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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere

Summary

Education is central to preventing and combating racism, racial discrimination, xenophobia and related intolerance, given its role in creating new values and attitudes. As a follow-up to his commitment to focus on both prevention and enforcement mechanisms in combating, racism and racial discrimination, the Special Rapporteur has chosen to focus on the role and place of education, a decision reinforced by the Human Rights Council, which has encouraged him to address the role of education to prevent racism, racial discrimination, xenophobia and related intolerance in his reports.

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I. Introduction

1. The Special Rapporteur has previously noted that education is central to preventing and combating racism, racial discrimination, xenophobia and related intolerance, given its role in creating new values and attitudes. As a follow-up to his commitment to focus on both prevention and enforcement mechanisms in combating racism and racial discrimination, the Special Rapporteur has chosen to focus on the role and place of education, a decision reinforced by the Human Rights Council, which has requested him to address the role of education in preventing racism, racial discrimination, xenophobia and related intolerance in his reports; and encourages States and other stakeholders to provide the Special Rapporteur with information on good practices undertaken.¹

2. The Special Rapporteur believes that education has the powerful potential to address deep-rooted discrimination and the legacy of historical injustices, as well as to act as a means to enable individuals and groups to lift themselves out of poverty. As stated in the Durban Declaration and Programme of Action (para. 97), education that is sensitive to, and respects cultural diversity, plays an essential role in the prevention and eradication of all forms of intolerance and discrimination.

3. The present report is submitted pursuant to Human Rights Council resolution 16/33. It examines the issue of education in relation to racism, racial discrimination, xenophobia and related intolerance. Chapter II provides a summary of the activities of the Special Rapporteur from 4 September 2012 to 28 January 2013. In chapter III, the Special Rapporteur presents the international framework relating to racism, racial discrimination, xenophobia and related intolerance, and education. Chapter IV addresses the issue of the equal access to quality education and the challenges faced by disadvantaged and discriminated groups. Chapter V considers the contexts that impact on the full enjoyment of the right to education without discrimination. Chapter V and chapter VI contains the Special Rapporteur's conclusions and recommendations.

II. Activities of the Special Rapporteur

A. Country visits

4. The Special Rapporteur would like to thank the Government of Mauritania, which has accepted his request for a follow-up country visit. He hopes to undertake the follow-up fact-finding mission to Mauritania before the end of 2013. In February 2012, the Government of Sudan has also accepted the visit request of the Special Rapporteur. The Special Rapporteur hopes that he will be able to carry out the visit to Sudan in the course of his mandate.

5. The Special Rapporteur renewed the request to visit South Africa, for which he is still awaiting a response from the Government. The initial request to visit South Africa was sent by his predecessor on 9 September 2008. The Special Rapporteur also sent a request for a follow-up visit to Italy, and visit requests to Algeria, Botswana, Greece, India, Kyrgyzstan, Morocco, Nepal, Poland, Thailand and Tunisia.

¹ See Human Rights Council resolution 22/34.

6. From 4 to 10 September 2012, the Special Rapporteur visited the Plurinational State of Bolivia. He expresses his sincere gratitude to the Government of the Plurinational State of Bolivia for its full cooperation and openness in the preparation and conduct of his visit. The report is contained in addendum 1 to the present document.

7. From 21 to 28 January 2013, the Special Rapporteur visited Spain. He is very grateful to the Government of Spain for its cooperation in the preparation and conduct of his visit. The report is included in addendum 2 to the present document.

B. Other activities

8. The Special Rapporteur participated in the Symposium on the Varieties of European Racism(s) in Europe organized by the European Network Against Racism and Open Society Foundation in Brussels on 27 and 28 September 2012.

9. On 4 and 5 October 2012 the Special Rapporteur participated in the final expert workshop on the prohibition of incitement to national, racial or religious hatred held in Rabat, Morocco. The Special Rapporteur also contributed to the tenth session of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action held from 8 to 19 October 2012 in Geneva.

10. On 19 November 2012, the Special Rapporteur attended the Second National Conference entitled “Malaysia on the Path to Non-Discrimination, Making it Possible”, held in Kuala Lumpur.

III. International framework relating to racism, racial discrimination, xenophobia and related intolerance, and education

11. The role of education in promoting tolerance and understanding has been underscored by the Universal Declaration of Human Rights (art. 26, para. 2), which spells out that, inter alia, education shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. In addition, the Durban Declaration points out that education is key to changing attitudes and behaviour based on racism, racial discrimination, xenophobia and related intolerance and to promoting tolerance and respect for diversity in societies (para. 95). It specifically underlines the links between the right to education and the struggle against racism, racial discrimination, xenophobia and related intolerance and the essential role of education, including human rights education and education which is sensitive to and respects cultural diversity, especially amongst children and young people, in the prevention and eradication of all forms of intolerance and discrimination (para. 97).

12. The recognition and realization of education as a human right is instrumental in giving effect to the role of education in combating racism, racial discrimination, xenophobia and related intolerance. The International Covenant on Economic, Social and Cultural Rights, in its articles 13 and 14, comprehensively elaborates on the content of the right to education. This right is further reaffirmed by the International Convention on the Elimination of All Forms of Racial Discrimination and various international human rights instruments. In this regard, the Special Rapporteur would like to refer also to the Convention against Discrimination in Education, which requires States inter alia to abrogate statutory provisions and administrative instructions which involve discrimination in education (art. 3 (a)).

13. The Special Rapporteur also recalls that the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities provides for the right of persons belonging to minorities to have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue. The Declaration also calls on States to take measures to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory (art. 4, paras. 3 and 4).

14. The United Nations Declaration on the Rights of Indigenous Peoples emphasizes the rights of indigenous peoples to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning (art. 14, para. 1). Additionally, the Declaration recognizes that indigenous children, in particular, have the right to all levels and forms of education of the State without discrimination (art. 14, para. 2).

IV. Equal access to quality education and challenges faced by disadvantaged and discriminated groups

A. Ensuring equality in education

1. Non-discrimination, physical and economic accessibility

15. As highlighted by the Committee on Economic, Social and Cultural Rights, access to education has three overlapping dimensions: non-discrimination, physical accessibility, and economic accessibility.² These aspects should be considered by States when undertaking measures for the realization of the right to education and in designing programmes in the field of education.

16. The Special Rapporteur emphasizes that prohibiting racial discrimination in education, as required by article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, does not exclude the resort to temporary special measures which aim to bring about equality in the access to education. In this regard, he encourages States to implement general recommendation No. 32 (2009) of the Committee on the Elimination of Racial Discrimination on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination. He also shares the view expressed in the recommendations of the Forum on Minority Issues that, when the relevant conditions for the application of temporary special measures are satisfied, their introduction should be used as a means to recognize the existence of discrimination and to eliminate it (A/HRC/10/11/Add.1, para. 12).

17. Physical accessibility implies that educational establishments, services and facilities be designed in a way that ensures that they are accessible to all without discrimination throughout the national territory. This entails, when necessary, the provision of distance-learning methods to certain groups, and support by the State for the use of media, such as radio broadcasts and other technical solutions, including promoting access to new technologies, as well as the establishment of mobile schools for those vulnerable groups with nomadic traditions.³ Physical accessibility also entails a school cycle which takes into account and is sensitive to the cultural practices that exist within certain groups, including

² See Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999) on the right to education, para. 6 (b).

³ See Committee on the Rights of the Child, general comment No. 11 (2009) on indigenous children and their rights under the Convention, para. 61.

for instance those minorities or indigenous peoples for which agricultural seasons and ceremonial periods are important.⁴

18. The Special Rapporteur shares the view that economic accessibility requires that education has to be affordable to all, including free primary education.⁵ However in practice, the hidden costs of education, including those related to enrolment and attendance, sometimes lead to discrimination. In this regard, the Special Rapporteur recalls that the Durban Programme of Action urges States to set up national programmes to promote the access to basic social services, including primary education, of individuals and groups who are or may be victims of racial discrimination (para. 100). The Programme of Action also points out that States should consider establishing financial assistance programmes to enable all students to attend higher education institutions (para. 123 (g)). In this connection, the Special Rapporteur recalls that education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.⁶

2. Quality of curriculum

19. In order to promote the principles of equality and non-discrimination, it is important for States to ensure that their general curriculum, and not only the curriculum specifically devoted to human rights education, contains adequate and balanced information on the contribution of minorities, migrants and other groups living in the territory of the country. Tolerance and respect can only be effectively promoted and take root if the narratives of all groups of society are known and presented to students from an early age, in order to raise awareness of the history, contributions and current socioeconomic situation of those groups. Indeed, in addition to the issue of access, it is important that the curriculum promote diversity rather than the perpetuation of ideas of racial and ethnic superiority. In some countries, school books have promoted racist and xenophobic stereotypes of particular groups. In other cases, textbooks have been rewritten to blank out atrocities committed against some ethnic groups. The Special Rapporteur believes that an accurate portrayal of the history of atrocities perpetrated against discriminated groups is integral to an educational system that promotes the values of diversity and to understanding between different groups and cultures.

20. Education and education systems – if not carefully designed – may be used to perpetuate negative stereotypes of ethnic groups or to deny them equal access to quality education. Other potential negative consequences may be hidden in the contents of the curriculum and books, which may include references and materials that contribute to stereotyping and demeaning certain groups of society. Such stereotypes may reinforce the marginalization of groups, particularly in cases where those groups live in disproportionate poverty and lack adequate visibility and representation in public affairs and leadership.

21. It is therefore important that States not only develop new materials, but also review and amend existing curricula and textbooks with a view to identifying and eventually eliminating elements, both textual and visual, which may have the effect of promoting racism, racial discrimination, xenophobia and related intolerance or of reinforcing existing deep-rooted negative stereotypes.⁷

⁴ Ibid., para. 61.

⁵ See *ibid.*

⁶ See Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999) on the right to education (article 13 of the Covenant).

⁷ Durban Programme of Action, para. 127.

3. Collection of ethnically disaggregated data

22. The lack of ethnically disaggregated data and statistics remains a significant challenge in assessing adequately the effective access to quality education by all individuals, including ethnic groups. The Special Rapporteur is aware that in some countries, for historical reasons, it is legally prohibited to collect official ethnic data and statistics, and that a number of States do not collect or keep such data. Consequently, it remains difficult to monitor and assess progress.

23. The Special Rapporteur is of the view that the lack of such data leaves many incidents of discrimination unrecorded. This further reinforces the cycles of racial discrimination and exclusion of vulnerable groups. In addition, even where States have made good progress, the lack of relevant data means that such progress is not adequately reported.

4. Teacher training, awareness-raising and early education to human rights

24. Teachers bear the responsibility of shaping the learning experience for young learners. The Special Rapporteur recommends that teachers at all levels of education and both in public, private and non-formal education regularly participate in training aimed at promoting respect for human rights and the fight against racism.

25. Issues related to racial prejudice should form an integral part of the curricula for teacher training and racist and discriminatory behaviours by teaching staff should also be addressed. Sensitizing teachers to the history of the various vulnerable groups in the country and acquainting them with the socioeconomic constraints and structural disadvantages and discrimination faced by those individuals and groups on the basis of their ethnic origin significantly contributes to raising teachers' awareness of the sometimes covert prejudices faced by such groups and providing them with efficient tools to tackle such behaviours head-on. Teachers should also be made familiar with international norms prohibiting racial discrimination and their applicability under domestic law. Training should not be a one-off event, but regularly repeated, and should include the sensitization of teaching staff, in order to ensure that their actions are based on and promote the principles of non-discrimination, mutual respect and tolerance.

26. A well-balanced and inclusive mainstream school curriculum, which reflects the diversity of the country and takes into account the contributions of all groups of society, accompanied by an adequate human rights-specific education, may have even more impact if it is also accompanied by targeted and ongoing awareness-raising and media campaigns at the national and local levels. Such campaigns may target specific groups or sectors of society, or indeed certain areas of life, such as schools or sports, to highlight problems related to racism, racial discrimination, xenophobia and intolerance. The Durban Programme of Action, for instance, calls upon States to promote education on the human rights of migrants and to carry out public information and awareness-raising campaigns in order to ensure that the general public receives accurate information regarding migrants and migration issues, including the positive contribution of migrants to the host society; and to inform the public of the vulnerable situation of migrants, in particular those who are in an irregular situation (para. 27). Cultural programmes, art projects, exhibitions and theatre performances aimed at promoting tolerance and the diversity of experiences of different groups of society also have an important effect in countering racism and racial discrimination.

27. Children enter the education system at an impressionable age and the ideas, values and attitudes to which they are exposed through the education system shape the kind of adults and citizens they become significantly. Age-appropriate and targeted human rights education should therefore start early on, preferably at preschool levels, in order to sensitize

children and adolescents to prevalent prejudices and intolerance held about certain racial or ethnic groups, and to address these phenomena in a way that is the most appropriate for the developmental stage of the child. This may take place not only in history, literature or civic education classes, but also through art, such as music, theatre and story-telling.

B. Disadvantaged and discriminated groups

28. While recalling that there is no hierarchy between the victims of racism and racial discrimination, the Special Rapporteur would like to bring to the attention of States the situation faced by some specific groups of individuals, including, migrants, refugees, asylum seekers, people of African descent, victims of caste-based discrimination and members of minorities, including Roma, whose situation has also been addressed by his predecessors.

1. Migrants, refugees, and asylum seekers

29. Migrants and their children face multiple discrimination, including in the enjoyment of the right to education. In its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee on the Elimination of Racial Discrimination calls upon States to remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, including in the field of education (para. 29). The Committee further requires that public educational institutions are open to non-citizens and the children of undocumented migrants (para. 30). States should also avoid segregated schooling and different standards of treatment to non-citizens (para. 31).

30. Securing the right to education of migrants in an irregular situation remains a challenge in many parts of the world. Undocumented migrants regularly face a high risk of exploitation in many regards, and the realization of the right to education of their children remains precarious. The situation faced by children of undocumented migrants is potentially even more difficult given the legal barriers they have to confront on a day-to-day basis. For instance, undocumented migrants' children need to be registered in order to be able to attend school. Therefore, they may be prevented from enrolling for free primary education because they are unable to produce the official documents required, such as a valid residence permit, birth certificate or medical records.

31. Their situation may also be compounded by further barriers, such as the fear of being reported by teachers and school authorities to immigration authorities. While school administrators in many countries are not required to report undocumented migrants' children to the relevant immigration authorities, in some other countries a general "duty to report" exists, thereby providing disincentives to parents in an irregular situation to enrolling their children in formal education. It is therefore important that States put in place provisions to ensure that educational institutions do not report those children with an irregular status to the authorities. Additionally, the Special Rapporteur is of the view that schools should, as far as possible, avoid asking any questions on migration status or related issues that may reveal an irregular migrant status.

32. In many countries, children can only be enrolled in educational institutions at the beginning of the school year, thus children of undocumented migrants are deprived of access to education for prolonged periods of time.

33. Economic concerns may also further compound the obstacles faced by undocumented migrants' children. Although compulsory primary education in State schools is free of charge, the hidden, indirect costs associated with enrolment and attendance may prove a disproportionately heavy burden for many such children, who may be reluctant to apply for funding to cover such expenses.

34. One of the issues disproportionately affecting migrants, including those in an irregular situation, is the difficulties surrounding the recognition of their qualifications and diplomas in host countries. Upon completing their studies, undocumented migrants in several countries do not automatically receive diplomas, given that certain countries only issue such documentation upon presentation of birth certificates or social security numbers, even in cases where these were not required at the time of enrolment. In terms of the recognition of qualifications, States should recognize those acquired outside their territories, although certain restrictions may be permissible.⁸ The Durban Programme of Action also encourages States to promote the recognition of the educational, professional and technical credentials of migrants, with a view to maximizing their contribution to their new States of residence (para. 30 (f)). Refusal to recognize the qualifications of undocumented migrants may also contribute to their exclusion from the skilled labour markets and confine them almost exclusively to irregular jobs, in the areas of domestic service, agriculture and construction.

35. In some countries, asylum seekers are held in special accommodation centres where access to education for their children may not be available, or may be of inferior level and quality to that enjoyed by the general population. In many countries, such special accommodation centres for asylum seekers are often located in remote areas where mainstream education facilities are difficult to access for children. There are further problems compounding the lack of logistical access in these cases, including the inadequate living conditions in some of the reception centres and parents' lack of financial resources to cover the extra costs of school material. The children of asylum seekers may also not be adequately informed by the authorities of their right to attend public education institutions.

36. An additional compounding problem is the emerging trend witnessed in some countries of the education of asylum seekers and refugees being "outsourced" to non-governmental organizations and United Nations agencies.

37. In addition, separated children who have applied for asylum regularly face great difficulties in enrolling in schools. In cases where their asylum applications are rejected, the concerned children will be normally able to attend school until the day of the enforcement of the return decision.

2. Members of minorities, including Roma

38. National or ethnic, religious and linguistic minorities also face various impediments to accessing education, resulting either from a policy of historical discrimination or injustice, or from poverty, poor health and lack of adequate sanitation, and other structural factors.

39. The Special Rapporteur recalls that, in accordance with international human rights standards, persons belonging to national, ethnic, religious and linguistic minorities should, wherever possible, have adequate opportunities to learn in or have instruction in their mother tongue.⁹ Minorities should also be allowed to maintain their own educational institutions, as long as the quality of education and other relevant standards conform to those applicable to mainstream public schools, in line with international human rights standards; and provided that attendance of such institutions is through choice and not compulsory.

⁸ See the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 52, para. 2 (b).

⁹ See the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, art. 4, para. 3.

40. The Durban Programme of Action calls upon States to ensure that Roma, Gypsy, Sinti and Traveller children and youth, especially girls, are given equal access to education (para. 39). The Committee on the Elimination of Racial Discrimination, in its general recommendation No. 27 (2000) on discrimination against Roma, also underlined that States should support the inclusion of all children of Roma origin in the school system and act to reduce dropout rates (para. 17).

41. While de jure segregation in schools has been abolished in various parts of the world, de facto segregation remains a challenge, particularly for Roma children. In this regard, the Special Rapporteur notes that there appears to be a widespread practice in Central and Eastern Europe whereby students of Roma origin are channelled into special schools for children with learning disabilities, regardless of their intellectual abilities. Such a practice has been challenged in both domestic and regional human rights litigation. In particular, the European Court of Human Rights has highlighted these problems in various countries.

42. The Special Rapporteur remains concerned that de facto racial segregation in education remains widespread in many countries, despite significant improvements by Governments in the regions. These practices may include the segregation of Roma children into special remedial schools for children with developmental disabilities; segregation of children into Roma “ghetto schools” or all-Roma classes; and denial of enrolment in mainstream schools. The Special Rapporteur reiterates the views and recommendations made by his predecessor in a report to the Human Rights Council (A/HRC/17/40). He also recalls the views expressed by the treaty bodies, including the Committee on the Elimination of Racial Discrimination in its concluding observations, that certain States need to intensify their efforts in order to improve the educational situation of Roma, including through measures to increase their enrolment in mainstream schools; by recruiting teachers and other school personnel from among members of the Roma community; and by sensitizing teachers and other education professionals to the social fabric and world views of Roma children.

3. People of African descent

43. Available information shows that measures aimed at favouring a more inclusive education have been implemented with respect to people of African descent in some regions, including in the Americas. For instance, in a number of countries, legislation in force requires public universities to guarantee half of their places to students from public schools, in order to ensure better access to these universities for those students from a background of poverty, which includes students of African descent. Other positive examples in the region – where a large population of persons identify themselves as being of African descent – include scholarships and loans which can be written off for students of African descent with limited economic resources and good academic performance.

44. Despite some positive initiatives, studies and findings by international and national bodies show that people of African descent still have a limited access to quality and higher education, and that their situation with respect to structural discrimination in this area remains a major challenge. Indeed, the information obtained shows that the educational infrastructure in those areas where the residing population is mostly Afro-descendant is insufficient; illiteracy is higher; indexes of schooling are lower; and the children and youth have fewer years of education. These circumstances result in only a very small percentage of the Afro-descendant population being able to enter and complete higher education or university studies. The information obtained also points to inappropriate studies programmes and educational methods; the economic difficulties in affording education costs; and the gap in incomes between Afro-descendant and non Afro-descendant people as the education level increases.

45. Certain regional mechanisms have also reported several cases of concern relating to access to education for people of African descent, including cases where prizes have been granted according to race; situations of de facto racial discrimination at schools; limitations on the access to some university programmes; overrepresentation of Afro-descendants in special classes; disproportionate rates of disciplinary actions for Afro-descendants; underrepresentation of Afro-descendants in advanced or high-level courses and programmes; racial harassment; underrepresentation of Afro-descendants among teachers or administrative staff in educational establishments; and the failure to cover the contribution of the Afro-descendant population in history classes.

4. Victims of caste-based discrimination, including Dalits

46. As highlighted by the previous mandate holder (A/HRC/17/40, para. 27), there is serious concern about an estimated 250 million people around the world at risk of human rights violations on the grounds of caste and other systems based on inherited status. Indeed, reports received confirm that discrimination against Dalits in the educational system is a widespread problem in caste-affected countries. Alienation, social exclusion and physical abuse are present throughout all levels of education, from primary to university education. Illiteracy and dropout rates among Dalits are very high due to a number of social and physical factors. Legislation on the issue is limited, and measures to address the issue are often inadequately implemented. The forms of structural discrimination and abuse that Dalit children face in schools are often so stigmatizing that they are forced to drop out of school. One of the main issues is discriminatory practices conducted by teachers, which may include corporal punishment, denial of access to school water supplies, segregation in classrooms, and forcing Dalit children to perform “manual scavenging” on and around school premises. In addition, Dalit children face discriminatory attitudes from fellow students and the community as a whole, in particular from higher caste members, who perceive education for Dalits as a threat to village hierarchies and power relations. Intolerance of, prejudice against and harassment of Dalits are equally prevalent in institutions of higher education, where discrimination is practised by senior upper-caste students, teachers, faculties and university administrations. The caste bias manifests itself in the way teachers ignore Dalit students and unjustly fail them in exams and in the unwillingness of the university administration to assist and support Dalits. Reportedly, as a grave consequence of this harassment, a disproportionate number of Dalit students have committed suicide in some countries.

47. In 2006, the Special Rapporteur on the right to education recommended that Governments remove known barriers to the enrolment and retention in school of young and teenage girls belonging to all ethnic groups, castes and communities that are discriminated against (E/CN.4/2006/45, paras. 80–85 and 140). The Special Rapporteur urges the concerned States to take appropriate measures to ensure the right to non-discrimination in education for victims of caste-based discrimination, including Dalits. He recalls general recommendation No. 29 (2002) of the Committee on the Elimination of Racial Discrimination on article 1, paragraph 1, of the Convention (descent), which recommends, inter alia, the prohibition and elimination of practices of segregation directed against members of descent-based communities in education, and the education of the population as a whole in a spirit of non-discrimination and respect for the communities subject to descent-based discrimination. Furthermore, it recommends the adoption of special measures in favour of descent-based groups and communities in order to ensure their access to education. The Special Rapporteur, moreover, considers that national and local authorities should take effective measures to reduce dropout rates and increase enrolment rates among children of affected communities at all levels of public and private schooling. Concrete steps should be taken to: eradicate the existing prevalence of caste-based discrimination in schools, including stereotypical and demeaning references, for example, in schoolbooks;

ensure the inclusion of children of affected communities in schools; and disseminate general information about the importance of non-discrimination and respect for affected communities in the entire education system. The Special Rapporteur also encourages States to enable and improve educational and professional training for Dalit girls and boys so that they can move to professions of their choice.

V. Contexts impacting on the full enjoyment of the right to education without discrimination

A. Racially motivated violence in schools

48. The Special Rapporteur is of the view that States should not lose sight of the impact that racism, racial discrimination and intolerance in general have on students or the ways in which it specifically contributes to hostile environments in schools and educational institutions in general.

49. As stated in the Durban Programme of Action, both States and non-governmental organizations, as well as the private sector in general, should work towards reducing violence motivated by racism, including by developing specifically targeted educational materials in order to teach young people the importance of tolerance and respect (para. 74).

50. Criminal justice and law enforcement responses to racially motivated acts in schools should be used only in the most serious cases and only as a last resort. The introduction of a “zero tolerance policy” for minor infractions committed by students leads to the criminalization of misbehaviour in school, which in practice may contribute to schools becoming an entry point to the criminal justice system, especially in neighbourhoods where minorities are overrepresented. Instead of resorting to such drastic measures, schools and relevant authorities should put stronger emphasis on raising awareness of tolerance and non-discrimination, and the values of a multicultural society.

B. Education and conflicts

51. The dangers of the failure to educate people about human rights in education have been evident in many situations of conflict, where education has been instrumentalized and deployed as a tool for ethnic or racial stereotyping. For instance, the Special Rapporteur on the situation of human rights in Rwanda described in 1997 how successive Governments of Rwanda had instrumentalized education in the preparation of genocide:

The schools, for their part, took it upon themselves to develop actual theories of ethnic differences, based on a number of allegedly scientific data which were essentially morphological and historiographical. In the first case, the two main groups can be differentiated by appearance, as the Tutsi are ‘long’, whereas the Hutu are ‘short’; the Tutsi are handsome, genuine ‘black-skinned Europeans’ while the Hutu are ‘ugly’, genuine ‘Negroes’. The fact that the Hutu occupied the country before the Tutsi makes them indigenous, whereas the Tutsi, as descendants of Europeans, are invaders. These purportedly scientific data inevitably created a psychosis of fear and mistrust which gradually became a veritable culture of mutual

fear and led to another theory, that of pre-emptive self-defence based on the ‘kill or be killed’ principle. This theory was a major factor in the 1994 genocide.¹⁰

52. Ensuring access to education during armed conflicts, including ethnic conflicts, is a major challenge and is crucial to preventing racism and racial discrimination in the area of education during such periods. Indeed, students belonging to minority groups, as well as other disadvantaged groups, including migrants, refugees, and asylum seekers, are often disproportionately affected during such conflicts. The Special Rapporteur recalls that the consequences of armed conflicts on education constitute serious problems that need increased attention from States. Indeed, armed conflicts, including ethnic conflicts, lead to significant and grave obstacles in accessing education, including the destruction of schools used for military objectives; psychological trauma and injury suffered by children and young people; the recruitment of child soldiers; the diversion of national budgets for war resources; and the internal displacement of families.

53. Education can play a key role in preventing conflicts. As stated by the previous mandate holder, one effective way to prevent and address the eruption of a conflict is to ensure the equality of all individuals and equal access to economic, social and cultural rights for all individuals within the State’s territory and subject to its jurisdiction, and education is needed to complement legislative measures (A/HRC/14/43, para. 67). Education is also crucial in consolidating peace and ensuring development in post-conflict situations. In this regard, the Special Rapporteur recommends ensuring that education policy is an integral part of the programme of consolidating peace and integrating assessments of post-conflict situations and peace consolidation into national education strategies.

C. Education and the economic crisis

54. Reports received show that, in the field of education, financing presents a number of difficult and conflicting issues. Indeed, although several Governments have earmarked more resources for education, the level of commitment overall varies greatly. There is also evidence in some regions of growth in international aid, particularly for basic education, albeit with some failures in application. In the last few years, many countries have been experiencing a severe economic crisis, which in some instances has resulted in drastic budgetary restrictions and affects the education sector. It is essential that States carefully evaluate the potential impact of budgetary restrictions on the enjoyment of the right to education without discrimination. Budgetary stringency must not have a disproportionate impact on the enjoyment of the right to education, especially for disadvantaged groups, including minorities, Roma, people of African descent, migrants, undocumented migrants, refugees, asylum seekers and the victims of caste-based discrimination, since this could threaten the progress already achieved by some countries, and lead to increased marginalization and exclusion of part of these vulnerable groups.

VI. Conclusions and recommendations

55. **The Special Rapporteur wishes to stress the crucial importance of education in the prevention of all forms of racism, xenophobia, intolerance and discrimination, in particular human rights education and education which is sensitive to and respects cultural diversity. The fundamental role of education as a facilitative right is linked to**

¹⁰ Report on the situation of human rights in Rwanda, E/CN.4/1997/61, para. 25.

the effective enjoyment of all other human rights, as education acts as a multiplier in enhancing the other human rights and freedoms. Such is the importance of education in the prevention of racial discrimination and the enjoyment of the civil, political, economic, cultural and social rights.

56. Although the Special Rapporteur welcomes some of the efforts and initiatives undertaken by various States to prohibit discrimination and segregation in their educational system and improve access to education opportunities for all individuals and groups, he notes that certain groups and individuals, including people of African descent, minorities, Roma, migrants, refugees and asylum seekers, and victims of caste-based discrimination still face obstacles and challenges to the full enjoyment of their right to education, as they experience a low level of education – in both quality and duration – and discrimination and segregation in schools. This persistence of discrimination among these vulnerable groups and individuals remains a challenge to the construction of a tolerant society which rests upon an inclusive education system.

57. In the light of the above, the Special Rapporteur would like to make the following recommendations:

(a) States should recognize the important role of education in combating racism, racial discrimination, xenophobia and related intolerance, in particular in promoting the principles of tolerance and respect to ethnic, religious and cultural diversity and preventing the proliferation of extremist racist and xenophobic movements and propaganda, especially among the youth;

(b) States should take all necessary measures to ensure equality and non-discrimination with regard to access to education, training and career development in education. They should pay attention to availability, accessibility, acceptability and adaptability as essential features for assessing the fulfilment of their obligations in the realization of the right to education as detailed in general comment No. 13 (1999) of the Committee on Economic, Social and Cultural Rights on the right to education;

(c) In particular, States should adopt and implement laws that prohibit discrimination on the basis of race, colour, descent or national or ethnic origin at all levels of education, both formal and non-formal, take all appropriate measures to eliminate obstacles limiting the access of children to education, including through affirmative action programmes of a temporary nature, and ensure that all children, especially those of African descent, minorities, Roma, migrants, refugees and asylum seekers, and the victims of caste-based discrimination have access without discrimination to good-quality education, including higher education. Measures to eliminate obstacles limiting access to quality education include committing appropriate resources to eliminating inequalities in educational outcomes;

(d) The new information and communications technologies, including the Internet as an educational tool, are a positive contribution to combating racism through rapid and far-reaching communication and States should be encouraged to use these technologies to combat manifestations of racism, racial discrimination, xenophobia and related intolerance in cyberspace;

(e) States should recognize the important role of formal and non-formal education in the deconstruction of prejudices, positive change of negative perceptions, enhanced understanding and social cohesion. To this end, States should be encouraged in implementing educational activities and measures, including human rights training at various levels, to prevent and combat effectively racism, racial discrimination, xenophobia and related intolerance;

(f) States should encourage an accurate reflection of history in education so as to avoid stereotypes and distortion or falsification of historical facts, which could lead to racism, racial discrimination, xenophobia and related intolerance. States should also ensure that textbooks and other educational materials reflect accurately historical facts as they relate to past tragedies and atrocities, as this reflects the complex linkages between education, identity-building and outbreak of conflicts;

(g) States should be encouraged to provide human rights education or training with a strong anti-discrimination component for students in schools and universities, teachers, journalists, State officials, civil servants, judges, law enforcement officials, military personnel, humanitarian workers and staff involved in peacekeeping and peace-building operations. A focus on the effective prevention of racism, racial discrimination, xenophobia and related intolerance during such training, in accordance with the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and the Durban Declaration and Programme of Action, is particularly important;

(h) Teachers at all levels of education should benefit from specialized training, including awareness-raising, in how to prevent racism, xenophobia and other forms of discrimination. Special emphasis should be placed on the situation of minority or vulnerable groups within their country, such as Roma or other minorities, persons of African descent, Roma, migrants, refugees and asylum seekers, and the victims of caste-based discrimination. International norms prohibiting racism and racial discrimination and their implementation under domestic law should be emphasized in the curriculum;

(i) States should also continue their efforts to combat racism, racial discrimination, xenophobia and other forms of discrimination outside the educational system. In this regard, efforts undertaken in the educational field, in particular through human rights education, will have an enhanced impact if measures are accompanied by targeted and ongoing media and awareness-raising campaigns to sensitize the public to the realities and challenges faced by persons victims of racism, intolerance and discrimination;

(j) States should ensure safe school environments, free from violence and harassment motivated by racism; and provide appropriate assistance to victims and public education to prevent incidents of violence motivated by racism;

(k) States should pursue human rights education and guarantee access to education without discrimination during conflicts; ensure that an education programme is an integral part of the policies of consolidating peace; and integrate assessments of post-conflicts situations and peace consolidation into national education strategies;

(l) States should carefully evaluate the potential impact of budgetary restrictions on education, and ensure that they do not have a discriminatory and disproportionate impact on the enjoyment of the right to education of disadvantaged groups, including minorities, Roma, people of African descent, migrants, undocumented migrants, refugees, asylum seekers and the victims of caste-based discrimination;

(m) Finally, States should duly cooperate inter alia with civil society actors, non-governmental organizations, national human rights institutions and the international community in providing quality and accessible education to all individuals without discrimination based on race, colour, descent, or national or ethnic origin.