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## Human Rights Council

Working Group of Experts on People of African Descent

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## Methods of work of the Working Group of Experts on People of African Descent

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## I. Introduction

1. The present methods of work, drafted by the Working Group of Experts on People of African Descent at its closed session held in Geneva from 19 to 23 November 2012, take into account the specific features of the terms of reference of the Working Group under Commission on Human Rights resolutions 2002/68 and 2003/30 and Human Rights Council resolutions 9/14 and 18/28. The Working Group intends to continuously refine the scope and means of its methods of work as it fulfils its mandate.

## II. Mandate of the Working Group

2. The Working Group was established by the Commission on Human Rights in its resolution 2002/68, in the wake of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa, in 2001. Its first mandate was spelled out by the Commission in paragraph 8 of that resolution, and further expanded in paragraphs 24 and 25 of Commission resolution 2003/30. The Working Group thus has a mandate:

(a) To study the problems of racial discrimination faced by people of African descent living in the diaspora and, to this end, gather all relevant information from Governments, non-governmental organizations and other relevant sources, including through holding public meetings with them;

(b) To propose measures to ensure full and effective access to the justice system by people of African descent;

(c) To submit recommendations on the design, implementation and enforcement of effective measures to eliminate racial profiling of people of African descent;

(d) To elaborate short-, medium- and long-term proposals for the elimination of racial discrimination against people of African descent, bearing in mind the need for close collaboration with international and development institutions and the specialized agencies of the United Nations system to promote the human rights of people of African descent by, inter alia:

(i) Improving the human rights situation of people of African descent by devoting special attention to their needs through, inter alia, the preparation of specific programmes of action;

(ii) Designing special projects, in collaboration with people of African descent, to support their initiatives at the community level and to facilitate the exchange of information and technical know-how between these populations and experts in these areas;

(iii) Developing programmes intended for people of African descent allocating additional investments to health systems, education, housing, electricity, drinking water and environmental control measures and promoting equal opportunities in employment, as well as other affirmative or positive action initiatives, within the human rights framework;

(e) To make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world;

(f) To address all the issues concerning the well-being of Africans and people of African descent contained in the Durban Declaration and Programme of Action.

3. In 2008, the Human Rights Council, in its resolution 9/14, extended the mandate of the Working Group for a further three years, to meet for two sessions of five working days each in closed and public meetings:

(a) To study the problems of racial discrimination faced by people of African descent living in the diaspora and, to that end, gather all relevant information from Governments, non-governmental organizations and other relevant sources, including through the holding of public meetings with them;

(b) To propose measures to ensure full and effective access to the justice system by people of African descent;

(c) To submit recommendations on the design, implementation and enforcement of effective measures to eliminate racial profiling of people of African descent;

(d) To make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world;

(e) To address all the issues concerning the well-being of Africans and people of African descent contained in the Durban Declaration and Programme of Action;

(f) To elaborate short-, medium- and long-term proposals for the elimination of racial discrimination against people of African descent, bearing in mind the need for close collaboration with international and development institutions and the specialized agencies of the United Nations system to promote the human rights of people of African descent through, inter alia, the following activities:

(i) Improving the human rights situation of people of African descent by devoting special attention to their needs through, inter alia, the preparation of specific programmes of action;

(ii) Designing special projects, in collaboration with people of African descent, to support their initiatives at the community level and to facilitate the exchange of information and technical know-how between these populations and experts in these areas;

(iii) Liaising with financial and developmental institutional and operational programmes and specialized 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 systems, 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;

4. In 2011, the Human Rights Council, in its resolution 18/28, extended the mandate of the Working Group for a further period of three years, in accordance with the terms of reference contained in Council resolution 9/14. The Council also:

(a) Decided that the Working Group should undertake a minimum of two country visits per year;

(b) Requested all Governments to cooperate fully with the Working Group in the discharge of its mandate, including by responding promptly to the Working Group's communications and by providing the information requested;

(c) Requested the Working Group to submit an annual report to the Human Rights Council on all activities relating to its mandate;

(d) Requested States, non-governmental organizations, relevant human rights treaty bodies, special procedures and other mechanisms of the Human Rights Council,

national human rights institutions, international, financial and development institutions, and specialized agencies, programmes and funds of the United Nations to collaborate with the Working Group, including by, inter alia, providing it with the necessary information and, where possible, reports in order to enable the Working Group to carry out its mandate, including with regard to field missions.

### **III. Implementation of the mandate of the Working Group**

5. In the discharge of its mandate, the Working Group:

(a) Meets twice a year in Geneva in private and public meetings, for a total of 10 working days. The private sessions deal with operational as well as policy issues. The public sessions are organized on a thematic basis and involve presentations by the experts themselves, as well as by external experts. The Working Group uses innovative tools to widen the participation of panellists, including through the use of new technologies. The agendas for the sessions are drafted by the Working Group, based on the proposals of its Members and in close consultation with the secretariat.

(b) Conducts up to two country visits per year upon the invitation of Governments, in order to gain a better understanding of the human rights situation of people of African descent in the given country in order to develop recommendations for solving existing problems. The Working Group may also conduct joint country visits with other special procedures mandate holders.

(c) Transmits urgent appeals and other communications on alleged serious violations suffered by people of African descent regarding racism, racial discrimination, xenophobia and related intolerance to the State concerned in order to induce the national authority to undertake the necessary investigations of all incidents or individual cases reported.

(d) Submits annual reports on activities under its mandate to the Human Rights Council.

### **IV. Functioning of the Working Group**

#### **A. Chairperson-Rapporteur**

6. At the beginning of each session, the five members of the Working Group elect a Chairperson-Rapporteur by consensus, using a 80 per cent qualified majority. The Chairperson-Rapporteur is elected for a one year term, with the possibility of being re-elected for a maximum of one additional year. A vice-Chairperson is also elected informally. The vice-Chairperson does not automatically replace the Chairperson-Rapporteur, but only by a decision of the Working Group. The Chairperson-Rapporteur is elected on a rotational basis in order to reflect the regional representation of the group.

7. The Working Group will strive to achieve consensus in all its decisions and practices. Consensus is achieved by four votes out of five. Dissenting opinions will be reflected in the reports and/or communications if the dissenting Member insists.

## **B. Country visits**

8. For the purposes of fulfilling its tasks, the Working Group conducts up to two country visits each year following invitations received from Member States. Visits are conducted in the spirit of promoting constructive dialogue with States.

9. Country visits are prepared in close collaboration with authorities of the host country and United Nations agencies in the visiting State. The visits are an opportunity for the Working Group to engage in direct dialogue with the Government and other stakeholders, particularly people of African descent. During visits, the Working Group will also gather information and identify positive practices on different policies and programmes and their effectiveness and/or limitations, and makes recommendations thereon.

10. Country visits are, to the extent possible, to be undertaken by three members of the Working Group, namely, the Chairperson-Rapporteur and two other members on the basis of their knowledge and interest. When the country visit concerns a country of which one of the members of the Working Group is a national, or in other situations where there may be a conflict of interest, that member shall not participate in the visit.

11. When the Working Group receives an invitation from a Government to conduct a country visit, the Working Group responds by inviting the Permanent Representative of the State to the United Nations Office at Geneva to a meeting to determine the dates and terms of the country visit. The secretariat of the Working Group initiates a dialogue with the parties involved in the visit with a view to taking all practical measures to facilitate the mission. The programme for the country visit is drafted by the secretariat in close collaboration with the Working Group, which must approve the final version.

12. The Government must assure the Working Group that, during the visit, the Working Group will have the opportunity to conduct meetings with the highest authorities of all branches of the State (political, administrative, legislative and judicial leaders) who affect the human rights situation of people of African descent subjected to the jurisdiction of the host State, and will help the Working Group to implement its mandate. It shall also meet with international bodies and agencies, non-governmental organizations, including organizations of people of African descent, lawyers, bar associations and other professional associations of interest, national human rights institutions, equality bodies, academic institutions, diplomatic and consular representatives, religious authorities and United Nations country teams, among others. Absolute confidentiality will be guaranteed during the interviews between the Working Group and people of African descent. The Government will guarantee there will be no reprisals against persons interviewed by the Working Group. During visits, members of the Working Group shall respect the laws of the host country.

13. At the end of its visit, the Working Group will prepare and submit a preliminary statement to the Government, informing it about its preliminary general findings. It will inform the public of its findings by means of a press conference, after having debriefed the Government. In addition to the press conference, the Working Group may choose to give other media interviews, while nonetheless ensuring that any findings not shared with the Government are not first revealed to any media house.

14. The Working Group will prepare a report, which, once adopted, will be communicated to the Government of the country visited with a view to obtaining its observations on any factual and legal errors. The report will not be made public prior to receipt of the observations of the Government, which will be taken into consideration in the final report. Such observations will be published as an annex to the country visit report if the Government so requests. The report will be published as addendum to the annual report. The final report will be presented by the Chairperson or a delegated member of the Working Group to the Human Rights Council.

15. Two years after a visit, the Working Group may request the relevant Government to present a report on the implementation of the recommendations made in its mission report. If deemed necessary, the Working Group may request a follow-up visit to the country concerned.

16. Where applicable, the analysis of positive practices collected during country visits will inform aspects of discussions during the annual sessions of the Working Group and establish a platform for a more comprehensive debate on how these practices could be adopted and replicated in policies of other countries.

17. The choice of countries to be visited will be based on such factors as the relative number of people of African descent living in the given country, the degree of credible complaints/evidence of racial discrimination against people of African descent, and the existence and degree of effectiveness of specific programmes or policies designed to promote equality for the benefit of people of African descent. Such a choice will also be informed by relevant information received on the situation of people of African descent from Governments, academic institutions, United Nations human rights mechanisms, non-governmental organizations, including organizations of people of African descent, or other relevant sources.

### **C. Communications on alleged serious human rights violations**

18. As part of its mandate, the Working Group responds to and intervenes in alleged serious violations of the rights of people of African descent in Member States. The intervention may relate to a human rights violation that has already occurred, is ongoing or has a high risk of occurring. In general, the process involves the sending of a confidential communication to the concerned Government requesting information, commenting on the allegation and, where relevant, a suggestion that preventive or investigatory action be taken.

#### **1. Types of communication**

19. The communications sent by the Working Group may be of two types:

(a) Urgent appeals in cases where the alleged violations suffered by people of African descent are time-sensitive in terms of involving loss of life, a life-threatening situation or either imminent or ongoing damage of a very grave nature to victims that cannot be addressed in timely manner by letters of allegation;

(b) Allegation letters in situations in which violations have already occurred or the situation is of a less urgent character.

#### **2. Types of case**

20. Communications may include cases of killing, torture, racial profiling or other serious abuse committed against people of African descent. Given the existence of other United Nations mechanisms addressing human rights violations, the Working Group gives priority consideration to those cases involving infringements of patterns of racial discrimination against people of African descent in a given country.

#### **3. Requirements**

21. The Working Group only acts on complaints received from a reliable source. Complaints are to be submitted in writing and addressed to the secretariat, and contain family name, first name and address of the sender and (optionally), his or her telephone, telex and telefax numbers or e-mail address.

22. Communications addressed to the Working Group may be received from the individuals concerned, their families or their representatives. Such communications may also be transmitted by non-governmental organizations, or national human rights institutions or equality bodies. In dealing with communications, the Working Group will give consideration to articles 9, 10 and 14 of the code of conduct of special procedures mandate holders of the Human Rights Council.

#### **4. Procedure**

23. Upon receipt of complaints and allegations of human rights violations relating to people of African descent, the Working Group first seeks to determine the validity of the information then decides whether it is advisable to send a communication to the Government concerned. The decision to intervene is at the discretion of the Working Group. Owing to the large number of cases reported, it is impossible to respond to all situations. The decision to intervene will therefore depend on various criteria, including the credibility of the information received; the details provided; the extent to which the case is representative of situations faced by people of African descent generally or represents a pattern of violation in a given country; and the likelihood that intervention by the Working Group will have a positive impact.

24. If the decision to intervene is made, the Working Group will communicate with the Government concerned either by means of an urgent appeal or an allegation letter. The decision to bring the case to the attention of the Government is the result of a qualified majority of 80 per cent among the members of the Working Group. In extreme cases, dissident opinions will be reflected in the report. If a complaint is received concerning a State of which one of the experts is a national, that expert may not participate in discussions. Communication letters on alleged human rights violations to Governments will be signed by the Chairperson-Rapporteur or, in her/his absence, by the vice-Chairperson.

25. Communications to Governments will be transmitted through the Permanent Representative of the concerned country to the United Nations Office at Geneva. The Government will be requested to reply within 60 days after having carried out such inquiries as may be appropriate to provide the Working Group with the most thorough information possible.

26. Depending upon the specificities of the case, a communication may be sent jointly with other relevant special procedures mandate holders.

27. Resource limitations make it impossible to follow-up on every case, and past experience has shown that the impact of the actions by a special procedures mandate holder often depends on the mobilization of civil society as much as on their efficient use of the mechanism.

28. Communications are confidential, and sources are not disclosed. A summary of all the communications sent by the Working Group throughout the year, together with the responses received from the Governments concerned, will be published in an addendum to the annual report of the Working Group submitted to the Human Rights Council. Summaries of the Working Group are the result of consensus.

#### **5. Press statements**

29. In appropriate situations, including those of grave concern or when a Government has repeatedly failed to provide a substantive response to communications, the Working Group may issue a press statement, either individually or jointly, with other mandate holders.



30. In general, the Working Group should engage in a dialogue with the Government through the communications procedure before resorting to a press release or other public statement. When the Working Group sends a communication with the intention of issuing a press release shortly thereafter, such intention should be indicated to the Government in the communication. The Working Group should indicate the response provided by the States concerned fairly.

31. Press releases are shared with the Permanent Mission in advance. Press releases and statements are processed by the Communications Section of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and posted on the OHCHR website.

#### **D. Engagement with States and other human rights mechanisms and relevant key stakeholders**

32. The Working Group intends to carry out its mandate through constructive dialogue and in cooperation with Member States, human rights mechanisms, intergovernmental bodies, relevant United Nations entities, regional organizations, national human rights institutions, academia, non-governmental organizations and civil society, and particularly with people of African descent.

33. The Working Group is mindful of the work carried out by the Committee on the Elimination of Racial Discrimination, other treaty bodies, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and other special procedures mandate holders, and the Durban follow-up mechanisms and initiatives developed by international and regional human rights mechanisms, as well as of the available knowledge and tools produced by the United Nations, States and civil society on the matter. The Working Group will hold regular meetings with special procedures and treaty bodies closely linked with its mandate.

34. The Working Group intends to draw on expertise and benefit from collaborative efforts with the above-mentioned mechanisms, including through a regular exchange of information on anti-discrimination measures being taken and the implementation of recommendations benefiting people of African descent.

35. The Working Group will also enhance functional linkages with the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and with the group of independent eminent experts on the Implementation of the Durban Declaration and Programme of Action to foster a common, streamlined Durban follow-up agenda.

36. The Working Group places special emphasis on its mandate to study the problems of racial discrimination faced by people of African descent living in the diaspora and, to that end, to gather all relevant information from Governments, non-governmental organizations and other relevant sources, including through the holding of public meetings with them, sending letters of enquiry, questionnaires soliciting information and documentation and material in the thematic areas or specific issues of concern.

#### **E. Giving voice to people of African descent and Africans**

37. An important aspect of the mandate of the Working Group is receiving and exchanging information with people of African descent and Africans, including non-governmental and community-based organizations, as well as with the broader community. The Working Group relies heavily on information submitted to it in relation to all areas of

its work for the promotion of positive practices, to inform the elaboration of country reports and thematic studies for its annual sessions and to respond to alleged violations of the human rights of people of African descent.

38. The Working Group will make efforts to promote the participation of people of African descent in the relevant processes at the national, regional and international levels.

39. Towards this end, the Working Group will hold consultations with people of African descent during country visits, at its annual sessions and on other occasions where possible, to gather their views and exchange information, including information about relevant international standards and processes. It will make a special effort to include the participation of women, children, young people and other groups facing multiple discrimination in the pursuit of its mandate to improve the situation of all people of African descent.

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