

77th session of the United Nations General Assembly

Agenda item 68(b): Progress Report

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Elaboration of Complementary Standards

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Your Excellency, President of the General Assembly,

Excellencies,

Distinguished delegations,

Ladies and Gentlemen.

I am honoured to be with you today to deliver my first progress report on the work of the Ad Hoc Committee on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), as requested by the General Assembly in paragraph 7 of its resolution 76/226.

This is the fourth annual progress report on the Ad Hoc Committee on Complementary Standards to the Third Committee, and I would like to take this opportunity to warmly express my appreciation to the former Chair-Rapporteur, H.E. Ambassador Taonga Mushayanhu (Zimbabwe) for his great leadership of the Committee for over four years and I can attest that the Committee's work was brought forward under his tenure, and my aim as Chair-Rapporteur is to continue providing guidance for the steady and continued progress in this Committee.

Therefore it is my pleasure to address the Third Committee for the first time, in my capacity as Chair-Rapporteur of the Ad Hoc Committee on the Elaboration of Complementary Standards and to provide updates on the work of this Committee over the past two years.

As you are all aware, the Ad Hoc Committee was established by the Human Rights Council in its decision 3/103 of 8 December 2006, “to elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol(s) to the International Convention on the Elimination of All Forms of Racial Discrimination, filling the existing gaps in the Convention and also providing new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred”. Since 2017, the Committee has been working under updated mandates (first articulated in General Assembly in resolution 71/181 and the Human Rights Council in resolution 34/36 respectively), which requested the Chair-Rapporteur of the Ad Hoc Committee, “to ensure the commencement of the negotiations on the draft additional protocol criminalizing acts of a racist and xenophobic nature”.

We are all cognizant that in the past, there has been a lack of progress in elaborating the complementary standards to the Convention. Indeed, for

far too many years there appeared to be a lack of political will to move forward and work on fulfilling the mandate of the Committee.

I am pleased to note in the past few years, and despite some delays, including due to the pandemic, there has been some progress in the work of the Committee.

I would like to recall to the Third Committee that at the 10th session in April 2019, the Ad Hoc Committee agreed by consensus to a “Summary of issues and possible elements discussed pertaining to the implementation of General Assembly resolution 73/262 and Human Rights Council resolution 34/36 on the commencement of negotiations of a draft additional protocol to the Convention, criminalizing acts of a racist and xenophobic nature,” which allowed the Committee to begin charting its way forward on the complementary standard.

Further to para 6 of Human Rights Council resolution 42/29, an intersessional expert consultation took place from 21-22 October 2020 in Geneva in a hybrid format to consider the elements of a draft additional protocol prepared by the Committee at its 10th session and to prepare a report on the deliberations and recommendations for submission to the 11th session of the Committee.

Ladies and gentlemen,

I am pleased to have chaired the 11th and 12th sessions of the Ad Hoc Committee, and I would like to present a brief overview of these sessions, which you may consult in further detail in the reports, A/HRC/51/56 and A/HRC/51/57 respectively.

The Ad Hoc Committee held the first part of its 11th session from 6 to 13 December 2021. The session was adjourned and resumed on 18 July 2022. The session was devoted to considering the report of the intersessional legal expert consultation: (a) dissemination of hate speech; (b) racial cybercrime (social media networks and companies); (c) all contemporary forms of discrimination based on religion or belief; and (d) preventive measures to combat racist and xenophobic discrimination. The Committee, within its mandate, interacted with the legal experts and adopted by consensus conclusions and recommendations of the 11th session in respect of the four modules mentioned. You may refer to them at page 15 of report A/HRC/51/56.

The Committee's 12th session took place from 19 – 29 July 2022. The Committee heard presentations on and held discussions with invited experts on the historical impact of colonialism on the law; all contemporary forms of discrimination based on religion or belief; and on

and discussion of principles and elements of criminalization. These presentations and discussions provided context, insight and further background in support of the Committee 's work on elaborating an additional protocol. Additionally, based on the report of the intersessional legal experts consultation and the discussions held during the 11th session, the Committee also considered a Chair-Rapporteur's annotated text about key definitions and terminology to aid the Committee's thinking and discussions and move the work of the Committee forward.

The Committee adopted by consensus general conclusions from the contextual discussions, and it also at the end of the 12th session, adopted by consensus, the conclusions and recommendations of the session. Notably, the Committee agreed that in accordance with its mandate, a group of legal experts representing different regions and legal systems be engaged and tasked to provide the Chair-Rapporteur with precise guidance and input to allow for the preparation of a Chair-Rapporteur's document, and the Committee outlined a number of questions, issues and suggestions to guide this work to be undertaken by the experts. You can consult the specific conclusions and recommendations in greater detail starting at page 16 of the report *A/HRC/51/57*.

On 3 October 2022, I presented these two reports to the 51st session of the Human Rights Council. In adopting the resolution “From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance” A/HRC/RES/51/32 on 7 October, the Council in paragraph 9 “[Took] note of the conclusions and recommendations made by the Ad Hoc Committee on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination, which, at its eleventh and twelfth sessions, furthered the discussions on the elaboration of a draft additional protocol to the Convention.

In paragraph 10, it requests the High Commissioner, in the further fulfilment of the mandate of the Ad Hoc Committee on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination, to engage legal experts, representing the five regions and different legal systems, and task them with providing the Chair of the Ad Hoc Committee with precise guidance and inputs to allow for the preparation of the Chair’s document, in accordance with the Committee’s mandate. Finally in paragraph 11, the Human Rights Council also request[ed] the High Commissioner to facilitate the participation of these legal experts in the thirteenth and fourteenth sessions of the Ad Hoc Committee, and to task them with providing advice with a view to contributing to discussions on the

elaboration of a draft additional protocol criminalizing acts of a racist and xenophobic nature, in order to implement the Committee's mandate. The 13th session is scheduled to take place in April 2023. In the intersessional period, I will be engaging with the legal experts who will support me substantively in the preparation of a Chair's document and I count on the support of delegations in this endeavour.

I wish to express my sincere appreciation to the participants in the Ad Hoc Committee – to representatives of Permanent Missions and civil society - for their cooperation and contributions, and for the constructive approach and willingness to compromise they have demonstrated, especially during the twelfth session. I am particularly grateful to delegations which participated in the informal discussions to work together on textual revisions to arrive at a consensus outcome for the session. I salute them and I am heartened to see that despite some differences within the Committee, there exists a common belief in the fight against racism.

Ladies and gentlemen,

We still have a lot of work ahead of us. This work is very important, notwithstanding its complexity. I hope that the Committee will continue

to demonstrate the necessary political will to move forward and fulfil the Committee's mandate.

As Chair-Rapporteur, I wish to see continued political will and genuine and constructive engagement on this issue which is important to all States. Racism in its many manifestations remains an urgent matter everywhere, and it is high time to fulfil the mandate which was first adopted over 15 years ago. Racism and racial discrimination, xenophobia and related intolerance are very present and impact the lives of countless people, threatening the peace and development of far too many societies around the world. Recurrent and tragic events continually remind us of the urgency of eliminating racism, and the crucial importance of the work of the Ad Hoc Committee.

I must add that it is also a test of the credibility of the Human Rights Council and the General Assembly, whether the political will can be summoned to combat racism, racial discrimination, xenophobia and related intolerance. We must not delay in fulfilling mandates which have been adopted. And we must in the Ad Hoc Committee be results-oriented and deliver on the mandates given to the Committee.

Finally, I wish to thank all the delegations in Geneva and New York for the commitment, cooperation and support shown to me in my role as

Chairperson-Rapporteur, and I am pleased to meet several of you while I am in New York this week.

Let us all continue to be constructively and actively engaged in this important process to address the contemporary racism, racial discrimination, xenophobia and related intolerance. I am looking forward to our progress together, and to reporting on it at the next session of the Third Committee.

Thank you.