurens Hueting, Report of the Working Group of Experts on People of African Descent on its 14 session, paragraph 20, July 2014.

²⁵³ Regarding the right to legal personality, General Recommendation No. 34 adopted by the Committee on the Elimination of racial Discrimination recommended States to ensure that legislation regarding citizenship and naturalization does not discriminate against people of African descent, moreover, it noted that denial of citizenship for long-term or permanent residents could result in the creation of disadvantage for the people affected in terms of access to employment and social benefits.

²⁵⁴ For example, in June 2014, the Working Group called on the Government of the Dominican Republic to adopt the necessary legal measures to restore Dominican citizenship for all those born in the country, but not registered at birth, which is an essential step to effectively reinforce the fight against discrimination and social exclusion faced mostly by people of African descent in the country. (UN experts urge Dominican Republic to restore citizenship for those born in the country but not registered at birth, Geneva, 20 June 2014). During its country visit to Ecuador, the Working Group found that the children of African descent are forced to work at international agribusiness, instead of going to school. Both parents and children lack identity documents, as well as access to health care and other services. The

also made this recommendation, recognizing it remains a significant barrier to the realization of rights in some States.²⁵⁵ For some migrants of African descent, the lack of documentation may occasion significant violations of human rights not only for themselves, but also for their families.²⁵⁶

COMMENTARY AT SDG 16.10 | ACCESS TO INFORMATION

People of African descent are disproportionately excluded from the information technology, a fact painfully apparent in the COVID-19 pandemic where access to internet, home computers, and remote learning evidenced drastic racial disparities. Some states have programs to remedy inequalities in access to information technology.²⁵⁷ However, the role of commodifying internet an amenity rather than a utility has played a particularly devastating effect on communities of African descent.

COMMENTARY AT SDG 16.11 | PREVENTION OF VIOLENCE, TERRORISM

States must exercise due care to avoid substituting racial profiling and racial bias for crime-fighting, particularly in their counter-terrorism activities.²⁵⁸

COMMENTARY AT SDG 16.12 | NON-DISCRIMINATION

In several countries, affirmative legislation and policy protects the rights of people of African descent and should be enforced to facilitate the protection of human rights.²⁵⁹ However, emerging issues with respect to new technologies indicate non-

WGEPAD called on Ecuador to ensure the registration of the children of the Furukawa workers and the provision of scholarships to schools and universities. *See* Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Ecuador, 16-20 December 2019.

²⁵⁵ For example, for Colombia, CERD recommended to strengthen efforts to ensure that all Afro-Colombian and indigenous children are registered immediately after birth, and to facilitate cost-free registration of those who were not registered at birth. *See* CERD, Concluding Observations (Colombia).

²⁵⁶ During its country visit to Belgium, the Working Group heard considerable testimony from civil society representatives and community members on intersectionality. People who meet the criteria for multiple marginalized groups may be particularly vulnerable and face extreme violence and harassment, yet they often remain invisible or deprioritized even within communities of African descent. This is particularly true for undocumented people of African descent, whose lives are particularly precarious and who have lacked regularization for years. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Belgium, para 63, U.N. Doc. A/HRC/42/59/Add.1 (August 14, 2019). In another example, in Portugal, many people of African descent have difficulty in acquiring Portuguese citizenship, impacting children born - who would receive Portuguese nationality provided that their parents' situation was regularized at the time of birth. *See* WGEPAD, Report of the Working Group of Experts on People of African Descent on its visit to Portugal, para 41, U.N. Doc. A/HRC/21/60/Add.1 (August 12, 2013).

²⁵⁷ For example, Colombia develops workshops and online training courses for Afro-descendant communities. States like Argentina and the Plurinational State of Bolivia provide legal support for Afro-descendants; Argentina, Colombia and Peru provide observatories and platforms against discrimination. Economic Commission for Latin America and the Caribbean (ECLAC), WGEPAD 24th Session on March 2019, First regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/6), p. 209, Santiago, 2019. These are excellent first steps, but still first steps.

²⁵⁸ The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance noted, in a report on counter-terrorism, how hate crimes, xenophobia against migrants and the security measures taken by some Governments in the context of countering terrorism may contribute to fueling racism, xenophobia and discrimination against certain groups owing to their ethnic origin, religion or migration status.

²⁵⁹ For example, Latin American countries have different policies aiming to protect Afro-descendants' rights. For example, in the past Brazil's Racial Equality Ombudsman is

discrimination must be measured by impact to communities of people of African descent, not merely by policy.²⁶⁰ In addition, awareness of anti-discrimination law and the State's intent to enforce it, is particularly important.²⁶¹ This has been evident in the country visits undertaken by the Working Group.²⁶²

designated to receive and follow up complaints on racism and racial abuse. Then it goes to administrative procedures and evaluation process where they can be passed on to the competent authorities. *See* Economic Commission for Latin America and the Caribbean (ECLAC), WGEPAD 24th Session on March 2019, First regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/6), p209, Santiago, 2019; *See also* Government of Brazil, "Relatório preliminar de acompanhamento da implementação do Consenso de Montevideú", Brasília, 2017. Brazil's 2012 Juventude Viva plan also take action in territories where there is a greater presence of Afro-descendants. According to the ECLAC regional report, "in Brazil, racism is treated as a crime with no statute of limitations or right to bail, punishable by a prison term. The constitutions of Argentina, Chile, Costa Rica, Guatemala, Haiti, Paraguay and Uruguay do not make reference to Afro-descendent peoples, the black population, race or skin colour but do refer to equality and non-discrimination. Chile Law No. 20609 (2012) established measures against discrimination, including on grounds of race or ethnicity. ECLAC, WGEPAD 24th Session on March 2019, *First regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/6)*, p. 206, Santiago, 2019.

Lastly, Brazil, Colombia, Ecuador and Bolivia, explicitly recognize Afro-descendants. *See* Economic Commission for Latin America and the Caribbean (ECLAC), WGEPAD 24th Session on March 2019, First regional report on the implementation of the Montevideo Consensus on Population and Development (LC/CRPD.3/6), p. 206, Santiago, 2019.

²⁶⁰ States must ensure social media and other data-driven enterprises do not reinforce historical bias or accredit data reflecting racially biased policy and practice. Data may perpetrate racial stereotypes against people of African descent, but may also be used to address racial injustice. The use and application of data should be for the benefit of people of African descent who are rendered "invisible" in many societies. *See* Statement of Sabelo Gumedze, Data and Racial Justice, 24th Session Working Group of Experts on People of African Descent.

In the US, the COMPAS algorithm was used by law enforcement entities to predict the likelihood of a person reoffending, afforded people of African descent 45 per cent higher risk ratings to similarly situated white people with the same background, age, gender, criminal record, and criminal future (the likelihood of committing one, two, or no crimes. Some believe this relates to facial recognition systems. As facial recognition is becoming part of everyday life, the potential negative impact on Afro-descendent must be assessed. *See* Pastor Murillo, Questions Raised by Racial Statistics in the Age of Artificial Intelligence (AI, 24th Session of the Working Group of Experts On People of African Descent (March 26, 2019).

²⁶¹ At the 14th Session of the Working Group of Experts on People of African Descent, the High Commissioner for Human Rights emphasized the essential components of access of justice involved the equal ability to bring a claim to an appropriate judicial body, a fair hearing, adequate review of the administration of justice, and the availability of legal aid for the needy but that people of African descent are still facing many kinds of discriminatory treatments, such as obstacles to justice and longer sentences. *See Opening Address* by Navi Pillay High Commissioner for Human Rights at the 14th Session of the Working Group of Experts on People of African Descent (31 March 2014). The awareness of Afro-descendants of anti-discrimination law or the administrative body is also a key factor in the promotion of justice. For example, in the EU, 79 per cent of respondents (a total of 5,803) are aware of anti-discrimination legislation in their countries. The highest awareness levels are found in the United Kingdom (87 per cent) and France (81 per cent), and the lowest in Malta (18 per cent) and Italy (27 per cent). Note that the report also points out the fact that the level of education affects the reporting rate. *See European Union Agency for Fundamental Rights, Second European Union Minorities and Discrimination Survey: Being Black in the EU*, p39, (2018).

²⁶² For example, Ecuador demonstrated its commitment by signing and ratifying a series of international conventions that deal with racism and discrimination. Further, the Corporation for Afro-Ecuadorian Development (CODAE) also falls under the jurisdiction of the Presidency of the Republic and plays a fundamental role in combating discrimination against Afro-descendants through its policy development, programmes and outreach to civil society. The Working Group has called upon the Government to adopt a specific law to combat ethnic, racial and gender discrimination and to establish a monitoring mechanism to examine cases of discrimination against people of African descent. (See Report of the Working Group of Experts on People of African descent Visit to Ecuador (22 to 26 June 2009), A/HRC/13/59).