Effective Implementation of the Durban Declaration and Programme of Action
(IGWG – 8th session): Approach at the regional and national levels

The South African Human Rights Commission
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Structural discrimination is an apt lens with which to interrogate the effective implementation of the Durban Declaration and Programme of Action (hereinafter “DDPA”). At the outset, the presentation by the South African Human Rights Commission (hereinafter “SAHRC”) discusses the imperative to go beyond manifest forms of discrimination, i.e. those forms of discrimination that are easily discernible. It argues for the need for a shift in focus in a way that will include those forms of discrimination that are more abstract, and therefore, less accessible to interventions. In addition, the presentation points to the overlap between the different fulcrums of discrimination, and the need for interventions to be comprehensive, including or considering personal, institutional and structural processes, in designing interventions for vulnerable groups in particular.

On a more practical level, the presentation outlines research done on one of the disadvantaged, and hence vulnerable, communities in South Africa, delineating the banality of discrimination and clarifying its historical link with colonisation and apartheid, both of which are cited in the DDPA as victimogenic processes in the fight against racism, racial discrimination, xenophobia and related intolerance. In this regard, the presentation will identify how the farming sector, domestic worker sector and the context of peri-urban industrial areas heighten the vulnerability of already-marginalised populations working in these sectors, outlining the inherent characteristics of these sectors as problematic in the fight against discrimination. This section, in the presentation, calls for attention and resources to be channelled towards strengthening the promotion and protection of human rights in these parts of the social structure.

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To this end, the SAHRC has partnered with the Office of High Commissioner on Human Rights (hereinafter “UNHCHR”) to implement a project, which in part, is informed by the research referred to above. Part of the project focuses on ensuring that those who have fallen victim to actions of severe discrimination receive the necessary counselling, and that the broader community receives relevant human rights education and community leadership training. Other aspects of the project deal with:

- Monitoring equality courts, being an important platform on which some of the discrimination cases are dealt with
- Increasing the internal capacity of the legal department of the SAHRC to ensure adequate support towards those whose human rights have been violated, and to facilitate a speedy resolution thereto
- Seminars on the National Action Plan, to familiarize different sectors with this instrument, and to encourage engagement with and usage of same
- Designing a monitoring and evaluation tool for xenophobia, monitoring detention facilities for non-nationals, and training human rights education officers

The DDPA also emphasizes the need for relevant and effective legislation to be enacted in aid of the elimination of discrimination, and facilitation of the promotion, protection and observance of human rights at a national level. This presentation explores a selected number of laws which have been implemented in South Africa, briefly evaluating what has been achieved since the enactment of these laws, against what they were set out to achieve. The legislation that forms part of this evaluation relates to the business sector in particular, but also touches on legislation relevant to general society. It covers the following:

- the diversification of business or means of production ownership to include the designated groups which policies of the past have disadvantaged
- the diversification of the workforce, especially the more skilled positions in the workforce
- the promotion of equality
- the promotion and protection of human rights
- the constitution as the master guide for the country

Finally, the presentation looks at relationships with neighbouring countries, and reflects on some of the fruitful interactions and mutual support that occurs between the National Human Rights Institutions (NHRIs) in this region.