



Provisional Government of the  
**REPUBLIC OF NEW AFRIKA**  
Ministry of Foreign Affairs  
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Statement to the Permanent Forum on People of African Descent  
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Prepared by  
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**REQUEST FOR AN ADVISORY OPINION FROM THE INTERNATIONAL COURT OF JUSTICE ON  
NEW AFRIKAN AND AFRO DESCENDANT STATUS AS PRISONERS OF WAR UNDER THE GENEVA  
CONVENTION AND THEIR RIGHT TO CONDUCT PLEBISCITES FOR SELF DETERMINATION**

Statement from the Floor

Members of the Forum, Great Delegates

My name is Siphiwe Baleka, and I'm speaking in my capacity as the Minister of Foreign Affairs for the Provisional Government of the Republic of New Afrika.

Malcolm X tried to bring the Afro Descendant and New Afrikans self determination and reparations claims before the world court and he was assassinated. Before him, both Marcus Garvey and W.E.B DuBois tried to bring our claims to the League of Nations and were denied. Since then, Afrodescendant people still living under alien domination have been blocked from bringing our claims before the International Court of Justice. We were thus encouraged when **UN Resolution 75/314 establishing this Forum** emphasized the opportunity for "the implementation of the Durban Declaration and Programme of Action (DDPA)." The DDPA, section 104 calls for providing access to justice and legal assistance and the Forum's mandate explicitly authorizes the Forum ***"To request the preparation and dissemination of information by the United Nations system on issues relating to people of African descent . . ."*** *Isn't the ICJ part of the UN system?* But the Forum has not used its mandate to take the bold and courageous step of Requesting an Advisory Opinion from the ICJ even though such a request was drafted and submitted with the exact legal questions to be answered at the second session of the Forum and Forum President stated she would sign it..

The essential issue is this: millions of Afro Descendant people are still living under alien domination. Yet, until now, we have had no access to the highest court on planet earth. If the ICJ can hear the case of genocide committed against the people living in Gaza, why can't the ICJ issue an advisory opinion on behalf of the victims of the Maangamizi - chattel enslavement, ethnocide, colonialism and its continuing harms? Are we still considered less than other people? Is it the case that only some people have access to the world court while others don't? We need the Forum to have courage and take bold action now. The Forum must assert the people's understanding of its mandate and become activist, not just a reporting mechanism to the UN Human Rights Commission.



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Let's end the 1st Decade of People of African Descent with a real accomplishment - initiating the case for reparations. It only takes the new Forum Chair June Soomer to sign the request and send it to the registrar of the ICJ. This can be done at the concluding session of this Forum if we the delegates demand it. We must force the UN system to take a position and the Forum is the mechanism to do that.

#### Full Statement

Our first attempt seeking reparations and our right to self determination and independence recognized was made simultaneously by both Marcus Garvey and W.E.B. DuBois when they each submitted proposals to the Paris Peace Conference in 1919. In spite of US President Woodrow Wilson's 14 points, the New Afrikan and Afro Descendant nation was denied a seat at the table of international society because the colonial powers decided somehow that we weren't fit or deserving enough to be recognized as a people and nation.

Our second attempt seeking reparation and our right to self determination and independence came at the founding of the United Nations. The United States did not deem it necessary to declare its internal domestic black colony as a non-self governing territory like it did for Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the U.S. Virgin Islands, and Puerto Rico and thus we were not included in the various decolonization processes even though we suffered from alien domination.

At that time, the colonial powers created rules that limited access to the International Court of Justice (ICJ) for subjugated peoples and our reparatory justice and self determination claims could not be heard unless some other nation-state initiated a case. So this is what Malcolm X attempted to do - get one of the African nations to bring the New Afrikan claims for justice, reparations, self determination and independence, before the world court. Just as soon as he succeeded in getting Kenya, Tanzania and Burundi to do this, he along with his contacts in those states were killed.

Four years later, on March 31, 1968, the Republic of New Afrika declared its independence and just as soon thereafter, in January of 1969, the US Congress declared "Black Nationalism" to be the greatest threat to US national security, and that after that, ALL components of socio-political control and influence, (legal-system, media, education, entertainment) instituted programming to subvert, disrupt, and destabilize African-slave descendant national identity. However, the Provisional Government of the

Republic of New Afrika, continued to exist and continue the war for our subjugated homeland that remains under US settler colonial occupation. During the war, the United States used its military to kill many New Afrikans and imprisoned others. Since the We Charge Genocide petition in 1951, the UN Human Rights Commission and other UN bodies have continuously been informed of the human rights violations committed against black people in the United States and especially against the New Afrikan Independence Movement.

So it was with some interest that we read **Resolution 75/314. Establishment of the Permanent Forum of People of African Descent** that authorised the forum *"To request the preparation and dissemination of information by the United Nations system on issues relating to people of African*



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*descent . . .*” As the International Court of Justice is part of the United Nations system, it was our common sense interpretation that the Forum now had the power to request information, in the form of an Advisory Opinion, of the legal questions that we as New Afrikan and Afro Descendant people, have determined are fundamental to our pursuit of reparatory justice. Moreover, this was consistent with the Durban Declaration and Programme of Action (DDPA) that states,

“104. We also strongly reaffirm as a **pressing requirement of justice that victims of human rights violations** resulting from racism . . . **should be assured of having access to justice, including legal assistance where appropriate, and effective and appropriate protection and remedies, including the right to seek just and adequate reparation or satisfaction for any damage suffered**

No longer did we need a nation state to take great risk in confronting the United States on their legal obligations to their formerly enslaved people and internal domestic colony. Therefore, at the first season of the forum, I invoked **Resolution 75/314** and called on the forum **“to vigorously request an advisory opinion from the International Court of Justice (ICJ) on our status as prisoners of war under the Geneva Convention as well as our right to conduct plebiscites for self determination including the right to secede from the jurisdictions of colonial successor states in the Western hemisphere and form our own independent governments.”** After studying the issue, a Request was drafted and submitted as the Forum’s second session. A campaign was sustained that led to more than 300 supporters signing various statements urging Forum President Epsy Campbell Barr to sign the Request and submit it to the registrar at the ICJ. This resulted in an official response from Forum President Epsy Campbell Barr which said, “As president of this space, I have requested the incorporation of this item in the agenda of the next meeting, **to proceed to analyze it jointly.**” And this is where the Provisional Government of the Republic of New Afrika takes an issue.

The fundamental problem facing the descendants of the prisoners of war taken from Africa and enslaved in the America’s is that we have no direct access to the ICJ. If the Afro Descendants in Colombia or Brazil or Canada, for example, seek reparations from those government, how can they bring such a case or request an advisory opinion? They can’t. And this is because of colonial rules designed to systematically deny justice to people subjected to alien domination. This is why the Provisional Government of the Republic of New Afrika believes that their request, originally submitted by a New Afrikan civil society organization called the Balanta Society, is of concern to all African people seeking reparations. The first two questions of the request concern the invasion of the African continent that occurred after the *Dum Diversas* declaration of war issued by Pope Nicholas V on June 18, 1452. Thus, the ICJ’s advisory opinion on those two questions concern the African claim for reparations. While the third question is specific to New Afrikans in the United States, the fourth question asks, *“What rights do the Afro Descendants throughout the Americas and Caribbean have to exercise self-determination and conduct plebiscites to discern who wants to repatriate to their ancestral homeland, who wants to establish independent nation states of their own, and who wants to integrate into the states they currently reside?”* The fifth and final question asks, *“What are the legal consequences that arise for all States and the United Nations from the above?”*



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We are perfectly capable of analyzing our own history and reparatory justice claims. In the book, *Reparations Yes! The Legal and Political Reasons Why New Afrikans - Black People In The United States - Should Be Paid Now For The Enslavement of Our Ancestors And For War Against U.S. After Slavery*, former President of the Provisional Government of the Republic of New Afrika (PG-RNA), Imari Obadele, stated

"The central proposition of this paper and the draft bill for reparations which is annexed hereto is that our enslavement in the Thirteen Colonies and the United States was a matter of war - war conducted against Afrika under authority, initially, of the British government and the legislatures of the Thirteen Colonies and ultimately under authority of Clause One, Section 9 of the First Article of the United States Constitution. . . . It was a war conducted against Afrikan people - who grew into a nation, an oppressed nation, between 1660 and 1860 - within the United States under British and Colonial authority and, ultimately, the authority of Clause Three, Section Two of Article Four of the U.S. Constitution."

If other entities, like CARICOM or the African Union are now also interested in requesting an advisory opinion from the ICJ on matters related to Africa's reparations claim, that is great. Will they submit their questions to the Provisional Government of the Republic of New Afrika for our review? I think not. So why must our questions be reviewed by anyone else? There's a fundamental violation of respect and dignity to subject our Request stating the exact legal questions we want answered to others for approval. In fact, the UK based IDPAD Coalition stated in its letter to the Forum President that, "It is precisely because the call for an advisory opinion has been so well researched and tightly constructed that it has already won the unanimous support of our international civil society organizations." We don't need other parties to analyze the request, reinterpret it and re-draft it.

The UN Charter Article 96 states, "2. Other organs of the United Nations and specialized agencies, **which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.**" Obviously, the New Afrikan claims are within the scope of the Forum, but an interpretation of both **Resolution 75/314** and **UN Charter Article 96**, apparently does NOT allow the Forum to directly request an advisory opinion from the ICJ. So we are back to square one: after all these decades, why hasn't any of the organs or specialized agencies of the United Nations requested any advisory opinions on legal questions pertaining to centuries of warfare against and chattel enslavement of African people? If there is no better, easier pathway for access to the ICJ for Afro Descendant people, that the Forum does not represent any significant change from the neo-colonial status quo - Afro Descendant people must continue to submit reports and jump through hoops only to be denied access to legal assistance and justice.

We are demanding that the forum immediately submit the **REQUEST FOR AN ADVISORY OPINION TO THE INTERNATIONAL COURT OF JUSTICE ON NEW AFRIKAN AND AFRO DESCENDANT STATUS AS PRISONERS OF WAR UNDER THE GENEVA CONVENTION AND THEIR RIGHT TO CONDUCT PLEBISCITES FOR SELF DETERMINATION** with the following questions:



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(a) Is the *Dum Diversas* apostolic decree issued by Pope Nicholas V on June 18, 1452 a declaration of “total war” - warfare that includes any and all civilian-associated resources and infrastructure as legitimate military targets, mobilizes all of the resources of society to fight the war, and gives priority to warfare over non-combatant needs - and therefore a war crime and a crime against humanity? Is there a statute of limitation regarding reparations for this war crime and crime against humanity?

(b) Were the people captured as a result of the *Dum Diversas* apostolic decree “prisoners of war” and do their descendants retain that status until their final “release and repatriation” under the Geneva Convention?

(c) Have the Afro Descendants - black folks - now within the United States ever been converted, in accordance with settled principles of universally established law, into United States citizens, and divested altogether of their original foreign African nationality?

(d) What rights do the Afro Descendants throughout the Americas and Caribbean have to exercise self-determination and conduct plebiscites to discern who wants to repatriate to their ancestral homeland, who wants to establish independent nation states of their own, and who wants to integrate into the states they currently reside?

(e) What are the legal consequences that arise for all States and the United Nations from the above?