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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the panel discussion on the negative impact of the legacies of colonialism on the enjoyment of human rights

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

In its resolution 48/7, the Human Rights Council decided to convene, at its fifty-first session, a panel discussion on the negative impact of the legacies of colonialism on the enjoyment of human rights.

During the panel discussion, which was held on 28 September 2022 in a hybrid format with virtual and in-person participation, panellists and speakers highlighted the impact of the legacies of colonialism on human rights, identified challenges in addressing this issue, and pointed to ways forward.



I. Introduction

1. In its resolution 48/7, the Human Rights Council decided to convene, at its fifty-first session, a panel discussion on the negative impact of the legacies of colonialism on the enjoyment of human rights. Furthermore, the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a summary report on the panel discussion and to submit it to the Council at its fifty-fourth session. The present report is submitted to the Council pursuant to that request.
2. The panel discussion was held on 28 September 2022 in a hybrid format, with virtual and in-person participation. It had a webcast and was recorded,¹ and made accessible to persons with disabilities by international sign interpretation and real-time captioning.
3. The aim of the panel discussion was to examine the various forms of negative impact of the legacies of colonialism on the enjoyment of human rights, and to identify challenges, concrete steps and measures to address them. Participants in the discussion also considered the potential roles that the Human Rights Council, Member States, relevant United Nations bodies and agencies, international organizations, United Nations human rights mechanisms, national human rights institutions, non-governmental organizations and other relevant stakeholders could play.
4. The panel discussion was chaired by the President of the Human Rights Council for the sixteenth cycle (2022), Federico Villegas, and moderated (by video teleconference) by the Special Rapporteur on contemporary forms of racism, racial discrimination, and related intolerance, E. Tendayi Achiume. Following an opening statement by the acting United Nations Deputy High Commissioner for Human Rights, the Deputy High Commissioner Nada Al-Nashif, and the Chair of the Committee on the Elimination of Racial Discrimination, Verene Shepherd, the panellists made introductory remarks. The panellists were the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay; the Chair of the Expert Mechanism on the Right to Development, Mihir Kanade (by video message); the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabian Salvioli (by video message); and a member of the Expert Mechanism on the Right to Development, Koen De Feyter, who delivered closing remarks. During the ensuing discussion, representatives of 23 States, the European Union and six non-governmental organizations intervened.

II. Opening statements

5. The acting High Commissioner opened the panel discussion by emphasizing that, while many former colonies had gained independence since the establishment of the United Nations, the process of decolonization remained incomplete. The Fourth International Decade for the Eradication of Colonialism (2021–2030) presented an opportunity to accelerate the pace of action towards universal decolonization and to confront the legacies of colonialism. The right to self-determination, enshrined in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, was an essential condition for effectively guaranteeing and observing individual human rights, and for the promotion and strengthening of those rights. As recognized by States when they adopted the Durban Declaration and the Programme of Action in 2001, colonialism had led to racism, racial discrimination, xenophobia and related intolerance. They had also recognized that Africans and people of African descent, people of Asian descent, and Indigenous peoples were victims of colonialism and continued to be victims of its consequences. The acting High Commissioner recalled that, at the regional level, in March 2019, the European Parliament had encouraged European Union institutions and Member States to officially acknowledge and mark the histories of people of African descent in Europe, including of past and ongoing injustices, such as slavery and the transatlantic slave trade, or those committed under European colonialism.

¹ See <https://media.un.org/en/asset/k1k/k1k1tyq3k2>.

6. The acting High Commissioner referred to the report of OHCHR on racial justice and equality submitted to the Human Rights Council pursuant to its resolution 43/1.² In its report, OHCHR had found that systemic racism against Africans and people of African descent persisted, in large part, due to misconceptions that the abolition of slavery, the end of the transatlantic trade in enslaved Africans and colonialism, and measures taken by States to date had removed the racially discriminatory structures built by those practices and had created equal societies. In fact, no State had comprehensively accounted for the past or the ongoing consequences of systemic racism, including the socioeconomic and political marginalization that shaped the lives of people of African descent in some countries. She further underlined that, while some States had undertaken initiatives to reform colonial-era laws and practices that failed to conform with international human rights law, in many others, these laws continued to stifle fundamental freedoms, impede economic development and interfere with personal liberties, for example, in criminal law and procedure and the management of emergencies. The ongoing legacies of colonialism had had a disproportionate impact on Indigenous peoples' rights, cultures and languages, as well as on their economic opportunities and prosperity. The United Nations Declaration on the Rights of Indigenous Peoples underscored the fact that Indigenous peoples had suffered from historic injustices because of their colonization and the dispossession of their lands, territories and resources. This continued to fuel inequalities and prevented Indigenous peoples from exercising their right to development in accordance with their own needs and interests. The acting High Commissioner also highlighted the increase in racism, xenophobia and the stigmatization of Asians and people of Asian descent in some countries, for example, during the coronavirus disease (COVID-19) pandemic. Examples included incidents of racially motivated physical and verbal abuse, incitement to hatred in the media, workplace discrimination, violence in public spaces, bullying in schools, and denial of access to services, including health care.

7. Lastly, the acting High Commissioner underlined that it was only with strong political leadership, honest dialogue and creative, effective and comprehensive responses that the long-lasting impact of the legacies of colonialism on many societies and its linkages to contemporary forms of racism, racial discrimination, and longstanding inequalities could be addressed. This required making a deeper analysis of the root causes and drivers and identifying existing structures, laws and policies that perpetuated discrimination, marginalization and exclusion. Addressing the legacies of colonialism could contribute to overcoming inequalities within and among States and the sustainable development challenges of the twenty-first century. Furthermore, recommendations made by the United Nations and regional human rights mechanisms, the political commitments contained in the Durban Declaration and Programme of Action, and the legal obligations described in the International Convention on the Elimination of All Forms of Racial Discrimination could all help to address the negative impact of such legacies on human rights and provide for reparatory justice. The acting High Commissioner concluded by recalling that the four-point agenda towards transformative change for racial justice and equality annexed to the above-mentioned OHCHR report provided recommendations, including confronting these legacies and contributing to accountability and redress for Africans and people of African descent, including through reparations in various forms.

8. The Chair of the Committee on the Elimination of Racial Discrimination recalled that the International Convention on the Elimination of All Forms of Racial Discrimination condemned colonialism and all practices of segregation and discrimination associated with them, in whatever form and wherever they existed. She pointed out that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960 affirmed the necessity to bring them to a speedy and unconditional end. Before and since 1960, many former colonies had achieved independence, leaving only 17 officially covered by the Convention and those called overseas departments or overseas territories, and those who were seeking independence as incorporated territories. Political independence and decolonization efforts had not, however, meant the end of colonialism. Decolonization had given ex-colonies

² A/HRC/47/53. See also the conference room paper entitled "Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers", available at www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session47/list-reports.

freedom of action but seldom the opportunity to exploit it to full advantage because economic decolonization, especially in the Global South, had not always been accompanied by political decolonization. Moreover, the development that was expected to accompany independence did not materialize for many former colonial countries; the right to development was not recognized. Therefore, the extent to which former colonies had been able to enjoy socioeconomic rights had been hampered by the lingering legacies of colonialism, especially the ideology of white supremacy, and the post-colonial world had retained forms of colonialism as expressed through manipulation, exploitation, cultural expropriation and inequalities.

9. The Chair of the Committee drew attention to the effects of colonialism manifested in environmental degradation, economic underdevelopment, racial profiling, structural or and systemic racism, and poor social infrastructure manifested in unequal access to health care, education and social justice. These contemporary socioeconomic problems were not unconnected to the past, including in relation to chattel slavery, which left crippling socioeconomic inequalities and underdevelopment at the time of emancipation. The legacies of colonialism ran deep and were rooted in historical injustices. The Chair cited the Durban Declaration and Programme of Action as a milestone in articulating the harms of colonialism, both historically and in the present. It also recognized that colonialism had led to racism, racial discrimination, xenophobia and related intolerance, and emphasized structural forms of racism and racial discrimination that to this day required urgent attention, especially for Africans and people of African descent, Asians and people of Asian descent and Indigenous peoples, who were victims of colonialism and continued to be victims of its consequences. While these injustices had long been acknowledged, they had not been acted upon. In closing, the Chair called upon former colonial Powers to own up to the wrongs of the past and to engage in a reparatory justice conversation with former colonies.

III. Summary of proceedings

A. Contributions of the moderator and the panellists

10. As the moderator, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance opened the discussion by noting that the negative impact of the legacies of colonialism on the enjoyment of human rights today was utterly breathtaking. In her reports, she had shown that some of the most entrenched forms of systemic racism were the result of continuing legacies of slavery and colonialism. At least one legacy of colonialism was a world where race and ethnicity determined, for many people, whether or not they enjoyed fundamental human rights.

11. The Special Rapporteur added that the global order was confronted today by many crises: the COVID-19 pandemic was not over; economic and financial crises were, at best, on the horizon; and at a fundamental level, human existence on Earth was profoundly threatened by ecological crisis. In times such as these, it might be tempting for States to regard the legacies of colonialism as an issue to be de-prioritized in favour of other crises. She stressed, however, that there could be no real way out of the most pressing global crises without meaningfully addressing the legacies of colonialism, including the climate and broader ecological crises. She pointed to the ways in which the legacies of colonialism continued to shape the global economy, and the modes of extraction, production and consumption that were at the heart of the ecological crisis. There could be no climate justice without racial justice, and no resolution to the climate emergency that did not account for entrenched colonial legacies. The issues under discussion therefore required urgent action. Failure to address colonial legacies, especially by former and contemporary colonial Powers, was an important part of the global crisis; and the responsibility for taking action for a just future lay especially with those nations that, in the past and the present, had benefited from colonialism.

12. The Special Rapporteur on the rights of Indigenous Peoples stated that the implementation of international human rights standards and mechanisms was an essential tool to redress the negative impact of the legacies of colonialism on Indigenous peoples.

Under international human rights law, Indigenous peoples enjoy a special status and are entitled to collective rights, including the rights to self-determination, land, territory, resources and free, prior and informed consent. Recognizing these rights required redress for past wrongdoing due to colonial history and assimilation policies and accommodating Indigenous political, cultural and social specificities within democratic societies.

13. The Special Rapporteur added that, in order to address the root causes of the negative impact of the legacies of colonialism on the enjoyment of human rights, the right to self-determination of Indigenous peoples must be recognized. This right constituted a central element for collective redress for the historical and systematic violations of Indigenous peoples' rights and must be understood as the basis for dialogue for the construction of a new relationship between Indigenous peoples and States. He urged States to implement the various rights established in the United Nations Declaration on the Rights of Indigenous Peoples. The negative impact of colonialism on Indigenous peoples had resulted in systemic racism, cyclical poverty, economic inequity, violence, overincarceration, poor health outcomes, dispossession of traditional lands and territories, criminalization of Indigenous human rights defenders, loss of language and culture, and violence and discrimination against women and girls. He called upon States to take concrete steps to address the negative legacies of colonialism in all its manifestations in order to protect and support Indigenous peoples, and to create an effective means of redress for historical wrongs. He called upon international organizations to ensure the meaningful participation of Indigenous peoples in technical panels, platforms and forums that address, inter alia, climate change solutions, biodiversity, language, and health policy.

14. In his video message, the Chair of the Expert Mechanism on the Right to Development pointed out that the right to development had emerged as a normative response to the negative impact of the legacies of colonialism on human rights. The recognition of the right to development as a human right was the result of the concerted struggle by the peoples of the newly decolonized countries to overcome the negative legacies of colonialism. This right had emerged as an attempt by the global South to fill the gaping holes in the international human rights framework, which focused mainly on the need for an enabling national environment, but not always on an enabling international environment. Thus, when the Declaration on the Right to Development was adopted by the General Assembly, the legacies of colonialism found a prominent place. The preamble to the Declaration and its article 5 require States to take resolute steps to eliminate the massive and flagrant violations of human rights resulting from colonialism and neo-colonialism.

15. Despite the reaffirmation of the right to development unanimously by States in more than 25 international resolutions and declarations and in the binding Paris Climate Agreement, its non-operationalization for more than 35 years was also the direct result of the continuing legacies of colonialism. The Chair of the Expert Mechanism suggested that the ideological and normative opposition to the very core principles of the right to development by many former colonial Powers was a reflection of the continuing negative legacies of colonialism. The right to development was one of the most important human rights emerging from the global South, and was firmly based on the lived experiences of those who continued to face the obstacles to the realization of their self-determination. Nonetheless, there was a dominant vision and narrative that dismissed or deprioritized this right, including by contending that States had obligations only internally and with regard to individual rights, and not extraterritorially and in relation to collective rights.

16. The Chair of the Expert Mechanism concluded that, moving forward, operationalizing the right to development was one important way to address the negative impact of the legacies of colonialism. A legally binding instrument would go a long way to operationalizing that right. The United Nations system should ensure that the right to development was mainstreamed and promoted at the country level (through country teams) and across all its entities, programmes and funds; in development cooperation; and by specialized agencies.

17. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence emphasized that the colonial transfer of wealth and racial oppression had created a legacy of social, economic, cultural and political exclusion the effects of which had been felt for generations, and were still felt today. The quest for truth, justice and reparation for colonial injustices constituted a debt that could not be postponed. In order to tackle the

most deep-rooted causes of colonial violence, notably structural violence and systemic exclusion, transitional justice mechanisms – such as truth commissions, reparations programmes, public apologies and measures to ensure remembrance and education – and guarantees of non-recurrence were essential.

18. The Special Rapporteur highlighted two main contexts where direct and indirect consequences for human rights were clear, namely those relating to colonial States, and to former colonies that were now independent States. With regard to the first context, colonizing Powers had grabbed the land and resources of the colonized populations, subjected them to discrimination, assimilation and criminalization, denied them basic rights, such as ownership of ancestral lands and of resources, and prevented access to justice, health care, education and economic opportunities. Transitional justice processes could make an important contribution if they sought to reverse the situation of domination that colonized peoples still endured. Examples included the identification of the conditions that allowed the violations to take place; recognition of responsibility and public apologies; individual and collective reparation; remembrance; restoration of the dignity of victims; and the inclusion in school curricula of precise accounts of the violations committed. The Special Rapporteur highlighted guarantees of non-recurrence as a means of pinpointing and reforming oppressive norms and structures that sustained structural injustices endured by colonized populations.

19. The Special Rapporteur then spoke about the second context, in which former colonies had gained independence even while the structures of the colonial Power, the marginalization of certain ethnic groups or the expropriation of lands continued. In this context, establishing transitional justice measures required a dialogue between the former colonizing Power and the former colony, the nature of which would depend on which of the two actors initiated the process and their reasons for doing so. The Special Rapporteur pointed out the different obligations and expectations of responses for past or ongoing violations relating to the two States involved. He explained that the duty to provide effective remedies to victims, ensure accountability, establish truth and memory, facilitate unrestricted access to archives, and ensure reparations for victims lay with the former colonizer. The newly independent State also had obligations, specifically regarding rehabilitation, socioeconomic reinsertion, guarantees for access to justice, education, health care and basic services for victims, and the pursuit of truth and memorialization. In cases where the perpetrators were still alive and remained in the jurisdiction of the independent State, the latter had a duty to ensure accountability, with the support of the international community. While noting the challenges associated with the time that had elapsed since the injustices began, the Special Rapporteur recalled that, in general, processes to address the past and to tackle present-day repercussions were essential to foster restorative justice and build a peaceful and sustainable future. Reparations were necessary and should not be disguised as humanitarian or development aid. He concluded by pointing out the importance of generating cultural change through recognition and addressing human rights violations in a holistic manner.

B. Interactive discussion

20. During the interactive discussion, interventions were made by the representatives of Armenia, Barbados (on behalf of the Bahamas, Barbados, Guyana, Haiti, Jamaica, Suriname and Trinidad and Tobago), the Plurinational State of Bolivia, China, Côte d'Ivoire (on behalf of the Group of African States), Cuba, Ethiopia, Indonesia, the Islamic Republic of Iran, Malawi, Malaysia, Mauritius, Pakistan, the Russian Federation, South Africa, Switzerland, the Syrian Arab Republic, Togo, Tunisia, Ukraine, the United States of America, the Bolivarian Republic of Venezuela and the State of Palestine, and also of the European Union.³

21. Representatives of non-governmental organizations – Action Canada for Population and Development, the American Civil Liberties Union, Associazione Comunità Papa

³ The statements delivered during the discussion are available at <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/51/Pages/Statements.aspx?SessionId=61&MeetingDate=28/09/2022%2000:00:00>.

Giovanni XXIII, the International Lesbian and Gay Association, Penal Reform International and Rencontre africaine pour la défense des droits de l'homme – also took the floor.⁴

22. Several speakers welcomed the focus of the panel discussion and asserted their commitment to addressing the negative impact of the legacies of colonialism on human rights. Some recalled that the period 2021–2030 marked the Fourth International Decade for the Eradication of Colonialism, and that the panel discussion was an opportunity to open a sincere dialogue among States to find tangible solutions to address the systemic consequences of colonialism, to promote human rights and to find a balance between the past and the present.

23. Some speakers recalled that the Durban Declaration and Programme of Action had established an intrinsic link among colonialism and racism, racial discrimination, xenophobia and related intolerance, while reaffirming that Africans and people of African descent, Asians and people of Asian descent and Indigenous peoples were victims of colonialism and continued to endure its consequences. They called for the full and effective implementation of the Durban Declaration and Programme of Action and the fulfilment of the commitments contained in the documents of the Durban Conference.

24. Other speakers stressed that the Charter of the United Nations, the Universal Declaration of Human Rights and the Declaration on the Granting of Independence to Colonial Countries and Peoples were vital to overcome the negative impact of the legacies of colonialism in all its forms. Some also pointed out that colonialism ran counter to the spirit of these international instruments, as well as international law.

25. Some participants highlighted ongoing situations, while others referred to human rights violations stemming from colonialism and its ongoing legacies. Some speakers recalled the enduring impact of colonialism as witnessed in persistent poverty, economic exploitation, financial control, structural inequalities within and among States, racial, ethnic and religious hierarchies, forced migration and human trafficking. One speaker noted that, because of the ongoing effects of colonialism, countries had undergone domestic and international challenges to overcome power relationships with former colonizers. It was noted that, in addition to creating instability, colonialism also limited the former colonized country's ability to stabilize its economy, and that its effects loomed large decades after countries had gained independence largely because the current international order was carved out of colonialism.

26. A representative of the Member States of the Caribbean Community in Geneva⁵ stressed that the weight of recent colonial enterprises was still being predominantly carried by the people of the global South. They underlined that, in their region, the historical legacies of colonialism and the trade and trafficking of enslaved Africans continued to drive the systemic racism that defined critical aspects of the modern global economy, and dictated how people in the region ate, what they produced, and the overall quality and length of life. Studies on the region had long recognized that the impoverishment of the Black majority was directly linked to the institutional mechanisms of the colonial economy and society. The enduring impact of colonialism was therefore evident in persistent poverty.

27. Some speakers recalled that the persistent legacy of colonialism was a major impediment to the enjoyment of the right to development. A holistic and comprehensive perspective of the right to development was crucial to address and remove historical and systemic obstacles that had impeded development in many regions of the world. This could pave the way to decolonizing the structures and practices that had perpetrated the legacies of colonialism, especially in unequal global governance processes, for instance by dismantling systemic exploitative mechanisms, such as unfair international trade and investment regimes and foreign debt mechanisms. Other speakers observed that addressing these legacies was a precondition to achieving sustainable development and promoting the enjoyment of human

⁴ Statements by non-governmental organizations that were not delivered owing to lack of time are available also at <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/51/Pages/Statements.aspx?SessionId=61&MeetingDate=28/09/2022%2000:00:00>.

⁵ Comprising the Bahamas, Barbados, Guyana, Haiti, Jamaica, Suriname and Trinidad and Tobago.

rights, including the right to development. A call was made to increase economic aid and the official development assistance provided to former colonies, and for debt relief measures, which should not be regarded as a gift but as a means to contribute to the enjoyment of the right to development. Some participants called upon States and the international community to rethink the foundations of the global economic system. Some noted that these historical legacies, and the trade and trafficking in enslaved Africans, continued to drive the systemic racism that defined critical aspects of the global economy.

28. Some speakers called upon the international community to step up efforts to eradicate colonialism and to address its impact on the realization of human rights, including the right to self-determination. According to one speaker, the current international law system had been established to regulate relations between States, assist the movements for self-determination, and oversee the end of colonialism, and while the legal framework exists, enforcement mechanisms are weak. Several speakers stressed that denying the right to self-determination hindered the economic, social and cultural development of colonized peoples. One speaker emphasized that respect for the right to self-determination was an obligation *erga omnes*.

29. One speaker referred to the imposition of unilateral coercive measures, calling for an end to the use of such sanctions owing to their negative impact on human rights. It was also noted that their imposition against developing countries reflected a colonial mentality that directed the policies of former colonial Powers and deprived people in developing countries of their rights to development and to self-determination.

30. Several speakers highlighted the various manifestations of the legacies of colonialism, including racism, xenophobia and supremacism, and stressed the need to eradicate its ideological roots. They pointed out that colonialism was among the root causes and drivers of systemic racism, racial discrimination, xenophobia, related intolerance and violence. One of the worst crimes of colonialism had been the transatlantic trade in enslaved persons, which had set the stage for racial discrimination, racism, ethnic and religious intolerance, and xenophobia and related intolerance, which thrive today in several countries. A representative of the European Union noted that the fight against racism and racial discrimination included acknowledging and addressing the legacy of past transgressions. Speakers also noted that a conversation about the past could contribute to finding ways to address past injustices and provide opportunities to pay tribute to and to reflect on the sacrifices and loss. One speaker recalled that the OHCHR report on racial justice and equality (see para. 6 above) recognized that systemic racism was often rooted in the history and legacy of enslavement, the transatlantic trade in enslaved Africans and colonialism. The speaker added that the report stressed the urgency of dismantling systemic racism against Africans and people of African descent, and of ensuring that they received reparatory justice. Another speaker underlined the reluctance of the human rights system to engage with entrenched structures of racism and colonialism, including in its contemporary manifestations.

31. Some participants stressed that, while most former colonies had gained their independence, colonial laws, which had not evolved in line with human rights standards, continued to exist in many countries. One speaker highlighted criminal procedures, penal codes and law enforcement policies as a reflection of a brutal colonial legacy. This resulted in the routine deployment of law enforcement, courts and prisons against the poorest and most marginalized members of society, with the key driver being vague and arbitrary offences rooted in the age of empire law-making. Such laws resulted in the arrest and imprisonment of people who were poor or homeless, migrants, LGBTQI+ persons, persons with disabilities, informal traders, drug users, and racial and ethnic minorities. Some added that the application of these measures resulted in fundamental human rights violations, including systemic discrimination, use of lethal force, torture, arbitrary, unlawful and excessive imprisonment, extreme and disproportionate sentencing, inhumane conditions of detention, and multiple and intersectional forms of discrimination in the criminal justice system. Another speaker referred to the forced assimilation and removal of Indigenous children from their families. The need to take clear action to uproot the patriarchal order that discriminated against women and Indigenous peoples was also underlined.

32. One speaker asserted that the social and legal legacies of colonialism had also played a key role in shaping contemporary homophobia, transphobia and interphobia globally. It was

noted that persons of diverse sexual orientations, gender identities and expressions and/or sex characteristics had been and continued to be affected by colonial repression and to endure stigma, violence and structural discrimination, including as a result of those legacies. Moreover, a human rights-based approach to the impact of colonial legacies should address the violations that were and continued to be perpetrated based on sexual orientation, gender identity and expression and/or sex characteristics, as well as intersectional forms.

33. Some speakers underlined the importance of transitional justice mechanisms, tools and processes as a means to reckon with contemporary human rights violations caused by the legacy of colonialism. A representative of the Group of African States recalled that some States had implemented initiatives to apologize and to provide reparations for the serious mass violations committed in relation to enslavement, the trafficking of enslaved persons, colonialism, apartheid, genocide and past tragedies, and urged other States to follow their example. The representative highlighted the need to adopt a realistic approach that would provide reparations for African peoples and urged States concerned to shoulder their responsibility as an essential condition for a stronger and more resilient future of dignity, equality and non-discrimination for all. Others referred to the need to intensify steps taken by some countries to apologize and to ensure truth, justice and reparations for victims. Reparations for the enslavement of people and the pillaging of Indigenous knowledge and resources through colonialism must be part of the solution; indeed, reparations and restoration of justice for victims must be at the centre of all efforts, including reconciliation. The need to promote the teaching of colonial history in primary schools was also raised.

34. Some speakers pointed to the negative impact of colonialism on cultural rights. They highlighted the pillaging and systematic destruction of the cultural and existential identities of colonized peoples through the illicit appropriation and stealing of their resources and cultural heritage. In addition, some countries had sought to eradicate tribes, erase tribal culture and destroy the future of Indigenous peoples in order to settle and colonize their lands. The return of archives and cultural assets was mentioned as one way of moral reparation for the victims of colonialism. The work of the United Nations Educational, Scientific and Cultural Organization in rehabilitating historical remains and the heritage that was pillaged and destroyed by colonial Powers was mentioned.

35. Speakers stressed that human rights issues rooted in colonial legacies compounded current crises, from the coronavirus disease (COVID-19) pandemic to climate change. One example given was the response to monkeypox, which highlighted the enduring colonial and racist power dynamics in global health and international organizations, and the inequity experienced during the COVID-19 and the HIV-AIDS pandemics, revealing that certain lives were considered expendable. Concerns were raised in relation to, for example, the right to health, ecological degradation from natural resource overextraction and irreversible damage to the environment. Some speakers cited the emergence of new forms or manifestations of colonialism; contemporary forms of slavery, including forced labour, continued worldwide. Some speakers stated that the frequent denial of the historical, contemporary and ongoing consequences of colonization for human rights needed to be confronted and reckoned with to achieve human rights for all.

36. Some speakers expressed their support for international efforts to eliminate colonialism, to remedy its negative effects and to abolish all forms of discrimination and segregation. Others called upon the international community to undertake to fully eradicate colonialism in all its forms and manifestations. Various speakers called upon the Human Rights Council to contribute to the global human rights agenda, particularly in addressing the negative impact of the lingering colonial legacy, as no other body was better positioned to tackle this critical issue. One speaker emphasized that a consensual approach was essential, and that delegations from all regions should be involved in the planning on the follow-up to the discussion on the negative impact of the legacies of colonialism, the serious consequences of which were still felt today.

37. Some speakers underlined the need for global cooperation and solidarity in addressing the persistent consequences of colonialism. Others emphasized the need to engage collectively in transparent and constructive dialogue on tangible solutions to address the systemic impact of colonialism. Peace and prosperity, especially for those who had endured colonialism, could only be fulfilled through solid nation-building that eliminated the legacies

of the colonial past through meaningful and inclusive policy and decision-making, including in the realization of development.

38. Speakers asked the panellists a wide range of questions, including on how the Human Rights Council could efficiently and effectively contribute to the discussion on the negative impact of colonialism on the enjoyment of human rights; how to address systemic racism; how to encourage States to engage with the special procedures of the Human Rights Council when addressing systemic racism and improve the implementation of their international human rights commitments; how States could address the impact of neo-colonialism on the right to development; how to operationalize the right to development; what measures could be taken to address the consequences of the legacies of colonialism for persons with diverse sexual orientations, gender identities and expressions and/or sex characteristics; how the international community could support States in repealing or reforming outdated colonial laws and policing practices, to protect human rights and fundamental freedoms for all citizens; and the role legally binding instruments on the right to development and on transnational corporations could play to reverse the negative impact of the legacies of colonialism on the enjoyment of human rights.

IV. Concluding remarks

39. The moderator opened the final segment of the discussion by pointing out that, since 2020, there had been a shift, including within the Human Rights Council, that had included deeper engagement with the legacies of colonialism and the transatlantic slave trade. She pointed to reports referenced by the panellists that provided road maps for moving forward, and stressed that representatives of racially marginalized groups also continued to make their demands heard. Despite this shift, there had been a backlash, especially in the global North and in former colonial nations, against those pushing for an end to colonial legacies. The moderator highlighted threats to and repression and marginalization of racial justice advocates, and that advocating against systemic racism was treated as dangerous and threatening. It was therefore important that States reaffirm their commitment to fighting racial injustice and to protecting human rights defenders working on these issues, and to align their actions with their statements. She expressed support for the comments made by some speakers regarding the need to confront ongoing colonial domination. An intersectional analysis should include attention to the human rights of persons of diverse sexual orientations, gender identities and expressions and/or sex characteristics, as well as women and children.

40. A member of the Expert Mechanism on the Right to Development concluded that international law played an ambivalent role in dealing with colonialism, having justified it for a long time. Even in the decolonization period, it had protected companies from colonial countries to enable them to maintain considerable control over the natural resources in many newly independent States. The main challenge was to make human rights law more inclusive and relevant, which entailed addressing the past through transitional justice measures aimed at achieving reconciliation and reparation, and by addressing contemporary issues and the consequences of the past. At the global level, this meant reflecting in the international human rights system the concerns of rights holders everywhere, especially those who had been historically affected by marginalization, including Indigenous peoples and communities that had experienced racial discrimination and other forms of discrimination. At the normative level, there was room for progress to ensure that human rights law created an enabling international environment for the right to development, and to reform international economic law, and international trade and investment law in order to address the historical legacy of colonialism.

41. The Special Rapporteur on the rights of Indigenous peoples concluded that Indigenous women and girls were confronted by social and systemic inequality, discrimination, attacks on their community structures and an inability to pay heed to indigenous forms of governance. In addition, discrimination in the education system had also led to the loss of indigenous languages and, with it, a rich oral tradition of transmission of scientific knowledge to the next generation. Indigenous women's ability

to transmit scientific knowledge was further affected by the violence they experienced in the form domestic violence, sexual and gender-based violence, violence due to armed conflict, labour exploitation and trafficking.

42. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence called upon States to take seriously the recommendations made by special procedure mandate holders in their reports. He drew particular attention to his report on memorialization as the fifth pillar of transitional justice, presented to the Human Rights Council in 2019.⁶ Public apologies were very important and should be delivered with the consent and effective participation of victims.⁷ Citing his recent report on colonialism,⁸ he reiterated that reparation and remedy should be comprehensive and holistic, and that humanitarian aid and assistance did not represent reparation or remedy in due form. He emphasized the need to recognize the harm done and to acknowledge the violations of the past, and for former colonial Powers to seriously consider ending debts owed by former colonies.

43. The President of the Human Rights Council closed the discussion by highlighting that all the topics and agenda items dealt with by the Council were equally important. He added that some topics referred to new social contracts and binding obligations owed to humanity. Honouring these would significantly contribute to eradicating systemic practices that had had an adverse impact on the world, as was the case with the end of slavery and the approach taken to tackle torture, and this was also true for colonialism. He referred to his previous appeal that, in the spirit of mutual understanding, States should be ready to listen, even if they had differing views. All mandates were equally valid and deserved to be heeded, regardless of whether they were adopted through a resolution by consensus or by a vote. He concluded by recalling that all States that had been mainly responsible in the process of colonialism should take the opportunity to reflect and be present at future discussions so that all sides and voices could be heard. He thanked those among these States for their contributions and presence at this first important discussion.

⁶ A/HRC/45/45.

⁷ See A/74/147.

⁸ A/76/180.