



**QUNO**

Quaker United Nations Office

# New Opportunities to Further Action on Racial Justice and Migration Governance

*September 2021*

*Najmah Ali and Laurel Townhead*



QUNO's belief in the inherent worth of every individual leads us to work for the promotion and protection of human rights for all. Our Human Rights & Refugees Programme raises up the concerns of marginalized groups, so they are better understood by international policy makers, which leads to stronger international standards. Our work focuses on migrants and refugees, conscientious objectors to military service, children with a parent in prison and Indigenous Peoples. Our work on migration has focused on the development and implementation of the Global Compact for Safe Orderly and Regular Migration and on Human Rights Council action on violations of the human rights of migrants. More recently, we have begun to work explicitly on the intersection between racial injustice and migration governance seeking to bring an anti-racist approach and analysis to our work on migration.

## INTRODUCTION

Addressing racism, racial discrimination and xenophobia have been part of multilateral discussions throughout the history of the United Nations (UN), with non-discrimination core to both the UN Charter and the Universal Declaration of Human Rights.<sup>1</sup> Despite the International Convention on the Elimination of Racial Discrimination being the first of the core human rights treaties to be adopted<sup>2</sup> and other efforts including the Durban Declaration and Programme of Action, coming out of the World Conference Against Racism in 2001,<sup>3</sup> progress on anti-racism and achieving racial justice and equality has been slow and a full understanding of intersectionality and application of this analysis in agreements at the UN has been lacking.

The murders of Breonna Taylor in March 2020 and George Floyd in May 2020 sparked a global mobilization which stretched to the Human Rights Council<sup>4</sup> and many other institutions, calling on them to take action to end systemic racism. This, coupled with the on-going COVID-19 pandemic, has laid bare the inequalities that exist both at global and national level. These events have contributed to the creation of new mechanisms and have reinvigorated thinking on existing activities to try and leverage UN programming and processes to address systemic racism including in relation to migration governance. In response the Human Rights Council held an urgent debate in June 2020 and adopted a resolution focusing on the promotion and protection of the rights of Africans and people of African descent against excessive force and other violations by law enforcement.<sup>5</sup> In the report requested by this resolution the High Commissioner for Human Rights set out an agenda for transformative change for racial justice.<sup>6</sup> In July 2021 the Human Rights Council responded by creating an International Independent Expert Mechanism.<sup>7</sup> Shortly after, in August, the General Assembly established a Permanent Forum of People of African Descent intended to be a consultative mechanism for people of African descent, providing advice and guidance to States and the UN.<sup>8</sup> The first edition of the International Migration Review Forum, whilst not focused on racism, racial discrimination and xenophobia, provides an opportunity to bring a racial justice lens to multilateral discussions on migration governance.<sup>9</sup> These are examples of new processes which create new entry points to build on, complement and accelerate

the work undertaken using the many existing tools, mechanisms and processes. It is important for there to be collaboration and strengthened joint responses at all levels to further action on racial justice in light of the entrenched and pervasive nature of racism.

The purpose of this paper is to briefly outline these new mechanisms and highlight our initial ideas of possible actions and ways to engage during this time of renewed energy to further action on racial justice and migration governance. Working for racial justice is central to working for migration justice and we are committed to building a world without violence where dignity and rights are upheld regardless of migration status and not on the basis of citizenship or perceived deservedness.<sup>10</sup> For this to occur, we believe there is a need for systemic solutions to the manifestations of systemic racism in migration governance, as well as throughout the many other systems affecting racialized individuals.<sup>11</sup> The recent opportunities and entry points provide States with clear openings “to advance the anti-racism agenda”, including on migration.<sup>12</sup>

## A TRANSFORMATIVE AGENDA FOR RACIAL JUSTICE: SYSTEMIC RESPONSES TO SYSTEMIC RACISM

The High Commissioner for Human Rights has set out a four-point agenda towards transformative change for racial justice and equality. Contained in her report,<sup>13</sup> requested by the Human Rights Council<sup>14</sup> and related conference room paper,<sup>15</sup> this agenda provides useful framing for this paper and any steps taken to advance racial justice in migration governance. It calls for transformative change through the following means:



### STEP UP:

Stop denying and start dismantling



### PURSUE JUSTICE:

End impunity and build trust



### LISTEN UP:

People of African descent must be heard



### REDRESS:

Confront past legacies, take special measures and deliver reparatory justice.<sup>16</sup>

## RECOGNIZING LINKAGES BETWEEN SYSTEMIC RACISM AND VIOLATIONS OF THE HUMAN RIGHTS OF MIGRANTS

We believe that this agenda for transformation should be used in addressing manifestations of systemic racism in migration governance. The intersectional approach it calls for includes understanding and addressing the ways in which discrimination on the basis of different aspects of an individual's identity, including their migration status, impact upon them.<sup>17</sup> Connections between systemic racism and violations of the human rights of migrants have been explored by the Committee on the Elimination of Racial Discrimination,<sup>18</sup> the Special Rapporteur on racism,<sup>19</sup> and the High Commissioner's report and conference room paper on systemic racism and law enforcement.<sup>20</sup> The role that dismantling systemic racism and other aspects of the High Commissioner's agenda could play in improving the protection, respect and fulfilment of the human rights of migrants deserves more recognition and exploration through the UN system and beyond.

Systemic racism manifests in migration policy and practice leading to violations of human rights. We see the legacies of colonialism and the transatlantic trade in enslaved Africans in policies that instrumentalize migration for the economic benefit of some, and differentiate between desired and undesired migrants on grounds of nationality, religion, economic status, among many other factors. The range of violations of the human rights of migrants rooted in systemic racism is broad and are particularly clear when we look at examples of violations that occur at borders, through detention, return and removals, and in the limitations migration law enforcement creates in accessing other human rights through everyday borders for example in housing, healthcare, and education.<sup>21</sup>

## NEW OPPORTUNITIES TO ADVANCE RACIAL JUSTICE IN MIGRATION GOVERNANCE

We see new opportunities to advance racial justice in the context of migration governance for stronger promotion and protection of the human rights of migrants. These include through the Human Rights Council's International Independent Expert Mechanism, the Permanent Forum of People of African

Descent and the implementation of and follow up to the Global Compact for Migration (GCM) through the International Migration Review Forum. Below we briefly outline what each tool or mechanism is, initial ideas for how it could be used to advance racial justice and migration justice and which element of the transformative agenda for racial justice that action would most contribute to. We believe in the value of these processes interacting with each other to ensure that their specific contributions to transformation for racial justice are mutually reinforcing.

## INTERNATIONAL INDEPENDENT EXPERT MECHANISM

The Human Rights Council established an International Independent Expert Mechanism in its July 2021 resolution on the promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers through transformative change for racial justice and equality.<sup>22</sup> The International Independent Expert Mechanism has a three-year mandate. This mechanism will be made up of three experts with expertise and experience on law enforcement and human rights.

Activities of the International Independent Expert Mechanism will include:

- holding annual sessions in Geneva with the participation of at least one relevant Special Procedure mandate holder;
- carrying out country visits;
- undertaking outreach and consultation in various regions;
- holding virtual consultations with affected individuals and communities;
- reporting annually to the Human Rights Council, beginning in September 2022, in an enhanced interactive dialogue with participation of directly affected individuals and communities.<sup>23</sup>

The resolution specifically instructs the International Independent Expert Mechanism to work with other relevant Special Procedures, bodies and processes. It also highlights that all its activities should be carried out with an intersectional perspective.

## *Suggested Actions on Racial Justice in Migration Governance*

- Inclusion of at least one expert with expertise or experience on the intersection between law enforcement, human rights violations and migration. (PURSUE JUSTICE; LISTEN UP)
- Inclusion of expertise or experience on the intersection between law enforcement, human rights violations and migration amongst the staff supporting the International Independent Expert Mechanism. (PURSUE JUSTICE; LISTEN UP)
- Focused consultations with migrants on their experiences of law enforcement and systemic racism. This can be done in regional consultations to understand different dynamics as well as during country visits. (STEP UP; LISTEN UP)
- Ensuring an intersectional analysis throughout the planning and delivery of consultations, country visits, reports and dialogues. (STEP UP; PURSUE JUSTICE)
- Issuing a focused report on system racism, border governance and law enforcement. (STEP UP; PURSUE JUSTICE; LISTEN UP; REDRESS)
- Development of specific recommendations relating to the impact of systemic racism in law enforcement in the context of migration governance and ways to address this. (STEP UP; PURSUE JUSTICE; REDRESS)
- Inclusion of migrants affected by systemic racism in the context of law enforcement in the Enhanced Interactive Dialogues with the International Independent Expert Mechanism. (LISTEN UP)
- Analyzing the impact of the legacies of colonialism and the transatlantic trade in enslaved Africans on current migration policy, practice and narratives and how this manifests in law enforcement. (STEP UP; REDRESS)
- Engagement between the International Independent Expert Mechanism and relevant UN system stakeholders including the Special Rapporteur on racism, the Special Rapporteur on human rights of migrants, the Committee on Migrants Workers, and the UN Network on Migration. (STEP UP)
- Clear communication and consultation with civil society organisations led by, working with and representing migrant communities. (LISTEN UP)

## PERMANENT FORUM OF PEOPLE OF AFRICAN DESCENT

After years of negotiation, the Permanent Forum of People of African Descent was established in August 2021 by the General Assembly.<sup>24</sup> Its first session will be held in 2022, with subsequent annual sessions. The permanent Forum will be a 10-member advisory body that will work closely with the Human Rights Council, meeting in New York and Geneva (with the possibility of meeting elsewhere).

Activities of the Permanent Forum will include:

- providing advice and recommendations to the Human Rights Council and all UN fora and agencies, funds and programmes;
- monitoring implementation of the International Decade for People of African Descent, including by gathering information from governments and other stakeholders;
- following up on good practices and challenges in the implementation of the Durban Declaration and Programme of Action;
- reporting to the Human Rights Council and General Assembly and holding interactive dialogues with both;
- holding four days of thematic discussions each year;
- preparing summaries of the sessions of the Permanent Forum.

One of the principal purposes of this Forum is to facilitate consultation with people of African descent and other stakeholders. It is also mandated to consider creating a UN declaration on the human rights of people of African descent.<sup>25</sup>

## *Suggested Actions on Racial Justice in Migration Governance*

- Inclusion of members of the Permanent Forum with expertise on the human rights of migrants of African descent, including members who are migrants of African descent. (STEP UP; LISTEN UP)
- Consultation with migrants of African descent particularly through an intersectional approach to understand various experiences of migration and human rights violations in that context and to inform recommendations. (PURSUE JUSTICE; LISTEN UP)
- Development of specific recommendations on



migration governance for States and the UN system to support system wide coherence on this issue. (STEP UP; PURSUE JUSTICE; REDRESS)

- Focusing one annual meeting on the topic of migration and people of African descent, by drawing on the expertise and experience of migrants themselves, as well as other relevant experts including Special Procedures. (STEP UP; PURSUE JUSTICE; LISTEN UP; REDRESS)
- Including migration as a specific strand of discussion in each annual meeting. (STEP UP; PURSUE JUSTICE)
- Inclusion of commitments which focus on the human rights of migrants of African descent in the development of a UN declaration on the human rights of people of African descent. (STEP UP; PURSUE JUSTICE; REDRESS)
- Engagement by members of the Permanent Forum with spaces like the UN Network on Migration's Migration Hub for discussion on the linkages between systemic racism and migration governance with States, the UN system and other stakeholders, in particular migrants. (STEP UP; LISTEN UP)

## INTERNATIONAL MIGRATION REVIEW FORUM

The International Migration Review Forum (IMRF) was created by the Global Compact for Safe, Orderly and Regular Migration (GCM).<sup>26</sup> It is a Member State forum, with the participation of stakeholders, to discuss and advance implementation of the GCM and guide the work of the UN on migration.

The IMRF will take place every four years starting in 2022. The first IMRF is set to take place in the first half of 2022 in New York for four days.<sup>27</sup>

The programme of work will consist of:

- four multistakeholder roundtables, each covering a cluster of GCM objectives and with the possibility of having a keynote speaker guide the debate;
- a policy debate focusing on challenges and emerging issues, receiving technical summaries from the roundtables;
- two days of plenary discussion;
- adoption of a Progress Declaration in the closing session.

Written inputs can be provided by Member States and all relevant stakeholders. A multi-stakeholder hearing will be held the day before and a summary of this will be fed into the opening session. The Secretary General's report on GCM implementation should be issued in the first quarter of 2022 and will feed into the IMRF. Consultations on an intergovernmentally agreed Progress Declaration to be adopted at the IMRF should begin no later than two months in advance of the IMRF.

While it is different to the Expert Mechanism and Permanent Forum because it is a Member State forum rather than led by independent experts, opportunities, links and learning can be created in the run up and during the IMRF for advancing racial justice in migration governance.

### *Suggested Actions on Racial Justice in Migration Governance*

- Inclusion of connections between systemic racism and migration governance in the Secretary General's report on GCM implementation along with recommendations for action by States and the UN system. (STEP UP; PURSUE JUSTICE)
- Inclusion of members of the Expert Mechanism and Permanent Forum as relevant stakeholders who can intervene in the roundtables, policy debate and plenary. (STEP UP; LISTEN UP)
- Coverage in the background papers for the roundtables of analysis and examples that support implementation of the High Commissioner for Human Rights' agenda for transformation and highlight the relevance of this agenda to GCM implementation. (STEP UP; LISTEN UP; PURSUE JUSTICE; REDRESS)
- Holding events in the run up to the IMRF that specifically focus on this linkage, including listening sessions with affected communities and discussions facilitated through the Migration Hub. (STEP UP; LISTEN UP)
- Including keynote speakers for roundtables who have expertise and experience on the interconnections between systemic racism and migration governance. (LISTEN UP)
- Engagement with the relationship between systemic racism and migration governance in States' inputs and statements, drawing on consultation at the national and local level. (STEP UP; LISTEN UP)

- Recognition of the interconnections between racism and violations of the human rights of migrants in the Progress Declaration with commitments for action to address this. (STEP UP; PURSUE JUSTICE; REDRESS)

## CONCLUSIONS

For systemic responses to systemic racism to occur, different institutions need to collaborate with each other and ensure that affected communities are consulted and involved in all aspects of relevant processes. We shall continue to explore these suggestions and seek to work with others to maintain the current momentum, test the new openings outlined in this paper and contribute to translating their potential into meaningful change.

QUNO address and website and social media presence; contact details for the Human Rights and Refugees Programme, Laurel Townhead, Representative [ltownhead@quno.ch](mailto:ltownhead@quno.ch) and Marisa León Gómez Sonet, Programme Assistant [mleongomez@quno.ch](mailto:mleongomez@quno.ch)

<sup>1</sup> Charter of the United Nations, 24 October 1945, 1 UNTS XVI; Universal Declaration of Human Rights, 10 December 1948, UNGA Res 217 A(III).

<sup>2</sup> International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, 660 UNTS 195.

<sup>3</sup> Durban Declaration and Plan of Action, Adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Violence, 8 September 2001

<sup>4</sup> 'Human Rights Council holds an urgent debate on current racially inspired human rights violations, systemic racism, police brutality and violence against peaceful protesters.' 17 June 2020, Available: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25971&LangID=E>

<sup>5</sup> Human Rights Council resolution 43/1, Promotion and Protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers, A/HRC/RES/43/1 of 1 June 2020.

<sup>6</sup> Report of the UN High Commissioner for Human Rights: Agenda towards transformative change for racial justice and equality, A/HRC/47/53 of 1 June 2021

<sup>7</sup> Human Rights Council resolution 47/21, Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers through transformative change for racial justice and equality, A/HRC/RES/47/21 of 26 July 2021

<sup>8</sup> 'General Assembly creates a new Permanent Forum of people of African Descent' 2 August 2021, available: <https://news.un.org/en/story/2021/08/1096932>; General Assembly resolution 75/314, Establishment of the Permanent Forum of People of African Descent, A/RES/75/314 of 6 August 2021

<sup>9</sup> General Assembly resolution 73/326, Format and organizational aspects of the international migration review forums, A/RES/73/326 of 29 July 2019

<sup>10</sup> Excerpt of a Quaker Statement on Migration available: <https://quno.org/quaker-migration-statement> December 2020.

<sup>11</sup> Report of the UN High Commissioner for Human Rights: Agenda towards transformative change for racial justice and equality, A/HRC/47/53 of 1 June 2021, para. 19

<sup>12</sup> The Office of the High Commissioner for Human Rights, 'Agenda towards transformative change for racial justice and Report of the UN High Commissioner for Human Rights: Agenda towards transformative change for racial justice and equality, A/HRC/47/53 of 1 June 2021, para. 23

<sup>13</sup> Report of the UN High Commissioner for Human Rights: Agenda towards transformative change for racial justice and equality, A/HRC/47/53 of 1 June 2021, Annex

<sup>14</sup> Human Rights Council resolution 43/1, The promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers, A/HRC/RES/43/1 of 30 June 2021

<sup>15</sup> Promotion and protection of the human rights and fundamental freedoms of

African and of people of African descent against excessive use of force and other human rights violations by law enforcement officers, Conference Room Paper, A/HRC/47/CRP.1 of 28 June 2021

<sup>16</sup> Report of the UN High Commissioner for Human Rights: Agenda towards transformative change for racial justice and equality, A/HRC/47/53 of 1 June 2021, Annex

<sup>17</sup> Promotion and protection of the human rights and fundamental freedoms of African and of people of African descent against excessive use of force and other human rights violations by law enforcement officers, Conference Room Paper, A/HRC/47/CRP.1 of 28 June 2021, para. 17

<sup>18</sup> Committee on the Elimination of Racial Discrimination, General Recommendation No.36, 'Preventing and Combating Racial Profiling by Law Enforcement', CERD/C/GC/36 of 17 December 2020

<sup>19</sup> Report of the special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, A/75/590 of 10 November 2020

<sup>20</sup> Report of the UN High Commissioner for Human Rights: Agenda towards transformative change for racial justice and equality, A/HRC/47/53 of 1 June 2021 and Promotion and protection of the human rights and fundamental freedoms of African and of people of African descent against excessive use of force and other human rights violations by law enforcement officers, Conference Room Paper, A/HRC/47/CRP.1 of 28 June 2021

<sup>21</sup> The Office of the High Commissioner on Human Rights 'The Economic, Social and Cultural Rights of Migrants in an Irregular Situation' (2014) HR/PUB/14/1 [https://www.ohchr.org/Documents/Publications/HR-PUB-14-1\\_en.pdf](https://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf).

<sup>22</sup> Human Rights Council resolution 47/21, Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers through transformative change for racial justice and equality, A/HRC/RES/47/21 of 26 July 2021

<sup>23</sup> Human Rights Council resolution 47/21, Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers through transformative change for racial justice and equality, A/HRC/RES/47/21 of 26 July 2021 and related statement of Programme Budget Implication [https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/47session/DL\\_Resolutions/A\\_HRC\\_47\\_L.8\\_Rev.1/Oral%20statement%20-%20MS%20Word.docx](https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/47session/DL_Resolutions/A_HRC_47_L.8_Rev.1/Oral%20statement%20-%20MS%20Word.docx)

<sup>24</sup> General Assembly resolution 75/314, Establishment of the Permanent Forum of People of African Descent, A/RES/75/314 of 6 August 2021

<sup>25</sup> General Assembly resolution 75/314, Establishment of the Permanent Forum of People of African Descent, A/RES/75/314 of 6 August 2021, para. 1(c)

<sup>26</sup> Global Compact for Safe, Orderly and Regular Migration, A/RES/73/195, para. 49

<sup>27</sup> General Assembly resolution 73/326, Format and organizational aspects of the international migration review forums, A/RES/73/326 of 29 July 2019