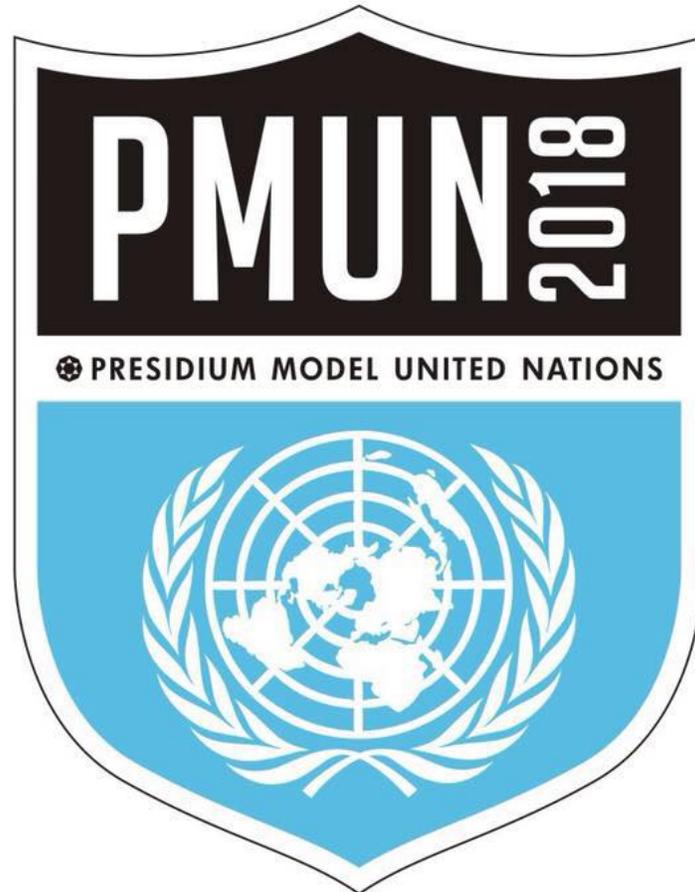


Presidium Model United Nations Conference 2018



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YOUTH EMPOWERMENT

Background Guide 2: Elimination of all forms of Racism, Racial
Discrimination, Xenophobia and Related Intolerance

Letter From the Executive Board

Respected Delegates

It gives me immense pleasure to welcome you to this session of the Social, Cultural and Humanitarian Committee of the United Nations General Assembly. The item under discussion for this session of the 3rd committee is the Elimination of all forms of Racism, Racial Discrimination, Xenophobia and related Intolerance.

The issues relating to racism and racial discrimination came to the forefront during the apartheid regime in South Africa. Since then, substantial progress has been made in the area of human rights being granted to all human beings irrespective of their race, religion, color, caste or gender. These rights are promised and codified in multiple international legal instruments, the United Nations Universal Declaration of Human Rights being the foremost document. Though the stains of racism and racial discrimination might have been eradicated from institutions and constitutions of different countries on paper, it is no surprise that cases of racism and institutional discrimination emerge in our societies, albeit in a more disguised manner.

For this session of the Social, Cultural and Humanitarian committee, I intend to focus our attention to lingering issues of racism and intolerance in our societies through in-depth research and then come up with concrete solutions to address the same.

Let's shift gears here and understand the research pattern and the method to exploit the most out of this Background Guide. The Background Guide has been split into multiple sub-parts, each sub-part explaining an important aspect related to the agenda before the committee. Furthermore, note that this Background Guide is to be read in conjunction to the articles and video's uploaded on the microsite dedicated to our committee. I am attaching the link to the microsite at the end of the letter for the reference of all delegates.

The EB has also uploaded a Research Tabulation Excel Sheet. This Research tabulation excel sheet is optional and is not going to be marked at all. But it helps delegates put their research in one place and in a more structured manner. Please do go through the Research Tabulation Sheet and message the EB in case of doubts.

Best Regards

Executive Board
Social, Cultural and Humanitarian Committee
73rd Session of the United Nations General Assembly

Introduction to the Topic of Discussion

One of the core philosophies of the United Nations since its inception in 1945 has been the principle of non-discrimination of persons on the basis of race and this effort can be seen in the form of the Universal Declaration of Human Rights – the foremost document that sets out a common standard of fundamental freedoms and human rights that must be granted to all people and the International Convention on the Elimination of all forms of Racial Discrimination adopted in 1996.

Though significant and tangible progress has been made in the area of combatting racism, racial discrimination and other forms of intolerance as apparent from the success of the Civil Rights movement in the United States and the fall of the apartheid regime in South Africa, cases of racism are common place. The phenomenon of institutional racism and racial discrimination has rather become more disguised. The foremost reason for this is that though racial discrimination is prohibited in most countries through constitutional amendments and domestic legislations, racist and xenophobic attitudes are still embedded in our mindsets due to historical prejudices and experiences that are passed on from one generation to the other.

One can face racial discrimination in all aspects of life ranging from racial slur borne out of personal prejudices and experiences to institutional racism in access to public amenities such as education, healthcare, job opportunities or criminal justice mechanism. Instances of racism, racial discrimination, xenophobia and other forms of intolerance can also enter governmental policies such as the anti-immigration stance of Governments across Europe and the recent decision of the US President Donald Trump to separate immigrant children from their parents on the premise of national security concerns. The incorporation of such racist and intolerant attitudes in public policies can sometimes promote and legalize racial discrimination in the public sphere. In such situations, the judicial bodies must step in and ensure a check on executive powers.

In this Background Guide, the EB intends to build on the core concepts introduced before on the microsite research portal and offer delegates an in-depth understanding of some of the important aspects related to the agenda. The subsequent Background Guide is going to constitute of multiple case studies to contextualize their research in a holistic manner.

Definition of Important Terms

In this section, the Executive Board is going to offer delegates the definition of important terms related to the agenda. It is important to understand the meaning of these terms and the difference among them for more effectual debate in committee.

- **Prejudice:** Prejudice refers to unjustified and often incorrect opinions or attitudes about a person or a group of persons based on predetermined notions about them rather than based on reason or actual experiences. Prejudice is an abstract concept and represents a belief in the mind of the prejudiced person. It refers to inner feelings of a person..
- **Discrimination:** Discrimination refers to differential and often unequal treatment of a person or a group of persons based on membership to a group or possession of traits such as, ethnic origin, gender, race, religion, sexual orientation, language caste or some other status.
- **Racism:** The concept of racism stems from the belief that human populations can be classified into different groups based on abilities and characteristics and that these groups can be classified as superior or inferior to one another. Hence racism can be understood as the belief that one race is superior to another race.
- **Racial Discrimination:** The discrimination of person or a group of persons based on his or her race is called racial discrimination. Though the United Nations does not define the racism, a formal definition of racial discrimination is contained in the UN sponsored International Convention on the Elimination of all forms of Racial Discrimination.
- **Racial Segregation:** Racial Segregation is the separation of human population into socially-constructed racial groups. It is applicable in a persons routine life such as eating in a restaurant, using other public facilities such as toilets, attending school, riding on public transport such as a bus, sale and purchase of housing and food supplies, access to job opportunities etc. The infamous apartheid regime in South africa is the most appropriate example to understand Racial segregation.
- **Xenophobia:** Xenophobia is the fear and distrust of something that a person might consider foreign or strange. Xenophobia includes formation of perceptions about a persons or a group of persons. It can manifest in suspicion of the activities of persons belonging to that group and a desire to eliminate their presence to secure a presumed pureness.
- **Intolerance:** Intolerance refers to one's reluctance to accept the beliefs, behavior, rituals or practices that differ from one's set of beliefs. Intolerance is most often used in reference to "religious intolerance" i.e reluctance to accept the beliefs and rituals of the other persons religion.

Racism and Racial Discrimination

The concept of racism dates back to some 18th century attempts of scientists, biologists and philosophers to categorize human populations into different groups based on their abilities and characteristics. These scientists and political philosophers subscribed to the belief that these racial groups can be placed in a hierarchal order and that one race can be superior or inferior to another race. The position of a racial group in the hierarchal order can then used to determine the distribution of rights and freedoms accorded to the people belonging to a particular racial group.

But lets trace our steps back and decide for ourselves if racism is real or not ?

Most biologists argue that till date there is little evidence in human genome research that indicates that race can be defined in a manner as to be useful in determining a genetic classification of humans. On the other hand, modern sociologists consider racism to be a social and political construct. This means that although concepts of race and racism might be based on observable biological characteristics, inferences on race on the basis of those observations are influenced by political and cultural ideologies.

This racist construct then tends to manifests itself in our societies across different aspects of life such as socio- cultural practices, political processes, judicial mechanisms etc. This social construct gets reinforced in our minds time and again through a continuous loop of implicit biases and prejudices thus fueling racial discrimination. Therefore, it is important to understand that the concept of racism is a social construct that leads to sub-conscious biases and prejudices that result in racial discrimination.

Though the United Nations does not define the term racism, the International Convention on the Elimination of all Forms of Racial Discrimination¹ offers a formal and acceptable definition of racial discrimination. Under article 1, racial discrimination is defined as:

“distinction, exclusion, restriction, or preference based on race, color, descent, or national or ethnic origin that has the purpose or effect of annulling or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

The Preamble of the Convention concludes that the doctrine of supremacism based on racial discrimination is scientifically false, is morally condemnable, socially unjust and dangerous and that there is no justification for racial discrimination. Furthermore, it is important to note that the definition of racial discriminate subscribed to by the UN fails to make a distinction between discrimination on basis of race or ethnic origin in accordance to the definition. Therefore, for all purposes of this committee simulation, references to racial discrimination also include discrimination on the basis of one’s descent, national or ethnic origin.

¹ <https://www.ohchr.org/Documents/ProfessionalInterest/cerd.pdf>

Individual Racism vs Institutional Racism

Discrimination refers to differential and often unequal treatment of a person or a group of persons based on membership to a group or possession of traits such as, ethnic origin, gender, race, religion, sexual orientation, language caste or some other status. In regards to racism, racial discrimination can manifest in form of personal biases and the regular functioning of institutions. Sometimes such racist attitudes can become so deep-seated in our mindset that racial discrimination becomes a part of normal functioning of societies and institutions. This is called institutional racism or institutional racial discrimination.

Individual racism refers to isolated cases of racial discrimination that one person might face. In cases of individual racism, a person discriminates against another person on the basis of race, ethnic or national origin. Individual racial discrimination is in most cases a result of personal biases or prejudices a person might possess due to personal experiences, social norms, cultural conditioning or some other reasons.

On the other hand, Institutional racism refers to discrimination against person or a group of persons that has been incorporated in the structures, policies, procedures and practices of social institutions – such as governmental organizations, public schools and hospitals, judicial bodies and courts etc. This form of discrimination is either borne out of prejudice or because of failure to take into account the particular needs of different social identities.

One historic example of institutional racism is the exclusion of african-american students from attending certain public schools and separate schools for african-american children. This ended up limiting the educational opportunities of african american children and precluded them from achieving a status equal to that of others. Other examples of institutional racism in the education sector include less funding of public schools in color dominated communities as compared to schools in caucasian dominated communities in the US. Similar institutional racism exists in the hiring processes of job applicants. It has been seen that job applicants with a caucasian sounding name had a 50% greater chance of getting a call back after circulating their resume as compared to a person with a color sounding name.

Such cases of Institutionalized racism and racial discrimination are rife in other aspects of one's life such as access to courts and other legal remedies, judicial decisions of juries in the prosecution of people, incarceration rates in case of drug addicts. It can be argued that racism and racial discrimination can exist in the access to public facilities. Examples of such racial discrimination are in numerous micro posts on the Research Portal.

But for the time being, I'd suggest all delegates log on the micro-site² for the committee and go through the video that explains the difference between Individual and Institutional Discrimination³.

² Microsite Blog for SOCHUM Committee: <http://www.pmun.org/SOCHUM/>

³ Individual vs Institutional Racism: <https://www.youtube.com/watch?v=2eTTJMrINNo>

International Legal Instruments and Prior action of the UN

There exist multiple regional and international legal instruments that prohibit racism and racial discrimination but the foremost legal instrument on combatting racism, xenophobia and all forms of intolerance is the International Convention on Elimination of all forms of Racial Discrimination.

In the 1960's, United Nations acted upon calls from numerous member states to address issues of rising anti-Semitism across the globe and adopted a resolution condemning "all manifestations and practices of racial, religious and national hatred" as breaches of the UN Charter and the principles embedded in the Universal Declaration of Human Rights. Later in 1963, the United Nations adopted the Declaration on the Elimination of all forms of Racial Discrimination⁴. The Declaration became the foundation for further UN action on the issue and is considered a precursor to the International Convention on Elimination of all forms of Racial Discrimination⁵. The Convention offers a formal definition of racial discrimination and sets out international standards for the eliminating all forms of racial discrimination.

The main provisions of the convention are summarized in a simpler terms as follows:

- State parties condemn racial discrimination and commit to the elimination of all forms of racial discrimination through state guarantees to not engage in the act of or practice racial discrimination or sponsor racial discrimination;
- States parties condemn racial segregation and apartheid and undertake to prohibit and eradicate all such practices in its territories;
- It criminalizes the act of dissemination of propaganda relating to idea's or theories of supremacy of one race to another;
- It criminalizes acts of violence or acts inciting violence against a person or group of persons from another color or ethnic origin.
- State parties to the ICERD ensure that all people in its jurisdiction get effective protection and remedies through access to competent national tribunals and other State institutions against acts of racial discrimination.
- State parties agree to undertake effective measures to combat prejudices that lead to discrimination and promote understanding and tolerance and friendship among nations through education, culture and dissemination of information.

⁴ Declaration on Elimination of all forms of Racial Discrimination:
<http://www.undocuments.net/a18r1904.htm>

⁵International Convention on Elimination of all forms of Racial Discrimination:
<https://www.ohchr.org/Documents/ProfessionalInterest/cerd.pdf>

One of the most contentious and deliberated upon issue of the convention is the article relating to prohibition on the incitement racism and hate crimes based on race. The article condemns and propaganda and organizations that attempt to endorse racial discrimination and criminalizes hate speech, hate crime, financing of racist activities and membership in organizations that promote and incite racial discrimination. The point of contention is that a number of parties interpret this article and the measures as infringement on the freedom of speech and expression, association and assembly. On the other hand, the Committee on Elimination of Racial Discrimination feels that this article is indispensable to combatting racism and racial discrimination. It regards the obligation as consistent with the freedoms of opinion and expression affirmed in the UNDHR and ICCPR and further notes that the latter in particular prohibits inciting racial discrimination and hatred. In spite of this, some member parties have expressed their reservations on this article.

The Convention also establishes a “dispute resolution mechanism” among the parties to ensure the implementation and enforcement of the Convention. Under this mechanism, if one party to the Convention feels that the other is not acting in accordance to its obligations under the Convention, then it can register a complaint to the Committee on the Elimination of Racial Discrimination. The Committee passes on the complaint to the concerned parties for a response and if the dispute remains unresolved, it establishes an ad-hoc conciliation commission to consider the matter and submit recommendations to Chairman of the Commission so as to find an amicable solution to the satisfaction of both parties to the dispute. The entire procedure for the registration of complaints and dispute resolution is detailed from article 11 to article 13 of the Convention.

One of the main reasons for the effectual implementation of this agreement apart from the dispute resolution is the “Individual complaint mechanism” as detailed under article 14 of the Convention. Under this mechanism, if a member state recognizes the competence of the Committee to listen individual or group cases on issues of racial discrimination, then the committee can extend its jurisdiction and offer appropriate recommendations.

Committee on Elimination of Racial Discrimination

The Committee on the Elimination of Racial Discrimination (CERD)⁶ is composed of 18 independent experts that monitors implementation of the Convention on the Elimination of all Forms of Racial Discrimination. The State parties to the convention are obligated to submit regular reports to the Committee on the implementation the convention. Under the current reporting procedures, a state acceding to the Convention must submit a report in the 1st Year called the Initial Reports and then submit Periodic Reports every 2 years. The Committee examines each report and addresses its concerns and recommendations to the state parties in the form of “concluding observations”.

⁶ Committee on Elimination of Racial Discrimination:
<https://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx>

The Committee on Elimination of Racial Discrimination is often considered the custodian of International Convention of Elimination of all forms of racial discrimination (ICERD), it is responsible for monitoring the implementation the Convention. The Committee does so through 3 mechanisms:

- Early warning procedure of the Committee
- Dispute Resolution mechanism on Inter-state complaints
- Individual Complaints mechanism

The “Dispute Resolution mechanism” and “Individual complaints mechanism” have been explained in depth in the preceding section of the Background Guide. The Committee also publishes its interpretation of the content of human rights provisions in the form of known as general recommendations and organizes discussions on thematic issues relating to racism and racial discrimination.

The success of an international legal instrument can be measured in terms of its adoption and its implementation. It can be argued that the International Convention of Elimination of Racial Discrimination has become an international standard and has gained acceptance across the globe. The other measure of success is its implementation. The agreement has had a strong bearing on national legislations, resulting in numerous state parties banning racism and racial discrimination in all aspects of life. Some examples include the Civil Rights act of 1964 in the United States, the Race Relations act of 1971 of New Zealand, Race Relations act of 1976 in UK and the Canadian Human Rights act of 1977.

But there exist numerous challenges to the implementation and reporting standards. Some state parties still need to report their progress to the Committee. It has been noted that, as of 23 November 2015, 92 state parties have not submitted their initial or periodic reports on time. For instance, Sierra Leone, has failed to report its progress since 1976. Liberia and Saint Lucia also haven't fulfilled reporting requirements under the Convention. The Committee has also noted that the number of state parties accepting the “Individual complaints mechanism” among african and asian countries remains especially low. Only 3 asia-pacific state parties have made declaration under the article 14 of the Convention to recognize the Individual complaints mechanism.

Durban Declaration and Durban Programme of action

The Durban Declaration and Programme of action⁷ together represent the second most important document on the issue of racial discrimination after the ICERD. In 2001, the General assembly, pursuant to Ga resolution 52/111 authorized a conference to be held in Durban against Racism, Racial Discrimination, Xenophobia and related Intolerance. The outcome of the conference resulted in the Durban Declaration and Programme of action a

⁷ Full text of Durban Declaration and Programme of Action:
http://www.un.org/en/durbanreview2009/pdf/DDPA_full_text.pdf

comprehensive action-oriented document that proposes concrete solutions to combat racism, racial discrimination, xenophobia and related intolerance.

The Durban Declaration and Programme of action embodies the firm commitment of the international community to plug the loopholes in the ICERD but it comes at the expense of losing its enforcement abilities in part because the declaration is not binding in nature, meaning that state parties can ignore the recommendations contained in the document.

The Durban Declaration and Programme of action is a 60 page document. Therefore, it is not possible for delegates to read the full document. Therefore, for the purposes of ease, I am reiterating its main features here.

To summarize, the Durban Declaration and Programme of action:

- Calls for the Universal ratification of the International Convention on Elimination of all forms of Racial Discrimination.
- Delegates the obligation to combat racism, racial discrimination, xenophobia, and related intolerance to States parties to the Convention and calls upon international organizations, national human rights institutions increase their engagement;
- Highlights the need to incorporate a gender dimension in fight against racism and racial discrimination and attributes a much greater role for females in the drafting of programmes to combat racism, racial discrimination and related intolerance;
- Calls for the drafting of “National action plans” to eradicate racial discrimination, xenophobia and related intolerance;
- Calls for reinforcement of National Human Rights bodies to formulate concrete recommendations in the area’s of national legislation and administrative justice;
- Outlines measures to address discrimination in the fields of education, healthcare, job opportunities and policing;
- Calls upon state parties to adopt policies and programmes to counter incitement to racial hate crimes and hate speeches in the media, including the Internet;
- Urges state parties to adopt “affirmative-actions” to create equal opportunities for victims of racism, racial discrimination, xenophobia and related intolerance in the political, economic, social and cultural decision-making spheres;

The Durban Declaration and Programme of action contain important issues relating to the agenda and these area’s must be examined. But at the same time, it is important to use a broader understanding of racism and racial discrimination in regards to social, economic and legal spheres of life. Therefore the recommendations and suggestions contained in the Durban Declaration and Durban Programme of action can serve as a strong basis for committee debate.

Important Research on Portfolio

This section consists of important issues or questions regarding a delegates portfolio. It is expected that a delegate is researched on these question.

Issue 1: Does your country have a documented historic past of engaging in institutional racism, ethnic discrimination or xenophobia ?

Issue 2: What policies or measures has the Government implemented to combat racism, racial discrimination or xenophobia ?

Issue 3: Has the Government been submitting period reports to the Committee on Elimination of Racial Discrimination on its progress ?

Issue 4: Has the Government accepted the recommendations contained in the Durban Programme of action ? If not, then the reason for the same.

Important Issues to Consider

This section consists of issues or questions that the Executive Board feels can be debate upon. But remember that this list are not exhaustive – meaning that delegates should feel free to explore other sub-topics apart from these issues.

Issue 1: Does Institutional racism exist in one's access to public facilities such as access to education, healthcare, sanitation, courts and other legal remedies, job opportunities ? Please research some case studies or examples if possible.

Issue 2: Policies and measures members can adopt to ensure faster integration of racial and ethnic minorities.

Issue 3: Does the criminalization of hate speech constitute a infringement on the freedom of speech and expression ?

Issue 3: Has the International Convention the Elimination of all forms of Racial Discrimination (ICERD) been successful in combatting racism and racial discrimination ?

Issue 4: Is the “Dispute resolution mechanism” effective in implementing and enforcing the clauses of the International Convention the Elimination of all forms of Racial Discrimination (ICERD) ?

Issue 5: Please suggest some recommendations or solutions to combat racism, racial discrimination, xenophobia and related intolerance.

Issue 6: What is the role of the UN Special Rapporteur on Contemporary forms of racism, racial discrimination, xenophobia and related intolerance ?