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REPORTS OF PREPARATORY MEETINGS AND ACTIVITIES AT THE INTERNATIONAL, REGIONAL AND NATIONAL LEVELS

Note verbale dated 13 September 2008 from the Permanent Mission of Pakistan to the United Nations Office at Geneva addressed to the Office of the High Commissioner for Human Rights

The Permanent Mission of the Islamic Republic of Pakistan accredited to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to transmit the written contribution of the Organization of the Islamic Conference in Geneva to the Durban Review Conference. The attached document* has been prepared following the structure of the draft outcome document adopted by the Preparatory Committee in its decision PC.2/8.

* Reproduced in the annex as received, in the language of submission only.

Annex

Written OIC Contribution

1. Review of progress and assessment of implementation of the Durban Declaration and Programme of Action by all stakeholders at the national, regional and international levels, including the assessment of contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance.

The OIC considers DDPA as an important milestone in the collective struggle of mankind against the scourge of racism, racial discrimination, xenophobia and related intolerances. As a result of the collective resolve expressed by the UN family in 2001 in Durban, a number of countries have taken substantial steps to incorporate and implement the spirit of DDPA in their national policies framework. Others have worked to streamline their policies in accordance with the character of DDPA. All these steps and efforts indicate progress in many cases.

Nevertheless, there remain daunting challenges to surpass in this battle. A series of very authentic and well researched reports by the Special Rapporteur on racism, racial discrimination and xenophobia testify the increase in the incidence of racism, while as the old and new manifestations persist. Hence, the need to deal with this menace in all its forms and manifestations with all available tools at our disposal. A number of independent reports including those from the European Monitoring Centre for Racism and Xenophobia substantiate the Special Rapporteur's findings.

Intellectual and political resistance to multiculturalism is one of the root causes of the resurgence of racist and xenophobic violence. Rejection of diversity has led to negation of the very humanity of the immigrants, foreigners and minorities. The most serious manifestation of racism is the democratic legitimization of racism and xenophobia in the guise of defending 'national identity or preference'. No country, religion or minority should be discriminated on the grounds of its race, colour and creed.

Some of the other obstacles hampering progress in the collective struggle against racism and racial discrimination include; weak legislation and policies, lack of moral, educational and practical strategies, non-implementation of international legal framework and commitments by some, persisting impunity on different grounds such as freedom of expression, counter terrorism or national security as well as sharp increase in the extreme right wing xenophobic political platforms.

As regards the debate of contemporary forms of racism, some of the most worrying trends since 2001 include racio-religious profiling and discrimination, defamation of Muslims, their faith and beliefs, incitement to religious hatred and its concomitant effects on multiculturalism, national and international peace and stability as well as human rights of the affected communities.

The OIC agrees with the Special Rapporteur on Racism that defamation of religions cannot be dissociated from a profound reflection on the trends of racism, racial discrimination, xenophobia and related intolerance that are developing in the current political and ideological context.

The OIC shares the Special Rapporteur's assessment that the most serious manifestations of defamation of religions are the increase in Islamophobia and the worsening of the situation of Muslim minorities around the world. He has mentioned three main developments in this context; a) the stereotypical association of Islam (and Muslims) with violence and terrorism; b) the determination to impose restrictions on manifestation of Islam including construction of mosques and its minarets; and c) monitoring and surveillance of places of worship, culture and teaching of Islam.

The most disturbing phenomenon is the intellectual and ideological validation of Islamophobia. When it is expressed against migrants it takes the form of religo-ethnic or religo-racial tones, when it is expressed in the form of defamation of religions, it takes cover behind the freedom of expression and when it is expressed in the form of profiling. It hides behind the war against terrorism. The OIC believes that association of terrorism and violence with Islam or any other religion including through publication of offensive caricatures and making of hate documentaries would purposely complicate our common endeavours to address several contemporary issues including fight against terrorism and occupation of foreign territories and peoples.

Besides strengthening discrimination against Muslims, this insidious association is preventing Muslim communities from practicing their religion freely or integration in the society, in many countries. Discrimination on multiple grounds of religion, ethnicity or culture further affects enjoyment of their basic human rights including economic, social and cultural rights. Durban Review Conference, therefore, must look into this contemporary manifestation of racism and seek proscription of this practice through legal and administrative measures. As the existing national laws and courts have failed to address the issue, internationally binding normative standards need to be devised that can provide adequate guarantees against defamation of religions and religious intolerance.

Although 7 years have passed since the adoption of DDPA, the Palestinian people continue to be denied the fundamental right of self determination. In order to consolidate the occupation, they have been subjected to unlawful collective punishment, torture, economic blockade, severe restriction on movement and arbitrary closure of their territories. Illegal settlements continue to be built in the occupied territories. The Review Conference must look into the human rights situation and urge member states to implement the provisions of DDPA with a view to bring lasting peace in the Middle East.

2. Assessment of the effectiveness of the existing Durban follow-up mechanisms and other United Nations mechanisms dealing with the issue of racism, racial discrimination, xenophobia and related intolerance in order to enhance them.

Effectiveness of any follow up mechanism is linked to the political acceptability and commitment of the member states to that subject as well as the process.

A number of mechanisms were created to follow up on the DDPA. But the result of their hard work in the shape of their valuable suggestions and recommendations has not borne results. Effective implementation of the DDPA as well as the recommendations of its follow up mechanisms is needed to guarantee promotion and protection of the rights of the victims of racism, racial discrimination and xenophobia.

Besides political commitment to the cause, some of the ways which could help strengthen the follow up mechanisms are as following:

a- Enhanced visibility to the message of DDPA and its follow up mechanisms through effective media campaigns by the UNDPI as well as national governments.

b- Effective coordination between various Durban mechanisms and their regular interaction with relevant special procedures, CERD, HRC and GA.

c- Creating necessary reporting linkages to these mechanisms by the member states on their recommendations as well as provision of information on the subjects of relevance.

d- Follow up on the recommendations of these mechanisms to be pursued by the OHCHR;

e- Relevant recommendations to be kept in mind by special rapporteurs while reporting on their respective themes /mandates. Resolutions on racism related subjects should also include and give prominence to the recommendations of these mechanisms;

f- Relevant recommendations must also find place in the new international standards to be developed in the area of racism, racial discrimination, xenophobia and related intolerance as well as mainstreaming the subject of racism throughout the UN system; and

g- Ensuring effective participation of civil society and victims of different forms of racism to ensure relevance as well as focused orientation.

3. Promotion of the universal ratification and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination.

While the universality of the Convention is already an objective of the DDPA, it also calls upon member states to extend full cooperation to the Committee on Elimination of Racial Discrimination and other human rights treaty monitoring bodies to promote the effective implementation of the instruments concerned and proper consideration of the recommendations adopted by these bodies with regard to complaints of racism, racial discrimination, xenophobia and related intolerance.

In order to achieve these objectives, it would be important that all member states should ratify the Convention on priority as well as to regularize their reporting obligations. Accordingly, state parties to ICERD should not have any reservations or interpretative statements attached to their instruments of accession, which are incompatible with the object and purpose of the Convention. The OIC also supports DDPA's call for provision of adequate resources for the Committee in order to enable it to discharge its mandate fully and most effectively. This includes provision of technical support by the Committee to the state parties, on request.

4. Identification and sharing of best practices achieved at the national, regional and international levels in the fight against racism, racial discrimination, xenophobia and related intolerance.

Identification of best practices in an intergovernmental setting is a difficult task. Different practices are based on different experiences. Results achieved may also vary and could be potentially contentious. Nevertheless, it is important to look closely on different practices which have yielded results and can be emulated by others in the common fight against racism, racial discrimination, xenophobia and related intolerance.

At the same time, however, it would be worthwhile to look at the practices, laws and policies which have proved to be counterproductive in the fight against racism and should be avoided by the rest.

Most national constitutions and laws provide for a general framework against the racial tendencies. It is important that such frameworks be broadened to take into account specific policies and acts that can address different forms of racial discrimination. There is a need to strengthen different national and regional institutions on account of their capacity to combat racist tendencies with the area of their responsibility.

The OIC strongly believes in the freedom of expression and considers it as a corner stone of contemporary human rights regime. However, misuse or abuse, as provided in Article 20 of the ICCPR and Article 4 of the ICERD must be taken into account to avoid possible negative fall outs. Therefore, while elaborating specific laws on combating incitement to racial and religious hatred, these must conform to the relevant provision of ICCPR and ICERD.

An important element in the fight against racism is the need to raise awareness and enhance understanding between and among different cultures and societies. Some useful steps have been taken such as Interfaith Dialogue and Cooperation for Peace and Alliance of Civilizations. Such mechanisms must not only be supported but enhanced and multiplied at all possible forums. At the national level such mechanisms should be created to reach out to all the religious ethnic and linguistic minorities and vulnerable groups. This approach will bring about better understanding of the problems and misconceptions at different level as well as provide ownership in the programmes designed for the betterment of vulnerable groups. The benefits of interfaith cooperation and dialogue should be taught at the basic level to ensure effective integration of minorities and better understanding and tolerance among societies.

5. Identification of further concrete measures and initiatives at all levels for combating and eliminating all manifestations of racism, racial discrimination, xenophobia and related intolerance, in order to foster the implementation of the DDPA and to address challenges and impediments thereto, including in light of developments since the adoption of the DDPA in 2001.

The OIC condemns human rights violations, irrespective of their origin, and is not against "reasonable and fair criticism." However, recent events have once again highlighted the need to demarcate the legal contours between freedom of expression and hate speech. OHCHR's proposed Expert Consultations on the permissible limits to freedom of expression, by taking into account the mandatory prohibition of advocacy of religious hatred, should reach some conclusions and recommendations coming out from the consultations should be worthy of including in the Review Conference documents.

National laws alone cannot deal with the rising tide of defamation and hatred against Muslims, especially if such trends are spreading to the grass root communities. A framework is needed to analyze national laws and understand their provisions. This could then be compiled in a single "universal document" as guidelines for legislation – aimed at countering "defamation of religions".

Some of the other normative and preventive measure that have been proposed over time during discussions on the subject of Review mechanisms include; a) mandatory prohibition by law to eliminate racio-religious profiling or profiling based on any grounds of discrimination recognized under international human rights law with the legal action against perpetrators and effective remedies for the victims; b) legal restrictions on the dissemination of all ideas based upon racial superiority or hatred and incitement to hatred; c) in pursuance of the paragraph 144 of the DDPA, media representative should draw up a their our code of conduct; d) as proposed by the Special Representative on Racism, establishment of national, regional and international monitoring bodies for racist and xenophobic acts, including the OHCHR observatory for racist incidents; e) emphasis on the role of cultural diversity and human rights education in promoting tolerance and preventing racism, racial discrimination, xenophobia and related intolerance;

As has also been highlighted in different reports under agenda item 9, one of the principal reasons fomenting the tide of racism is the growing increase in the right wing extremist political discourse, including in some of the most liberal and pluralistic societies. This trend has led to the deepening of the racist tendencies in those societies through propaganda against immigrants and promotion of cultural and religious superiority doctrines. Immunity granted to such acts has led to denial of basic human rights to the affected communities including their right to freely practice and preserve their religious and cultural identities. Effective legislation is needed at the national, regional and international levels to curb these tendencies as well as to ensure relief to the victims.

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