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World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Resolution amid Controversy

From August 31, 2001 to September 7, 2001, the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance took place in Durban, South Africa.¹ The Conference marks the fourth time representatives from world nations convened to discuss matters of intolerance.² The first two conferences were held in Geneva, Switzerland in 1978 and 1983, while Vienna hosted the third in 1993.³ Specifically, Conference organizers decided on Durban, South Africa, as it was a symbolic representation of the plight of the South African people against apartheid.⁴

Prior to the start of the World Conference, the United States engaged in efforts to persuade other nations to omit the contentious view that Zionism is racism.⁵ The United States, who does not equate Zionism with racism, asserted that the topic of Zionism was a means by which Israel would be singled out for its treatment of Palestinians.⁶ Initially, the language in the draft declaration listed Zionism as a racist practice.⁷ Although the objectionable language in the draft declaration against Israel was changed, the United States and Israel still withdrew from the conference amid much crit-

¹ *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration*, (adopted September 8, 2001), <http://www.unhchr.ch/html/racism/Durban.doc>.

² *See id.*

³ *See id.* (stating that the first two conferences were titled the World Conferences to Combat Racism and Racial Discrimination and that the third conference was specifically called the World Conference on Human Rights).

⁴ *Id.*

⁵ Neil A. Lewis, *U.N. Pushes to Refocus Racism Conference*, N.Y. TIMES, Aug. 1, 2001 at A8.

⁶ *Id.*

⁷ The Associated Press, *The Racism Walkout*, N.Y. TIMES, Sept. 4, 2001 at A8.

icism.⁸ On September 8, 2001, the draft declaration, with new language substituting Islamophobia for Zionism, was adopted.⁹

Another contentious situation preceding the adoption of the declaration involved the plight of the Dalits in India.¹⁰ Approximately 250 million Dalits in India and around the world face discrimination based on "work and descent."¹¹ As the result of such intolerance, the draft declaration made specific reference to such discrimination.¹² However, the Indian government successfully lobbied to keep caste out of the final declaration.¹³

Specifically, the following three general categories composed the final declaration: (1) sources of racism, racial discrimination, xenophobia, and related intolerance; (2) victims of racism, racial discrimination, xenophobia, and related intolerance; and (3) measures to prevent and eradicate racism, racial discrimination, xenophobia, and related intolerance at the national, regional, and international levels.¹⁴

SOURCES OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

The declaration recognizes the following sources of intolerance: slavery and the slave trade; colonialism, apartheid, and genocide in terms of international law; xenophobia against non-nationals; as well as the inequalities present in the political and legal structures of some States.¹⁵ Specifically, the declaration places special emphasis on slavery and the slave trade, characterizing slav-

⁸ *Disappointment as U.S. Bolts Race Conference*, (Jan. 2002), at <http://www.hrw.org/press/2001/09/usbolt0903.htm>.

⁹ *See World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration*, (adopted September 8, 2001), at <http://www.unhchr.ch/html/racism/Durban.doc>.

¹⁰ *Anti-Racism Summit Ends on Hopeful Note*, at <http://www.hrw.org/press/2001/09/wcar0910.htm>.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* (noting that the successful lobbying of India has only fueled international scrutiny and debate of the caste system and of the plight of the Dalits).

¹⁴ *See World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration*, (adopted September 8, 2001), at <http://www.unhchr.ch/html/racism/Durban.doc>.

¹⁵ *See id.*

ery as a crime against humanity, and expressing the moral obligation to repair its lasting damage.¹⁶

Although the declaration scrutinizes the appalling and tragic barbarism of slavery, the resolution does remember additional sources of intolerance. An alternate source of intolerance conferring lasting social and economic inequalities throughout the world involves the functioning of State penal systems.¹⁷ For instance, the declaration notes the frequent unequal application of penal laws and negative actions and attitudes of those responsible for law enforcement in some States.¹⁸ One potentially severe consequence of the inequality present within penal systems is the over-representation of certain groups who are detained or imprisoned.¹⁹

Not only does the declaration focus on previous and current sources of intolerance, it also recognizes the importance of paying special attention to new manifestations to which youth and other vulnerable groups might be exposed.²⁰ This concern is especially prevalent upon consideration of the recent advances in telecommunications to which the public is so intensely exposed.²¹ Often, the media promotes negative stereotyping of vulnerable groups. Thus, due to increased media exposure to such generalizations, many are encouraged to adopt racist and xenophobic sentiments.²²

VICTIMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

After discussing the sources of intolerance, the declaration shifts to consider the victims of racism, racial discrimination, xenophobia, and related intolerance. The declaration lists as victims Africans, Asians, indigenous peoples, migrants, those of mixed eth-

¹⁶ See *Anti-Racism Summit Ends on Hopeful Note*, (Jan. 2002), at <http://www.hrw.org/press/2001/09/wcar0910.htm>.

¹⁷ *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration*, (adopted September 8, 2001), at <http://www.unhchr.ch/html/racism/Durban.doc>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *See id.*

²¹ *Id.* (noting specifically the dissemination through modern communication technologies of ideas based on notions of racial superiority).

²² *Id.*

nic and racial origins, religious communities, women, and HIV/AIDS infected persons.²³

Although each of the aforementioned groups possess different characteristics, much of the negative treatment faced by each can be similarly described. For instance, intolerance limits the right of many groups to practice their beliefs freely, deteriorates living conditions, and prevents many from fully exercising their civil, political, economic, social, and cultural rights.²⁴ Such adverse conditions have contributed to forced displacement and the movement of people from their home countries as refugees and asylum-seekers.²⁵

After noting the similar negative effects of intolerance faced by victims, the declaration indicates consequences that are specific to certain groups.²⁶ For instance, with respect to indigenous peoples, the declaration considers the deterioration of their special relationship with the land as the basis for their spiritual, physical, and cultural existence. Additionally, the declaration mentions the plight of the Palestinian people under foreign occupation and their right to establish an independent state.²⁷ However, the United Nations does not recognize this right at the expense of the instability of other states, namely Israel.²⁸ Lastly, the declaration notes the denial of women in many countries to transmit their nationality to their children and spouses.²⁹

Not only does the declaration note the negative treatment that victimized groups have suffered and continue to suffer, it also recognizes the many contributions made by victimized groups.³⁰ Specifically, victimized groups have conferred many cultural, economic, political, and scientific benefits so as to improve areas such as em-

²³ See *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration*, (adopted September 8, 2001), at <http://www.unhchr.ch/html/racism/Durban.doc>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* See also Neil A. Lewis, *U.N. Pushes to Refocus Racism Conference*, N. Y. TIMES, Aug. 1, 2001 at A8 (noting that although the declaration discusses the conflict in the Middle East, this is certainly not its sole focus).

²⁸ *Id.*

²⁹ *Anti-Racism Summit Ends on Hopeful Note*, (Jan. 2002) at <http://www.hrw.org/press/2001/09/wcar0910.htm> (stating that this specific consequence is especially prevalent in the Middle East and North Africa).

³⁰ See *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration*, (adopted September 8, 2001), <http://www.unhchr.ch/html/racism/Durban.doc>.

ployment, education, and health. Along with emphasizing the importance of the contributions to global development, the declaration also laments the lack of recognition received by the victimized groups.³¹

MEASURES TO PREVENT AND ERADICATE RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE AT THE NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

Following discussion of the sources and victims of intolerance, the declaration proceeds to indicate what measures can be taken to prevent and eradicate discrimination at the regional, national, and international levels.³² First, the declaration affirms the universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. Second, the declaration notes that to overcome intolerance, one must always conquer a lack of political will, weak legislation, prevalent racist attitudes, and/or negative stereotyping. Third, the declaration discusses precise ways in which to achieve true equality.³³

According to the declaration, intolerance can be prevented and eradicated through the following means: development of independent human rights institutions; education of all ages; elimination of illiteracy, racial profiling and workplace bias;³⁴ access to free primary education; dialogue among civilizations; and cooperation amongst states.³⁵ Furthermore, the declaration calls for the implementation of policies consistent with principles of human rights to protect the nearly 30 million people displaced in their own countries, as well as migrants.³⁶ Although the authors recognize the potential for innovative approaches to combat intolerance, the list of means in the declaration is not exclusive.³⁷

³¹ *See id.*

³² *Id.*

³³ *Id.*

³⁴ *Anti-Racism Summit Ends on Hopeful Note*, (Jan. 2002), at <http://www.hrw.org/press/2001/09/wcar0910.htm>.

³⁵ *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration*, (adopted September 8, 2001), <http://www.unhchr.ch/html/racism/Durban.doc>.

³⁶ *Anti-Racism Summit Ends on Hopeful Note*, (Jan. 2002), at <http://www.hrw.org/press/2001/09/wcar0910.htm>.

³⁷ *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration*, (adopted September 8, 2001), <http://www.unhchr.ch/html/racism/Durban.doc>.

Not only does the declaration list ways to reduce and eliminate intolerance, it further indicates who is responsible for the implementation of the aforementioned means. For instance, political leaders and parties can play a key role by promoting diversity and condemning the persistence and resurgence of various forms of racial intolerance.³⁸ Also, the legal system can punish the discrimination of all ideas based on racial superiority or hatred with due regard to human rights principles.³⁹ Lastly, the media can make a positive contribution to the fight against intolerance by abandoning negative stereotyping of vulnerable groups.⁴⁰

Despite efforts of the international community over the past three decades, racism, racial discrimination, xenophobia, and related intolerance are not yet completely eliminated.⁴¹ Many humans still fall prey to the various forms of intolerance based on race, color, descent, national origin, ethnic origin, sex, language, religion, political opinion, social origin, property, birth, or other status.⁴² The 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance attempted to devise a comprehensive resolution to finally prevent and eradicate intolerance.⁴³ However, the declaration is merely a document and cannot itself fight the battle against intolerance.⁴⁴ In order to be truly effective, the world community must implement the directives of the declaration.⁴⁵ As Reed Brody, Advocacy Director of Human Rights Watch, stated: "If governments would really put in practice what they agreed to do here, we could make real headway in combating racism."⁴⁶

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³⁸ *Id.*

³⁹ *See id.*

⁴⁰ *See id.*

⁴¹ *See Anti-Racism Summit Ends on Hopeful Note*, at <<http://www.hrw.org/press/2001/09/wcar0910.htm>>.

⁴² *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration*, (adopted September 8, 2001), <http://www.unhchr.ch/html/racism/Durban.doc>.

⁴³ *See Anti-Racism Summit Ends on Hopeful Note*, (Jan. 2002) at <http://www.hrw.org/press/2001/09/wcar0910.htm>.

⁴⁴ *Id.*

⁴⁵ *See id.*

⁴⁶ *Id.*