



Council of Europe – High School Edition

Discussing on new measures towards the eradication of racism and xenophobia

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“Prejudice is a burden that confuses the past, threatens the future and renders the present inaccessible” Maya Angelou

I. Why anti-racism?

Racism and xenophobia are ones of the most basic problems that a migrant or a person that differs, unlike or distinguish has. This early led the international community to recognise the need to protect human rights adopting a numerous resolutions and protocols in order to fight discrimination, racism and xenophobia. But, before analyzing the international regulations, it has been considered necessary to proceed to the definition of some basic terms.

II. What racism is?

Racism, also called racialism is ¹defined as actions or assumptions that reflect the racial worldview: the ideology that human beings are divided into separate, segregate and exclusive biological entities called "races"². A race share common characteristic traits and abilities that traits of personality, intellect, morality, and other cultural behavioral characteristics are inherited. This may apply to activities such as eating a meal in a restaurant, using a public toilet, attending school activities³, going to the cinema or

¹. Encyclopedia Britannica: <http://www.britannica.com/EBchecked/topic/488187/racism> and Oxford Dictionaries: <http://oxforddictionaries.com/definition/english/racism>

² Racism has existed throughout human history. During the past 500-1000 years, racism on the part of Western powers toward non-Westerners has had a far more significant impact on history than any other form of racism (such as racism among Western groups or among Easterners, such as Asians, Africans, and others). The most notorious example of racism by the West has been slavery, particularly the enslavement of Africans in the New World (slavery itself dates back thousands of years). This enslavement was accomplished because of the racist belief that Black Africans were less fully human than white Europeans and their descendants.

³. Youth violence motivated by racial hatred is a reality in most European countries. There are numerous reported cases of young people and/or adults being attacked, beaten up, threatened and, in the most extreme cases, killed,

purchase of a home. Segregation itself is defined by the European Commission against Racism and Intolerance as "the act by which a (natural or legal) person separates other persons on the basis of one of the enumerated grounds without an objective and reasonable justification, in conformity with the proposed definition of discrimination. As a result, the voluntary act of separating oneself from other persons on the basis of one of the enumerated grounds does not constitute segregation"⁴.

III. What are the forms that racism takes?

The United Nations (UN) highlight three types of racism that social scientists find to be pervasive today (modern racism, aversive racism, and implicit stereotypes). All three depart from traditional understandings of racism by identifying them not in overt actions and expressions but in a political level, in social evaluations and word associations. Additionally, for academic reasons, racism could be divided into three main types⁵. Namely, is divided into the racial, institutional and economic discrimination. The first one refers to the separation of people through a process of social division into categories. The institutional racism (also known as systemic racism) is racial discrimination by governments, corporations⁶, religions, or educational institutions or other large organizations with the power to influence the lives of many individuals. The last ones alleged to be forms of discrimination caused by past racism and historical reasons, affecting the present generation through deficits in the formal education and kinds of preparation in previous generation, and through primarily unconscious racist attitudes and actions on members of the general population.

because of their nationality, appearance, religion, the colour of their skin, their hair or even their beard. Racist violence has other subtle, but more diffuse, means of expression. It includes multiple forms of scapegoating, segregation and discrimination. Being singled out for police controls and checks because one looks different - darker skinned or darker haired - is also a form of oppression. Read more on:

http://eycb.coe.int/compass/en/chapter_5/5_4.html

⁴. ECRI General Policy Recommendation N°7: National legislation to combat racism and racial discrimination — Explanatory memorandum, Para. 16

⁵. See also: The three dimensions of racism, p. 33
http://www.coe.int/t/dg3/migration/archives/Documentation/Series_Community_Relations/Tackling_racism_and_xenophobia_practical_action_local_level_en.pdf

⁶. Although, a hypothesis embraced by classical economists is that competition in a capitalist economy decreases the impact of discrimination. The thinking behind the hypothesis is that discrimination imposes a cost on the employer, and thus a profit-driven employer will avoid racist hiring policies. In practice, this does not happen and companies find ways to follow racist hiring policies avoiding extra cost (Burton, 2009:1)

IV. Why racism and xenophobia?

Usually xenophobia and racism are considered as terms with similar usage. However, this is not the case as the two words are enough different. The word xenophobia refers to a fear or dislike of something that is different from you. Racism, on the other hand, relates that any race determines the traits of human and their capacity making them more superior than the any other race.

Xenophobia is not only aversion to a person or a group, but it is a fear of other cultures and beliefs. Even though, some people feel that is a certain 'target' group that is not really accepted by the society; in reality it is the phobic who holds such reservations and beliefs. A xenophobic person has to only think of one thing "that the target group is in fact foreigners. This argument depicts the fact that xenophobia and racism are totally different because a person belonging to a different race may have the same nationality. So, while xenophobia comprises of multiple aspects, racism is based only on one aspect"⁷.

V. Protecting democracy and human rights

In theory usually academics refer to the relation of racism and xenophobia with extremism as a real threat to democratic values. In 2001, at the Durban Conference, States also recognized that political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination are incompatible with democracy. Unfortunately, reports show that extremist political parties, movements and groups have gained influence in a number of countries and regions⁸. Indeed, in recent years, the number of seats occupied by representatives of extremist political parties has continued to increase in national parliaments. Furthermore, there is an increased use of the Internet by individuals and groups of individuals closely linked to extremist movements to disseminate racist ideas. A considerable number of political leaders play the game of populism to gain votes and do not take all the measures necessary to deal adequately with certain social and economic issues, such as immigration, unemployment and insecurity, in particular in the current period of the global financial crisis.

Racial discrimination against minorities, native population, asylum-seekers, immigrants or migrant workers; intolerance against religious minorities all around the world; the rise of

⁷. In racism, racists treat people belonging to one race with complete disrespect and cause humiliation. This practice is not ethical and moral and is not tolerated by most of the parts in the civilized world. On the other hand when people belonging to one culture are afraid of another culture, they are called xenophobic. Even this practice is unlawful and not tolerated by the society today. Read more: Difference Between Xenophobia and Racism | Difference Between | Xenophobia vs Racism <http://www.differencebetween.net/language/difference-between-xenophobia-and-racism/#ixzz24s4dWOdz>

⁸. The Jerusalem Post : <http://www.jpost.com/Opinion/Editorials/Article.aspx?id=269069>
EuropeanVoice.com : <http://www.europeanvoice.com/article/imported/challenging-the-rise-of-populist-extremism/72077.aspx>

political right-wing parties as well as effective measures to counter those discriminations and injustices still remain challenges and problematic issues that need to be tackled by the Council of Europe (CoE).

VI. European non-discrimination law

European non-discrimination law refers to an assumption which combines a variety of contexts building a common Council of Europe and European Union⁹ non-discrimination law base.

The Council of Europe Member States adopted the European Charter for Human Rights to help achieve aims (as promoting, among other things, the rule of law, democracy, human rights and social development- see Preamble and Article 1 of the Statute of the Council of Europe-), which was the first of the modern human rights treaties drawing from the United Nations Universal Declaration of Human Rights. The ECHR sets out a legally binding obligation on its members to guarantee a set of human rights to everyone (not just citizens) within their jurisdiction. The implementation of the ECHR is reviewed by the European Court of Human Rights (ECtHR), which hears cases brought against Member States.

The most noticeable procedural change to the ECHR was Protocol 11 (1994), which turned the ECtHR into a permanent body. This Protocol was designed to help the ECHR mechanisms deal with the growth in cases that would come from States in the east of Europe joining the Council of Europe after the fall of the Berlin Wall and the break-up of the former Soviet Union.

The prohibition on discrimination is guaranteed by Article 14 of the ECHR¹⁰, which guarantees equal treatment in the enjoyment of the other rights set down in the Convention. Protocol 12 (2000) to the ECHR, not yet ratified by all EU Member States¹¹, expands the scope of the prohibition of discrimination by guaranteeing equal treatment in the enjoyment of any right (including rights under national law). According to the Explanatory Report to the Protocol, it was created out of a desire to strengthen protection against racism and discrimination which was considered to form a core element of guaranteeing human rights. The Protocol emerged out of debates over how to strengthen sex and racial equality in particular.

Importantly, the 1996 version of the European Social Charter includes both a right to equal opportunities and equal treatment in matters of employment and occupation,

⁹. The European Union and the non-discrimination directives: http://fra.europa.eu/fraWebsite/attachments/FRA-CASE-LAW-HANDBOOK_EN.pdf

¹⁰. A training guide in the form of a PowerPoint presentation offering guidance on the application of Article 14 of the ECHR can be found on the Council of Europe Human Rights Education for Legal Professionals website: www.coehelp.org/course/view.php?id=18&topic=1.

¹¹. For the actual number of EU Member States that ratified Protocol 12, see: www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=177&CM=7&DF=16/07/2010&CL=ENG.

protecting against discrimination on the grounds of sex. Additional protection against discrimination can be witnessed in the Framework Convention for the Protection of National Minorities, in the CoE Convention on Action Against Trafficking in Human Beings, and in the CoE Convention on the Access to Official Documents. There is also protection against the promotion of discrimination in the Additional Protocol to the Convention on Cybercrime. The issue of non-discrimination has clearly been influential in the shaping of the legislative documents produced by the CoE and is seen as a fundamental freedom that needs to be protected.

VII. Other Important Council of Europe legislation combating racism and xenophobia

Within the Council of Europe, in addition to the European Convention on Human Rights, important achievements have been made in recent years, especially through:

A. The European Charter on Minority Languages¹² (1992)

The European Charter for Regional and Minority Languages was adopted by the Committee of Ministers of the Council of Europe on 2 of October 1992. It represents the final works that had been under consideration since 1988. The Charter entered into force on 1 March 1998. Its aims are to protect and promote the historical regional minority languages of Europe, to maintain and develop Europe's cultural traditions and heritage, and to respect the right to use a regional or minority language in private and public life.

B. The Convention on the Participation of Foreigners in Public Life at Local Level (1992)

The Convention entry into force on 1 May of 1997, and aims to advance the integration of foreign residents or workers into life of communities of the member states. This treaty guarantees that the Parties will provide legislation and application of the law where they do have the same rights as to its nationals, the so called "classical rights". The treaty also opens the possibility of creating consultative bodies at local level elected by the foreign residents in the local authority area or appointed by individual associations of foreign residents. Last but not least, it is noteworthy that this Convention introduces provisions for every foreign resident the right to vote in local elections, after five years of lawful and habitual residence in the host country, and to stand for election¹³.

C. The Framework Convention for the Protection of Minorities (1995)

This Convention is the very first legally binding instrument dealing with the

¹². The full text of the European Charter for Regional or Minority Languages and information about signatures and ratifications can be found on the Council of Europe formal website at:

<http://conventions.coe.int/Treaty/EN/CadreListeTraits.htm>

¹³. More on : <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=144&CL=ENG>

protection of national minorities in general. Its main scope is to protect the existence of national minorities within the respective territories of the Parties. This Framework tries to guarantee the fully effective equality of national minorities by creating the appropriate conditions. The Convention sets out principles regarding to people belonging to national minorities in the sphere of public life such as freedom of peaceful assembly, freedom of association, as well as in the sphere of freedoms relating language, education etc.

VIII. Other legal framework

Numerous international and regional instruments either refer to discrimination generally speaking or deal with specific forms of racism. Some examples, at the level of the United Nations, include:

- A. The Universal Declaration of Human Rights (1948)
- B. The International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- C. The Convention on the Elimination of All Forms of Discrimination against Women (1979)
- D. The Convention on the Rights of Person with Disabilities (2006)
- E. The ILO Convention (No.169) Concerning Indigenous and Tribal Peoples in Independent Countries (1989).

IX. Additional Info

- A. “Speak out against discrimination”

Speak out against discrimination¹⁴ is a campaign that focuses on the role of the media in a multicultural Europe. It derives its mandate from the Council of Europe’s White Paper on Intercultural Dialogue¹⁵ “Living together as equals in dignity”. The campaign primarily targeted media industry professionals and was built around 3 main objectives: training media professionals, writing, seeing and hearing diversity in the media and producing and disseminating innovative and inclusive information. Conceived as Resource Centre, this site Media, Discrimination, Intercultural Dialogue/ Campaign Speak out against discrimination collects and introduces the main outputs delivered during the various campaign activities implemented between 2008 and 2010 around these 3 objectives.

¹⁴. Council of Europe : <http://www.coe.int/t/DG4/ANTI-DISCRIMINATION-CAMPAIGN/>

¹⁵. White Paper on Intercultural Dialogue: http://www.coe.int/t/dg4/intercultural/whitepaper_en.asp

B. European Network Against Racism (ENAR)

The European Network Against Racism is a Paneuropean network of member organisations across Europe. ENAR combats racism, racial discrimination, xenophobia and related intolerance, promotes equality for all, and links local, regional, national initiatives with European Union initiatives. They “are the voice of the anti-racist movement in Europe”¹⁶.

C. Antibullying Network

The Anti-Bullying Network was established at the University of Edinburgh in 1999 with funding from the Scottish Executive to provide free anti-bullying and anti-racist support to school communities.

Also you might check: International Day for the Elimination of Racial Discrimination 21 March¹⁷

X. Conclusion

Although the world is continually brought closer together through new inventions and globalization, racism and xenophobia continue to rupture our societies. Since the creation of the Council of Europe, member states have dealt with the intricate issue of racial discrimination and have passed several documents. Although at the WCAR the UN member states reached a consensus and made progress with issues such as the protection of migrants and refugees, repairing, and equal nationality rights for women, they had difficulty with addressing racial discrimination and related intolerance within the framework of the International Convention on the Elimination of All Forms of Racial Discrimination. Now, eleven years after the conference and in the times of conflicts fuelled by refugees migrants and poor people, it is more important than ever to constructively deal with this international concern.

“I resolutely believe that respect for diversity is a fundamental pillar in the eradication of racism, xenophobia and intolerance. There is no excuse for evading the responsibility of finding the most suitable path toward the elimination of any discrimination against indigenous peoples” Rigoberas Menchu

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