



Dialogue on
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The 2009 Durban Review Conference

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This was not a conference for Mahmoud Ahmadinejad, and no, he was not a guest of honor, but a regular speaker in the UN conference's high-level segment, using a space that is available for any head of a UN member state, even if he misused it for racist attacks against Israel, including the denial of the Holocaust.

It also was not a "Durban II" but a review of the 2001 conference, which explicitly did not aim at reopening or repeating the discussions held 7 ½ years ago. It was necessary and important because the problems addressed – racism, discrimination, xenophobia and intolerance – persist in almost every country of the world.

Particularly at the outset, media as well as some NGOs mostly reported the conference in another light – namely as a hate-fest against Israel and a manifestation of Islamist extremism. Memories for the original Durban Conference in 2001 and its accompanying NGO forum as well as some discussions during the negotiations leading up to the conference and last not least the announcement of Ahmadinejad's presence gave ample reason for this, yet the conference itself did not confirm those negative expectations.

Still, for some countries, including Germany, concerns over the direction the conference might take were a reason to boycott the conference¹. Other countries preferred to take the provocations head on instead of leaving their chairs empty. Foreign Minister of Norway, Mr. Jonas Gahr Store, voiced the disgust that most people felt at the speech of the Iranian President with strong words: he described it as "incitement of hatred, spreading politics of fear and promoting an indiscriminate message of intolerance"² and as such, running counter to the very aims of the conference.

Boycotting a UN conference – and in Germany's case it was the first boycott ever of a UN conference – was judged by many observers as undermining the credibility of the UN and leaving

the floor to countries hostile to human rights, foreclosing the possibility to setting the tone right. The representative of the Inter Parliamentary Union commented this decision of some countries, stating that "their absence is a setback for the victims of racism [... and] does not help create better understanding and more tolerant societies"³

Paradoxically and unintended, the intolerable speech of President Ahmadinejad might have been one reason for the swift and consensual adoption of the balanced outcome text of the conference. Countries that might have wished for stronger words highlighting their own views or for the singling-out of one particular conflict must have realized that the position of Iran, the "odd man out"⁴ could not be followed and that a clear message against racism, racial discrimination and the incitement to hatred had to be sent by the members of the conference.

To understand the process of the 2009 Durban Review Conference, the content and process of the **2001 Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance** and its Programme of Action⁵ have to be kept in mind. The outcome document of the 2009 conference does not list many concrete activities or recommendations⁶. Partly, this is due to the first paragraph, reaffirming the 2001 Declaration and Programme of Action (DDPA). In short, the DDPA contains commitments to equality and non-discrimination as human rights; states the primary responsibility of states to fight racism; calls for the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination; proposes a victim-oriented approach pointing out specific groups (ethnic groups, migrants, minorities...); voices concerns on multiple and aggravated forms of discrimination; calls for various measures to fight discrimination and racism, including national action plans; and it recommends positive action and effective

* The author thanks Yonas Endrias for information on the background of the conference.

¹ Initially the conference was boycotted by Australia, Canada, Germany, Israel, Italy, Netherlands, New Zealand, Poland, and United States; after Ahmadinejad's speech, the Czech Republic (currently holding the EU presidency), also turned its back on the conference.

² Norwegian statement at Durban Review Conference, 20 April 2009, available at http://www.regjeringen.no/en/dep/ud/about_mfa/minister-of-foreign-affairs-jonas-gahr-s/Speeches-and-articles/2009/durban_ii.html?id=555874, last visited on 8 May 2009.

³ Inter Parliamentary Union statement 21. April 2009. Webcast archive:

<http://un.org/webcast/durbanreview/archive.asp?go=090421>, last visited on 8 May 2009.

⁴ See footnote 2.

⁵ The full document, along with further documentation on the 2001 and 2009 conferences is available at: <http://www.un.org/durbanreview2009/>. While the 2001 conference is often called the "first world conference against racism", there had already been two preceding conferences in 1978 and 1983, both held in Geneva.

⁶ Concrete steps like e.g. the suggestion of the UN High Commissioner to create a UN observatory on racism were dropped shortly before the adoption of the draft.

remedies to victims. It also spells out strategies to achieve the aims of the DDPA through international cooperation.

The 2001 document further acknowledges that economic inequalities triggered by slave trade and colonialism persist until today⁷. It also recalls that the Holocaust must never be forgotten. The only conflict singled out in the document regards the occupation of Palestine. The conflict is not described explicitly as racism, but the fact that it is placed in a document on the elimination of racism prompted the USA, Canada and Israel to leave the 2001 conference and reject its outcome. As a consequence, the reaffirmation of the 2001 document by its 2009 successor remained problematic for those countries.

Aside of the official conference and its outcome document, numerous Civil Society Organizations contributed to the negative image of the 2001 conference, using the occasion of the anti-racism conference to convey their racist and anti-Semitic messages.

The **outcome document of the 2009 Durban Review Conference** itself went through a long negotiation process. Former drafts contained highly problematic aspects, largely beyond the “red line” of many, especially Western, countries. Formulated by the Norwegian Prime Minister in his statement cited above, those red lines were the following:

First, we wanted a strong and unequivocal text against racism. We could not accept the text being taken hostage by a whole array of unrelated issues.

Second, we could not accept a text that called for restrictions on the defamation of religions. Human rights obligations protect individuals, not religions. It is within the scope of freedom of expression to criticise both gods and religions.

Third, we could not accept a text that would infringe on freedom of expression as defined in Articles 19 and 20 of the International Covenant on Civil and Political Rights. Without freedom of expression, we cannot fight racism or human rights violations. In short, we cannot compromise on the hard-won gains made in the field of universal human rights.

Fourth, we wanted a text that recognises the role of the free media in fighting racism, while recalling that

the media also has a responsibility to refrain from inciting to hatred and violence.

Fifth, we wanted a text of universal scope so as to avoid spotlighting the significance of one particular conflict, for instance by singling out the Middle East as a special case in point.

Yet, the draft which was submitted to the conference had dropped all of the points running counter to this position, in a great deal due to the persistent efforts of EU diplomats during the preparation phase. Already the version circulated mid-March showed this development. And while the draft of 15 April might have allowed for problematic interpretations (e.g. closely associating economic disparities and foreign occupation to racism⁸), the final draft fastidiously avoided them.

It now contains reference to the DDPA, takes note of efforts undertaken since 2001, and stresses that “challenges and obstacles identified in the DDPA remain to be addressed and overcome to effectively prevent, combat and eradicate racism, racial discrimination, xenophobia and related intolerance.”⁹

Furthermore, the document which was adopted on Tuesday, 21 March, reaffirms that “democracy and transparent, responsible, accountable and participatory governance at the national, regional and international level”¹⁰ are essential for this task, as well as an “independent and impartial judiciary”¹¹ to decide on allegations and ensure effective redress.

Those points (and many more could be cited) illustrate the importance of the document and the need to support it worldwide. Active engagement in the process and the conference allowed some countries to promote politically sensitive human rights issues. Sweden for example, in a statement it delivered in the General Segment of the conference “on behalf of all Member States of the European Union, regardless of their participation in the Conference,” used its continued engagement to point to new directions in the fight against (multiple) discrimination: discrimination based on sexual orientation.¹² Many countries used this agenda item to present their efforts undertaken to

⁷ At the 2001 conference, e.g. the German Foreign Minister explicitly recognized the guilt and obligations of his country regarding the past wrongs of colonialism in his speech on 1 September.

⁸ Para. 7 of the draft version of 15 April 2009.

⁹ Para. 3, final draft of 17 March.

¹⁰ Para. 11, final draft of 17 March.

¹¹ Para. 27, final draft of 17 March.

¹² <http://www.regeringen.se/content/1/c6/12/50/00/73654eea.pdf>, last visited on 8 May 2009.

fight racism and discrimination; others of course mainly to attack other countries.

In the general segment, following the statements by UN Member States, NGOs voiced their views on issues of racial discrimination in the outcome document and the process leading to it. Aside of the partisan feuding around the Israeli-Palestinian conflict, which sometimes seemed to monopolize the conference, NGOs regretted that the document failed to address various cases of discrimination, e.g. caste based discrimination. Also, while the document deplores "past" scourges of genocide and slavery it does not openly speak about current acts of genocide and current forms of slavery. It can be said that the downside of the consensus reached is the weakness of the text. In line with numerous states and UN officials, many NGOs criticized the decision of the 10 states that boycotted the conference and expressed their hope that they might still join the outcome document.

In the case of the EU countries that left the conference or did not attend it from the start, a general acceptance of the conference outcome may be drawn from the EU statement cited above which was delivered by Sweden¹³ and committed all EU member states to the continued fight against racism.

On the process, NGOs deplored the state-centered nature of the negotiations. While NGOs had plenty of possibilities to give input to the elaboration of the discussion document, they were not involved or informed anymore when the negotiations drew to a close.

All in all, the document and its adoption by consensus send the message that the issues of racism and racial discrimination need to stay high on the agenda of all UN member states and will hopefully trigger national debates, yet, the declaration adopted does not contain any strong-points on situations or specific actions that would not already have been mentioned in the outcome document of 2001 and other documents.

¹³ See footnote 12.

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