THE WORLD CONFERENCE
Against Racism

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BY Laurie S. Wiseberg

The World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) took place at the International Convention Centre in Durban, South Africa, from 31 July – 8 September 2001. More than 12,000 individuals were accredited to attend the WCAR, including delegates from 170 Governments (16 Heads of State and 58 Foreign Ministers among them), over 4,000 representatives from more than a thousand NGOs, over 1,300 members of the media, and representatives of other UN agencies, regional bodies and national institutions. As a parallel process, an NGO Forum – which began with a one-day Youth Summit on 26 August and ended on 1 September – took place in the Kingsmead Cricket Stadium nearby, and attracted the participation of over 8,000 people.

United Nations High Commissioner Mary Robinson, who was also Secretary-General of the WCAR, asked for three things in her opening address: generosity of spirit, flexibility and a willingness to meet the views of others, and a sense of vision. "I remain convinced," she said, "that this can be a defining moment for the international community, that we have the capacity at the start of this century to work for a better and fairer world order." Nonetheless, neither the inter-governmental conference nor the NGO forum were easy meetings and the qualities sought by the High Commissioner were not always made manifest.

While the Conference adopted a far-reaching Declaration and Programme of Action (D&POA) which condemns the scourge of racism, racial discrimination, xenophobia and related intolerance and commits States and the international community to combat it "by all available and appropriate means and as a matter of the highest priority", the Conference had to be extended by a day in order to reach agreement. That agreement did not embrace the Governments of the United States and Israel, which had walked out on the fourth day of the WCAR over proposed language on Israel and the Occupied Palestinian Territories and the attempt of some States to reinstitute the language of "Zionism equals racism" – a phrase which originates in General Assembly Resolution 3379 of 10 November 1975, a highly contentious resolution repealed in 1991. The first two World Conferences on Racism, in 1978 and 1983, had come to grief over precisely that same problematique. The compromise reached was the adoption of language proposed by the President of the Conference, South African Foreign Minister Dr. Nkosazana Dlamini Zuma, which expressed concern "about the plight of the Palestinian people under foreign occupation", recognized "the inalienable right of the Palestinian people to self-determination and to the establishment of an independent state," and at the same time recognized "the right to security for all States in the region, including Israel" while calling upon all States "to support the peace process and bring it to an early conclusion" (paragraph 61). The document also, in paragraph 57, recalls "that the Holocaust must never be forgotten", retaining the capital "H" in Holocaust — another point that had been hotly contested; and it recognizes "with deep concern the increase in anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas against Jewish, Muslim and Arab communities" (paragraph 59).



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There were two additional hard issues that eluded consensus during the preparatory process. One was agreement on a list of victims. Eventually it was decided that there would be no listing of victims *per se* (e.g., African descendants, Indigenous Peoples, migrants, refugees, etc.), but that the text everywhere would simply refer to "individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance." Even more difficult was the issue of reparations and compensation for past injustices.

From the first session of the Preparatory Committee (or PrepCom) in May 2000, wording in the fourth theme of the World Conference – "provision of effective remedies, recourse, redress, [compensatory] and other measures at the national, regional and international levels" – had the word "compensatory" in square brackets, meaning that the term was disputed. At the heart of the issue was whether there would be an acknowledgement by States (largely Western) of their participation in slavery, the slave trade and colonialism and a link between such an acknowledgement and preparedness to pay compensation to the victims. The acknowledgement was made in paragraphs 97, 98 and 99. Paragraph 97 reads:

> *We acknowledge and profoundly regret the massive human sufferings and the tragic plight of millions of men, women and children caused by slavery, slave trade, transatlantic slave trade, apartheid, colonialism and genocide and call upon States to honour the memory of the victims of past tragedies and affirm that wherever and whenever these occurred they must be condemned and their reoccurrence prevented. We regret that these practices and structures, political, socio-economic and cultural, have led to racism, racial discrimination, xenophobia and related intolerance.*

Paragraph 98 also notes "that some States have taken the initiative to apologize and have paid reparations where appropriate, for grave and massive violations committed"; while paragraph 99 calls on those that have not yet expressed remorse or presented apologies to find some way to contribute to the restoration of the dignity of the victims. There is, however, no direct link between regret for the past and the requirement to pay monetary compensation. As Dr. Zuma stated in her closing statement to the Conference, it was agreed "that slavery is a crime against humanity and that an apology is necessary, not for monetary gain, but to restore the dignity and humanity of those who suffered." Yet, subsequently it transpired that, although there was agreement on the wording of these paragraphs, there was a lack of agreement on whether these paragraphs should appear in the Declaration or in the Programme of Action. As a result of this lack of consensus, as of 27 November 2001, the document had not yet been issued and the General Assembly debate on the resolution on the World Conference had not yet taken place.

The NGO Forum was, in certain respects, an even more difficult meeting, with both negative and positive outcomes.

From the outset of the process, it had been the view of the High Commissioner for Human Rights that NGO involvement would be a key to the success of the World Conference. Addressing the first session of the Preparatory Committee in May 2000, she stated: "I have in mind a Conference with the broadest possible involvement of civil society..... of NGOs, community groups, religious groups and the private sector in preparations for the Conference." In line with this objective, the High Commissioner appointed an NGO Liaison officer to encourage and assist NGO participation throughout the conference process; this was subsequently expanded into a small unit. As well, in an unprecedented move, the High Commissioner raised funds (over $US 2 million) to ensure that NGOs would be able to actively engage in the regional inter-governmental preparatory meetings (in Strasbourg, Santiago, Dakar and Tehran), to organize NGO networking meetings (in Warsaw, Botswana, Amman, Kathmandu and Quito) to plan for the NGO Forum, and subsequently to go to Durban. As well, the OHCHR encouraged private foundations and other funders to support the South African NGO Coalition (SANGOCO), which had been selected by the South African Government as the organizer of the NGO Forum, and to support other independent NGO initiatives in the context of the World Conference. Moreover, at the first session of the PrepCom, a serious effort had been made to ensure the adoption of Rules of Procedure which would permit NGOs accredited to the World Conference to be able "to participate as observers in the Conference, any Committee and any committee or working group on questions within the scope of their activities" (Rule 66). This meant that, at the discretion of the Chairs of the respective bodies, NGO representatives would be able to make oral interventions in both plenary and drafting sessions.

It is important to note that, as regards this World Conference Against Racism, there was no traditional or natural NGO constituency in place, as there had been for the 1993 World Conference on Human Rights or the Beijing Fourth World Conference on Women in 1995. That is, while racism is a problem that has been central to the work of many NGOs at the national and local levels, few large international NGOs had racism as their mandate and not many international human rights NGOs seriously focused on racism as a major priority. The NGO Liaison Unit was, therefore, reaching out to new actors, many of which had not previously looked to the United Nations as an arena in which they would be players. Using the Internet — i.e., sending out information via a ListServe and posting it on several NGO websites — turned out to be a highly successful strategy for mobilizing new constituencies. These included, inter alia: African descendants throughout the African diaspora, especially in the Americas; the Roma, Sinti, and Travellers throughout the world but especially in Europe; the Dalits of South Asia and other victims of the caste system such as the Burakim of Japan; and

migrants including workers, refugees, displaced persons, and trafficked persons. Despite the somewhat onerous process, the NGO Liaison Unit was able to accredit 1,249 NGOs which did not have Consultative Status, enabling them to take part in the preparatory processes and to participate in the World Conference itself. In this context, it is worth noting that, for the first time in a World Conference process, two Tibetan NGOs were accredited. The broad range of NGOs who became engaged in the WCAR process meant that it was difficult for Governments to deny the existence of racism in their societies, much as some would have liked to do so.

What this meant, however, was that those in the forefront of the NGO process, including SANGOCO in South Africa, had little experience with a UN world conference process. Understandably, there was also a lot of jockeying for visibility and access to resources. While NGOs got organized at the regional levels, and while various NGO caucuses were launched and began their drafting and lobbying work, the process of putting together an International Steering Committee (ISC) proved highly contentious. In fact, the ISC only coalesced at the second PrepCom, in May 2001, just a few months before the World Conference. This meant that SANGOCO, coming out of an exclusively South African experience, attempted to manage the drafting of an NGO Declaration and Plan of Action and to put together an NGO Forum Programme largely on its own, with the assistance of a national committee but with little international input.

Moreover, as with the inter-governmental process, the Middle Eastern issue came to dominate the discourse. The text that SANGOCO brought to the third PrepCom (which opened in Geneva on 30 July) titled "NGO Forum Declaration: Durban Draft Final Version" contained such inflamatory language that the representatives of the international human rights NGOs (INGOs), who until then had largely watched the process from the sidelines, decided that they could no longer do so. (For example, the document called upon States to "Stop the escalation of the third holocaust perpetrated by the Israeli government and its settler community against the people of Palestine" and asserted that "that the Palestinian people have the clear right under International Law to resist such occupation by any means until they achieve their fundamental right to self-determination...") The INGOs, therefore, formed an INGO caucus and as a caucus demanded that the ISC make clear, first, that this document was only a draft and in no way final, and that it be revised to ensure, *inter alia*, that its provisions were in accordance with the tenets international human rights law. Otherwise, they would have to dissociate themselves from the document.

A new international drafting committee was then constituted and substantial work was done on the document, both during the Third PrepCom and in Durban, through a complicated process of revision involving 24 Thematic Commissions and over 40 NGO caucuses. There were large sections of the document which engendered little controversy – where caucuses – of African Descendants, Indigenous Peoples, Roma, women, migrants – were able to come up with language on which there was widespread consensus. One must, however, note that on certain issues, prominently on caste and on the continued practice of slavery, there were a large number of GONGO's (government organized non-governmental organizations) whose role was essentially to defend their government's position against the views advanced by independent and grassroots NGOs. The most bitterly disputed sections of the document were, however, those dealing with the Palestinians and with anti-Semitism.

It was particularly regrettable that, in the end, this escalated into a controversy over the process by which the document was adopted, with the Jewish Caucus walking out after a paragraph proposed by the Commission on Antisemitism was deleted by the Plenary. One member of the International Drafting Committee, an African American from the Lawyers' Committee for Civil Rights Under Law, resigned on 4 September citing in her letter of resignation "fundamental procedural flaws" which were not sufficiently addressed when they were raised, and "deliberate interference by some members of the ISC during the preparation of the final document..."

When it was adopted, very late at night on 1 September, the NGO Declaration and Plan of Action still contained language that was both inappropriate and hurtful, for example, calling for the reinstitution of Resolution 3379, labeling Israel an Apartheid regime, and calling for the establishment of a war crimes tribunal to investigate acts of genocide and ethnic cleansing by Israel. As a consequence, several caucuses, including the caucus of NGOs from Eastern and Central Europe, the Roma, the Irish NGOs, and many of the international NGOs dissociated themselves from the document. The High Commissioner for Human Rights, who received a copy when she met with a delegation from the International Steering Committee on 4 September, stated that she was unable to commend the text as a whole to Governments because of this language.

Two other aspects of the NGO Forum were particularly unfortunate. One was the atmosphere of intimidation and hatred created by what may have been intended as an anti-Israeli campaign but which was perceived as an anti-Semitic one – the ubiquitousness of posters superimposing the swastika on the Star of David, the distribution of anti-Semitism literature and cartoons, and the disruption of the work of the caucus on anti-Semitism. Such behaviour is unacceptable anywhere but especially unconscionable in the context of a World Conference Against Racism. In addition, the Middle Eastern conflict overshadowed everything else, depriving other groups – the Afro descendants, the Indigenous, the Roma, the Dalits, and those who suffer multiple forms of discrimination, on the basis of race and gender, race and poverty, race and disability – of the opportunity of getting their message out. One lesson we must take from the World Conference Against Racism is that we must not let our own pain blind us to the pain of others or denigrate their suffering; we

must not build hierarchies of pain with ours at the pinnacle.

Moreover, as we reflect on the World Conference Against Racism, we must not let this acrimony distract us from the important achievements of Durban. There was, for the first time, a clear acknowledgement by Governments in the Declaration that "slavery and the slave trade are a crime against humanity and should always have been so, especially the transatlantic slave trade..." (paragraph 13). There is a recognition and affirmation that, "at the outset of the third millennium, a global fight against racism, racial discrimination, xenophobia and related intolerance, and all their abhorrent and evolving forms and manifestations is a matter of priority for the international community..." (paragraph 3). There is an acknowledgment "that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism..." (paragraph 16) and there is an emphasis on the fact that "that poverty, underdevelopment, marginalization, social exclusion and economic disparities are closely associated with racism, racial discrimination, xenophobia and related intolerance...." (paragraph 19). The articulation of these general principles is followed by a detailed programme of action to which governments have committed themselves, with concrete commitments at the national, regional and international levels.

Among the practical recommendations of Durban are the following: that we target the year 2005 for universal ratification of the International Convention on the Elimination of Racial Discrimination; that the OHCHR develop and fund specific technical co-operation projects aimed at combating racism, racial discrimination, xenophobia and related intolerance; that the OHCHR establish a database with information on practical means to address racism; that the OHCHR create an Anti-Discrimination Unit to focus on the Durban agenda; that the Commission on Human Rights consider establishing a working group to study the problems of racial discrimination faced by people of African descent living in the African diaspora; that a new mechanism be established comprised of five independent eminent experts to follow the implementation of Durban D&POA and that, in cooperation with this body, the High Commissioner report twice a year, once to the Commission on Human Rights and once to the General Assembly, including on the stage of implementation by governments of their commitments to introduce national plans of action against racism and discrimination.

A few days after the close of the Durban Conference, on 11 September, the world was stunned by the savage attack on the World Trade Center in New York, riveting all attention on the need to counter terrorism and threatening to force Durban from public consciousness. It has, however, become clear that Durban takes on more importance, not less, in the aftermath of the 11 September attack. As the High Commissioner has put it: "While welcoming the unanimous adoption of Security Council Resolution 1373, requiring all countries to take specific measures to combat terrorism, it is also important to safeguard against any erosion of human rights standards which might flow as an unintended consequence of such measures. In this context it has become even more important to promote the international anti-discrimination agenda and to ensure that this agenda is pursued in parallel with international action to combat terrorism."

The real challenge of Durban, therefore, begins now. Non-governmental organizations, those mobilized and sensitized by the WCAR process, must start monitoring developments, putting into place their own programmes, and begin pressing governments and inter-governmental organizations to ensure that Durban was more than just a talk-shop. The Durban D&POA recognizes the important role that NGOs can play and "urges states to provide an open and conducive environment to enable non-governmental organizations to function freely and openly within their societies and thereby make an effective contribution to the elimination of racism..." (paragraph 216). It also "calls upon States to explore means to expand the role of non-governmental organizations in society through, in particular, deepening the ties of solidarity among citizens, promoting greater trust across racial and social class divides..." (paragraph 217). The promise of Durban – a world of justice and equality where the only race is the human race – remains to be realized.



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