
The World Conference against Racism: Through a Wider Lens

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The United Nations World Conference against Racism held in Durban, South Africa last September focused on one of the most persistent and threatening problems confronting the world.¹ It did not just retread old ground. For the first time it addressed, in a United Nations governmental forum, the deep historical roots of this problem, confronting issues such as the legacy of the Transatlantic Slave Trade, colonialism, and the problems faced by descendants of African peoples throughout the world. Likewise, it looked at contemporary issues like hate speech on the Internet.

The main focus of the World Conference against Racism (WCAR) was *not* the Israeli/Palestinian crisis, though it was certainly a very hot and contentious topic. And, it is certainly true that some, both inside and outside the conference, wanted to make the Israeli/Palestinian issue the principal focus of the WCAR. The backdrop of the then already raging second Intifada made the press focus on these, in their view, more topical issues. While perhaps understandable, that distorted focus did the conference a disservice. Similarly, the focus of critics such as Congressman Tom Lantos (Democrat-California), who see issues of racism only through the lens of the Israeli/Palestinian conflict, misses the proverbial forest for the trees.

In the Winter/Spring issue of *The Fletcher Forum of World Affairs*, Congressman Lantos evaluates the WCAR and deems it worse than a failure.² It was, he said, a reflection of the hatred that inspired the terrorist attacks on the United States a few days after the conference closed.

From 1998 until 2002, Gay McDougall served as the first American member of the United Nations treaty body that oversees compliance with the International Convention on the Elimination of All Forms of Racial Discrimination. She participated in the World Conference against Racism and its Preparatory Committees in that capacity. Gay McDougall is the Executive Director of the International Human Rights Law Group.

But Mr. Lantos is wrong. He uses only one yardstick to measure the worth and effectiveness of the conference: whether it was sufficiently supportive of Israel's policies in the West Bank and Gaza Strip. In taking that measurement, he and those who join in his cause either misunderstand or misconstrue a process that took place over a three-year period, and they disregard its many positive outcomes. Perhaps the

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most egregious error is that he reduces the subject of racism—a global issue affecting the lives of billions of people—to one litmus test. There is much more to the problem of racism than the Israeli-Palestinian conflict, and there was far more to the WCAR than Congressman Lantos took note of. Sadly, his judgment only serves to denigrate the advances that were obtained at the WCAR and will only serve to lessen the commitment states feel to honor the important obligations

they made there. With racial intolerance continuing to tear our world apart at the seams, to belittle the progress made in Durban is the last thing we need.

This is not to say that there were no flaws in the Durban process. There were many. I join with Congressman Lantos and other critics who rightly condemn the anti-Semitism that some groups brought to events and activities surrounding the Non-Governmental Forum (NGO Forum). In some places, there was an atmosphere of intimidation and hate against Jewish people. There were cartoons and posters that were hurtful and inappropriate. Additionally, the final NGO document contained language relating to Israel that was inflammatory. In fact, portions of the document proposed by the Jewish caucus were defeated in a process that was intimidating and undemocratic.

This drew energy away from the critical issues of the conference, engendered bitterness, seized the focus of the media, and most importantly, was antithetical to the over-riding non-discrimination agenda of the conference. These were serious problems, from which we all need to learn.

But the World Conference was so much more than these objectionable occurrences, and the vast majority of the over 18,000 people who participated in the World Conference came and went without ever experiencing them. An analysis that assesses the entire World Conference only in light of these events misses important elements of the process and does a disservice to the gains that many people fought so hard to achieve.

In thinking about the WCAR, it is important to keep in mind two points. First, world conferences are a process of dialogue and engagement that stretches over two or more years, culminating in the event and then proceeding through post-conference implementation. It is a journey, not simply a destination, during

which relationships are built, perspectives are communicated, positions are changed, compromises are negotiated, and consensus emerges. Propelled by the WCAR process, for over two years, practically every nation in the world discussed the causes and solutions to racial discrimination. There were many achievements gained during that process, even before we reached Durban.

The second point to keep in mind is that, in Durban, there were really several conferences taking place simultaneously on largely parallel tracks. Besides the official United Nations governmental conference, there was the Voices Special Forum, daily public hearings of the testimony of victims of racial discrimination, the NGO Forum, and numerous workshops on a variety of issues, spread out in a geographic area that stretched to surrounding cities. The United Nations governmental conference was largely unaware of developments in these other venues. Depending on which conference one attended, his/her experiences of Durban might have varied greatly.

That said, I would make the following summary of what was accomplished at the WCAR:

- We grappled with the past in what I think is fair to call a historic discourse;
- We made an important statement about what racism looks like in the twenty-first century;
- We expanded the knowledge base about contemporary issues relating to racial discrimination;
- We re-affirmed some of humanity's most profound legal principles (equality and non-discrimination based on race), re-committed ourselves as a global community to them, and elaborated their meaning in this new era;
- We made plans for action around common ground;
- We identified the thorny issues around which there must be further dialogue, understanding, and struggle;
- We acknowledged the importance of civil society in the struggle against racism and gave birth to new global networks of civil society groups working to combat racism;
- We created a context that empowered a variety of victim groups.

I would like to expand upon a few of these points.

ADDRESSING THE PAST

The World Conference against Racism, as many have aptly noted, was in part about who will bear the burden of history. The Transatlantic Slave trade and the era of colonialism were cataclysmic events that generated notions of racial inferiority as critical elements of their survival. The WCAR was the first global diplomatic forum that has attempted to grapple with these past realities. It was a historic exchange of views.

The objective, first and foremost, was to make an honest assessment of the past and its legacy in the present. Without such retrospection, designing effective corrective measures is nearly impossible. Some governments wanted these past practices declared international crimes that would give rise to liability for reparations. Some wanted an apology. Those states most associated with the historical events challenged the usefulness of focusing on the past.

The final language, accepted by consensus in the Durban Declaration and Programme of Action, moves the debate forward, despite its failure to satisfy fully any of the contesting positions. In those documents, governments acknowledge and express profound regret to those who suffered the effects of slavery, the slave trade, the Transatlantic Slave Trade, apartheid, colonialism and genocide.³ Though not amounting to an apology, this language goes further than any previous international declaration in recognizing the gravity of these past wrongs, calling on the world community to remember these atrocities and to work to prevent them from happening again. Governments, for the first time, recognized that slavery and slave trading are crimes against humanity and "should always have been so."⁴ Unfortunately, the compromise language in the Declaration falls short of acknowledging that the Transatlantic Slave Trade constituted a crime against humanity at the time that it took place, largely because Western governments feared the implications that admission might have in litigation for reparations in

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national courts. The conference failed to reach a consensus declaring the system of colonialism to be an international crime.

These government declarations on the past are critical not only in their condemnation of slavery and colonialism, but also in the way they link these tragedies to the problems of racism, racial discrimination, xenophobia, and related intolerance that exist today. Governments acknowledged that slavery and colonialism were root

causes of contemporary racism and declared that the effects of slavery and colonialism continue to significantly impact the lives of descendants of victims today. The Declaration declares: "Africans and people of African descent, Asians and people of Asian descent, and indigenous peoples were victims of these acts and continue to be victims of their consequences."⁵ Governments affirmed that the political, socio-economic, and cultural practices and structures of colonialism have contributed to contemporary forms of racism, racial discrimination, xenophobia, and related intolerance.⁶

With respect to the contentious issue of reparations, a compromise was fashioned which some NGO representatives thought created an unconstructive

division between the interests of African states and the African Diaspora in the Americas. Governments recognized and re-affirmed the right of individual victims (presumably in the Diaspora) to seek reparations in their national courts.⁷ No comment was made on the legitimacy of such claims with respect to the Transatlantic Slave Trade.

At the international level, the claim for reparations was channelled into a discourse on development assistance.⁸ The Programme of Action recognizes that the historical injustices discussed at the WCAR underlie the current economic disparities but without implication of legal or moral obligation, gives its approval to a variety of forms of development assistance. The forms listed in the Programme of Action represent nothing new. Nor do they establish new funding levels, timetables or target outcomes.

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The Declaration notes "that some States have taken the initiative to apologize and have paid reparations where appropriate, for grave and massive violations committed"⁹ and calls on those that have not yet expressed remorse or presented apologies to find some way to contribute to the restoration of the dignity of the victims.¹⁰ There is no direct link between regret for the past and the requirement to pay monetary compensation, although a "moral obligation" is cited to take appropriate steps to address the lasting consequences.¹¹ As Dr. Dlamini Zuma, President of the World Conference and South Africa's minister of foreign affairs, summarized in her closing speech, "We agreed that slavery is a crime against humanity and that an apology is necessary, not for monetary gain, but to restore the dignity and humanity of those who suffered."¹² The very fact that governments seriously engaged in a discussion on reparations, however, established a benchmark for the reparations dialogue that will serve as a platform for further advancement of the issue. Perhaps most important, the Declaration affirms that "telling the truth about history [is an] essential element for international reconciliation and the creation of societies based on justice, equality and solidarity...."¹³

RACISM IN THE THIRD MILLENNIUM

The World Conference process also provided a snapshot of racism in the twenty-first century. The face of racial discrimination has changed significantly since the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) was adopted in 1965.¹⁴ Apartheid has ended in South Africa and colonialism has largely been defeated. Radical changes in the global

economic system have forced massive population migrations from former colonial countries to northern industrialized metropolises. Today, first and second generation migrant communities make racial equality an issue of domestic concern for practically all nations. But the majority of countries has either been in denial of that reality or has tried to stem the tide of migrants through restrictive immigration laws.

In Durban, and in the regional Preparatory Committees (PrepComs), the World Conference process changed that mentality. Governments declared that the fight against racism is an international priority for *all* nations in this third millen-

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nium.¹⁵ Racism exists now in practically every country. Governments agreed to focus on their own national laws and practices and to recognize, where, not if, racism is present within their borders. As former Amnesty International Secretary General Pierre Sané, observed, "It was an extraordinary admission by those who took part that racism exists in all societies."¹⁶ Governments pledged to not only address obvious *de jure* forms of discrimination,

but to scrutinize the policies and practices within their countries to ensure that *de facto* manifestations of racism are also understood and corrected.

One of the significant lacunae of the ICERD is that by its terms it does not apply to how governments treat non-citizens. While the Committee on the Elimination of all Forms of Racial Discrimination (CERD), the Committee that oversees compliance with the ICERD, has addressed this loophole in its General Recommendations and practice with respect to examination of State Party reports to CERD,¹⁷ the contemporary importance of the issue requires a more direct treatment. The Durban Declaration notes "that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism...."¹⁸ UN High Commissioner for Human Rights and Secretary-General of the World Conference Mary Robinson has commented that the Durban final document is "the best text internationally on migrants."¹⁹

The World Conference also emphasized the fact that "poverty, underdevelopment, marginalization, social exclusion, and economic disparities are closely associated with racism, racial discrimination, xenophobia and related intolerance..."²⁰ The World Bank confirmed this conclusion in its assessment of Durban before the fifty-eighth session of the UN Human Rights Commission. The World Bank noted that racism and racial discrimination keep people in poverty, lead to a loss in personal and social security, and destroy the social fiber and fundamental dimensions of diversity. The World Bank has thus agreed to work to assist any developing country making an effort to eliminate racial discrimination.²¹

Other contemporary manifestations of racism and racial discrimination detailed in the Durban Declaration and Programme of Action include such topics as HIV/AIDS,²² the Internet and media,²³ genetic research,²⁴ globalization,²⁵ and the intersection of racial discrimination with other forms of discrimination, notably with respect to race and gender, which creates unique experiences.²⁶

EXPANDED DATA BASE ABOUT CURRENT FORMS AND ISSUES OF RACISM

The process of the World Conference generated the establishment, by the UN and other organizations, of special research bodies and working groups, and brought experts together on many occasions to critically analyze present day manifestations of racism. Specialized agencies such as the International Labor Organization (ILO) contributed studies and projects on the interconnectedness between racism and the world of work.²⁷ The United Nations Development Fund for Women (UNIFEM) produced studies on the intersection between race and gender. And NGOs provided hundreds of research and analytical reports on particular aspects of racism, racial discrimination, xenophobia, and related intolerance.

The Office of the UN Commissioner for Human Rights organized Regional Expert Seminars in five different regional meetings over the course of 2000.²⁸ The seminar groups, each composed of ten experts, presented papers and studies that identified and analyzed particular priorities, obstacles, and plans of action to combat racism in their region.²⁹ The result of these seminars was the creation of an expanded database about current forms and issues of racism.

Before the General Assembly convened the World Conference process, for example, there was very little data or analyses on ethnic conflict as an issue of racial discrimination in Africa. The expert seminar in Addis Ababa, however, focused solely on this issue and issued a report that provided substantive data on, among other issues, the causes, origins and factors contributing to inter-communal tensions; the

realization of economic, social, and cultural rights and the right to development as a strategy for the prevention of ethnic conflict; and the effectiveness of international norms, mechanisms, and approaches to the prevention of ethnic and racial conflicts.³⁰

The particular interplay between globalization and racism was another topic that had not been subject to significant studies or reports. In preparing for the World

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Conference, however, the United Nations Research Institute for Social Development (UNRISD) assessed how racism and inequality may be linked to the way labor markets are structured and differential access to government institutions.³¹

The World Conference process led institutions like the World Bank and the Inter-American Development Bank to generate studies for the first time on the plight of African descendant communities in Latin America. Critical data was also produced with regards to the issue of trafficking in persons. Though much research had been done on this topic, it was the World Conference process that prompted the unique analysis of the racial implications of trafficking. These are just a few areas where our database of knowledge on contemporary forms of racism grew exponentially as a result of the WCAR.

GOVERNMENTS COMMIT TO PLANS OF ACTION

The World Conference made forward-looking plans for action around common ground. Following the articulation of a set of general principles, governments committed themselves to a detailed programme of action with concrete commitments at the national, regional, and international level. Specifically, as Mary Robinson stated, governments pledged national plans and programs for 1) better treatment of victims; 2) tougher anti-discrimination legislation and administrative measures, which address both *de facto* as well as *de jure* forms of discrimination;³² 3) universal ratification and implementation of ICERD and other relevant interna-

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tional treaties;³³ 4) strengthening education;³⁴ and 5) improving the remedies and recourses available to victims.³⁵

In the Programme of Action states have made commitments to, among other things: review their existing national laws and policies, and where necessary, amend their national legislation, administrative procedures, and even their constitutions in order to foster equality among all individuals;³⁶ to design and fully implement effective policies and programs to prevent, detect, and ensure accountability for misconduct by police officers and other law enforcement personnel which is motivated by racism;³⁷ to eliminate racial profiling;³⁸ to promote a high quality and diverse police force free from racism;³⁹ to prevent genetic research or its application from being used to promote racism and to prevent genetic information from being used for racist purposes;⁴⁰ to offer special protection for domestic workers, who in most countries are overwhelmingly women of color, and trafficked persons;⁴¹ and to collect, disseminate, and publish reliable sta-

tistical data, disaggregated by race, to assess and monitor the situation of victims of racism and marginalized groups and to evaluate corrective measures.⁴²

THE EMPOWERMENT OF VICTIM GROUPS

The successes of the World Conference may be best reflected in the way it empowered victims. The journey to Durban created an opportunity for victim groups around the world, many struggling with the invisibility of their cause, to articulate their issues to the world community and to engage their governments in a manner they had not been able to in the past. The World Conference process offered opportunities for building coalitions, sharing experiences, gaining strength, and strategizing. Groups representing the Roma, the African-Descendant communities in Latin America, migrants, and the Dalits felt that the WCAR focused world attention on their issues, created allies for their cause, galvanized their grassroots movements and produced concrete advances in their circumstances.

In the case of people of African descent in Latin America, the empowerment was substantial. In September 2000, one-year prior to the World Conference, South American governments, in a regional heads of state meeting, did not acknowledge the plight of the over 100 million African Descendants living in Latin America. The World Conference, however, provided the opportunity for this overlooked population to coordinate and mobilize. The results were dramatic. Today, affirmative action laws have been adopted in Brazil, which has the largest population of African Descendants in the Americas. Regionally, The Inter-American Development Bank, The Inter-American Dialogue, and the World Bank initiated the first Inter-Agency Consultation on Race Relations in Latin America (IAC). The IAC is designed to effectively address the special problems affecting African Descendant populations. The Inter-American Commission on Human Rights has held hearings on African Descendants and is considering the need for a regional convention on racial discrimination. Even the Government of Brazil credits the WCAR for generating these progressive developments.

DURBAN AND THE MIDDLE EAST CONFLICT

Even considering the positive outcomes, some critics, notably Congressman Lantos, have sought to de-legitimize the World Conference and its results. The aspect most roundly criticized is the way the issue of the Israeli-Palestinian conflict was addressed during the last several months leading up to and including the final meeting in Durban.

These critics argue that the Israeli-Palestinian conflict should not have been an issue of debate at a conference on racial discrimination, that once it

emerged on the agenda, ineffective efforts were taken to prevent it from spiraling out of control, that the debate ultimately became anti-Semitic, and that consequently, the conference failed its primary mandate of combating racism. They charge that Israel was the only country singled out for criticism in the Declaration and Programme of Action.

The Issue Was Appropriate for Debate

The topic of the Middle East first emerged as a contentious issue at the Asia regional preparatory meeting held in Tehran in February 2001. The final document from Tehran contained harsh criticism of Israeli policies in occupied territories and the treatment of Palestinians and drew an analogy between Israeli policies and apartheid.⁴³ Subsequent proposals had language that equated the Holocaust to genocidal events that have taken place in other parts of the world.

As is the practice and procedure in UN world conferences, governments, during regional PrepComs, are free to place on the table for discussion issues they determine relevant to the region. These issues are to be for discussion and negotiation only in a lengthy process that would ultimately reflect a global consensus. Critics may question the motives of governments in the Organization of Islamic Conference (OIC) that proposed and supported the draft provisions some called objectionable. It is hard to sustain, however, the view that these were issues that had no relevance to the anti-discrimination agenda of the conference or that to debate them was intrinsically anti-Semitic.

Racism certainly exists in Israel just as it exists in practically every other country in the world. There are no grounds for exempting Israel from the same examination of its policies and practices to which all other states are subject. As Pierre Sané notes in his assessment of Durban, "For delegations from Arab and Muslim countries, the [issue of the Palestinian/Israeli conflict] is one of human rights, discrimination, violence against a people, and a violation of the right to self-determination."⁴⁴ We must distinguish between a discourse that is critical of Israeli government policy and the articulation of views that are anti-Semitic. To blur these distinctions is not helpful.

There was also another factor that kept the Israeli-Palestinian conflict as a part of the daily discussions as we drew closer to Durban. Just as the series of regional PrepComs began, the peace process that had been delicately developing in the Middle East collapsed. Ariel Sharon visited the al-Aqsa mosque and the second Intifada commenced. Events in the region spiraled out of control. Daily images of bloodshed and agony weighed heavily on everyone's consciousness. It would have been an unrealistic expectation that a global meeting of government representatives gathering to discuss racism and related intolerance when these events are taking place would not have addressed the issue. A discussion of the Middle East became inevitable.

With the backdrop of the political events in the region in a slow-motion descent into full-scale civil war, was there anything that reasonably could have been done to keep the issue off of the agenda for discussion in Durban? Contrary to Congressman Lantos' view, Mary Robinson made numerous attempts to constructively manage the debate at the government conference. For example, at the Second PrepCom, she presented a draft of the Declaration and Program of Action that contained none of the divisive language.⁴⁵ At the Third PrepCom in Geneva, she made a clear statement that the World Conference would not allow for discussions equating Zionism with racism.⁴⁶ She led numerous consultations and negotiations in back rooms and corridors with the objective of toning down the rhetoric and removing problematic language from the draft.

Of course, the most noticeable event in this regard was the "walk-out" of the United States and Israel, an action that had questionable impact on the final outcome. The United States had never been a full supporter of the conference and had entered the process reluctantly under pressure from its African-American constituency.⁴⁷ It played the role of the "doubting Thomas" throughout the first year and a half of the process, never fully committing itself to guaranteeing the success of the conference. A media campaign against the conference in the major opinion-making press in the United States ran in tandem with the government's frequent public statements of a lack of confidence in the WCAR process. Additionally, as soon as the critique of Israeli policies first emerged in the Tehran draft, there was an aggressive lobby from sectors within the Jewish-American community for the U.S. government to withdraw. By the time participants arrived in Durban, the U.S. walkout had been threatened for so long that it was anti-climatic when it actually happened.

What is puzzling is that since decision-making was solely by consensus, the United States could prevent any language from inclusion in the final conference text merely by not agreeing to it. The U.S. actions then, seem more like an objection to even having the debate, rather than being outcome oriented. The U.S. walkout was an abdication of global leadership and a shortsighted snub of the multilateral process.

Events at the NGO Forum

As stated earlier, events that took place in the NGO Forum were separate and largely unaffected by discussions in the official UN governmental conference. The traditional format for a UN world conference involves the convening of two parallel meetings: the official UN conference in which governments are the sole

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decision-makers and the NGO Forum (held at the same time and near the government conference) in which NGOs from around the world are given space to make their distinctive voices heard on relevant issues. NGO Forums are encouraged and facilitated by the UN, but the UN takes no responsibility for setting the NGO agenda or for the final content of the closing documents.

Critics of the Durban conference denounce leading international non-governmental organizations (INGOs), the World Conference Secretariat, and particularly Mary Robinson for what they view as a failure to adequately control the anti-Israeli dialogue and anti-Semitic activity at the NGO Forum. Though it is true that there was objectionable and regrettable anti-Semitic activity in Durban, even within the NGO Forum, only a minority of groups was guilty of what should be considered hate speech. At the same time, there were significant numbers of NGOs that raised legitimate and appropriate concerns about Israel's policies with respect to Palestinians in the occupied territories and within Israel proper.

Representatives of major sectors of the NGO community and the high commissioner denounced the anti-Semitic speech and activities. INGOs objected to the language of the NGO text presented to the Third PrepCom in July in Geneva. In Durban, the very NGO leaders that Congressman Lantos chides for "how reluctant they were to attack the anti-Semitic atmosphere," issued press releases and held press conferences denouncing clearly the anti-Semitic sentiments at the NGO Forum. The Leadership Conference for Civil Rights Under Law, a

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coalition of more than 180 civil and human rights organizations in the United States, issued a press release on September 4, endorsed by all its members, that referred to the anti-Semitism in Durban as "repugnant and reprehensible" and noted, "We share the concerns of those who decry anti-Semitism and other forms of bigotry."⁴⁸ Other NGO's offered press statements of their own condemning the hateful language aimed at Israel and Jewish groups in the final NGO document.⁴⁹ In addition, some NGO participants resigned from the NGO International Steering Committee in protest⁵⁰ and, ultimately, 77 NGOs from 37 countries rejected the NGO document the night it was final-

ized because of references to Israel as an apartheid state.⁵¹ Such facts fly in the face of statements made by Congressman Lantos that NGOs "did almost nothing to denounce the activities of the radicals in their midst...made no statements protesting the debasement of human rights mechanisms..."⁵²

Additionally, contrary to Lantos' argument, Mary Robinson made concerted efforts to manage the difficult task of preventing appropriate critiques of Israel from turning into unhelpful and hateful attacks. So disturbed was she by the hate speech and anti-Semitic cartoons directed against Jews at the NGO Forum, for example, that she showed her solidarity with the Jewish delegations by stating, "... I can only say that I am a Jew ... I am a Jew ... because these victims are hurting. I will not allow this fractiousness to torpedo the conference."⁵³ Putting these words into action, Mrs. Robinson rejected paragraphs in the final NGO text and took the unprecedented step of not endorsing the final NGO document to be transmitted to the government conference.⁵⁴

The vast majority of NGO representatives participating in the NGO Forum came with legitimate anti-racism agendas. The closing document from the NGO Forum is overwhelmingly progressive and articulates the aspirations of civil society groups from around the globe—people who face racism in their daily lives and who have much to say about how to combat it. With limited exceptions, the NGO Forum closing declaration is a valuable document for this reason.

The next step is the hard work of holding governments accountable to implement the promises made in Durban. Only then can we evaluate the true outcomes of the WCAR.

The Process Worked

In the end, the final Declaration and Programme of Action was a consensus text⁵⁵ that contained even-handed and appropriate language, hailed by Israel as a "great success," and well within the parameters of United States policy.

The final provisions that reference the Israeli-Palestinian conflict are minimal and do not adversely single out Israel. Only three paragraphs in the Declaration, out of 122, refer specifically to these issues. Paragraph 61 recognizes "with deep concern the increase in Anti-Semitism and Islamophobia," and paragraph 64, calls for a just and lasting peace in the region with the peaceful coexistence of all parties. Paragraph 63 of the Declaration reads:

We are concerned about the plight of the Palestinian people under foreign occupation. We recognize the inalienable right of the Palestinian people to self-determination and to the establishment of an independent State and we recognize the right to security for all States in the region, including Israel, and call upon all States to support the peace process and bring it to an early resolution

Congressman Lantos claims that the language in this paragraph "clearly

would have been unsatisfactory to the United States.”⁵⁶ This is not the case. The language is consistent with what the United States had agreed to in the past, and with the Bush administration’s post-World Conference policies regarding this conflict. The language referring to the establishment of an independent state for Palestine was endorsed by President Bush three weeks later⁵⁷ and by the UN in March in a U.S.-backed resolution.⁵⁸ The language referring to the “plight of the Palestinian people” is consistent with Bush administration rhetoric.⁵⁹ The language “under foreign occupation” is consistent with the United Nations’ non-recognition of Israel’s right to the West Bank and Gaza Strip.⁶⁰ Only two paragraphs in the Programme of Action, out of 219, refer specifically to the Israeli-Palestinian conflict.⁶¹ Both follow the wording in the Declaration.

Thus, the end result of Durban was a resolution consistent with U.S. policy on the issue. Israel, the other country to walkout of the conference, actually expressed satisfaction with final document. Foreign Minister Shimon Peres himself called the final Declaration and Programme of Action a “great, very important success” for Israel.⁶² The fact is that the process worked, even without the United States and Israel. What more could Congressman Lantos ask for?

CONCLUSION

From the conception it was clear that the Third World Conference against Racism was not going to be an easy endeavor. The prior two conferences focused on matters that countries could more safely treat as foreign policy: colonialism and apartheid.⁶³ Those earlier conferences, however, were also equally difficult. The Durban Conference was the first time a global meeting of this type sought to discuss racism, not as a foreign policy matter, but as a scourge that exists in every country and in all societies. No government really wanted to have this discussion. But, in spite of the reluctance of governments to consider domestic issues in international forums, and in spite of the many other obstacles placed in the way, the WCAR did indeed tackle some issues of fundamental importance to ending racism.

What we gained in Durban was an expression of determination, a commitment to equality expressed by a vast majority of the world’s states. The next step is the hard work of holding governments accountable to implement the promises made in Durban. Only then can we evaluate the true outcomes of the WCAR.

True, racism continues to exist in the world, and an alarming rise in anti-Semitism anti-Arab sentiment is occurring. But it is for these reasons that the anti-racism commitments that governments made in Durban must be honored now, more than ever. Governments re-affirmed some of humanity’s most profound legal principles (equality and non-discrimination based on race), re-committed themselves as a global community to them, and elaborated their meaning

in this new era. It was a "moral re-armament"⁶⁴ for a struggle against one of the world's most intractable problems. This is the time to champion these renewed commitments, not belittle them by declaring that the WCAR was a failure.

Not every group that journeyed to Durban came away with what they hoped for. That is a pity and a failing. Some Jewish groups met unacceptable hatred. However, to overcome racism, victims must show solidarity with each other, and cannot let their own agendas undermine the advances gained by so many other groups.

Could we have achieved more in Durban? Some left Durban with a sense of promises unfulfilled. Some left with a bitter after-taste from the battles that we all had to fight there. But I think that with the benefit of time, Durban may well prove to be an important milestone in what is a very long-term struggle. ■

* The author would like to acknowledge the important contribution made by Thomas Lynch to the development of this article.

NOTES

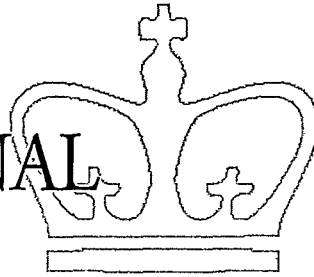
- 1 The World Conference process began in 1997 when the UN General Assembly convened a process, through General Assembly Resolution (A/RES/52/111), that consisted of years of preparatory meetings, working groups, and advanced studies. The process culminated with several parallel conferences in Durban, South Africa, including the NGO Conference, held from August 28 to September 1, 2001, and the United Nations Governmental Conference, held from August 31 to September 8, 2001. The Governmental Conference was originally scheduled to end on September 7, 2001. However, due to the difficulty of resolving language concerning reparations and the Middle East, the World Conference was extended one day, until September 8, so that a consensus text could be finalized. The World Conference Secretariat published the final "Declaration and Program of Action" on January 3, 2002 (A/CONF.189/12), and on March 27, the United Nations General Assembly adopted Resolution 56/266 supporting the outcome of the World Conference and calling for the full implementation of its Declaration and Programme of Action.
- 2 Tom Lantos, "The Durban Debacle: An Insider's View of the World Racism Conference at Durban," *The Fletcher Forum of World Affairs*, 26 (1) Winter/Spring 2002: 31-52. <<http://www.fletcherforum.org>> (Accessed April 27, 2002).
- 3 World Conference Secretariate, "Declaration," par. 99, "We acknowledge and profoundly regret the massive human sufferings and the tragic plight of millions of men, women and children caused by slavery, slave trade, Transatlantic Slave Trade, apartheid, colonialism and genocide and call upon States to honour the memory of the victims of past tragedies and affirm that wherever and whenever these occurred they must be condemned and their reoccurrence prevented."
- 4 World Conference Secretariate, "Declaration," par. 13. This historic language dealing with "crimes against humanity" originated at the Santiago PrepCom, which forged an agreement over the continued objections of the United States and Britain ("Santiago Declaration," par. 27-32).
- 5 Ibid.
- 6 Ibid., par. 14.
- 7 Ibid., par. 104. In the Durban Declaration and Programme of Action, "African Diaspora" refers to people of African descent living in the Americas, largely as a consequence of the Transatlantic Slave Trade. See World Conference Secretariate, "Programme of Action," par. 7.
- 8 Ibid., par. 159.
- 9 World Conference Secretariate, "Declaration," par. 100.
- 10 Ibid., par. 101.
- 11 Ibid., par. 102.
- 12 Statement by H.E. Ms. Nkosazana Dlamini Zuma, Minister of Foreign Affairs of the Republic of South Africa and President of the World Conference, in *Report of the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance*, A/CONF.189/12, 150.

- 13 World Conference Secretariate, "Declaration", par. 106.
- 14 Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965. Entered into force, 4 January 1969 in accordance with Article 19.
- 15 World Conference Secretariate, "Declaration" par. 3, "We recognize and affirm that at the outset of the third millennium, a global fight against racism, racial discrimination, xenophobia and related intolerance, and all their abhorrent and evolving forms and manifestations is a matter of priority for the international community..."
- 16 Pierre Sané, "In defence of Durban: racism is back on the agenda," *UNESCO Courier*, September 2001, 10 <http://www.unesco.org/courier/2001_10/uk/planet.htm> (accessed May 1, 2002).
- 17 General Recommendation XI, (1993).
- 18 World Conference Secretariate, "Declaration," par. 16.
- 19 Kareem Faheem, "The Education of Mary Robinson: A Conversation With the UN's High Commissioner for Human Rights," *The Village Voice*, April 24-30, 2002.
- 20 World Conference Secretariate, "Declaration," par. 19.
- 21 Statement by Alfredo Sfeir-Younis, Special Representative to the United Nations and the World Trade Organization, The World Bank, Fifty-Eighth Session of the Commission on Human Rights, March 21, 2002, Geneva, Item 6.
- 22 World Conference Secretariate, "Declaration," par. 75; "Programme of Action," pars. 3, 101, 110, 154, 158.
- 23 World Conference Secretariate, "Declaration," pars. 88-94; Programme of Action, pars. 3, 43, 63, 86, 117, 119, 136, 140-147.
- 24 Programme of Action, par. 73.
- 25 World Conference Secretariate, "Declaration," pars. 11, 12, 105; "Programme of Action," pars. 96, 152, 209.
- 26 World Conference Secretariate, "Declaration," par. 69; "Programme of Action," pars. 18, 31, 50-52, 54, 59, 63, 66, 94, 133, 136, 139, 176, 213.
- 27 International Labor Office, GB.280/LILS/12, 280th session, Geneva 2001.
- 28 UN Human Rights Commission Resolution 2000/14, requesting that "the regional preparatory processes identify trends, priorities and obstacles at the national and regional levels, to formulate specific recommendations for the action to be carried out in the future to combat racism, racial discrimination, xenophobia and related intolerance and to submit to the Preparatory Committee, by its 2001 session at the latest, the conclusions of these regional preparatory processes."
- 29 Regional Expert Seminars (A/CONF.189/PC.1/8, 2/2-2/5).
- 30 Addis Ababa Regional Seminar (A/CONF.189/PC.2/4).
- 31 A detailed description of UNRISD's work before and during the World Conference can be found on their website, at <<http://www.unrisd.org/racism/index.htm>>.
- 32 World Conference Secretariate, "Programme of Action," pars. 66-74.
- 33 Ibid., pars. 75-83.
- 34 Ibid., pars. 117-139.
- 35 Ibid., pars. 157-166.
- 36 Ibid., par. 70.
- 37 Ibid., par 71.
- 38 Ibid., par. 72.
- 39 Ibid., par. 74.
- 40 Ibid., par. 73.
- 41 Ibid., par. 69.
- 42 Ibid., pars. 92-97.
- 43 Report of the Asia Preparatory Conference, held in Tehran, Islamic Republic of Iran, 19-21 February 2001, (A/CONF.189/PC.2/9).
- 44 Sané, "In defence of Durban," 11.
- 45 For instance, Mary Robinson chose not to just merge all of the regional drafts together, which would have included the contentious paragraphs of the Tehran document. Rather, she decided the most productive way to handle the compilation of regional drafts was to only include points of agreement into the working draft, thereby allowing the states to determine the placement of contentious issues.
- 46 "[T]here can be no return to an issue settled by the General Assembly, the *former* Zionism-racism problem" (emphasis added). Statement of Mary Robinson to the Bureau of the Third Preparatory Committee, Thursday, August 9, 2001.

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- 47 Initially, State Department support for the WCAR was negative because of threats by Senator Jesse Helms to condition funding for the State Department and UN dues on there being no support for future UN global conferences (See Public Law 106-113, 11/29/99). Later the administration of President Clinton established an Inter-Agency Task Force on the WCAR and conducted outreach programs in the civil rights community. But these were tentative steps that were quickly threatened when the issue of reparations for slavery was raised. Support from the Bush administration was even more lukewarm, in spite of the encouraging meetings between Secretary of State Colin Powell and the high commissioner for human rights.
- 48 Leadership Conference on Civil Rights Press Release, "Civil and Human Rights Group Decries Anti-Semitism But Says Government Should Have Stayed," September 4, 2001.
- 49 See for example, statement by Michael Posner, Executive Director for the Lawyers Committee for Human Rights, "[T]he language on Israel included in the NGO document is inaccurate and inflammatory. We reject it. NGOs should set a civil tone in our language for governments to follow." Press Conference held by the Lawyers Committee for Human Rights, Physicians for Human Rights, Amnesty International, Human Rights Watch, and the International Service for Human Rights in Durban, September 3, 2001. <<http://www.lchr.org/wcar/middleeast.htm>> (accessed May 3, 2002).
- 50 Barbara Arnwine, executive director of the Lawyers Committee for Civil Rights Under Law and the Americas' representative to the NGO drafting committee, submitted her resignation to the NGO International Steering Committee because of the flawed process. Arnwine said she expressed concerns about the process, but received no response and decided the integrity of the documents was compromised and she should therefore resign.
- 51 *Daily Mail & Guardian*, Durban, Thursday, August 30, 2001, <<http://www.mg.co.za/mg/za/racism.html>> (accessed April 29, 2002).
- 52 Lantos, 46.
- 53 See Agence France Press, "I am a Jew": Mary Robinson," Durban, South Africa, August 29, 2001, quoting the high commissioner at a dinner for sponsors of the NGO Forum sponsored by the ABSA bank.
- 54 In a press briefing on Tuesday, September 5, Mrs. Robinson reiterated that she did not support "inappropriate content of the NGO Forum Declaration" and stated "for the first time, I can't recommend to delegates to pay close attention to the document like I normally do," *Daily Mail & Guardian*, Durban, "Divisive NGO Declaration handed in at WCAR," Thursday, August 30, 2001, <http://www.mg.co.za/mg/za/racism.html>.
- 55 Canada and Australia, though joining the consensus, expressed reservations to the paragraphs in the final document that referenced the conflict in the Middle East. See Statements by the representatives of Canada and Australia in the Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, A/CONF.189/12.
- 56 Lantos, 48.
- 57 Ari Fleischer, White House Press Briefing, October 2, 2001.
- 58 See UN Security Council Resolution 1397, March 12, 2002, and SC 73/10, 4478th Meeting, 26 February 2002, "U.S. Vision for Middle East is 'Viable State of Palestine Living Alongside State of Israel' Security Council Told."
- 59 See Ari Fleischer, White House Press Briefing, April 1, 2002, stating "The plight of the Palestinians has always been on the president's mind and a part of his statements."
- 60 S/RES/242 (1967) of 22 November 1967, stipulates that the establishment of a just and lasting peace should include the application of two principles: "withdrawal of Israeli armed forces from territories occupied in the recent conflict" and "termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force." The United Nations has since maintained that Palestinians in these areas are under foreign occupation.
- 61 World Conference Secretariate, "Programme of Action," pars. 150,151.
- 62 Agence France Press, "Peres calls UN racism conference great success for Israel," September 8, 2001.
- 63 See *Report of the World Conference to Combat Racism and Racial Discrimination, Geneva, 14-25 August 1978, A/CONF 92/40* and *Report to the Second World Conference to Combat Racism and Racial Discrimination, Geneva, 1-12 August 1983, A/CONF.119/26*.
- 64 Sane, 11.
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