



General Assembly

Distr.: General
19 August 2024

Original: English

Seventy-ninth session

Item 69 (a) of the provisional agenda*

**Elimination of racism, racial discrimination, xenophobia
and related intolerance: elimination of racism, racial
discrimination, xenophobia and related intolerance**

Contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ashwini K. P., in accordance with Assembly resolution [77/204](#).

* [A/79/150](#).



Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ashwini K. P.

Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Summary

The present report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ashwini K. P., is submitted to the General Assembly pursuant to its resolution [78/190](#). In the report, the Special Rapporteur summarizes the submissions of States regarding the actions they have taken to combat the glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and outlines relevant information submitted by other stakeholders. The Special Rapporteur also provides information about the relevant international legal framework and makes recommendations to Member States and other stakeholders.

Contents

	<i>Page</i>
I. Introduction	4
II. Submissions by Member States	4
III. Submissions by other stakeholders	12
IV. Applicable international legal framework	12
V. Conclusions and recommendations	15

I. Introduction

1. The present report is submitted to the General Assembly pursuant to its resolution 78/190, in which the Assembly requested the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to submit a report on efforts to combat glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance at its seventy-ninth session.

2. In the present report, the Special Rapporteur summarizes the information received from Member States regarding the implementation of General Assembly resolution 78/190. She thanks the Member States for their contributions and expresses her gratitude for the submissions from other stakeholders.

3. In the present report, the Special Rapporteur outlines the relevant principles and obligations of racial equality and non-discrimination in international human rights law and highlights their application in combating racism, racial discrimination, xenophobia and related intolerance. As with previous reports of the mandate holder, the Special Rapporteur calls upon Member States to demonstrate the strong commitment needed to address the rise in hate crime and incitement to violence against ethnic, racial and religious minorities and groups around the world. She also reminds the Member States to consider the horrors of the Second World War and the references in resolution 78/190 to preventing future wars and saving future generations from the scourge of war. She calls upon States to redouble their efforts to counter all forms of ethnic, racial and religious hatred and to promote tolerance and understanding within and among countries.

II. Submissions by Member States

4. In the present section, the Special Rapporteur summarizes information submitted by Member States on existing laws and policies to counter Nazism and neo-Nazism and other practices that fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance. However, she does not analyse or evaluate those laws or policies. She emphasizes that providing a summary of a Member States's submission does not constitute an endorsement of its content. The legal and policy frameworks referred to may have been assessed within the United Nations human rights system as being in contravention of international human rights law.

Argentina

5. Argentina provided information about the legal provisions in place to ensure equality and uphold its commitments under international human rights law, including the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. Such provisions include articles of the Constitution and of Act No. 23.592 on discriminatory acts. According to the information provided, Act No. 23.592 establishes penalties for propaganda based on ideas or theories of superiority of a race or a group of persons of a certain religion, ethnic origin or colour with the purpose of promoting racial or religious discrimination. The Act also establishes penalties for incitement to persecution or hatred on various grounds, including race, religion, nationality or political ideas.

6. Argentina also described other measures taken to prevent and combat incitement to hatred and violence, including workshops, training and capacity-building activities. The Government has reportedly established a digital coexistence observatory to carry out research and analysis on the ways in which online discourse and content is produced and disseminated. According to the information provided, the observatory is conducting research on the spread of discriminatory and hateful social discourse and false information on digital technology platforms and on artificial intelligence and discriminatory bias.

7. Argentina also provided information about its adoption in 2020 of the definition of antisemitism of the International Holocaust Remembrance Alliance, as well as about the collection of data on the number of incidences in which neo-Nazism played a role.

Azerbaijan

8. Azerbaijan reported on the legal framework in place to provide protection from discrimination. The equal rights of everyone, irrespective of race, ethnicity, religion, language, sex, origin, property status, occupation, beliefs or affiliation with political parties, trade union organizations or other public associations are guaranteed under article 25 of the Constitution, according to the information provided. Azerbaijan reported that article 154 (1) of the Criminal Code establishes criminal liability for infringements of the equality of citizens that cause harm to their rights and legitimate interests. Article 10 of the Law on Mass Media reportedly prohibits the dissemination of violent and cruel propaganda, the spreading of rumours based on national, racial or social justice intolerance, false and biased writings, defamation, degrading the honour and dignity of citizens under the guise of an authoritative source and the use of mass media for the purpose of committing other illegal acts.

9. Azerbaijan reported that, despite ongoing international efforts, enormous challenges in the protection of human rights and human dignity persisted worldwide. The violation of norms and principles of international law by mass-scale violations of human rights and human losses continued to hamper peace, security and stability in different parts of the world. Manifestations of violent racism, intolerance and discrimination, including senseless attacks against individuals and groups due to their identity, continued to take place.

10. Azerbaijan also provided information about alleged incidences of violence, racism, intolerance and discrimination perpetrated by Armenia and Armenians.

Ecuador

11. Ecuador described how racial discrimination affects Afrodescendants, Indigenous Peoples and Montubio people in the country. The information received highlights the link between racial discrimination and poverty, underdevelopment, marginalization, social exclusion and economic inequalities, as recognized by the Durban Declaration and Programme of Action.

12. Ecuador provided information about the legal framework in place to provide protection from discrimination and ensure equality. For example, the Constitution reportedly guarantees the human rights and collective rights of Indigenous Peoples, Afrodescendants and Montubio people. There are also reportedly provisions within the Penal Code to punish hate speech and hate crime. In addition, the Organic Law on Intercultural Education and the Organic Reform Law for the Eradication of

Violence and Harassment in all Forms of Work reportedly provide protection from discrimination in education and employment.

13. Ecuador also reported on other measures taken to address racial discrimination and uphold equality, such as the Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion, established by Executive Decree No. 60 to combat racism in Ecuador. In 2024, a ten-year plan to ensure the revitalization of Indigenous languages and their ancestral culture was adopted. Ecuador also described a range of measures taken to prevent and address discrimination within the education and health sectors.

Germany

14. Germany provided information about trends in right-wing extremism and the significant threat that they pose to democracy. Such extremism is reportedly multifaceted and often manifests in highly structured comradeships, pop-up campaign groups and online chat groups. Right-wing extremism as a reaction against the liberalization of the public debate around different sexual orientations and same-sex partnership and family models was also reported.

15. Germany provided information about antisemitism, describing it as a part of almost all extremist stances. The intertwining of antisemitism and right-wing extremism was reported as representing the biggest antisemitic threat in Germany. Germany noted that while racially motivated antisemitism is opposed by left-wing actors and is not an integral part of left-wing extremist ideology, some from the left-wing extremist spectrum adopt stances that can be categorized as “Israel-related antisemitism”. According to the information provided, various extremist actors in Germany have used the terrorist attack perpetrated by Hamas against Israel on 7 October 2023 to call for hatred and violence against Jews or the State of Israel or to deny its right to exist. Germany also reported that, since the 7 October attack and the subsequent Hamas-Israel armed conflict, there has been a rise, both at the international level and in Germany, in not only antisemitic but also anti-Muslim racism, and that many Muslims feel they are being put under a general suspicion of being antisemitic.

16. Germany provided information about the legal framework in place to address racial discrimination. There are reportedly multiple provisions in the Criminal Code that penalize hate crimes and incitement. In addition, the Digital Services Act, which came into force in February 2024, aims to create a safe, predictable and trustworthy online environment to address the dissemination of unlawful online content and the social risks associated with the spread of disinformation. Germany also provided information about other measures taken to address racial discrimination. For example, the federal Government adopted a strategy to strengthen democracy and overcome extremism, racism, antisemitism, anti-Gypsyism, hostility towards Muslims and other forms of intolerance, according to the information provided. The Government has also developed a programme called “Live Democracy!”, which promotes civil society engagement for democracy and diversity and against all forms of extremism and hostility.

Honduras

17. Honduras reported that it rejects all types of discrimination, intolerance and racist and xenophobic violence. The Directorate for Investigation and Compliance with International Commitments of the Ministry of Human Rights provided information about legal provisions in place to prevent and combat incitement to hatred and violence based on racial superiority aimed at persons or groups belonging to

national, ethnic, religious and/or linguistic minorities, including constitutional provisions to ensure the right to equality and the prohibition of discrimination, as well as provisions in the Criminal Code relating to discrimination, incitement to discrimination and attacks on freedom of worship.

18. Honduras described how freedom of expression and opinion is important for preventing and combating racial discrimination. The Government has taken a number of steps to uphold freedom of expression and opinion, according to the information provided. For example, the National Congress repealed Legislative Decree No. 418-2013, which contains the Law for the Classification of Public Documents Related to National Security and Defence, to improve access to information. The Government has also provided communities with Internet access, community mobile telephony and technical support and held meetings with international bodies on freedom of expression and opinion.

19. In addition, Honduras provided information about public policies in place to address racial discrimination. For example, the National Coordination Committee for Indigenous and Afro-Honduran Peoples is reportedly working on a new proposal for a public policy against racism and racial discrimination that will outline comprehensive support for Indigenous and Afro-Honduran peoples. Honduras described an intersectional approach to addressing racial discrimination and provided information about measures in place to provide protection for certain groups, including migrants, lesbian, gay, bisexual, transgender and intersex persons, and women.

Maldives

20. Maldives provided information about the legal framework in place to provide protection from discrimination and ensure conformity with international human rights obligations, in particular article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. Article 17 of the Constitution stipulates that everyone is entitled to constitutional rights and freedoms without discrimination of any kind, including race, national origin, colour, sex, age, mental or physical disability, political or other opinion, property, birth or other status, or native island. There are also reportedly dedicated legislative provisions in place to prohibit specific manifestations of discrimination. For example, discrimination in relation to employment is prohibited in the Employment Act of 2008. The Penal Code also reportedly establishes penalties for acts that cause or incite injury to another person on the basis of race, country of origin, colour or political view.

21. To complement such legal provisions, the Human Rights Commission of Maldives has undertaken awareness-raising and information-sharing activities with young people and public officials. The sessions have addressed human rights awareness, peace and tolerance. The Commission has also carried out media campaigns on those topics, as well as on xenophobia and hate speech. The Maldives Police Service has undertaken work to address hate crime and hate speech. Police officers receive training on human rights principles.

Malta

22. Malta reported that there have not been any recent reports of crimes perpetrated by neo-Nazi or skinhead groups. Cases investigated recently by the Vulnerable Victims Unit have been related to Islamophobia, according to the information provided.

23. Malta provided information about the legal framework in place to provide protection from discrimination and ensure conformity with obligations under the International Convention on the Elimination of all Forms of Racial Discrimination. For example, the Constitution prohibits discrimination on a number of grounds, including race, place of origin, political opinions, colour, creed, sex, sexual orientation, gender identity and disability. Information was also provided about the European Convention Act, which ensures that the European Convention on Human Rights is enforceable as part of national law, as well as about provisions in the Penal Code that criminalize offences such as incitement to racial hatred and condoning, denying or trivializing genocide against a group.

24. Malta has reportedly implemented other measures to address racial discrimination. The Human Rights Directorate has continued the implementation of the Anti-Racism Strategy 2021–2023, which is the first national action plan aimed at eliminating individual and systemic racism. It contains 22 measures developed following public consultations in 2020 and is aligned with the European Union’s Anti-racism Action Plan 2020–2025. In addition, an awareness raising campaign on addressing racism is planned as part of the End Racism Malta project, which is co-financed by the European Union. Furthermore, training on preventing and countering hate speech and incitement to violence is conducted both among law enforcement officers and within broader society, according to the information provided.

Norway

25. Norway reported that extremism is a transnational threat to democracy. According to the information provided, crimes relating to extremism can be driven by a number of factors, including international conflicts, the economic downturn, technological developments, hate speech, including on social media, and polarization within the dialogue about the conservation of nature. Norway provided information indicating that the number of reported hate crimes is continuing to increase nationally. A total of 1,090 reports coded as hate crimes were recorded in 2023, an increase of approximately 18 per cent compared with 2022, according to the information provided. Increased reporting due to societal awareness and improved competence among law enforcement agencies were reported as factors possibly contributing to the increase.

26. Regarding legal measures adopted by the State to address discrimination, intolerance and racist and xenophobic violence, the Government provided information about the criminalization of acts relating to hatred and discrimination in the Penal Code. Norway also provided information about how the Director of Public Prosecutions has instructed the police and prosecuting authority to prioritize cases involving hate crime.

27. Norway provided information about broader measures to address extremism, racial discrimination and related intolerance. The Government reported on the establishment of the Commission on Extremism, consisting of independent experts from various fields and sectors. In March 2024, the Commission presented 41 recommendations on strengthening societal ability to prevent and counter extremism. The Government will present a white paper as a follow-up to the Commission’s report. In addition, the National Police Directorate has issued an action plan entitled “Diversity, dialogue and trust”, as part of efforts to strengthen the work in the police related to diversity, equality and anti-discrimination. Norway also provided information about a new action plan on racism and discrimination, which details initiatives to be implemented between 2024 and 2027. The Government is also reportedly working on three new action plans, which will address antisemitism; discrimination and hatred towards Muslims; and harassment and discrimination of Sami people.

Poland

28. Poland reported that the number of hate crimes is low in the country, constituting around 0.17 per cent of the proceedings initiated by police in 2022, with no new trends in discrimination and related phenomena having recently been identified.

29. Poland provided information about the legal framework in place to prevent and address discrimination and related phenomena. The Criminal Code contains provisions criminalizing several types of offences motivated by racial, religious, national or political bias, or because of the beliefs held by the victim. In 2022, amendments were made to the Criminal Code to update provisions relating to hate crimes and hate speech. In addition, legislative efforts in 2021 led to the establishment of the Central Bureau for Combating Cybercrime, which has a role in addressing hate-motivated crimes that are committed online.

30. Poland also described additional measures taken to address discrimination and related phenomena. For example, in 2022, the Police Action Plan for 2022–2025, to counteract hate speech and incitement to hatred on the basis of national, ethnic, racial or religious differences, was published. The police also reportedly cooperate with non-governmental organizations on projects involving anti-discrimination training, public education and the organization of training courses for police officers. The Government has also undertaken activities with educational institutions to promote tolerance and multicultural understanding. The curriculum is designed to promote understanding of the danger of glorifying Nazism, promoting totalitarian regimes, antisemitism, xenophobia and intolerance, according to the information provided. Poland also reported the implementation of an international youth exchange programme, designed to promote dialogue.

Russian Federation

31. The Russian Federation described the importance that is placed on preventing incidents of racism, racial discrimination, xenophobia and related intolerance, and provided information about legislative and policy measures in place to achieve this.

32. The Russian Federation described how the Internet and other media outlets have been used to disseminate extremism, xenophobia and Nazism. According to the information provided, materials of an extremist and terrorist nature have been found online. Federal Act No. 114-FZ reportedly prohibits the dissemination of extremist materials through the mass media. Federal agencies have carried out targeted work to detect and address the dissemination of such information, according to the information provided. Federal agencies also regularly carry out preventative work, such as seminars, meetings, explanatory letters, videoconferences and training activities, to counter the dissemination of extremist materials and publications. For example, in 2023, the Federal Service for Supervision of Communications, Information Technology and Mass Media, known as Roskomnadzor, reportedly conducted 10,054 preventive measures, including 100 specialized training seminars, for representatives of regional media.

33. The Russian Federation reported that in the period 2022–2023, the investigative bodies of the Investigative Committee of the Russian Federation initiated 211 criminal cases involving offences under article 354.1 of the Russian Criminal Code, which penalizes the rehabilitation of Nazism. Following these investigations, 127 criminal cases were brought to court against 132 defendants, according to the information provided. The Investigative Committee also reportedly pays particular attention to upholding historical truth and preventing the falsification of history, the glorification of Nazism and the elimination of common memorial heritage.

South Africa

34. South Africa provided information about xenophobia against foreign nationals in the country. It described how there are some misconceptions about such xenophobia being institutionalized. South Africa reports that this is not the case and that there are pockets of xenophobia in cases where socioeconomic circumstances dictate that citizens must share inadequate resources with non-citizens. Xenophobia is motivated by these economic constraints, rather than hatred towards non-citizens, according to the information provided. Interest groups on these issues, such as Operation Dudula, are reportedly considered extremist movements in South Africa.

35. The Department of Justice and Constitutional Development is the focal agency for the national action plan to combat racism, racial discrimination, xenophobia and related intolerances. In the context of its role in promoting the implementation of the national action plan, the Department has reportedly increased its collaboration with other government departments, civil society organizations and institutions established to strengthen constitutional democracy and combat xenophobia. The action plan is based on the collective conviction and support of South Africans, according to the information provided. Efforts by multiple stakeholders to implement the action plan include hosting and conducting workshops, dialogues and campaigns to combat racism, racial discrimination, xenophobia and related intolerance. Social cohesion strategies have also been led by the Department of Justice and Constitutional Development, according to the information provided.

36. South Africa provided information about the enactment into law of the Prevention and Combating of Hate Crimes and Hate Speech Bill in May 2024, which provides for the prosecution of offences related to hate speech and hate crime. It also reportedly creates space for the consideration of victim impact statements.

Spain

37. Spain provided information about trends in discrimination, intolerance, and racist and xenophobic violence. According to the information provided, the rise of extremist groups, such as neo-Nazis and skinheads, has been fuelled by their skilful use of online platforms. These groups reportedly exploit social and political polarization to spread their message of hate, recruit new members and radicalize their followers. The online presence of extremist groups, the globalization of related ideologies and the use of new technologies, such as artificial intelligence, pose a growing challenge to authorities and civil society. Spain also reported on the antisemitism espoused by far-right extremist groups. Such groups reportedly avoid explicit reference to Jewish people but make constant indirect references, including through various conspiracy theories.

38. Spain provided information about the legal framework in place to address discrimination, intolerance, racism and xenophobia. For example, Law 62/2003 reportedly established a framework for equal treatment. Law 15/2022 on equal treatment and non-discrimination established measures such as the creation of the Independent Authority for Equal Treatment and Non-Discrimination. In addition, Spain cited Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration.

39. Spain also described non-legal measures in place to address discrimination, intolerance, racism and xenophobia. For example, the Strategic Framework for Citizenship and Inclusion, against Racism and Xenophobia (2023–2027) reportedly sets out a series of measures to prevent and combat racism and xenophobia, including promoting intercultural education, combating hate speech and improving care for

victims. Information was also provided about the Spanish Observatory on Racism and Xenophobia, which reports to the Ministry of Equality and is responsible for compiling data on racial discrimination and xenophobia in Spain, preparing reports and coordinating public awareness activities.

Switzerland

40. Switzerland provided information about trends in discrimination, intolerance, racism and xenophobia. In the German-speaking part of Switzerland, there is a small movement of those who hold the conviction that the current German State and its democratically elected institutions and representatives are not legitimate and that the historical German Empire still exists. Reportedly, there is a risk of radicalization among members of this movement.

41. Another trend reported by Switzerland is growing antisemitism. According to the information provided, anti-Semitic incidents against pupils in Swiss state schools have increased since 7 October. In addition, a knife attack took place against an Orthodox Jew in Zurich, with the victim sustaining serious injuries. The alleged perpetrator expressed solidarity with the Islamic State group, a factor that is being taken into account as part of the investigation. Protection measures for Israeli people and their property in Switzerland have subsequently been stepped up, according to the information provided.

42. Switzerland provided information about the legal provisions in place to address discrimination, intolerance, racism and xenophobia. According to the information provided, criminal offences linked to discrimination, including the most serious forms of hate speech amounting to incitement, are included in the Penal Code. There are also reportedly provisions within civil and administrative law to address less serious cases of discrimination and hate speech. Switzerland also provided information about legislative instruments that include provisions relating to addressing hate speech, including online hate speech. These provisions include the Federal Act on the Protection of Young Persons in Respect of Films and Video Games and the Federal Act on Data Protection.

43. Switzerland also reported on policy measures taken to prevent and address discrimination, intolerance, racism and xenophobia. The first national action plan to combat radicalization and violent extremism was adopted in 2017, totalling 26 measures in 5 areas, to be implemented before December 2022. A second action plan was developed that focuses on all forms of violent extremism, with a particular focus on preventing the radicalization of young people and on the critical use of the Internet and social media, according to the information provided. The second action plan came into force in 2023 and will be implemented within five years. Switzerland also provided information about the National Cyber Security Centre and its role in addressing racist and extremist content online.

Venezuela (Bolivarian Republic of)

44. The Bolivarian Republic of Venezuela reported on legal and policy measures to address the racial discrimination that is experienced by vulnerable populations, including Afrodescendent people and Indigenous Peoples. There were reportedly no known neo-Nazi groups in the Bolivarian Republic of Venezuela, but such groups had existed previously, so measures had been taken by the Government to address that.

45. There were a number of laws in place to provide protection from racial discrimination, including the Organic Law Against Racial Discrimination and the Constitutional Law against Hatred, for Peaceful Coexistence and Tolerance.

46. In addition to legal measures to address racial discrimination, there were a number of relevant policies and programmes in place. For example, the Government developed a programmatic agenda for people of African descent for the period 2019–2025, which was based on the principles of the International Decade for People of African Descent. Concerning lessons learned, the Bolivarian Republic of Venezuela noted that the promotion of measures to combat racism and racial discrimination could be enhanced by developing synergies between the private and public sectors.

III. Submissions by other stakeholders

47. In the present section, the Special Rapporteur summarizes the submissions received from other stakeholders. She emphasizes that, in providing these summaries, she does not endorse any information provided or endorse or confirm any allegations levelled against specific actors.

Association of Reintegration of Crimea

48. The Association of Reintegration of Crimea reported that, since the invasion of Ukraine on 24 February 2022, the Russian Federation has been targeting the civilian population and infrastructure on a wide scale. The Association reported that such aggression has been connected with systemic discrimination against Ukrainians and Crimean Tatars. Hate speech and the use of neo-Nazi symbols against such groups were also reported by the Association.

49. The Association referred to the findings of regional and international bodies concerning the invasion by the Russian Federation and the human rights and humanitarian consequences, including resolutions of the Human Rights Council and the General Assembly, findings of the special procedures mechanisms of the Council and statements of the Organisation for Economic Co-operation and Development. The Association reported that the International Court of Justice had ruled on 31 January 2024 that the management by the Russian Federation of the education system in Crimea since 2014 had violated the International Convention on the Elimination of All Forms of Racial Discrimination.

50. The Association reported that individuals who have defended the rights of those affected by the patterns of alleged human rights violations described above have been subjected to harassment, intimidation and defamation.

IV. Applicable international legal framework

51. The Special Rapporteur recalls that the prohibition of racial discrimination is a peremptory norm of public international law. The most comprehensive prohibition of racial discrimination can be found in the International Convention on the Elimination of All Forms of Racial Discrimination. Other international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, also broadly enshrine the principle that all persons, by virtue of their humanity, should

enjoy all human rights without discrimination on any grounds. By ratifying the international human rights treaties, States undertake to respect, protect and fulfil the rights provided therein.

52. The obligation to respect such rights requires that States refrain from discrimination in law, policy or practice. Under article 2 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination, States undertake to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, act in conformity with this obligation. That article also stipulates that States parties undertake not to sponsor, defend or support racial discrimination by any persons or organizations.

53. The obligation of States to protect persons under their jurisdiction against discrimination by all other entities necessitates that they adopt comprehensive legislation that prohibits any discrimination and guarantees to all persons equal and effective protection against discrimination or that they adopt other measures as may be necessary to give effect to the rights established under international human rights mechanisms. The Office of the United Nations High Commissioner for Human Rights has developed a guide for States entitled *Protecting Minority Rights: A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation*, which contains the recommendation that, in order to be comprehensive, anti-discriminatory legislation should define and prohibit all forms of discrimination arising on the basis of all grounds recognized under international law and in all areas of life regulated by law. The guide also contains the recommendation that anti-discrimination legislation should prohibit discrimination on the basis of an extensive and open-ended list of characteristics, as well as both direct and indirect discrimination, segregation, victimization and retaliation.

54. The International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights both impose prohibitions on the propagation of racist and xenophobic ideas and outlaw the advocacy of national, racial or religious prejudices that amount to incitement to discrimination, hostility or violence. Article 4 of the Convention requires States parties to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, discrimination and to declare punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin. In its general recommendation No. 35 (2013), the Committee on the Elimination of Racial Discrimination provided specific guidance for States parties on the adoption of legislation combating racist speech. For determining what racist expression should be punishable by law, the Committee stressed the importance of contextual factors, which include: (a) the content and form of speech; (b) the economic, social and political climate; (c) the position or status of the speaker; (d) the reach of the speech; and (e) the objectives of the speech. In line with the Committee's approach, the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence articulated the obligations of States under article 2 (1) of the International Covenant on Civil and Political Rights in terms of a negative obligation to refrain from discrimination and a positive obligation to adopt protective measures. In its general comment No. 18 (1989), the Human Rights Committee makes clear that the fulfilment of the rights to equality and non-discrimination requires positive action.

55. Incitement to racial hatred may be expressed not only explicitly but also implicitly, relying on indirect language to disguise its targets or objectives and on coded symbolic communication to achieve its ends. In its general recommendation No. 35 (2013), the Committee on the Elimination of Racial Discrimination

recommends that the criminalization of forms of racist expression be reserved for serious cases, to be proven beyond a reasonable doubt; that the application of criminal sanctions be governed by the principles of legality, proportionality and necessity; and that less serious cases be dealt with using non-criminal sanctions.

56. Racist or intolerant speech should not be used as a pretext for illegitimately quashing the right to freedom of expression to the detriment of groups protected by the International Convention on the Elimination of All Forms of Racial Discrimination, such as expressions of protest at injustice, social discontent or opposition. Likewise, the language of freedom of expression or association should not be used as a means of or cover for violating the rights of others to equality and non-discrimination. The Committee on the Elimination of Racial Discrimination has highlighted that, although article 4 has operated as the principal vehicle for the prohibition of racist speech, the Convention contains other provisions essential for fulfilling the objectives articulated in that article. Article 4 expressly refers to article 5, which guarantees the right to equality before the law and the right to be free from racial discrimination in the enjoyment of rights, including freedom of expression.

57. The obligation to fulfil human rights means that States undertake to eliminate discrimination in practice and to guarantee the effective enjoyment of the right to equality and non-discrimination. States must take action to combat intentional or purposeful racial discrimination in addition to de facto or unintentional racial discrimination. Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination and article 2 of the International Covenant on Civil and Political Rights make clear that effective protection from and remedies for racial discrimination are just as important as formal provisions. In the publication entitled *Protecting Minority Rights: A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation*, it is reaffirmed that States do not meet their international legal obligations simply by defining and prohibiting discrimination; they must also, among other things, adopt positive measures designed to accelerate progress towards equality for those subjected to historic disadvantage or otherwise unable to participate on an equal basis. Promoting tolerance requires education and awareness. In article 26 (2) of the Universal Declaration of Human Rights, it is stipulated that education should promote understanding, tolerance and friendship among all nations and racial or religious groups. Under article 7 of the Convention, States parties undertake to adopt immediate and effective measures, in particular in the fields of teaching, education, culture and information, with a view to combating prejudices that lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups.

58. The Durban Declaration and Programme of Action highlight education as the key to changing attitudes and behaviour based on racism, racial discrimination, xenophobia and related intolerance and to promoting tolerance and respect for diversity in societies and friendship among all nations and racial or religious groups. Paragraph 97 of the Durban Declaration elucidates the importance of human rights education, especially among children and young people, in the prevention and eradication of all forms of intolerance and discrimination.

V. Conclusions and recommendations

59. The Special Rapporteur recommends that Member States:

(a) Adopt comprehensive measures to combat racist hate speech and xenophobic political discourse, while upholding freedom of expression, in line with the recommendations of the United Nations human rights mechanisms, in particular general recommendation No. 35 (2013) on combating racist hate speech of the Committee on the Elimination of Racial Discrimination, the relevant provisions of the International Covenant on Civil and Political Rights, the Rabat Plan of Action and the United Nations Strategy and Plan of Action on Hate Speech;

(b) Include targeted steps to prevent and address the proliferation of online hate speech in such measures, in line with the recommendations contained in her report to the General Assembly (A/78/538);

(c) Ensure that comprehensive anti-discrimination legislation, covering all grounds for discrimination, is in place, in line with the International Convention on the Elimination of All Forms of Racial Discrimination and the publication entitled *Protecting Minority Rights: A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation*;

(d) Take all necessary steps to ensure the effective implementation and monitoring of anti-discrimination legislation;

(e) Take all steps to address the existing gaps in the anti-discrimination legislations;

(f) Take steps to ensure that all relevant acts relating to racism, racial discrimination, xenophobia and related intolerance and all acts relating to the glorification of Nazism, including the use of the Nazi salute and symbols, are prohibited and, where appropriate, criminalized in national law, with sanctions proportionate to the severity of the offences;

(g) Ensure that complaints mechanisms are in place and that all victims and survivors of racism, racial discrimination, xenophobia and related intolerance can effectively access remedy, including the guarantee of non-repetition of violations;

(h) Invest more resources in building and sharing knowledge on successful positive measures to prevent and counter racism, racial discrimination, xenophobia and related intolerance;

(i) Raise public awareness about national, regional and international remedies available to those who are victims and survivors of racism, racial discrimination, xenophobia and related intolerance;

(j) Adopt national action plans with a special focus on educational institutions against racism, extremism and the resurgence of neo-Nazism, and take all necessary steps to ensure their effective implementation;

(k) Take targeted action, based on research, best practices and relevant recommendations of United Nations human rights mechanisms, including reports of the Special Rapporteur,¹ to address the recruitment and radicalization of young people, including through online channels;

¹ See A/HRC/41/55.

(l) Ratify the International Convention on the Elimination of All Forms of Racial Discrimination, if they have not done so already;

(m) Withdraw any applicable reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination;

(n) Consider, if they have not already done so, making a declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination that they recognize the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within their jurisdiction claiming to be victims of a violation by a State party of any of the rights set forth in the Convention;

(o) Redouble efforts to ensure the effective implementation of all provisions of the International Convention on the Elimination of All Forms of Racial Discrimination;

(p) Strengthen and expand efforts to employ education and public awareness campaigns to combat racist stereotypes and promote diversity in order to prevent hate crimes and hate speech, including by ensuring that such topics are included within curricula at all stages of education;

(q) Invest in strengthened capacity to collect and disseminate disaggregated data on all forms of hate crime and hate speech that promote racist and neo-Nazi ideologies to develop a full understanding of the scope of the problem and to enable the design and implementation of effective laws and policies;

(r) Take all necessary and appropriate measures to implement the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference.

60. The Special Rapporteur recommends that other stakeholders, including civil society organizations:

(a) Continue to facilitate enhanced collaboration among representatives of different racial, ethnic and religious communities to combat all forms of intolerance and discrimination;

(b) Contribute to the collection and dissemination of disaggregated data on hate crime and hate speech that promote racist and neo-Nazi ideologies to develop a full understanding of the scope of the problem and to enable the design and implementation of relevant laws and policies;

(c) Continue and strengthen work to provide support to victims and survivors of hate crimes and racist and xenophobic hate speech;

(d) Continue and enhance work to promote public awareness of multiculturalism, diversity and tolerance, including through the inclusion of relevant materials in education curricula.