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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS
OF DISCRIMINATION: COMPREHENSIVE IMPLEMENTATION OF
AND FOLLOW-UP TO THE DURBAN DECLARATION AND
PROGRAMME OF ACTION**

**Report of the High Commissioner for Human Rights containing a draft basic
document on the development of a racial equality index**

Summary

The present report contains a draft basic document on examining the possibility of developing a racial equality index in accordance with paragraph 29 of Commission resolution 2005/64.

To respond effectively to the request made by the Commission, OHCHR has conducted research to determine the conceptual and empirical aspects that should be taken into consideration in developing a racial equality index (E/CN.4/2005/17). In addition, a mapping exercise was conducted on previous initiatives and promising practices in countries and organizations where efforts were already under way to develop a racial equality index or any kind of anti-discrimination index. Moreover, a consultative process involving a broad range of stakeholders, including experts from United Nations agencies, regional organizations, non-governmental organizations and academic institutions was organized by OHCHR.

The report addresses the different aspects involved in the construction of the index, with a view to assessing its feasibility. The advantages and disadvantages of constructing the index are identified, the difficulties and obstacles are discussed and some solutions are proposed.

The experts consulted believe that a racial equality index is technically feasible and could have an added value as a scientific and comprehensive framework for observing racial inequalities through a system of indicators. The index could be a country-specific tool for Member States and other stakeholders to monitor progress over time in implementing their anti-discrimination policies. These various stakeholders could then use the data about inequalities to guide the formulation of adequate public policies against racial discrimination.

The non-availability of disaggregated data by ethnicity in many countries is a potential obstacle to the development of the index. However, this problem can be resolved over time and the construction of the index might provide an incentive to Member States to make these data available.

The index should not be used to rank Member States because the situation is different from one country to another. Minorities should be assured that ethnic data would not be used to stigmatize them and to single them out. The issue of confidentiality and security should be addressed through an information campaign explaining the use of the data and the precautions taken to avoid their misuse.

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I. INTRODUCTION

A. Background

1. The present report is submitted in compliance with paragraph 29 of Commission resolution 2005/64, which requested the United Nations High Commissioner for Human Rights to expedite the consultative process in 2005 on examining the possibility of the development of a racial equality index and to submit a draft basic document on the proposed index at its sixty-second session.
2. The independent eminent experts on the implementation of the Durban Declaration and Programme of Action, during their first meeting, from 16 to 18 September 2003, recommended that the international community find ways of measuring existing racial inequalities, possibly through the development of a racial equality index, similar to the Human Development Index developed and used by the United Nations Development Programme. This call was endorsed by the Commission in its resolution 2004/88, paragraph 13, requesting the Office of the United Nations High Commissioner for Human Rights (OHCHR) to examine the possibility of the development of a racial equality index as proposed by the group of independent eminent experts. On this basis, a first report, focusing on activities undertaken by OHCHR, was submitted to the Commission at its sixty-first session (E/CN.4/2005/17).

B. Purpose and scope

3. This report sums up the state of the knowledge and input generated during the consultative process organized by OHCHR on examining the possibility of the development of a racial equality index. The main purpose of this document is to report on the deliberations to the sixty-second session of the Commission in this regard.
4. The report addresses the feasibility of the development of a racial equality index and presents the various issues involved in constructing the index and the difficulties in producing it. This report is not a proposal for developing the index, although it contains many comments that are relevant to such a construction. The concrete examples and the technical details in the second section are included with the sole purpose of better understanding the challenges involved.

C. Methodology

1. Mapping the terrain

5. OHCHR undertook preliminary research on the technical and political feasibility of the development of a racial equality index. A mapping exercise was conducted on previous initiatives and promising practices in countries and organizations where efforts were already under way to develop a racial equality index or any kind of anti-discrimination index. This survey of major initiatives focused mostly on the following indices: the Los Angeles Urban League's Equality Index, the disaggregated human development index of the United Nations Development Programme (UNDP), the health inequality index of the World Health Organization (WHO) and the gender equality index of Statistics Norway. The common

denominator of these experiences lies in the fact that they are, to varying degrees, trying to use statistical data to promote equality and, more specifically, that they are instruments for measuring progress in combating discrimination and for triggering action for change.

6. This mapping exercise helped identify certain core conceptual and methodological issues as well as experts and stakeholders who have been involved in similar projects in their organizations. They were subsequently invited to take part in the consultative process.

2. Consultation with the stakeholders

7. In responding to the Commission request, a consultant was hired to undertake an initial study. In parallel, a series of OHCHR internal consultation meetings were conducted to determine the conceptual and empirical elements to be taken into consideration in the process of assessing the feasibility of the creation of a racial equality index. In addition, a series of bilateral consultation meetings were held in New York from 15 to 19 August 2005 between the consultant and a number of stakeholders including United Nations agencies, non-governmental organizations and academic institutions. To wrap up the process, an expert consultation workshop was organized in Geneva on 14 and 15 November 2005. This workshop provided a common platform at which experts exchanged views and shared experiences.

8. The expert consultation workshop was chaired by Ms. Isil Gachet, Executive Secretary to the European Commission against Racism and Intolerance. About 20 experts and practitioners, representatives of United Nations agencies, regional organizations, non-governmental organizations and academic institutions participated. Two months before the meeting, a consultation document prepared by the consultant and a background paper submitted by the Anti-Discrimination Unit of OHCHR were distributed to the participants for their comments. The consultation process yielded very valuable input, which contributed to the preparation of this report, the identification of key actors and the opening of communication channels that will have long-term impact on the broad issue of collecting data to promote equality.

9. An understanding emerged from the consultation process on the following points: (a) the need to develop a racial equality index; (b) this index would be a country-specific tool for Member States and other stakeholders to monitor progress over time in implementing their anti-discrimination policies at the national level; (c) the index is not intended to rank Member States because conditions and circumstances of racism and racial discrimination vary from one country to another; (d) the non-availability of disaggregated data by ethnicity was identified by the participants in the consultation meetings as an important obstacle. However, the construction of the index might provide an incentive to Member States to make these data available; (e) minorities should be assured that ethnic data would not be used to stigmatize them and to single them out. The issue of confidentiality and security should be addressed through an information campaign and safeguards taken to avoid their misuse, notably for racial profiling.

10. This report is structured along the lines of the major issues discussed by the participants in the consultation process. The next section will address conceptual issues of the index. In the third section, the report focuses on methodological issues. The fourth section outlines data-related issues.

II. CONCEPTUAL ISSUES

A. Defining race

11. According to the participants in the consultations, distinctions can be made between social groups that may experience social, political or economic inequalities and other groups based on the following criteria: ethnicity, race/skin colour, caste, tribe, immigrant status, nationality, religion, and aboriginal/indigenous status. This indicative list of criteria would help determine the status of majority or minority, and they were considered to be a mixture of self-identification and assignment by others.

12. The above criteria could provide markers that reflected and reproduced cleavages among communities that became differentiated socially, politically or economically. In some cases, ethnicity describes best these cleavages, but not religion. In other cases, it is religion, or even confessional groups within a religion, that best define these cleavages. Participants stressed that, if created, a racial equality index would serve to capture inequalities (often reflecting discrimination) along these cleavages.

13. The term “race” is problematic because it has been associated with biological features and used to justify a moral and intellectual hierarchy between human beings. This essentializing view of race, which formed the conceptual basis of racism, has been challenged and it is now generally accepted that the concept of race is a social construct and does not refer to ontological categories. Social science refers instead to “racialized groups” and insists that the boundaries between social majorities and racialized minorities are not fixed. The “racial equality index” will, therefore, refer to racialized groups, not races defined by biological features.

14. In addition, some experts indicated that the designation “racial equality index” could be inadequate as it may be argued that some minorities, to which the index could be usefully applied, do not qualify as racial groups, or even racialized groups, but are ethnic, linguistic or religious minorities. In many countries, tribalism and ethnic exclusion are more of an issue than discrimination based on race. It was suggested that article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) could provide a general framework for capturing the different dimensions of identity and the various aspects of racial discrimination.

B. Identifying racialized groups

15. As mentioned in a previous report (E/CN.4/2005/17), there is no international classification system for “races” or ethnic groups. Notions such as “tribe”, “ethnic minority”, “race” or “indigenous people” have distinct and different meanings in different countries. That is why international organizations rely on the national data produced by national statistical institutes, based on national racial/ethnic classification systems. This does not easily allow for comparisons between countries, but does permit monitoring changes over time as well as the direction and speed of such changes at national level.

16. Moreover, the experts consulted noted that there was nothing systematic in the construction of an ethnic or racial classification system at the national level. The determining factor was neither the size of communities nor the changing structure of a population.

17. A study commissioned by the European Union shows that since their first censuses, the United States (1790) and Canada (1871) record data on “race” or “ethnic origin”. The nomenclatures and definitions evolved in accordance with legal and political developments (the abolition of slavery in the United States, disqualification of racial categories in Canada), but their collection for the purposes of fighting discrimination did not break with statistical tradition.¹

18. In the United States, for example, in October 1997, the Office of Management and Budget (OMB) announced the revised standards for federal data on race and ethnicity. The minimum categories for race are now: American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; and White. Instead of allowing a multiracial category as was originally suggested in public and congressional hearings, the OMB adopted an inter-agency committee’s recommendation to allow respondents to select one or more races when they self-identify. With the OMB’s approval, the 2000 census questionnaires also included a sixth racial category: Some Other Race. There are also two minimum categories for ethnicity: Hispanic or Latino, and Not Hispanic or Latino. Hispanics and Latinos may be of any race.²

19. The use of ethnic categories in British statistics has become a commonplace over the last 10 years. To this end, the role played by the anti-discrimination policy has been a determining factor. The objective of promoting equality legitimized the use of ethnic classifications, which were previously considered as aggravating racism. The need for ethnic statistics which arises from a concrete commitment to equality policies demonstrated the obvious need for monitoring.

20. In Australia, the use of categorization referring to ethnicity “is still rather unsettled”, according to experts. The concept of “race” was used to identify the Aboriginals in two censuses (1971 and 1976) and was then abandoned. Until 1999, the official category used to identify groups facing “disadvantages” (the preferred word for discrimination in Australia texts) referred to language: Non-English-Speaking Background (NESB).

21. Although the Netherlands adopted an “ethnic minority” policy, the comparative study pointed out that they have always used a categorization based on the immigrant’s country of birth, followed by the immigrant’s parents’ country of birth. The development of “allochtone” category did not modify the methods of statistical identification for population groups.

22. In Brazil, as of 1990, the category “indigenous” was introduced, thus changing the country’s racial classification system to one based on both “colour” and “race”. The five categories presently used are: *branco*, *pardo*, *preto*, *amarelo* (yellow, which captures the descendents of Asian immigrants) and “indigenous”. *Pardos* and *Pretos* together constitute the “Negros” (Blacks), who represent the majority of the population in most of the states of the Brazilian Federation. This racial classification is used both by national census and the household survey.

23. The determination of the “racial” or racialized groups also poses conceptual problems because many groups defy simple categorizations. The example of Canada shows that several classifications are possible: there is the popular understanding of the word race and the categorization of people by skin colour. This classification does have its relevance, of course.

However, the classification by immigration status is also relevant, as immigrants, in the first 10 to 15 years after their arrival, face discrimination that leaves a long-term cumulative impact on their ability to reach the same socio-economic status as their native counterparts.

24. The official classification of Statistics Canada uses the concept of “visible minorities”, which does not fully coincide with any of the two previous classifications. However, irrespective of the classification used, the values of the index and indicators that will be computed would be good proxies for the values obtained with the other possible definitions and should give a good idea of the degree of inequality found. This conceptual constraint is not an obstacle in itself: once understood, appropriate precautions can be incorporated in the way the index is defined and used.

C. Measuring inequalities or measuring discrimination

25. Measuring inequalities and measuring discrimination are not the same conceptually and operationally. Measures of discrimination require first that data on inequality be available. To prove discrimination, an extra analytical step must be done. For instance, to prove discrimination, inequality of income must be controlled with level of education, years of experience, domain of economic activity, etc.

26. The system of indicators could be constructed analytically to measure discrimination. Alternatively, it could be constructed to measure inequalities, without assuming that they are the consequence of discrimination. The difference is that measures of inequality must be analysed and combined to produce indicators of discrimination. The latter requires heavier data manipulation, while the former is simpler to produce. Measures of inequalities can be defined and constructed in such a way as to allow measuring discrimination in a subsequent step by the stakeholders.

D. Thinking global and acting local

27. At a conceptual level, a particular challenge of the construction of a racial equality index is how to think globally and act locally. Racial discrimination is a universal phenomenon, but its manifestation and intensity vary from country to country over time, according to historical circumstances, social and economic context and policy frameworks.

28. The international human rights framework can contribute to creating a methodological convergence by providing a framework for conceptualization and interpretation of the index that can be applied across countries. The international instruments on human rights can help frame a common approach for all Member States as to ensure a minimum coherence and consistency in the construction of the index.

29. The Universal Declaration of Human Rights, along with the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, provide a common reference that has fed into the national laws of most countries. These general instruments have further been broken down into thematic conventions, some of which specifically focus on racial discrimination.³ The International Convention on the Elimination of All Forms of Racial Discrimination, International Labour Organization Convention No. 111 concerning Discrimination in Employment and Occupation, 1958, and the Convention against

Discrimination in Education can provide a general framework for interpretation and action. Member States have committed themselves to implement international standards and to incorporate them into their national legislation. In addition, these international legal instruments led to the adoption, at the regional level, of European Union Directive No. 2000/43/EC on “implementing the principle of equal treatment between persons irrespective of race or ethnic origin” and Directive No. 2000/78/EC on “establishing a general framework for equal treatment in employment and occupation”.

30. Because statistical data are closely linked to the framework of interpretation and action, this common reference can also help to address issues related to the dimensions on which racial equality is to be assessed. The difficult issues concern the operationalization of the rights into a set of indicators, small enough to be feasible and allow good handling, but detailed enough to capture the essential rights.

31. However, the choice of indicators used to build the index cannot be value-neutral. It needs to reflect the specific sociocultural conditions that prevailed in a particular country at a specific time. In addition, the racialized groups need not be determined in the same way for different societies. In one context, skin colour may be the determining criterion. In others, it could be immigration status, or ethnic group, tribe, caste, language, religion or a combination of some of these criteria. Nevertheless, a similar method for constructing the index will be used in different contexts involving different groups. The indicators thus computed will be of significance.

32. The experience of constructing a gender equality index has shown that comparisons of women’s status, both in absolute terms and relative to men, are not easily undertaken in a world of vast cultural, social and economic differences. The smaller the number of indicators used, the more uncertain the conclusions, and the more aggregated measures used, the more difficult to trace the process behind statistical differences. Not surprisingly, therefore, many have expressed criticism of the two UNDP gender indices, the gender-related development index (GDI) and the gender empowerment measure (GEM), which reflects national and cultural disagreements concerning the content of the gender equality concept. For instance, some find the choice of indicators included in the index unable to adequately reflect the status of women in their society.⁴ As stated by an expert “technically, every country which has established systems for monitoring discrimination has had to make decisions based on its history, on its conception of equality and non-discrimination, on the goals it has pursued and on its available means”.⁵

III. METHODOLOGICAL ISSUES

A. Determining the fundamental dimensions of the index

33. While the decision to construct a racial equality index has not yet been taken, the anticipation of the difficulties is an essential ingredient in the decision to go ahead. The basic steps involved in the construction of an index will therefore be examined in order to identify the obstacles and difficulties such an endeavour would encounter.

34. The fundamental dimensions to be measured will be determined with reference to the normative framework developed in the United Nations system. It is proposed that the index refer to the essential dimensions of human rights incorporated in international human rights

instruments, notably civil and political rights as well as economic, social and cultural rights. Each category of rights will then be translated into specific quantitative measures. A multidimensional index would cover the following areas: labour market, economic, social services, equality before the law, political participation, protection from violence and victimization, recognition and acceptance, dignity and cultural rights.

35. It is important to recall that the index would not reflect the extent to which these rights were guaranteed for the citizens of a country, but rather the differential access to the enjoyment of rights according to one's ethnicity or skin colour. Examples include economic inequalities, inequalities in social and political power, inequalities in status, inequalities enshrined in the constitution or in the law, inequalities in the enjoyment of fundamental human rights, including the right to exercise liberties and to be protected when doing so, inequalities in access to justice and in the practice of justice. For each of these dimensions, a number of indicators would be used. For instance, the ratio between the percentages of families living under the poverty line in the various ethnic/racial groups (in which there might be a majority and racialized minorities) could be one of the indicators of economic inequalities.

36. The three basic dimensions defining the human development index as used in the United Nations Development Programme's Human Development Report, namely life expectancy, education attainment and income, would be either used directly or adapted. Nevertheless, they would be supplemented with the inclusion of indicators on civil, political and cultural rights.

B. Types of indicators to be used

37. Indicators are specific measures that assess a very small part of the empirical reality, but are easy to measure and interpret: example, the percentage of families under the poverty line. However, they do not capture the essence of a situation and they are too partial. They need to be taken as a collection, or a set. Sets of indicators that measure similar things are called dimensions.

38. A careful process is under way within OHCHR to develop globally relevant human rights indicators. Such ongoing study has proposed a typology of indicators that distinguishes between structural, process and outcome indicators. Structural indicators refer to variables such as the legislative framework and the public policies that are set in place to address a situation. These factors have a structuring effect on the issues they address. Process indicators measure the concrete steps actually taken to address a given situation. Outcome indicators measure the actual situation as experienced by individuals and communities.

39. The participants in the workshop found that this typology of indicators was potentially of great value and that a possible racial equality index could also build on this initiative. For every dimension and sub-dimension to be included in the index, it would be desirable to have all three types of indicators.

40. The indicators to be used need not be all quantitative. It could be possible to include a list of qualitative attributes that were present or absent (such as the existence of a human rights institution in a given country). These attributes should be codified as a "0/1" indicator that could

be combined with others. Numerical scores can then be constructed by addition, i.e. the number of items that are present. In this way, it is possible to include structural and process indicators, not just outcome indicators.

C. Assigning weights to each indicator

41. Once relevant indicators were determined, they would be combined into a single index. This would be done by assigning weights to each indicator. Given that the comparison among countries and their ranking on a single scale is not the purpose of the index and therefore not desirable, nothing prevents it from having the same set of indicators for all countries, but a different set of weights for countries that experience different circumstances. Three or four sets of weights could be envisaged, according to contextual factors of a country. The existence of several sets of weights would not invalidate the index. On the contrary, it might strengthen the case for its use, as the focus would shift from ranking and universal comparisons to a country-specific tool for assessing the situation of inequality nationally and acting on it.

42. These differential weights do not amount to progressive realization of rights, as the banning of discrimination is universal. Indeed, the International Covenant on Economic, Social and Cultural Rights is very explicit on the issue of discrimination and states that all States have an immediate obligation to ensure non-discrimination and that this obligation is not subject to progressive realization, regardless of their level of development.

D. Alternatives

43. According to the participants, there are several ways of conceptualizing the index and its primary objective. Each option will have consequences for the way it would be computed and interpreted. The following paragraphs suggest some thoughts on possible objectives, which will be contrasted with alternatives.

A single index or a system of indicators

44. This is an issue of focus. A single index may be tempting because of its apparent simplicity, but it has several disadvantages, such as the lack of flexibility. An interesting alternative would be to develop a coherent and comprehensive system of indicators organized into dimensions. Such a system, which would be essentially descriptive, could then be used in various analytical approaches to respond to the needs of a variety of stakeholders.

A small number of indicators or a detailed system of indicators

45. A choice will have to be made on the desired type of system. A very detailed system of indicators could allow a detailed monitoring of all the rights enunciated in international human rights instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination, the implementation of which might prove complicated. A simpler system, containing fewer indicators, would allow measuring the overall situation in all its fundamental dimensions, some essential details being lost.

A completely new tool or an extension of existing initiatives

46. The proposed index or system of indicators could be realized either as a new independent initiative with a new infrastructure or by relying on existing initiatives. The first option would be more costly, but could correct shortcomings of the existing system, while the second one would be less costly and benefit from an existing infrastructure with its accumulated expertise. Further discussion has to be conducted with the appropriate bodies within the United Nations system and eventually elsewhere to determine the most appropriate option.

Comparability vs. specificity

47. Should the index be built mainly to compare countries (in which case the indicators and their weights should be uniquely determined for all countries) or should it be specific to local situations? The first choice would lead to ranking the countries on a single scale. Some participants stated that ranking would be useful to attract media attention. Others believed that the interference of the media might penalize countries that had the most sophisticated system of data collection.

48. The second option could be more adequate because the manifestations of racial inequalities vary from country to country, according to contextual factors. An interesting compromise could be to have a very limited number (three to five) of systems of indicators, containing all the same dimensions and indicators, with varying weights assigned to them, to reflect the specificity of the local situation of the various countries (grouped into three to five categories).

A treaty-monitoring tool vs. an internal monitoring tool

49. The construction of the index could reflect either the needs of the treaty-monitoring bodies or the needs of national Governments and civil society organizations in their fight against inequalities. The opposition between the two is not absolute, if both needs were kept in mind when constructing the index or system of indicators. It was noted however, that a country-specific index could be more useful for civil society advocacy.

IV. DATA-RELATED ISSUES

A. The source of data

50. The importance of using the following four types of data was emphasized by the participants in the consultations: socio-economic statistics, including censuses; national surveys and administrative statistics; surveys and opinion polls; and expert-panel judgement and event-based data. None of these types of data captures by itself all the aspects of discrimination. They are all needed to give a complete picture.

51. Socio-economic statistics are fundamental and demonstrate inequality of outcomes. But they do not capture aspects of equality related to freedom, to dignity, or to equal treatment.

52. Surveys and opinion polls are important to capture prejudice and attitudes towards giving rights to minorities, for instance. Expert-panel judgements are useful whenever something is difficult to formalize in objective measures, such as the degree of freedom of the press.

53. Events-based data capture rare but significant phenomena for which large-scale statistics are not good enough. They tend to be collected by advocacy NGOs, and should be carefully assessed. Nevertheless, they capture an important aspect of discrimination (here we can talk about discrimination, since we talk about intentional actions in specific circumstances).

B. The availability of disaggregated data

54. The non-availability of disaggregated data by race or ethnicity was identified as probably the biggest obstacle to the development of a racial equality index. Indeed, the experience of international monitoring bodies against racism such as the Committee on the Elimination of Racial Discrimination, the European Monitoring Centre on Racism and Xenophobia or the Working Group of Experts on People of African Descent have indicated that the most serious problem in constructing a racial equality index will be the lack of relevant and comparable data.⁶

55. However, it was noted that this problem could be solved over time as the construction of a racial equality index might provide an incentive to Member States to make the data available possible. Compliance would be expected to be gradual and it was noted that in other similar United Nations projects such as the human development index, full participation was also gradual.

56. It is quite possible to use existing data collection processes within the United Nations system by including variables on ethnicity and its variants. This would require consultation and close cooperation with institutions collecting this data and subsequently making the process less costly and more systematic. This approach does not preclude the possibility of running specific surveys (on attitudes, for instance), or using event-based data from non-governmental organizations or established academic projects.

57. There are many sources of data in the United Nations system. The most important one is the national statistics of countries, usually originating from a census. They are incorporated in the databases of the Human Development Report and the Millennium Development Goals Project. The second source consists of surveys done in countries, by national teams, with technical and logistic support from the United Nations. The Demographic and Health Survey (DHS) and the Multi-Indicator Cluster Survey (MICS) fall in this category. A third source is composed of national administrative records. In addition, information on the ethnic composition of a country is, theoretically, to be found in the initial reports submitted to the Committee on the Elimination of Racial Discrimination.

58. Although some countries do collect data on ethnicity in their censuses, this data is not kept in United Nations records. DHS may have some ethnic data in their files, for certain countries, but this data is not part of the databases found on the United Nations website. As a consequence, there is no easy and direct way to disaggregate indicators variables (such as revenue), available in the United Nations statistical databases, by ethnicity or race.

59. However, there is a possibility to collect disaggregated data from other sources, using the national statistics whenever available. For many countries, this may be possible, but for the time being, the procedures will not be systematic or comparable. The unavailability of the data does

not mean it will not be available in the future, as the infrastructure that permits the collection of such data is already in place. As the issue of inequalities based on skin colour or ethnicity is increasingly discussed, such data can be generated through both censuses and surveys.

C. National commitment

60. There is an increasing recognition that, despite the positive steps taken by Member States to combat racial discrimination, a knowledge gap exists about the nature and extent of discrimination. Moreover, stakeholders do not always know whether the anti-discrimination schemes set up are adequate, appropriate or effective.

61. The Durban Declaration and Programme of Action urges Member States to take steps to improve data collection. They are expected to collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and undertake all other measures necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance.

62. In the same vein, the data collected should take into consideration economic and social indicators, including, where appropriate, health and health status, infant and maternal mortality, life expectancy, literacy, education, employment, housing, land ownership, mental and physical health services, poverty and average disposable income, in order to elaborate social and economic development policies with a view to closing the existing gap in social and economic conditions.

63. The Committee on the Elimination of Racial Discrimination has requested Member States to submit periodic reports, including disaggregated data, on race and ethnicity. Moreover, this treaty-monitoring body has produced guidelines on how Member States should submit statistical data in fulfilling their reporting obligations.

64. At the regional level, member States of the Council of Europe are also required to submit disaggregated data in the periodic reports under the Council of Europe's Framework Convention for the Protection of National Minorities.

65. In the United States of America, Brazil, the United Kingdom of Great Britain and Northern Ireland, Canada, the Netherlands, Belgium and Australia, Governments have to varying degrees set up anti-discrimination schemes. According to a comparative study conducted for the European Union, the general design of the anti-discrimination policies developed in most of these countries, in many ways, calls upon disaggregated statistical data based on ethnic and racial categories.⁷ Those examples have the potential for generating good practices that could play a vital role in providing inspiration and comparative elements to other countries when elaborating and articulating their own anti-discrimination schemes.

66. In other European countries, there is increasing expertise in gathering racial or ethnic data. The European Union (EU) has commissioned surveys on the attitudes of Europeans towards minority groups. The European Monitoring Centre on Racism and Xenophobia has documented discrimination and disadvantages faced by foreigners in the area of employment and education in 15 countries. A number of victims' surveys on the experiences of immigrants in the

areas of employment and education have been carried out in Finland and Sweden notably. In the United Kingdom, the Netherlands and France, discrimination testing has been conducted to map out the extent to which persons belonging to minority groups face discrimination in the labour market.

67. National human development data from India, Nepal, Guatemala, South Africa and Namibia provides disaggregated data by region, gender and ethnic group. A participant pointed out the fact that some African countries have developed a national plan of action including the collection of disaggregated data.

68. In Brazil, an important line of action adopted by the current administration in its first year was the production of knowledge to guide the policies aimed at promoting racial equality. The Institute of Applied Economic Research (IPEA) is carrying out studies on the human development index for Afro-Brazilians. In addition, there is a proposal to monitor and evaluate policies to promote racial equality through agreements with the Ford Foundation, the United Nations Development Programme (UNDP) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). The census to ascertain the racial composition within the public service is also being resumed.

69. Moreover, a recently completed study by the economist Marcelo Paixão, professor at the Federal University of Rio de Janeiro, shows that the human development index for the white population exceeds that of the black population in nearly all Brazilian municipalities. The study reveals that the human development index for blacks exceeds that of whites in only 13 Brazilian cities.⁸

70. At the regional level, the UNDP produced the *Roma Human Development Report* in 2003.⁹ This document is a comprehensive study of the situation of Roma minority in five Central and Eastern European countries: Bulgaria, the Czech Republic, Hungary, Romania and Slovakia. The study is based on comparable socio-economic data from a cross-country survey among 5,034 respondents representative of the Roma population.

D. Legal and ethical constraints

71. In some countries, there is a controversy surrounding race or ethnic classification and the idea of collecting disaggregated data on race or ethnicity is regarded with suspicion. In Rwanda, any mention of ethnicity is forbidden by law and reminiscent of past wrongs. Many other African countries also oppose the collection of ethnically disaggregated data on the grounds that this practice might be contrary to building national unity. In France, the republican ideal envisions a uniform French identity that plays down ethnic and religious origin as the best guarantor of national unity. However, an expert indicated that various reports from companies and more recently official reports in France defended the idea that without any data regarding the position of various groups in society it was not possible to develop adequate responses to discrimination.

72. The participants in the consultation were generally of the opinion that gathering disaggregated data on race and ethnicity was not simply a statistical question, but a sensitive and fundamental issue about the rights of individuals to assert their own identity. Some experts also

pointed out that highlighting the differences among groups in society could reinforce negative stereotypes about minorities and strengthen the extremist position of some political parties. The long legacy of misusing race statistics and ethnic classification for gross human rights violations during the twentieth century acts as a cautionary reminder of the need to safeguard privacy and respect voluntary self-identification.

E. The need for data protection safeguards

73. It also appeared from the consultation that some Governments and some ethnic minorities had worries that the very existence of databases containing personal information that includes ethnicity or its variants was a danger, as it could be used not to fight against inequalities but to discriminate against specific groups. However, the participants concurred that this legitimate worry could be addressed in four ways: (a) the development of a detailed protocol concerning access to data, storage and dissemination that ensures both its security and confidentiality; (b) the development or reinforcement of the national institutions that would guarantee the implementation of security and confidentiality measures; (c) the development of capacities within Governments and civil societies for handling, interpreting and using this data to serve policymaking; (d) an information campaign that would sensitize the vulnerable groups on measures taken to ensure that data are not misused.

F. The role of civil society

74. At different stages of deliberations, the role of civil society as a potential partner was brought up. Their contribution to data collection at the national level was acknowledged even if there could be some problems of quality control. Indeed for event-based data, non-governmental organizations could play a crucial role and it is not impossible to find good, reliable sources of data that originate in their work.

75. Most important, non-governmental organizations could be involved as potential users of the data, for advocacy and policymaking purposes. Their input in the preliminary consultative phases of data collection could be extremely useful, in particular for identifying the marginalized or discriminated-against minorities and for advising on precautions to take in approaching this sensitive issue with local minority or majority groups. After the data has been collected, it could be made available to non-governmental organizations for policy development purposes.

V. CONCLUSIONS

76. The experts consulted believed that a racial equality index was technically feasible and its potential for measuring racial inequalities was substantial. This index would provide a scientific and comprehensive framework for combating racial discrimination through a system of indicators. It could be an important country-specific tool for Member States and other stakeholders to monitor progress over time in implementing their anti-discrimination policies.

77. The non-availability of disaggregated data by ethnicity in many countries was a potential obstacle to the development of the index. However, this problem can be resolved over time and the construction of the index might provide an incentive to Member States to make these data available.

78. Data requirements on the subject of ethnicity and its variants are already included in a number of international human rights instruments and guidelines for reporting to treaty-monitoring bodies such as CERD. The possible construction of a racial equality index would require a systematization of the process of data collection. Compliance to this requirement would be expected to be gradual, and that would not contradict the feasibility of the index if enough countries are part of the project at the beginning.

79. The consultation process has clearly established the desirability of a racial equality index. However, the High Commissioner for Human Rights would like to draw the attention of the Commission to the fact that a possible racial equality index would also have important financial implication both at the level of OHCHR and at the national level. The successful implementation of this project would require a dedicated team of researchers in charge of working out detailed planning of the pilot project. At the national level, a possible racial equality index would need a statistical capacity-building programme and a great deal of political will from Member States.

80. In the event that the Commission on Human Rights decided to authorize the development of a racial equality index, the High Commissioner for Human Rights is of the opinion that the following steps would have to be taken:

(a) Another process of consultation should be started with the specific aim of establishing a detailed description of the index and of the indicators to be used in its construction;

(b) The process of identifying the population segments and contextually relevant indicators should be above all participatory at the national level. Strong involvement of Member States and other stakeholders should be promoted;

(c) OHCHR should develop guidelines for racial and ethnic data collection for the attention of Member States and other stakeholders;

(d) There is a need for a sound, independent and transparent methodology, which has to be elaborated;

(e) A pilot study will be conducted on a limited set of countries where disaggregated data are available to fine-tune the methodology and make it more efficient and effective.

Notes

¹ Patrick Simon, "Comparative study on the collection of data to measure the extent and impact of discrimination within the United States, Canada, Australia, Great Britain and the Netherlands", Medis Project (Measurement of Discriminations), European Commission, August 2004, p. 49.

² See www.census.gov/population/www/socdemo/race/racefactcb.html.

³ See paragraph 78 of the Durban Programme of Action for a list of international instruments on anti-discrimination.

⁴ Kjeldstad, R. and Kristiansen, J.E. “Constructing a regional gender equality index: reflections on a first experience with Norwegian data” in *Statistical Journal of the United Nations Economic Commission for Europe*, vol. 18, No. 1, 2001, p. 42.

⁵ See the Proceedings of the European Conference on Data to Promote Equality, Finnish Ministry of Labour/European Commission, Helsinki 2005.

⁶ See “Replies to the questionnaire adopted by the Working Group of Experts on People of African Descent at its third session”, Note by the secretariat, fifth session of the Working Group of Experts on People of African Descent, Geneva, 29 August-2 September 2005.

⁷ Patrick Simon, *idem*, p. 8.

⁸ Marcelo Paixão, Observatorio Afrobrasileiro, UFRJ/IPDH, Nota de Estudos, 02/2003.

⁹ See “Avoiding the Dependency Trap - A Human Development Report on the Roma in Central and Eastern Europe”, UNDP, 2003.

Annex

**LIST OF PARTICIPANTS IN THE CONSULTATION WORKSHOP
HELD ON 14-15 NOVEMBER 2005 IN GENEVA**

A. Consultants

Prof. Antonius Rachad Université du Québec

B. United Nations and related organizations

Mr. Yusuf Bangura United Nations Research Institute for Social Development

Mr. Jean-Etienne Chapron United Nations Economic Commission for Europe

Mr. Claes Johansson Human Development Report Office, UNDP

Mr. Amit Prasad World Health Organization

Mr. Lee Swepston International Labour Organization

C. Regional organizations

Mr. Andrea Accardo European Monitoring Centre on Racism and Xenophobia

Ms. Flaminia Bussacchini European Commission

Ms. Vera Egenberger Office for the Democratic Institutions and Human Rights,
Organization for Security and Cooperation in Europe

Ms. Isil Gachet Chairperson, European Commission against Racism
and Intolerance

D. National institutions

Dr. Zonke Majodina South African Human Rights Commission

Mr. Lars Ostby Statistics Norway

Ms. Casta Tungaraza Australian Academy of Race Relations

E. Non-governmental organizations

Mr. Christian Alando Member, World Vision International

Mr. Michael J. Donnelly Global Insight, Inc.

Ms. Maya Wiley Centre for Social Inclusion

F. Academic institutions

Ms. Smita Narula New York University School of Law

G. Independent experts

Ms. Edna Santos Roland Independent eminent expert

H. Office of the United Nations High Commissioner for Human Rights

Ms. Malin Almqvis

Ms. Sandra Aragon

Ms. Michèle Buteau

Mr. Jose Dougan-Beaca

Ms. Beatrijs Elsen

Mr. Nicolas Fasel

Ms. Corinne Lennox

Ms. Nathalie Prouvez

Mr. Martin Seutcheu

Mr. Pierre Sob
