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Agenda item 9

### 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 Working Group of Experts on People of African Descent on its twelfth session

### Addendum

### Mission to Panama\*

#### *Summary*

The Working Group of Experts on People of African Descent conducted a country visit to Panama between 14 and 18 January 2013. During the visit the Working Group concluded that, despite claims that Panama is a racial “melting pot” (“*crisol de razas*”), it is not entirely an inclusive and non-discriminatory society. On the contrary, persistent patterns of racism and racial discrimination against people of African descent prevail in the country. Exclusion is rooted in the legacy of slavery and is manifest in social and economic marginalization, as highlighted by indicators of human and social development. People of African descent also experience subtle discrimination on a daily basis, which takes the form of attitudes of disdain and rejection that permeate public and private spheres. In some cases, the media regularly and openly disseminate prejudice and stereotypical portrayals of various aspects of the culture, spirituality and traditions of people of African descent. The Working Group found that people of African descent were generally in a disadvantageous position when it came to accessing the benefits of the economic growth that is evident in Panama and appeared to be marginal in the political arena. Nevertheless, some positive steps have been taken by the Government, such as the adoption of anti-discrimination legislation and the creation of national institutions to fight racism. The Working Group is

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\* The summary of the present report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission and in English only.

confident that the Government, people of African descent and Panamanian people in general will contribute to building a fairer society for all individuals and all groups that are victims of discrimination.

## Annex

[English and Spanish only]

### Report of the Working Group of Experts on People of African Descent on its mission to Panama (14–18 January 2013)

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## I. Introduction

1. At the invitation of the Government of Panama, the Working Group of Experts on People of African Descent conducted a country visit to Panama between 14 and 18 January 2013. The members of the delegation were the experts Monorama Biswas, Mireille Fanon-Mendes France and the Chairperson of the Working Group, Verene Shepherd.

2. The Working Group met with representatives of several government departments and offices, including the Ministry of Foreign Affairs, the Ministry of Security, the Ministry of Labour and Workforce Development, the Ministry of Health and the Ministry of Education; the National Migration Service; the Office of the Comptroller General (Contraloría General de la República); the National Statistics and Census Institute; the Supreme Court of Justice; and the Executive Secretariat of the National Council of the Black Ethnic Community (Secretaría Ejecutiva del Consejo Nacional de la Etnia Negra), which is a Presidential advisory body. The Working Group also held discussions about the situation of people of African descent with representatives of numerous United Nations agencies, funds and programmes, with members of the National Assembly, the Ombudsman's Office (Defensoría del Pueblo), the National Commission against Discrimination and academia, and with a wide range of civil society representatives including community leaders of African descent.

3. The Working Group wishes to thank the Government for the invitation and the cordial welcome and cooperation it received. In addition, the Working Group would like to thank the non-governmental organizations, youth groups, and individuals and organizations of African descent which provided information, as well as the Regional Office for Central America of the Office of the United Nations High Commissioner for Human Rights (OHCHR) for their support.

4. The meetings and discussions enabled the Working Group to develop an overall picture of the situation of people of African descent in Panama. It should be highlighted, however, that although "African descent" was included as an ethnic category in the 2010 census and in spite of all the information that can be gleaned from this census, the lack of disaggregated statistical information from other specific sources on the demographic and socioeconomic circumstances of people of African descent constitutes a significant obstacle to any accurate analysis of their situation. The Working Group regrets the lack of data related to the human rights of people of African descent, which made it difficult to make a more thorough assessment.

## II. Overview

5. The story of people of African descent in Panama is rich and diverse. It begins with conquest, colonization and the transatlantic slave trade, which was a crime against humanity. This tragic chapter of history affected not only Panama but the entire American continent. In the post-slavery period, the population of African descent increased with the construction of the Panama Canal and the consequent influx of African-Caribbean migrant workers who were recruited from Jamaica and other parts of the British-colonized Caribbean. At the present time, Panama is a host country for migrant workers and refugees of African descent.

6. A population census was carried out in May 2010. The Working Group welcomed the fact that for the first time self-identification as a person of African descent was possible in the census questionnaire. According to the census, 9.2 per cent of the total population of 3.5 million people is of African descent but this figure is widely questioned by civil society

groups who claim that the true percentage of people of African descent living in Panama is much higher. In particular, African-descended groups expressed the view that the latest census did not reflect the true demographic and socioeconomic composition of the population of African descent and were disappointed by the underrepresentation and lack of visibility of people of African descent.

7. The Working Group visited Panama City and the city of Colón. The latter city was chosen because of the sizeable population of African descent living there.

### **III. Legal framework and mechanisms, policies and practices**

8. One way of measuring a country's commitment to human rights and respect for ethnic diversity is through the instruments that it has ratified and the extent to which it complies with the legal framework and mechanisms and policies and practices in place at the national and international levels. Panama has ratified all the main international and regional human rights treaties. The adoption of national legislation and the establishment of national mechanisms, policies and practices for the promotion of racial equality are additional positives.

#### **A. International and regional levels**

9. At the international and regional levels, however, Panama has not ratified the following instruments: the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169); the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The national authorities have indicated that the State has conducted pertinent consultations with all sectors of society in order to ascertain the feasibility of future signature and subsequent ratification of the latter instrument. Article 40 of the Convention in question states that migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests. In view of the foregoing, the State authorities have reported that the State does not consider the signature and ratification of the Convention to be feasible since article 68 of the Constitution of Panama, which recognizes the right of employers, employees and members of all professions to form trade unions to further their economic and social activities, states that the boards of these associations shall be composed exclusively of Panamanian nationals.

10. The national authorities have indicated that the International Convention on the Elimination of All Forms of Racial Discrimination was incorporated into the legal framework without reserves by Act No. 49 of 1967.

11. Panama has not yet made the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination or under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that would recognize the competence of the respective Committees to receive individual complaints.

11. At the regional level, Panama has ratified: the American Convention on Human Rights (Pact of San José); the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará); the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador); the Protocol to the American Convention on Human Rights to Abolish the Death Penalty; the Inter-American Convention to Prevent

and Punish Torture; the Inter-American Convention on Forced Disappearance of Persons; and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. In May 1990, Panama deposited with the Organization of American States a declaration accepting the competence of the Inter-American Court of Human Rights.

13. In recent years Panama has been making efforts to submit all reports pending to the relevant treaty monitoring bodies. In 2007 it submitted its report to the Human Rights Committee, which had been pending for several years. Since then it has also submitted reports to the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination. Its reports to the Committee against Torture and the Committee on Economic, Social and Cultural Rights are long overdue.

14. Panama was reviewed under the universal periodic review process on 2 November 2010. To prepare the State's report for submission to the review, an inter-institutional mechanism within which 18 State institutions, including the Ombudsman's Office, were represented was set up by Presidential decree. In 2012, this mechanism was formally established as a permanent inter-institutional committee responsible for follow-up and implementation of the recommendations made by the different international human rights mechanisms. Panama received 92 recommendations during the universal periodic review process (A/HRC/16/6, paras. 68–70), the majority of which were accepted.

15. Panama has extended a standing invitation to all thematic special procedures. The Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination visited Panama between 8 and 10 May 2002. The Special Rapporteur on the rights of indigenous peoples went on a mission to Panama between 27 and 30 January 2009 to investigate a specific situation (this was not a country visit). The visit of the Working Group of Experts on People of African Descent was the first visit to the country in the last 10 years.

## **B. National level**

16. Panama is a multiparty democracy. Since the early 1990s the country has been undergoing a process of political and institutional reforms designed to stabilize democracy and strengthen the rule of law.

17. The Working Group notes with satisfaction the existence of an institutional and legal framework for combating racial discrimination. In 2002 Panama adopted Act No. 16 on the right of admission to public places, which, inter alia, established the National Commission against Discrimination. In 2005 Panama adopted Act No. 11, which prohibits discrimination in employment. The State has also adopted a Presidential Decree providing for the creation of the Executive Secretariat of the National Council of the Black Ethnic Community – a Presidential advisory body responsible for addressing certain aspects of the disparities that affect people of African descent. The Working Group welcomes the steps taken to establish this advisory body and trusts that it will be given sufficient powers and resources to introduce public policies that will benefit people of African descent.

18. The Ombudsman's Office was established by Act No. 7 of 1997 as an independent body empowered to deal with complaints and address situations that might adversely affect human rights. The Working Group noted the efforts made by the Office since the appointment of the new Ombudsperson, including, in particular, the awareness-raising campaign encouraging people to report cases of racial discrimination, the establishment of an anti-discrimination unit, the appointment of new members and the revitalization of the National Commission against Discrimination.

19. Regrettably, the Working Group is of the view that the Ombudsman's Office still has much to do if it is to ensure that these efforts prove effective in delivering timely and appropriate measures of protection. The Working Group encourages the Ombudsperson to continue to seek technical assistance from the OHCHR Regional Office for Central America and to strengthen the Office's work in the promotion of racial equality and protection of the rights of people of African descent living in Panama.

20. Despite all these positive actions undertaken by the Government, the Working Group notes with concern the absence of any general provision prohibiting discrimination on the grounds of race and classifying acts of racial discrimination as offences punishable by law, despite the recommendations issued by the Committee on the Elimination of Racial Discrimination. The Working Group was informed that a draft bill on the issue is under discussion.

## IV. Main challenges

### A. Racism and racial discrimination

21. In Panama, as in many other countries of the Americas, people of African descent remain victims of the legacy of the transatlantic slave trade and slavery. These historical wrongs have engendered a scenario in which people of African descent have since often been subject to various forms of racial discrimination, marginalization, poverty and vulnerability to violence. Many government officials do not acknowledge this situation. There is a widespread belief that Panama is a racial "melting pot" ("*crisol de razas*") and a pervasive denial of the existence of racial discrimination. According to civil society representatives, this lack of recognition is reflected in the absence of meaningful public policies designed to reduce inequality and narrow economic and social chasms.

22. A number of recommendations were made by States during the universal periodic review process. They included recommendations to: take concrete and practical normative and institutional measures to guarantee the rights of Afro-Panamanians; continue working on the design and implementation of programmes to promote the rights of specific groups, such as the project entitled "Policy and plan to fully integrate the Afro-Panamanian population"; and to adopt measures to eliminate discrimination against people of African descent and indigenous peoples (A/HRC/16/6, paras. 68–69).

23. In 2010, in its concluding observations on the fifteenth to twentieth periodic report of Panama the Committee on the Elimination of Racial Discrimination expressed "concern at the fact that, in spite of the adoption of policies and the creation of national institutions, in practice Afro-Panamanians and indigenous peoples still encounter considerable difficulties in exercising their rights and are still victims of de facto racial discrimination and marginalization, and that they are particularly vulnerable to violations of human rights" (CERD/C/PAN/CO/15-20, para. 11). The Committee also expressed concern about the structural causes that perpetuate discrimination and exclusion from access to social and economic rights and development, in particular in the areas of employment, housing and education. The Committee also noted that it was concerned about the information that the indigenous and Afro-Panamanian communities "do not have effective access to basic services such as water supply, electricity, sanitation, education, public housing programmes and microcredit". The Working Group's consultations during the visit revealed that this situation has continued into 2013.

24. Civil society representatives informed the Working Group of severe delays in judicial procedures, which reflect de jure rather than de facto discrimination. The Working Group is also concerned that national legislation is not fully implemented in some cases and

is still insufficiently comprehensive to be in conformity with international human rights standards.

## **B. Poverty**

25. In Panama, people of African descent experience disproportionate rates of poverty and extreme poverty. The Common Country Assessment and United Nations Development Assistance Framework for Panama (2007–2011) identified poverty, inequality and social exclusion as the main problems in the country. Despite a spectacular growth rate, the country has failed to demonstrate corresponding progress in the reduction of poverty and extreme poverty.

26. According to the World Bank, over the past decade Panama has enjoyed one of the fastest economic growth rates in Latin America, with real gross domestic product expanding at a rate of over 8 per cent on average between 2006 and 2012. This growth has been reflected in some social indicators. The poverty rate fell from 48.5 per cent in 2002 to 27 per cent in 2011 and extreme poverty decreased from 21 per cent to 11 per cent in the same period, yet inequality remains relatively pronounced in Panama (Gini coefficient of 0.53 in 2011) and challenges persist in the public provision of social services. Addressing these challenges is crucial if Panama is to move closer to the more advanced countries in terms of shared prosperity.<sup>1</sup>

27. In the universal periodic review process, Panama was asked to draw up an effective and appropriate policy framework and institutional mechanism to fight hunger, food insecurity and inequality in income distribution (A/HRC/16/6, para. 69).

28. Whether in rural or urban settlements, people of African descent often live in the areas that have the most precarious infrastructures and lack basic services such as water supply, electricity, sanitation and public housing programmes. The Caribbean coast, for instance, which is inhabited mainly by people of African descent, is the least developed region in the country and has the worst social and economic indicators. Most of the people living in urban pockets of poverty are people of African descent.

29. The Working Group was pleased to learn that Panama has initiated various programmes designed to reduce poverty and increase access to services. Under the “Red de Oportunidades” conditional cash transfer programme, for instance, the poorest mothers each receive US\$ 50 so that their children can go to school and receive basic health and nutrition services. However, the Working Group believes that more should be done to draw up an effective and appropriate policy framework and institutional mechanism to fight poverty and inequality in income distribution.

## **C. Education**

30. Significant progress has been achieved in Panama in terms of increased school attendance by children of African descent. United Nations agencies noted that Panama offers nine years of free, compulsory, basic education and that the enrolment rate at this level is 98 per cent (A/HRC/WG.6/9/PAN/2, para. 62). At the upper secondary level, which basically concerns children between 15 and 18 years of age, the enrolment rate is 62.3 per cent, with a dropout rate of 12.7 per cent.

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<sup>1</sup> World Bank, Panama Overview (available at [www.worldbank.org/en/country/panama/overview](http://www.worldbank.org/en/country/panama/overview)).



31. Panama has legislated to ensure equal access to education. The Government of Panama has also committed additional resources to social protection programmes, such as the “Beca Universal” programme that grants an annual scholarship of US\$ 180 to students enrolled in public schools and to students in certain private schools who meet the required criteria.<sup>2</sup> The Government also informed the Working Group that every school receives an annual budget of US\$ 40 per student to provide school materials and computers for all those in secondary education.

32. In meetings with people of African descent at the community level, the Working Group was repeatedly informed of the poor condition of the schools attended by children of African descent, the lack of teaching materials, and the discriminatory treatment to which these children are subjected.

32. The national authorities explained that recruitment within the education system is not influenced by ethnic criteria. They also told the Working Group that national education policy supports cultural diversity and that intolerance of cultural expressions of African origin in Panamanian schools is unacceptable. The revamp of basic education and overhaul of the curricular content of upper secondary education have introduced new core study units that encompass the history of people of African descent and their contributions to Panamanian society. Civil society representatives, on the other hand, reported a lack of access to and underrepresentation of people of African descent in academic institutions, and that in some schools children of African descent are often not allowed to follow certain cultural traditions such as having their hair braided. However, the Minister of Education, herself a woman of African descent, explained that there was no regulation prohibiting braided hair in Panamanian schools and that the objections raised related solely to hair extensions and braids that were gang-colour coded.

34. Representatives of people of African descent also indicated that the schools attended by their children were often in substandard physical condition, suffered high rates of teacher absenteeism and lacked modern technology. The poverty of children of African descent is another issue that tends to limit their school attendance.

35. Members of civil society reported that children of African descent are frequently subjected to racist bullying and hostile attitudes in schools and raised concerns about the underachievement of these children, particularly boys. However, the Minister of Education said that she had no record of any complaints being made that might attest to this situation.

36. The factors that impede access to quality education result in the intergenerational transmission of poverty. For this reason many organizations of people of African descent consider education to be one of the core issues that affect the full exercise of their human rights.

37. Children of African descent in Panama sometimes encounter difficulties in effectively exercising their right to cultural expression in educational establishments. For example, the Working Group found limited social recognition of and intolerance towards the cultural expression of African origin, known as “Congo”.

38. In the universal periodic review Panama received a recommendation to consider incorporating strategies for human rights education and training in its educational policies (A/HRC/16/6, para. 68).

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<sup>2</sup> Ibid.

## **D. Employment**

39. Due to the discrimination they face in accessing quality education, employment opportunities for people of African descent living in Panama are in some cases limited to the informal sector, albeit with some notable exceptions. Women of African descent said that they were overrepresented among domestic workers and people of African descent are grossly underrepresented at senior levels in the public and private sectors in Panama.

40. The Working Group was informed that, due to institutionalized racial discrimination, the rate of unemployment for people of African descent, particularly young people, is above the national average. It was also informed that, besides encountering barriers in recruitment processes, people of African descent may experience racist bullying once in work. Civil society representatives indicated that there is a need for targeted programmes to overcome the underrepresentation of people of African descent in high-level positions in the public and private sectors.

## **E. Health**

41. Civil society representatives indicated that the health inequalities suffered by people of African descent were due to their limited access to health services and appropriate information and advice. The situation was exacerbated by social factors such as their social capital as well as by economic factors. They highlighted that those who were able to visit health-care centres often chose not to because of the racist attitudes and mistreatment they encountered there.

42. According to United Nations sources, people of African descent affected by HIV/AIDS face multiple discrimination, particularly in accessing health services, education and work. For example, candidates applying for jobs in the public sector are sometimes asked to take HIV/AIDS tests.

## **F. Political participation**

43. With regard to political participation, civil society representatives noted that people of African descent in Panama were underrepresented in public services positions and only a few of them occupied important political positions. The Working Group notes with satisfaction the fact that the Minister of Education and certain other very high-level politicians are people of African descent and are fully committed to the fight against racism in the country. However, proportionately, the number of people of African descent holding elective executive positions or belonging to political parties is substantially lower than it should be based on their number in the general population.

44. During meetings with civil society groups in Colón, the Working Group learned that, while a lot of positive work has been carried out by people of African descent through community centres, much remains to be done in order to engage people of African descent in politics. The invisibility of people of African descent in public life in Colón was raised on numerous occasions, in relation both to political processes and to broader issues related to business and trade. Local community-based organizations said that they felt disenfranchised from decision-making processes.

## **G. Multiple discrimination**

### **1. Women and girls**

45. The Working Group commended the social programmes that the country had established to empower women living in extreme poverty but found that, as in many other countries, women of African descent continued to suffer multiple discrimination, to exhibit high levels of poverty and social exclusion and to face obstacles that prevented them from enjoying basic rights.

46. The Working Group also welcomed the adoption of Act No. 4 of 29 January 1999, which established equal opportunities for women. Inter alia, this Act prohibits discrimination on the grounds of sex and gender, promotes equality before the law and condemns all forms of violence against women. The Working Group likewise notes with satisfaction the adoption of the National Plan to Combat Domestic Violence and Develop Civil Coexistence Policies, designed to further the advancement of women. However, it regrets that many of these instruments have not been effectively implemented and that in practice women of African descent continue to have unequal access to education, employment and security and remain vulnerable to gender-based violence. During meetings with the Working Group, civil society representatives expressed concern about the high rate of maternal mortality among women and adolescent girls of African descent, which is attributable mainly to a lack of appropriate medical care. They were also concerned that, owing to difficulties in enforcing existing legislation, many women were unable to obtain a legal termination of pregnancy and were forced to resort to illegal abortions.

47. The Human Rights Committee, in 2008, and the Committee on the Elimination of Discrimination against Women, in 2010, expressed concern about the restrictive legislation on abortion contained in the Criminal Code (CEDAW/C/PAN/CO/7, para. 41, and CCPR/C/PAN/CO/3, para. 9, respectively), particularly the stipulation that the abortion must be carried out within the first two months of pregnancy if the conception was a result of rape, and that this fact must be duly documented in the legal proceedings (*ibid.*, para. 9). Both committees have called on Panama to amend its legislation so that the law provides effective assistance to women wishing to avoid unwanted pregnancies and women are not forced to resort to illegal abortions that could put their lives at risk.

48. The recommendations made in the universal periodic review included calls for Panama to: step up its efforts to prevent femicide and support victims of domestic violence (A/HRC/16/6, para. 69); adopt measures to guarantee a greater presence of and better participation by women in public administration (*ibid.*, para. 68); and empower the National Commission against Discrimination to combat discrimination against women (*ibid.*, para. 69). In particular the State was urged to make femicide an offence under its criminal legislation. The Committee on the Elimination of Discrimination against Women also urged Panama to adopt measures to address femicide in the Criminal Code and other relevant laws within a clear time frame, and to collect reliable data on femicides (CEDAW/C/PAN/CO/7, para. 13).

49. The Committee also expressed concern about the large number of girls who dropped out of school as a result of early pregnancies and the lack of surveys or studies to investigate this problem. It also expressed regret that, although there was a legal provision (Act No. 29 of 2002) stipulating that girls should remain in education during and after pregnancy, there was no effective mechanism in place to ensure compliance with this Act (*ibid.*, para. 36). Civil society representatives informed the Working Group that this problem affects women of African descent and indigenous women in particular.

50. Women of African descent denounced the fact that stereotypes which portray them as sex objects and sexual exploitation for commercial ends persist in Panamanian society. These ethnic prejudices are reinforced by the media on a daily basis, with total impunity. The women likewise denounced the high incidence of trafficking in women and girls within Panama and the scant number of traffickers who have been prosecuted and punished. Trafficking in human beings and sexual exploitation are manifestations of the multiple discrimination to which women and girls of African descent are vulnerable. In this respect, the Working Group is aware of the efforts that Panama has made to understand the factors, the fundamental causes and the consequences of trafficking in human beings and the exploitation of female prostitution.

## **2. Children and young people**

51. According to United Nations sources, children and young people of African descent constitute one of the most vulnerable groups in the country. The Constitution and national laws prohibit the employment of children under 14 years of age. However, members of civil society have reported that in response to poverty and extreme poverty child labour is a widespread practice, used mainly in areas where coffee, sugar cane and vegetables are grown, and also in street markets.

52. Children and young people of African descent also experience disproportionately low rates of access to quality education, particularly higher education. Young people also encounter difficulties in accessing employment and health care, particularly sexual and reproductive health care.

53. Civil society groups reported that young people of African descent faced alarmingly high rates of violence, including on the part of law enforcement officers. They tend to enter criminal justice institutions at a very young age, which leads to early and easy criminalization. The Working Group was alarmed by the fact that the age of criminal responsibility had recently been lowered from 14 to 12 years, which is not in conformity with international standards. The Working Group found that the problem of the criminalization of young boys of African descent was systematically denied.

54. In the universal periodic review process Panama received recommendations to ensure full implementation of child labour provisions and take all necessary measures to prevent child labour in both rural and urban areas, including child domestic work (A/HRC/16/6, para. 68). It was also urged to address difficult access to birth registration procedures, particularly for children of African descent, indigenous children and those living in rural and border areas. It was further requested to make efforts to include in its legislation a prohibition of all forms of corporal punishment of children (*ibid.*, para. 70). In 2011 the Committee on the Rights of the Child called upon Panama to expressly prohibit in legislation all forms of corporal punishment of children and to promote alternative forms of discipline, and recommended that articles 319 and 443 of the Family Code and article 188 of the Civil Code should be revised, taking account of the Committee's general comment No. 8 (2006) (CRC/C/PAN/CO/3-4, para. 46).

57. In Colón, the Working Group learned that the police too often target young people of African descent, breeding anger, frustration and a certain lack of faith in the police force. Young people of African descent invest considerable sums of money in their appearance and clothes in order to avoid racial profiling and negative interactions with security officers. It was also said that in-store private security officers focused more attention on people of African descent, for example, by asking to see identification documents and carrying out searches – measures to which other demographic groups were not subjected.

56. During the visit to Colón, the Working Group met with civil society representatives, including youth organizations, educators, members of the church and the Rastafarian

community, and private enterprise. The delegation was impressed by the high degree of awareness among members of civil society and the important contribution they made, through sports and art, to preventing violence and fostering self-esteem and empowerment. Colón's people of African descent shared with the Working Group their feeling of being abandoned by the Government. They were of the view that the particular problems experienced by young people of African descent were a direct consequence of the racism and structural discrimination that were manifest in the lack of opportunities, unequal access to labour markets, low quality of education, poor health care, media stigmatization and high exposure to crime and violence they faced on a daily basis. As one child told the Working Group: "Our schools are awful, we do not have places to play, the teachers treat us badly and we face violence in our homes and on the streets".

57. The Working Group notes that young people of African descent are exposed to "double victimization" in that they are both excluded from the protection of the State's law enforcement agencies and subjected to violent acts perpetrated by these agencies, including excessive and disproportionate use of force. Such acts of impunity are clearly indicative of a lack of familiarity and failure to comply with internationally accepted standards for the rights of the child.

### **3. Migrants and refugees**

58. Migrant workers and refugees of African descent may experience multiple forms of discrimination on the grounds of their ethnicity, social or economic status and nationality or immigration situation. Many of them come from Colombia, Haiti, Cuba or African countries. They experience abuse related both to xenophobia, owing to their status as foreigners, and to racism, owing to their racial and ethnic origin. They often encounter barriers in accessing employment. Many resort to precarious jobs in the informal sector, often in dangerous conditions, and are extremely vulnerable to abuse. For many of these migrants and refugees, access to health services, education, housing and social security is also restricted. Many are forced into informal and exploitative work situations and are unable to seek protection or claim workers' rights.

## **H. Administration of justice**

59. The Government informed the Working Group that the judicial authorities act with respect for the human rights enshrined in laws, the Constitution and the international treaties ratified by Panama, as is evidenced by judicial decisions such as the ruling on the protection of constitutional rights issued on 19 June 2012. The Working Group was also told that the Government is working to implement and raise awareness of the institutional policy on access to justice that was introduced through Agreement No. 626 of 2009 and is designed to ensure compliance with the obligations established in international instruments for the protection of human rights. It has also adopted a strategic plan for the implementation of actions that respond to the needs of persons who apply or have recourse to the justice system for the restoration and enforcement of their rights. In a plenary session held in 2011, the Supreme Court approved Agreement No. 245 by which the 100 Brasilia Regulations regarding Access to Justice for Vulnerable People were adopted. The judiciary is working to ensure compliance with these regulations.

60. The Working Group notes with satisfaction the recent policies and legislative reforms that have been introduced in Panama to improve the administration of justice, in particular the measures designed to streamline legal proceedings, to reduce procedural delays, to decrease the number of persons held in pretrial detention and to comply with due process guarantees, such as the adoption of the new Penal Code and the new accusatory system of justice. Evidence of these efforts are the establishment of the Judicial

Decongestion Programme and the approval of Agreement No. 723 of November 2008, establishing the National System of Community Judicial Facilitators to serve as a link between the community and the judiciary that guarantees real and efficient access to justice besides strengthening prevention and alternative conflict resolution mechanisms. However, the Working Group expressed concern that the accusatory system would not enter into force throughout the country until 2016.

61. The Working Group had the pleasure of meeting with the Vice-President of the Supreme Court of Justice, who informed the delegation about the considerable efforts being made to provide human rights training for judicial officers, officers of the various State agencies and members of civil society; about increases in the capacity of the Public Defender's Office and the Legal Aid Office which provides free legal assistance to victims of crime; and about the creation of the Gender and Access to Justice Unit. In addition, the Supreme Court has approved Agreement No. 244 of 2011 adopting the Charter of Rights of Persons Brought to Justice in the Judicial System of Panama. The authorities informed the Working Group that, in criminal proceedings, the assistance of a lawyer must be provided to any person, without distinction, who at any stage of the proceedings is accused of perpetrating or participating in an offence and any person against whom a charge is brought, so as to ensure that such persons are able to defend themselves. The Working Group noted that these initiatives are encouraging and should be developed further with a view to eliminating institutional discrimination in the justice system.

62. Civil society representatives expressed serious concerns about discrimination in the administration of justice system. Concerns were raised about institutionalized stereotypes and excessive policing in areas inhabited by people of African descent. Racial profiling by law enforcement officials, through the use of "pele police",<sup>3</sup> was also reported to be a systemic practice, widely used as a selective and discretionary mechanism for carrying out detentions and investigations.

63. The use of racial profiling results in an overrepresentation of people of African descent in places of detention, both in centres of pretrial detention and among the convicted prison population. According to civil society representatives, the sentences handed down in court to people of African descent are harsher, longer and less appropriate than those received for the same offence by members of the white or mestizo population.

64. In 2008, the Human Rights Committee expressed concern about, inter alia: (a) cases of abusive treatment of prisoners by law enforcement officers, especially in prisons but also at the time of arrest by the police, in most cases without such conduct being punished; (b) the persistently high percentage of prisoners in pretrial detention, as well as the prolonged duration of pretrial detention; and (c) the delays in processing applications for habeas corpus as well as the limited number of official appointed counsels in Panama (CCPR/C/PAN/CO/3, paras. 10, 12 and 13).

65. The Government indicated that both the criminal circuit courts and the municipal criminal courts process cases expeditiously upon learning of a writ of habeas corpus. The Code of Criminal Procedure establishes that "individual precautionary measures that entail deprivation of liberty shall be requested orally in hearing and approved by the Due Process Judge, on the request of the Public Prosecution Service" and that "when the accused has been deprived of his or her liberty, the judge shall call a hearing to rule upon the application of individual precautionary measures within 48 hours of the deprivation of liberty, in order to legalize the detention and formally request the individual precautionary measures".

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<sup>3</sup> "Pele police" are handheld electronic devices used by law enforcement officers to undertake verification and identification checks of individuals, usually on the streets.

66. During consultations, civil society representatives echoed the above-mentioned concerns of the Human Rights Committee. They repeatedly complained of serious obstacles to fair trial, including: widespread delays in the judicial process; the prolonged duration of pretrial detention; the alarming number of prisoners who have not been convicted (approximately 60 per cent of the prison population); the lack of guarantees of habeas corpus and *amparo*, and the delays in processing such applications; excessive formalities; the lack of legal aid; the limited number of court-appointed lawyers available for those in conflict with the law; and the weak and inconsistent human rights culture in which judicial officials operate.

67. Civil society groups called on the State to guarantee the presumption of innocence, the right to equality before the law and equal protection by the law, including the right to a defence, for all citizens including those who cannot afford the services of a lawyer. The Working Group found that the absence of judicial guarantees and the existence of racial discrimination in the administration of the justice system contribute to even deeper resignation on the part of people of African descent and help perpetuate patterns of exclusion and impunity, with serious effects not only for individuals and communities of African descent but also for society as a whole.

#### **1. Conditions in prisons and detention centres**

68. The Government spoke about the shortcomings and deficiencies in both resources and infrastructure that had been inherited from past administrations. It updated the Working Group on progress during the present administration, including, for example, the recently issued invitation to tender for the construction of a maximum and medium security wing for approximately 250 inmates. It also reported that La Nueva Joya, a new prison that will operate a system of prisoner categorization and separation, will open in the next few months. The new prison has been built according to international standards and is expected to contribute to a significant reduction in overcrowding. The Government also reported that an integrated support centre for women had been built and opened in Colón as part of the integrated action plan for victims of gender-based violence.

69. The Working Group visited the Nueva Esperanza prison in Colón, the La Joyita prison in Panama City, and the recently established Juvenile Detention Centre in Pacora. Despite the Government's efforts to improve prison conditions, including by using alternatives to custody, the Working Group notes with grave concern that inhumane and degrading conditions are still found in prisons and detention centres.

70. The Working Group noted that the State's prisons are plagued by multiple problems, including life-threatening, dilapidated and unsanitary infrastructures and shortages of food, medicine, water and basic supplies. The prisons are also hugely overcrowded. According to a leading non-governmental human rights organization, Panamanian prisons are operating at 145.12 per cent of their capacity.

71. The Working Group was informed about a shortage of prison staff, for instance, at Nueva Esperanza, where at the time of the visit approximately 1,300 detainees were being guarded by 8 prison guards, placing the life and security of both prisoners and guards at serious risk.

72. The Working Group confirmed that pretrial detainees and convicted prisoners are not separated. The failure to separate inmates according to the type or severity of their alleged offences and the various allegations of abuse of power and corruption by prison officers remain causes of deep concern.

73. The most striking feature of prison life in Panama is its violence. An elaborate gang structure operates throughout the prison system, leading to frequent acts of violence between rivals. The Working Group learned that prisoners have access to firearms, which not only heightens the level of insecurity for inmates and the prison authorities but also increases the likelihood of violence, as was evidenced in various assaults with fatal consequences.

74. People of African descent are disproportionately represented in Panamanian prisons. The Working Group sees this as an indicator of their exclusion from and non-integration within Panamanian society. Inmates interviewed said that white and mestizo inmates received better treatment, such as being placed in less crowded cells, and that the authorities were more likely to use restraint, force or disciplinary measures on people of African descent in custody than on other groups.

75. Occupational, learning and recreational facilities were not available in the prisons visited. Family access was permitted to a certain extent, including, in some cases, conjugal visits. Prisoners rely to a great extent on goods brought in from outside for survival.

76. The Working Group also visited the women's section of Nueva Esperanza, where the physical conditions were as poor as those for men. Opportunities for detainees to make meaningful use of their time were extremely limited, if not completely absent. According to women interviewed, sexual harassment, abuse and rape were common occurrences. The Working Group also found women of African descent to be overrepresented; most were sentenced either for drug offences, often committed unwillingly or unwittingly, or petty street crime. Their incarceration results in their forcible separation from their children. Many women interviewed were single mothers and their children were growing up virtually without parents. The authorities allow new mothers to keep their infants with them in prison, permitting them to nurse their newborns.

77. The Working Group visited the new Juvenile Detention Centre in Pacora, where, as in other detention facilities, it found disproportionate numbers of young people of African descent. The Working Group held discussions with them and with staff. It determined that in this particular institution Panama was meeting international standards for the treatment of juvenile offenders, with regards to living conditions, recreational activities and the right of young offenders to continue with their studies.

## **2. Arbitrary detention and excessive use of force**

78. Civil society groups raised concerns about the harassment and excessive force used against people of African descent by law enforcement officials, including allegations of excessive use of force resulting in death.

79. In October 2012, three people of African descent, including a 9-year-old child and a woman, died in protests against government plans to sell off State-owned land that took place in the province of Colón. Local residents have alleged that the police used tear gas and fired live rounds to disperse protesters. The deaths in Colón were the latest in a series of incidents across Panama where police have been accused of using excessive force to disperse demonstrations prompted by social conflicts.<sup>4</sup>

80. There have been allegations of people being detained without a court order and without being informed of the reasons for their arrest. There have been also allegations of excessive use of force during arrest and detention.

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<sup>4</sup> See Amnesty International press release: "Panama must account for protest deaths in Colón" (2012). Available at [www.amnesty.org/en/news/panama-must-account-protest-deaths-col-n-2012-10-24](http://www.amnesty.org/en/news/panama-must-account-protest-deaths-col-n-2012-10-24).



81. Act No. 74 (2010) exempts police officers from pretrial detention for alleged crimes carried out in the course of duty, which the Working Group considers to be an open door to impunity.

82. Act No. 14, passed in April 2010, establishes penalties of 6 months' to 2 years' imprisonment for the blocking of roads through violent means by demonstrators.

83. Related recommendations issued during the universal periodic review included calls for Panama to initiate an investigation into excessive use of force during the national strike in Changuinola in the Province of Bocas del Toro in July 2010 and take steps to ensure full respect for freedom of assembly in the country (A/HRC/16/6, para. 69).

84. The Working Group is deeply concerned about incidents of excessive use of force against demonstrators on the part of the police and acts of repression and intimidation on the part of the Government against those who oppose government policies.

## I. New emerging issues

85. People of African descent living in Panama face new and emerging challenges such as unequal distribution of wealth in a period of economic growth for the country. People of African descent indicated that, despite living close to "megaprojects" designed to foster economic development and the exploitation of natural resources, they received only limited benefits from such projects.

86. People of African descent living in Colón expressed fear that further expansion of the free trade zone would put whole neighbourhoods at risk of possible forced evictions, as had occurred in the old city of Panama. They also mentioned that even though Colón made a sizeable contribution to national revenues, very little of the economic gain is invested in community development in Colón.

87. Representatives of civil society reported that economic activities related to uncontrolled mining, tourism and land use, coupled with the development of infrastructure projects, were a threat, and were causing serious harm to the environment as well as affecting the exercise of human rights. The lack of control and planning of economic activities was accelerating the destruction of the environment. A number of civil society groups denounced the dumping or leakage of untreated human waste and toxic substances near areas inhabited by people of African descent, which threatened not only the environment but also the inhabitants' rights to food, water, sanitation and health, particularly children's health.

## V. Conclusions and recommendations

### A. Conclusions

88. **Panama is a country rich in ethnic diversity, history and culture. Like all other Latin American countries, Panama faces challenges connected with its pluralistic nature, which is in itself the source of the country's richness.**

89. **The Working Group noted the persistent and widespread perception that Panama is a racial melting pot ("*crisol de razas*"), composed of several ethnicities and cultures melted into one harmonious society. On the basis of this myth, some sectors of Panamanian society deny the existence of racism and racial discrimination.**

90. **No country is free from racism. The Working Group believes that in order to eliminate racial discrimination and racism it is important to stop denying racism and**

accept its existence. Silence on the question of racial discrimination is an obstacle to formulation of the public policies and social criticism required to overcome racism. The consultations conducted during the visit provided an opportunity to put this often hushed-up issue on the table for debate, and the Working Group is hopeful that this will translate into future action.

91. During its visit the Working Group was informed of the Government's efforts to improve the situation of people of African descent. Various laws have been adopted and institutions established. Despite this progress, the clear message that the Working Group received from people of African descent is that they continue to be marginalized, rejected and discriminated against in Panama.

92. The Working Group received news of the tragic events that took place in Colón in October 2012. These events attest to the climate of racial discrimination and violence that can exist in Panama and that particularly affects people of African descent and indigenous peoples.

93. The Working Group concluded that racist practices are deeply rooted in the history of Panama, specifically in slavery, the slave trade and colonialism. The consequences of these historical wrongs have not yet been overcome; they still reverberate in the culture and strongly affect current economic and social conditions. The Working Group calls on the Government to create educational and cultural programmes that will bring a critical analysis to bear on Panamanian history, identify the sources of racism and enable new generations to learn in an atmosphere of greater understanding and respect among all Panamanians.

94. The Working Group noted that despite the inclusion of the "Afro-descendent" category in the 2010 census, the lack of accurate and disaggregated statistical data relating to the demographic and socioeconomic situations of people of African descent constitutes a major obstacle to the accurate assessment of their situation.

95. People of African descent and indigenous peoples are the main groups affected by racial and ethnic discrimination in Panama. Particularly vulnerable are groups of refugees and migrant workers of African descent who are also exposed to xenophobia. The racial and ethnic discrimination is compounded by the specific discrimination that affects women, children and young people of African descent, who suffer the combined effects of various forms of discrimination.

96. The Working Group notes that in Panama the poorest sectors are those comprised of indigenous peoples and people of African descent. There is a high degree of correlation between discrimination and inequality. This correlation suggests that discrimination and racism are both causes and effects of situations of poverty and vulnerability. In recent years, people of African descent have lived in fear of displacement due to the development of megaprojects and have been suffering the negative consequences of economic development and the exploitation of natural resources.

97. Racism and racial discrimination have also been reinforced by the limited extent to which people of African descent and indigenous peoples share in the country's recent and current economic growth and progress. This is evidenced by the widespread poverty and inadequate standard of living endured by these groups. The Working Group cannot help but ask why this wealth does not reach people of African descent and appeals to the Government of Panama to take cognizance of this manifest form of discrimination and develop policies to overcome it.

98. The Working Group concluded that racial discrimination also affects people of African descent in terms of their prospects for work and personal and social

development. Similarly, many people of African descent suffer from interpersonal discrimination in the form of racial prejudice and discrimination in their private lives.

99. The fight against discrimination, racism and xenophobia must include the recognition and promotion of dialogue, understanding, mutual respect and interculturalism.

100. The Working Group identified a number of areas in which racism and racial discrimination exist and must be combated. Discrimination in access to resources must be addressed by enabling people of African descent to share in the benefits of the country's development. The Working Group also highlights health care as a priority area, since people of African descent tend to have a poorer quality of life and to experience health problems. Employment opportunities and access to work are also often limited, owing to racial discrimination. The Government is therefore urged to take steps to eliminate these situations.

101. Education is an extremely important issue, both for people of African descent and for the population in general. The consultations highlighted clearly the need to guarantee access to education for people of African descent. The information provided shows that the educational infrastructure in areas where people of African descent live is insufficient, that school dropout rates are higher and that children and young people have fewer years of education and face difficulties in gaining access to universities. Educational curricula should include human rights and interculturalism, and diversity should be addressed as a key component of the capital and wealth of Panama. The Working Group also found that, in education curricula and popular culture, there is limited recognition of the history and heritage of people of African descent and their contribution to the country's development. School curricula should be culturally relevant for children of African descent.

102. Another important issue is access to justice and the administration of justice for people of African descent. The Working Group found that people of African descent have difficulty in accessing justice, owing to prejudice, institutional stereotypes and/or discrimination in the justice system. In relation to the administration of justice, the Working Group learned of allegations of violence and excessive use of force at the hands of law enforcement officials. In addition, racial profiling by law enforcement officials was reported to be a systemic practice that affected young people of African descent in particular. People of African descent account for a disproportionately high percentage of persons deprived of their liberty relative to their percentage representation among the population of Panama as a whole. Inhumane prison conditions and overcrowded detention facilities were also identified as areas of serious concern in the functioning of the justice system. The Working Group appeals to the Government of Panama to take due note and adopt measures to put an end to this grave form of discrimination.

103. The Working Group emphasizes that none of these policies will be successful unless they are applied with the full participation of people of African descent. Political participation is a key factor in the success of policies and measures designed to overcome discrimination and racism.

104. To conclude, the Working Group expresses its expectation that the Government of Panama will accept these positions, develop them and transform them into national laws, policies and action plans that will bring progress in the elimination of all forms of racial discrimination affecting people of African descent in the country.

## **B. Recommendations**

105. The Working Group recommends that the Government of Panama should:

(a) Enact comprehensive anti-discrimination legislation which prohibits discrimination on all grounds, including racial and ethnic discrimination. The legislation should provide for effective enforcement mechanisms and the availability of remedies and should establish appropriate civil and criminal penalties for acts of discrimination committed by both public and private actors. It is important that implementation is rigorously enforced by the Panamanian courts;

(b) Adopt urgent measures to put an end to the structural discrimination that affects people of African descent in Panama by allocating resources sufficient to guarantee effective access to basic services such as water supply, electricity, sanitation, public housing programmes and microcredit, particularly at the departmental and municipal levels;

(c) Adopt measures that allow people of African descent to realize the right to development accorded to them under the 1986 Declaration on the Right to Development, taking into account the need to redress historical injustices through development programmes. Recognizing that poverty is both a cause and a consequence of discrimination, the State should also adopt a rights-based approach in poverty alleviation strategies targeting people of African descent;

(d) Ensure that the benefits of development and economic growth initiatives are shared evenly and fairly among all Panamanians, including people of African descent, thus helping to improve the quality of life of society as a whole;

(e) Guarantee the right of people of African descent in Panama to full, active and meaningful participation in decision-making processes. Respect for this right calls for prior informed consultation with people of African descent in Panama before the start of any major economic operation, such as the exploitation of natural resources in areas where their communities are based. The Working Group also recommends that the Government should provide effective redress and compensation for persons who face displacement because of economic projects. Persons displaced from their property should be offered adequate compensation and a place for resettlement which is equipped with basic services;

(f) Compile, collate and analyse, at the national, provincial and local levels, qualitative and quantitative data and social surveys that improve substantially the accuracy of data relating to Panamanian communities of African descent. Disaggregated statistics should distinguish between men and women and between boys and girls. This will assist in the design and implementation of appropriate, differentiated and effective policy and programme responses that address the specific needs of these communities. To this end, the Government should carry out sensitization campaigns for civil society and provide training for interviewers so as to foster the conditions necessary to allow people of African descent to identify themselves as such;

(g) On the basis of statistical information, take positive steps to eliminate racial discrimination and overcome persistent or structural disparities and de facto inequalities that have their origins in historical circumstances. In particular, the Government should consider adopting positive measures with the aim of:

(i) Achieving an appropriate representation of people of African descent in the public administration, particularly in education, health and the judiciary, and among law enforcement officials, including the police force and other civil

services. Employment in the public administration should reflect the diversity of Panamanian society;

(ii) Helping people of African descent to access the private labour market;

(iii) Making additional investments in health care, the construction of adequate housing, the supply of electricity and drinking water, the protection of the environment and other initiatives in communities where people of African descent live, and promoting access to these services;

(h) Provide sufficient budgetary resources and adopt measures, including affirmative action policies, to ensure equal access to education for people of African descent, particularly at the higher level;

(i) Mainstream a gender perspective in the design and follow-up of public policies, taking into account the specific needs and realities of women and girls of African descent and adopting a holistic approach to guarantee their rights. These policies should include positive measures with a gender perspective which address the multiple discrimination suffered by women and girls of African descent and their particular needs;

(j) Implement awareness-raising campaigns to:

(i) Make people of African descent aware of their rights and how to defend them;

(ii) Highlight persistent patterns of racial discrimination, particularly the multiple discrimination suffered by women and girls of African descent;

(iii) Foster changes to the discriminatory sociocultural patterns that adversely affect people of African descent;

(iv) Sensitize and train State officials, especially State law enforcement agents and justice system professionals;

(k) Carry out the processes necessary to review and develop specific study programmes, together with the corresponding teaching materials, that respect and recognize the history of people of African descent (including the transatlantic slave trade), their contribution and their culture. These study programmes should be incorporated into formal and informal education curricula at the early childhood, primary, secondary, post-secondary and adult education levels and people of African descent should have the opportunity to contribute to their development;

(l) Ensure that education actively contributes to the elimination of prejudices between peoples and to the promotion of mutual respect, understanding and tolerance. It should be possible to adapt education to communities' specific situation, so ensuring that it responds to the needs of students in diverse social and cultural settings;

(m) Promote the right to cultural identity, including the right of people of African descent to maintain their way of life and cultural expressions. The State should also protect the traditional knowledge and cultural and artistic heritage of people of African descent;

(n) Preserve and promote greater knowledge of and respect for the heritage, culture and history (including the transatlantic slave trade) of people of African descent, increase their visibility and acknowledge to a greater extent their contributions to their respective societies and to global development, highlighting that people of African descent are both survivors and resisters, while at the same time recognizing them to be victims of human rights violations under international law;

(o) Fully protect the right of people of African descent to quality education at all levels, going beyond issues of physical or economic accessibility to focus on the ultimate goal of equal achievement outcomes;

(p) Revise its policies and practices in the area of citizen security in order to identify and eradicate the use of racial profiling as a mechanism for the detention and investigation of persons. The Working Group urges the Government to take all necessary steps to put an end to the use of racial profiling, as well as to the illegal arrests, arbitrary detention and ill-treatment to which young men predominantly of African descent are subjected. To this end, it is vital both to modify institutionalized stereotypes concerning people of African descent and to apply appropriate sanctions against law enforcement officials who act on the basis of racial profiles, and to provide training programmes for public officials to eliminate discriminatory behaviour on the part of public servants and racial profiling by law enforcement officers;

(q) Take all necessary steps to prevent and punish violence, acts of torture, cruel, inhuman or degrading treatment and all violations of human rights affecting people of African descent that are committed by State officials, particularly police and army personnel, customs authorities, and persons working in airports, penal institutions and social and medical services;

(r) Ensure that all members of the security forces receive adequate training in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(s) Ensure that people of African descent, like all other persons, enjoy all the guarantees of fair trial and equality before the law, as enshrined in the relevant international human rights instruments, including, specifically: the rights to be presumed innocent, to be assisted by counsel and by an interpreter and to be heard before an independent and impartial tribunal; guarantees of fair punishment; and all other rights to which prisoners are entitled under the relevant international norms;

(t) Pay particular attention to conditions of imprisonment and to the large numbers of people of African descent who are deprived of their liberty in the country, and in this regard to:

(i) Take urgent steps to put an end to inhumane and degrading conditions and overcrowding in detention facilities, and ensure compliance with international norms. In particular, the State should take steps to apply in Panama the Standard Minimum Rules for the Treatment of Prisoners;

(ii) Take immediate action to reduce the number of persons in pretrial detention and the time of their detention before trial, including, for example, through greater recourse to preventive measures and bail;

(u) Take steps to ensure that habeas corpus and *amparo* applications are processed as promptly as possible in order to guarantee their effectiveness and *raison d'être*. The State should also adopt measures to increase the number of court-appointed lawyers in the country, with a view to guaranteeing the right to defence of all citizens, including those who cannot afford the services of a lawyer;

(v) Ensure effective protection and remedies for people of African descent affected by acts of racial discrimination through the competent national tribunals and other State institutions, and the right to seek from these tribunals fair and adequate reparation or satisfaction for any damage suffered as a result of such discrimination. Moreover, the Government must ensure the material conditions for access to justice, particularly those related to access to the courts, the provision of free legal aid and judicial costs;

(w) Maintain and strengthen the national bodies that promote equality and protection of the rights of people of African descent, and ensure that they have adequate funding;

(x) Fully implement the International Convention on the Elimination of All Forms of Racial Discrimination and the Durban Declaration and Programme of Action, the aim of which is to put an end to racism, racial discrimination, xenophobia and related intolerance, and ratify the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the Ibero-American Convention on the Rights of Young People. The Working Group invites the State to consider making the optional declaration provided for in article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

106. The Working Group invites the Ombudsman's Office to step up its work to promote and protect the rights of people of African descent.

107. The Working Group urges civil society organizations, including organizations of people of African descent, to continue their work and strengthen their cooperation with the Government in the fight against racism and racial discrimination, and to make an effective contribution to the promotion of interculturalism.

108. The Working Group calls for a closer partnership with the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the field of technical cooperation and advisory services, including in the provision of training in human rights principles for government officials, and in particular for prison officers.

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