

**Second Permanent Forum on People of African Descent: "Realizing the Dream: A UN Declaration on the promotion, protection and full respect of the human rights of people of African descent"**

**Speech of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance Ms. Ashwini K.P: Thematic discussion on transnational migration, Wednesday May 31 2023**

Excellencies, distinguished panellists, representatives of states and civil society and comrades, it is a great honour to again exchange views for a brighter present and future for people of African descent. I was appointed as the sixth Special Rapporteur on contemporary forms of racism by the Human Rights Council and started my mandate on 1 November 2022. Collaboration with the Permanent Forum, along with the other mechanisms within the UN racial justice architecture, is a priority for me during the implementation of my mandate. I thank members and staff of the Permanent Forum for their ongoing collaboration.

I sit here amongst you not just as a mandate holder but also as someone who has repeatedly faced issues of exclusion similar to that my mandate seeks to address. Being a former untouchable my lived experiences of discrimination, marginalisation and struggles have also made me what I am today and I have the honour of sitting amongst august dignitaries discussing the most pertinent issues. The black movement has shaped my understanding of assertion and with the shared experiences and struggle I am here to collaborate learn, and initiate a process of social transformation.

I would like to reiterate that I see people of African descent as key constituencies of my mandate and am committed to continue the work of my predecessors to advocate for improvements in the lived experiences of people of African descent and their overall empowerment around the world. I intend to ground the work of my mandate in the standards laid out in the Convention on the Elimination on Racial Discrimination, the 2001 Durban Declaration and Programme of Action and take an approach that addresses intersectional forms of discrimination and “leaves no-one behind”.

I am honoured to take part in this thematic discussion on transnational migration. My mandate has a long history at exploring and making recommendations on the nexus between transnational migration and racism, including anti-Black racism. As I made clear when I

took part in the First session of the Permanent Forum, we cannot speak of racism without having people of African descent at the forefront.

During the First Permanent Forum, when discussing the racialised nature of the climate crisis, I highlighted how the dark eras of slavery, apartheid and colonialism, and their negative impact are at the heart of many of today's most pressing global challenges. Global transnational migration is very much in a state of crisis, and this can also clearly be traced to slavery, apartheid and colonialism and their myriad harmful legacies.

The extent of the global crisis in transnational migration is abundantly clear. There are growing numbers of those forcibly displaced due to factors including climate change and natural disasters, poverty, political instability, and armed conflicts. UNHCR, in their global trends report in 2022, reported that there are 27.1 million refugees and 4.6 million asylum seekers worldwide.<sup>1</sup> Whilst the report did not provide data that was disaggregated by race or ethnicity, significant numbers of people of African descent are undoubtedly affected by these global trends.

From the perspective of my mandate, it is apparent that many of those most affected by this global migration crisis are impacted by racism, racial discrimination, xenophobia and/or religious intolerance. There are many examples of those of African descent, including those in extremely vulnerable situations fleeing persecution, conflict, climate change and natural disasters, being subjected to racism as they are forced to take flight. I highlight how my mandate has previously described the treatment of African migrants as “starkly dehumanising” and called out that the dead bodies of those fleeing persecution, conflict and poverty in countries in Africa are a seemingly tolerable feature of the border control measures of countries that are ostensibly committed to human rights as a universal project.

It is not just those subjected to forced migration who face such racial discrimination. Such trends are rampant across many countries in the world, with ethno-nationalist ideologies espousing racial and ethnic stereotypes continuing to exclude and “other” those that have been legally resident in destination countries for generations, including in many cases people of African descent. This exclusion and othering can take many forms across societies, including hate speech, hate crime, racial profiling, inequitable administration of justice and protracted socio-economic disadvantage.

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<sup>1</sup> <https://www.unhcr.org/media/40152>

It is very important to recognise and name that much of the racial discrimination that occurs within the context of migration is systemic. Globally, immigration law and its enforcement are often mechanisms, systemic in nature and often having roots in colonial regimes, through which migrants are discriminated against on the basis of their race, ethnicity, national origin and religion. Access to citizenship, refugee protection, and even visa mobility is often disproportionately apportioned according to race, colour, descent and national or ethnic origin with people of African descent all too often facing some of the most severe and inequitable treatment.

Whilst discussing this topic, it is very important to also highlight the role that technology plays in transnational migration. As my predecessor Ms. E Tendayi Achiume highlighted, in her report to the Human Rights Council, experts have usefully coined the term “digital borders” to specify borders whose infrastructure increasingly relies upon machine learning, big data, automated algorithmic decision-making systems, predictive analytics and related digital technologies. These technologies form part of identification documents and systems, facial recognition systems, ground sensors, aerial video surveillance drones, biometric databases and even visa and asylum decision-making processes. Recently, border and immigration enforcement has experienced accelerated digitization in response to the COVID-19 pandemic. Digital borders enhance the scope and precision of the racially discriminatory operation of borders. Governments and non-state actors are developing and deploying emerging digital technologies in ways that are uniquely experimental and dangerous in the border and immigration enforcement context. By so doing, they are subjecting refugees, migrants, stateless persons and others to human rights violations, and extracting large quantities of data from these groups on exploitative terms that strip them of fundamental human agency and dignity.

In the context of the transnational migration crisis, much like in their responses to other global crises, countries in global North who benefited from slavery, apartheid and colonialism are seemingly unwilling to shoulder a fair share of the burden of the negative impact of these abhorrent practices. For example, UNHCR reported in 2022 that low- and middle-income countries hosted 83 per cent of the world’s refugees. The increasing securitisation of borders, particularly by Western countries, whilst more and more people are forced to take flight, despite many push factors for such migration, such as climate changes, conflicts and extreme poverty being grounded in their previous colonial practices and the huge economic benefits reaped from them.

I welcome that the 2030 Agenda for Sustainable Development promises that the international community will cooperate to ensure “safe, orderly and regular migration involving full respect for human rights and the humane treatment of migrants regardless of migration status, of refugees and of displaced persons.” I also welcome that the 2018 Global Compact for Safe, Orderly and Regular Migration upholds the principle of non-discrimination and the elimination of all forms of discrimination in the realization of the human rights of migrants, including racism, xenophobia and intolerance. However, I would highlight the previous work of my mandate has drawn attention to how these frameworks are characterised by shallow commitment to racial justice and fail adequately to address the systemic racism and xenophobia and are inadequately integrated with mechanisms working on racial justice.

The inadequacies of the response of many countries to the global migration crisis, as well as weaknesses in relevant international frameworks, despite the recognition in the DDPA that stress that migration policies should not be based on racism, racial discrimination, xenophobia and related intolerance. It is also in spite of international human rights law provisions, including in the International Convention on the Elimination of Racial Discrimination, the International Covenant on Civil and Political Rights and the Convention Against Torture that, amongst other things, prohibit racial discrimination, provide protection from non-refoulement and uphold non-discrimination. I highlight that a number of treaty bodies have made clear that exceptional distinctions, for example between citizens and non-citizens or between different groups of non-citizens, are permissible only if they serve a legitimate objective and are proportional to the achievement of that objective.

I would like to finish by offering some high-level, targeted recommendations on the elimination of racism, including systemic racism, against people of African descent within the context of transnational migration, to States, UN agencies and other relevant actors:

- Ensure the collection of data, disaggregated by race and ethnicity, to better understand and improve the situation of migrants of African descent globally, including to:
- Develop and strengthen linkages between the Global Compact review process with pre-existing bodies with special expertise in issues of racial equality, including the Committee on the Elimination of Racial Discrimination, the Permanent Forum of People of African Descent, and the Special Procedures of the Human Rights Council.

- Also develop linkages between such expert mechanisms and the processes and mechanisms in place to monitor and implement the 2030 agenda.
- Significantly strengthen the participation of people of African descent in both the Global Compact review process and the processes and mechanisms in place to monitor and implement to 2030 agenda.
- Apply a lens that analyses systemic racism and the harmful legacies of colonialism, apartheid and slavery to current migration and border control policies and practices, and reform such practices based on relevant international human rights standards, particularly the DDPA and ICERD.
- Rigorously apply relevant international human rights law provisions, particularly the prohibition of all forms of racial discrimination, in the design and use of emerging digital technologies within the management of transnational migration.