

# Law and Our Rights

"All citizens are equal before law and are entitled to equal protection of law" Article 27 of the Constitution of the People's Republic of Bangladesh

## Accession to 1951 Refugee Convention: Considerations for Bangladesh

By M.M. Sunnah

THE 1951 Refugee Convention and its 1967 Protocol govern refugee status on the universal level. These two international legal instruments have been adopted within the framework of the UN. Till 1 June 1997, 134 states have become parties to the Convention or to the Protocol or to both instruments. Both the Convention and the 1967 Protocol provide for cooperation between the Contracting States and the Office of the United Nations High Commissioner for Refugees (UNHCR). This cooperation extends to the determination of refugee status, according to arrangements made in various contracting states.

Bangladesh has ratified different human rights instruments like International Covenant on the Rights of the Child and Convention on the Elimination of all Forms of Discrimination against Women. Bangladesh, being a developing country and not a party to any of the above-mentioned instruments relating to refugees, have been hosting a large number of refugees and displaced persons since its inception. Moreover, it does not have its own legislation relating to the refugees. In order to ensure constitutional rights to refugees who are for the time being in Bangladesh, the existence of a legal normative framework can only address such issues. Scholars and professionals in the field believe, based on their wide experience, that establishing such a framework is vital for two reasons: (a) to enhance the protection of genuine refugees, and (b) to enable the state to manage properly the refugee and migratory flows. The latter is true when the states have to deal with individuals crossing the border but also when the states face problem

of a large-scale influx. Accession to 1951 Convention leads to build a normative framework, which again makes it possible to distinguish between real refugees who are fleeing serious abuses of human rights and people who are escaping from poverty or from the course of justice.

A normative framework can spell out the right and obligation of refugees who have been admitted by governments either on an individual or group basis. Ideally a normative framework will consist of a national legislation which is supported by an accession to the 1951 Convention.

### Advantages of Accession

There are several advantages of accession to 1951 Convention. Given the current international political climate and continuing refugee-producing events, the advantages of accession by a state to the Convention and the Protocol can best be explained as follows:

1. Accession constitutes an undertaking to apply minimum humanitarian standards of treatment in respect of refugees. These standards were elaborated in the Convention and have now been endorsed by a very large majority of states.
2. Accession contributes to the improvement of relations between refugee's country of origin and the country of asylum. Tensions between these countries in connection with the granting of asylum will be eased where the country of asylum is seen to be acting in accordance with its obligations under international refugee instruments, particularly as these instruments underline the peaceful and humanitarian nature of asylum.

Indeed, paragraph 5 of the Preamble of the Convention urges states to do everything within their power to prevent refugees' problems from becoming a cause of tension between them. Similar exhortations can be found in paragraph 4 of the Preamble and Article 1 of the United Nations Declaration on Territorial Asylum of 1967, Article 2 of the 1969 Organisation of African Unity Convention Governing the Spe-

4. Accession greatly facilitates UNHCR's task of mobilising international support to address refugee situations that may arise in any country. A sudden, large influx of refugees into a developing country often imposes severe economic strains and may require a diversion of already scarce resources away from the local population. Such situations call for special measures of assistance, which are best provided

The first concern is whether there are any costs involved in accession. The answer is no. Accession to the Convention and the Protocol does not expose a country to any charges or costs.

The second concern is whether State Parties are obliged to resettle a "quota" of refugees. Again the answer is no. Neither the Convention, nor the Protocol obliges signatories to resettle a quota of refugees.

The third concern is whether the Contracting States are required to give permanent asylum to all refugees who arrive at their borders. The answer is, in short, no. The principle of non-refoulement (contained in Article 33) is the main obligation imposed upon State by the Convention. In practice, states frequently distinguish non-refoulement from durable asylum.

The right to seek asylum is a basic human right contained in Article 14 of the Universal Declaration of Human Rights (UDHR). Accordingly, a refugee must not be prevented from entering a country in order to seek protection or be forcibly returned to his or her country of origin or any other country where he or she could face persecution. However, neither the Convention, nor the Protocol or the UDHR impose upon states an obligation to grant asylum on a durable basis. Particularly in situations of large-scale influx, international solidarity will come into play to alleviate the burden such influxes impose upon the receiving states.

In any event, the protection afforded by the Convention and Protocol is not meant to be permanent. The objective of solving the refugee problem, i.e. to ensure that refugees can safely and voluntarily return to their

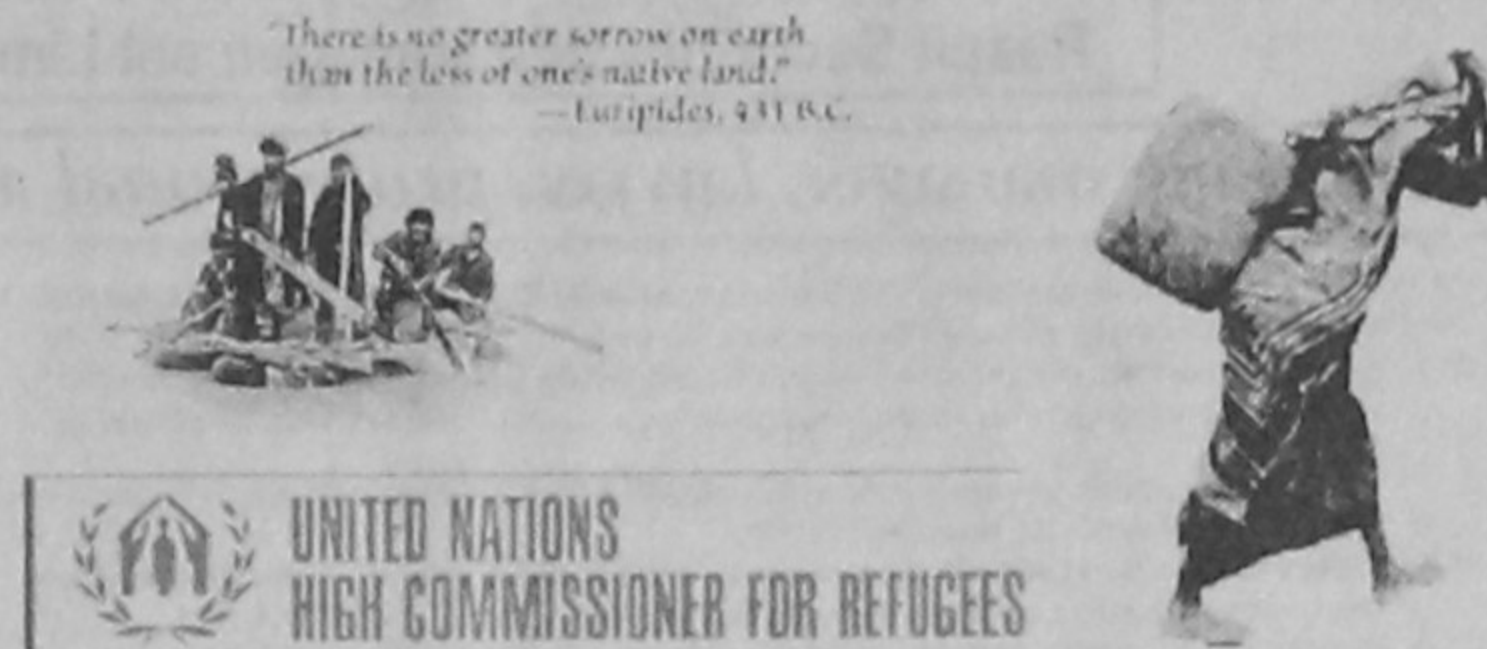
countries or origin as soon as possible, is an integral part of the system of international protection for refugees epitomised by the 1951 Convention and 1969 Protocol.

The fourth concern is whether a state party is obliged to protect criminals who arrive within its territory and claim refugee status. The answer is again, no. Elaborately, even though they may otherwise qualify as refugees, some persons are deemed not to be deserving international protection under the Convention and Protocol. These include persons who have committed a crime against peace, a war crime, a crime against humanity or a serious non-political crime outside the country of refuge prior to their admission to the country where asylum is sought.

The fifth concern is whether a state party is obliged to give land to all refugees who arrive on its territory. Neither the Refugee Convention, nor the Protocol requires state parties to give preferential treatment to refugees with regard to the acquisition of land. Article 13 of the Convention only requires Contracting States to accord to refugees a treatment as favourable as possible, and not less favourable than the accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property. Therefore the answer is, in short, no.

Finally, people on the move, whether they are asylum seekers, recognised refugee or migrant workers should, of course, be covered by the specific or general protection of human rights, with the limitation foreseen in human rights law (especially for aliens).

The writer is working with UNHCR, Dhaka



Specific Aspects of Refugee Problems in Africa; Conclusion 4 of the Cartagena Declaration on Refugees and Paragraph 3 of the Council of Europe Declaration of Territorial Asylum.

3. Accession underlines the importance attached by the acceding state to cooperation with the international community and UNHCR in their efforts to find solutions to refugee problems. States have generally acted in accordance with the long-standing humanitarian tradition of granting refugees asylum until conditions in their countries of origin allow them to repatriate voluntarily. Accession does not impose upon states a legal obligation to admit refugees on a permanent basis. Rather, it serves to strengthen the universal tradition of asylum by placing it within the more solid framework of an international convention.

### Common Concerns with regard to Accession

Again, from UNHCR experience, it is believed that there are some common concerns of states regarding accession to the Convention and the Protocol. Some of these concerns are addressed below one by one.

## Taking Cognizance of Illegal Fatwa

By Deena Nargis & Dr. Faustina Pereira

ON December 31, 2000, a Division Bench of the High Court Division of the Supreme Court of Bangladesh, comprising Justice Md. Ghulam Rabbani and Justice Najimun Ara Sultana, will hear submissions on the illegality of fatwa in Bangladesh. Earlier, on December 2, 2000, this Bench was pleased to suo motu issue a rule nisi on the DC of Naogaon, to show cause as to why action shall not be taken against him, for not taking necessary action in an incident of illegal fatwa in Naogaon; and to show cause as to why his inaction would not be violative of Section 7 of the Muslim Family Laws Ordinance, and Sections 498, 508 and 509 of the Penal Code.

### The Incident

The Division Bench took cognizance of a report published in the Daily Banglabaazar Patrika on December 2, 2000 which reported the incident of fatwa. The incident in brief is that a year and a half ago, during a marital dispute, one Saiful Islam Chum of Naogaon District purportedly pronounced talak upon his wife, Shahida, which was overheard by their neighbour, Moulana Haji Azizul Islam. Soon after the incident, the couple resumed normal marital relations, and had a child. On 16 November, 2000, while Chum was visiting his sister in another village, the said Haji Azizul issued a fatwa, purporting to direct Shahida to contract a hilla marriage, on the ground that this was necessary to enable her to resume relations with her divorced husband, and his sons and carried out these directions by forcing Shahida to remarry another man and to consummate the marriage. Upon returning to the village, and coming to know of this incident, the husband, Chum, refused to accept the fatwa as his wife and sent her back to her father's house.

### Intervenor and Added Party

On 14.12.2000, The Division Bench was pleased to allow Anis-Salish Kendro (ASK), to appear in this case as an Intervenor.

Several other persons have made applications to be included as Added Parties. These applications have been accepted by the Hon'ble Court. One of the Added Parties includes well known gender specialist, Maleka Begum.

### Fatwas in Bangladesh

The types of punishments decreed by fatwa range from subjecting their targets to social disgrace, and in the most extreme cases, to inhuman treatment, which includes physical mutilation or even death. The forms of inhuman treatment also include shaving the victims' heads, or parading them around the village, or ostracizing them from a particular locality. In several cases victims have been tied around trees and beaten, or subjected to 101 lashes or pelted with stones.

A survey of some of the fatwas issued in Bangladesh demonstrate how the fatwa has been misapplied and abused as a weapon against the weak and vulnerable by obscurantists, powerful local vested interest groups, and self-appointed moralists. One of the first cases to be reported on fatwa was that of Nurjahan in January 1993. Nurjahan, a woman of 21 years of Chatakchhara, Sylhet was found guilty by a self appointed fatwa giver, Moulana Mannan, for contracting, according to him, an illegal second marriage. Moulana Mannan instigated a local 'shalish' to determine her fate and decreed by fatwa that Nurjahan and her second husband were to be stoned to death and her parents, who arranged the marriage, be sentenced to 50 lashes each. Nurjahan was buried waist deep in the ground and stoned 101 times. Although Nurjahan survived the stoning, the humiliation drove her to commit suicide soon after.

Just eight months after Nurjahan's death, September 1993, in an almost identical case, Feroza of Kaliganj thana of Salkhida district, a fatwa was carried out against Feroza. Feroza, a young shrimp farm worker, was found guilty of zina

by Moulana Abdul Rahim, the superintendent of the local madrasah, the Union Parishad Chairman and a village elder. According to them, Feroza's 'crime' was that she had committed zina with a Hindu man. In accordance with the fatwa Feroza was lodged 101 times. She later committed suicide.

According to the records of ASK, from 1993 to 1995, there were 43 reported cases where fatwas were issued and carried out. In 1996, there were 13 reported cases. In 1997, there were 27 cases. In 1998, the cases numbered 30. In 1999, there were 27 such cases. In reports collected till October 2000, the number is 22. The records also portrays that most of the fatwas carried out till date have been against women by local powerful men, on matters of women's chastity, morality and mobility.

These records also reveal that although women are almost always targeted against, men have also been victimised. In certain well-documented cases, journalists, writers, progressive thinkers and NGO workers have also been subjected to fatwa for various purported "transgressions" by self-appointed religious extremists.

The range and variety of issues on which fatwas are issued in Bangladesh indicate that any individual or group that breaches the perceived notions of a particular religious orthodoxy are subject to censure, torture and condemnation. For example, on March 23rd 1994, at village Doloipara, in Jaintapur thana of Sylhet district, two mullahs issued a fatwa on Mohammad Abdulla Rashid for taking up employment in an NGO. Rashid was punished by having his head shaved, being beaten with shoes and fined Taka 25,000. (Bhorer Kagoj, 26/03/1994).

### The Arguments on Hilla and Fatwa

ASK lawyers argue that the concept of hilla revolves around the understanding of irrevocability of divorce under Muslim law. A Muslim divorce

becomes irrevocable only upon the third divorce becoming effective. In the instant case of the victim Shahida, no divorce took place, therefore negating the question of a subsequent marriage. Persons who forced the victim in the instant case to go through a subsequent marriage and thereafter consummate the marriage, are liable for violating Articles 31, 32, 35, 36 and 39 of the Constitution. The issuing and implementing of a fatwa directing any person to contract an intervening marriage or 'hilla' in the instant case, and in cases similar to this, is in direct contravention of Section 7 of the Muslim Family Laws Ordinance (MFLO) and constitutes a criminal offence under Sections 494, 498, 508, 509 respectively of the Penal Code in as much as it compels a woman to marry another person during the lifetime of her husband; compels a married woman to have illicit intercourse; induces persons to believe that they would be rendered objects of divine displeasure; and subjects women to acts, gestures or words intended to insult their modesty.

The questions of fatwa, its legality and persons qualified to issue fatwa are purely within the realm of Muslim law. According to the Encyclopaedia of Islam, fatwa is the "opinion on a point of law" or "an opinion on a point of law" to all civil or religious matters; the fatwa-giver is a mufti who by profession is a religious expert or juriconsult, and is an advisor on violations of the laws of Islam, often on issues of morality. To summarise, a fatwa is intended as a religious decree on a point of law, pronounced by a scholar versed in Islamic jurisprudence. The expert issuing a fatwa is virtually always a male.

However, the understanding and application of fatwa in Bangladesh is far from its original intent and history. The right to issue fatwa purely as an edict as understood under Muslim law, vests only on those recognised specifically as muftis, those persons who have the jurisprudential capacity to issue fatwa. That, according to Muslim juris-

prudence, fiqh, even muftis cannot arbitrarily interpret Muslim laws but must follow the most meticulous and detailed grounds of public policy, justice and good conscience. The manner in which fatwa is decreed and carried out in Bangladesh betrays a gross misunderstanding and misapplication of Muslim jurisprudence. Such misapplication in the hands of vested interest groups against vulnerable sections of society blatantly violate human rights norms and go against existing statutory laws of the country, including criminal, civil and evidentiary. Fatwa essentially being a decision or decree on a complex jurisprudential issue touching upon human reality, cannot be violating or degrading.

The law of the land, however, constitutes that the Court is the final arbiter of questions of law and that legal aspects regarding family disputes can only be resolved or mediated by lawfully constituted courts of law or recognised bodies such as mediation institutions. By issuing illegal fatwas certain persons of society are disregarding and circumventing the Courts as the final arbiter and adjudicator in matters having legal consequences. Although there are limited circumstances in which fatwas may be issued under Muslim law, the law of Bangladesh does not envisage fatwas being used to impose punishments, and thus the issuing and implementation of a fatwa in the circumstances of this case, and in similar cases around the country amount to taking the law into their own hands.

Informal negotiations and village arbitration (shalish) are important aspects of the historical, political and cultural genre of Bangladesh rural life. These forms of negotiation continue to remain an important part of our national dispute resolution system. However, no method of dispute resolution, however informal, can be by its very nature extra-legal or beyond the sanction of the accepted norms of fundamental freedoms as envisaged in the Constitution.

The gross misapplication of fatwa by fatwa-givers, usually ignorant peddlers of religion, in effect helps these persons to evade legal liabilities. This situation persists largely due to lack of clarity of the position of fatwa in the Bangladesh legal system. In light of all these, we urgently request the government of Bangladesh to issue orders on courts to give priorities to cases of fatwa instigated violence to be dealt within a time-frame with utmost sensitivity.

### The Court's Cognizance of Illegality of Fatwas

By issuing the instant rule this Hon'ble Court has demonstrated its cognizance of the egregious nature of the practice of issuing illegal fatwa and the need for the provision of effective remedies to those subjected to so-called 'fatwas', issued in the name of religion by 'influential men' and persons arrogating to themselves 'religious' authority. The Courts findings on the illegality would be instrumental in setting permanently the position of fatwa vis a vis the legal system in Bangladesh. A proper direction and guideline by the Court would compel the State, which has till now systematically failed to denounce, investigate, prosecute or punish crimes committed in the name of fatwas, to take necessary action. It would also compel the Government to take action against those who issue fatwa that constitute a direct incitement to violence. These acts are in violation not only of Constitutional guarantees of fundamental rights, but also of Bangladesh's international treaty obligations under the CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), CAT (Convention Against Torture) and the CRC (Child Rights Convention).

By taking cognizance of the illegal fatwas and hillas in Bangladesh, the Courts will have restored in citizens' minds the reassurance of rule of law, due process and fundamental freedoms.

ASK Report

## From Law Desk ...

### The United Nations and Human Rights

The concern of the United Nations with the promotion and protection of human rights and fundamental freedoms stems directly from the realization by the international community that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world", and from the resultant pledge of States Members of the United Nations "to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms".

Today, the United Nations works to promote and protect human rights through a variety of approaches. Through the United Nations Technical Cooperation Programme in the Field of Human Rights, States may receive, at their request, technical assistance in the promotion and protection of human rights. Technical cooperation projects are undertaken in specific countries, as well as at the regional and international levels. Such projects might include training courses for, inter alia, members of the armed forces, police forces or the legal profession, as well as advisory services for the incorporation of international human rights norms and standards into national legislation. Financed mainly by voluntary contributions, technical cooperation is a quickly expanding area of the United Nations Human Rights Programme.

Increasingly, technical cooperation projects are implemented through the establishment of a long-term presence in the countries concerned. In some cases, along with technical cooperation activities, field presences might also include a monitoring component. At the institutional level, six committees established under the principal international human rights treaties are currently in operation. The main function of the committees, also referred to as treaty-monitoring bodies (conventional mechanisms), is to monitor the implementation of the respective treaties by reviewing State party reports submitted under those treaties. The treaty bodies endeavour to establish a constructive dialogue with States parties to assist them in fulfilling their treaty obligations and to offer guidance for future action through suggestions and recommendations.

Three of the treaty bodies (Human Rights Committee, Committee Against Torture, Committee on the Elimination of Racial Discrimination) also accept and render views on individual complaints of human rights violations by States parties, as noted below.

The mechanisms developed outside the treaty framework by United Nations organs, particularly but not exclusively by the Commission on Human Rights, are referred to as the extra-conventional mechanisms. These mechanisms may be country-specific or thematic in nature; they include special rapporteurs appointed by the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, working groups established under these bodies and special representatives of, and/or mandates entrusted to, the Secretary-General.

Anyone may bring a human rights problem to the attention of the United Nations, and thousands of people around the world do so every year. Treaty-based complaint procedures are operational under the Optional Protocol to the International Covenant on Civil and Political Rights, article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination. These procedures can be applied in relation to States parties which have ratified (in the case of the Optional Protocol) or have made a declaration under the appropriate article (in the case of the aforementioned Conventions) recognizing the competence of the relevant treaty monitoring body to receive and consider complaints.

Complaints may also be directed to the extra-conventional mechanisms or to the Working Group on Communications of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which can act with respect to all States. The menu on communications/complaints procedures explains the procedures open to individuals and groups who want the United Nations to take action on a human rights situation that is of concern to them.

## Judicial Knowledge Management

By Hasan Shaheed Ferdous

The constitutional commitment for access to justice can be best ensured and accelerated by employing computer aided knowledge management in the judicial sector. Many jurisdictions have already wide and limited area network of judicial data base of information required by judges, lawyers, prosecutors, teachers, court-staff, legal journalists, forensic experts, para-legals, the consumers of law and people at large in their day to day work. Judicial Web site (J-web) contains, legislative, judicial, legal, and other materials, facilitating litigation research, conducting of cases, case management, court management and other areas of dispute resolutions.

Judges and lawyers have increased use of personal computers as all the legislative, judicial and other materials are available compacted digitally and can be used vitally in advocating, deciding, instructing or otherwise using the law. Computer aided justice delivery system has succeeded in crossing the barriers of traditional chamber practice of lawyers, adjudicative process of judges and instruction methodology of law faculties who have now a days a fabulous amount of information under their finger tips for ready use.

The global discipline of law and cross cutting issues have crossed the limits of cultural and territorial jurisdiction and has intertwined the legal information in E-Justice System. The launching of the DC ROM of Bangladesh Code is a triumphant episode in the history of our judicial and legal knowledge development with a far reaching result in knowledge management. Law consumers are now expecting to see in J-Web all the reported decisions electronically data based. JATI has made progress in the area of providing computer literacy having access facilities to Bangladesh Code and other materials which can be served to others through e-mail.

Handling of such judicial info-tech is quite simple. A personal computer with e-mail and online information access facilitated by modern and browsers are enough for online lawman. Bar Associations and courts can install such computer in their office immediately to reap the benefit of legal and judicial data-base. No more than a month long training will make anybody to be an able user.

The days are not far way when the lawyer briefcases will be replaced by laptops and judges and teacher's book shelves will be taken over by desktops.

The writer is Director (training), Judicial Administration Training Institute (JATI)

## Announcement

### Make Your Voice Heard

1. Law Desk wishes to maximize readers' participation in making 'Law and Our rights Page' more people friendly and informative. This desk is particularly interested to build a strong rapport with judges, lawyers, academics, professionals, law students, and human rights activists from across the country.

Your thoughts, ideas, and experiences on legal profession, education, and activism can make a significant difference.

2. Law Desk wants to unmask the violation of legal and human rights against you, your family, and your community. Raise your voice and concerns against such violations.

3. Law Desk is interested to disseminate information on academic research, professional studies, and various publications (e.g., books, journals, reports, monographs, newsletters etc.) on legal and human rights issues.

4. You can eye on important human rights and legal events of your locality. Law Desk is willing to focus on the problems faced by the courts of different levels, local bar associations, law colleges, and law faculties.

Send your articles, findings, day to day experiences, reports with relevant pictures to:

Law Desk  
The Daily Star  
19 Karwan Bazar  
Dhaka-1215  
E-mail: lawdesk20@hotmail.com

## World Conference Against Racism Think Paper

### Towards the Global Collection of Statistics on Racial Discrimination

ONE of the most useful features of international efforts to address human rights issues is the ability to induce States to undertake important tasks they might not otherwise do alone or without political pressure behind them. The collection of national statistics on racial discrimination appears to be an issue conducive to that form of international coordination and encouragement. Mr. Michael Banton, Member of the Committee on the Elimination of Racial Discrimination, stated in his Background Paper for the WCAR: "Only by conducting research into its incidence and publicizing the findings is it possible to generate support for the enactment of laws against discrimination. Governments may believe that they have enough problems already without commissioning research that will stir up new ones, so international bodies have a special function in seeing that the true facts are brought to light."

At the World Conference Against Racism (WCAR) the issue of researching and collecting national statistics on racial discrimination may be raised in different discussions such as those on economic, social and cultural rights and strengthening the Committee on the Elimination of Racial Discrimination (CERD). In terms of the former, statistical research on the impact of racial discrimination often concerns the social and economic conditions of different racial groups. The methods of modern statistical analysis are particularly effective in measuring socio-economic indicators such as: access to health care, employment opportunities and levels of education. It is in this regard that political support for international efforts to collect data on racial discrimination can advance the agenda of those especially interested in addressing economic, social and cultural rights in the context of racial discrimination. The results of such data-collection projects would also likely help such agendas by raising political awareness on the extent and impact of systematic and de facto racial discrimination including discrimination by private actors and organisations. Combating racial discrimination against specific groups such as the Roma would also be helped in this regard. For example, in evaluating the Government of Romania's periodic report, CERD stated: "The Committee recommends increased attention to the protection of the Roma in civil, political, economic, social and cultural rights. The efforts to implement measures of affirmative action in that respect should be strengthened."

In terms of strengthening CERD itself, the ready availability of data on racial discrimination would improve the Committee's ability to evaluate country conditions and, in particular, help compensate for the lack of information provided by States Parties. For years, CERD has been engaged in a tooth-pulling exercise

with a number of States in its effort to obtain sufficient information on the situation of racial minorities and indigenous groups. The ready availability of country racial statistics would help CERD considerably in performing its periodic review of States parties and evaluating, in relative terms, disparities between countries and regions.

At the WCAR, NGOs should encourage States to institutionalise the collection of race-related statistics at an international level. Some have already suggested that the WCAR should be used to establish a unit within the Office of the High Commissioner for Human Rights to monitor racism and xenophobia.

Whether or not momentum gains for establishing such a unit, NGOs can also call on the United Nations in general, or one of its specialized sub-divisions, to maintain a regular account of statistics on racial discrimination world-wide. A model for this type of statistical accounting is the United Nations Development Programme's (UNDP) Human Development Index.

Independent of internationally coordinated efforts, the WCAR can also focus attention on each State's responsibility to record and study statistics on racism. The collection and evaluation of data concerning the existence and effects of racial discrimination might be considered an obligation if those practices are viewed as a precondition to understanding and eliminating racial discrimination.

Admittedly, in an effort to help States conduct comprehensive studies, the OHCHR's advisory services and technical cooperation programmes may need to be expanded. This would assist States, which have less financial resources available, or experience in performing such studies. The issue of States' responsibilities or obligations to record and monitor racial discrimination can therefore also be addressed at the WCAR in the context of discussing the need for greater financial commitments to advisory services and technical cooperation.

Fighting racism is difficult if one does not know the scope and consequences of the existing problems. States, in many instances, do not want to know. Exposing the disturbing levels of racial discrimination in one's country creates political pressure to remedy the problem. However, if the WCAR is genuinely committed to fighting racism, these issues of global monitoring of racial discrimination must be on the table. They should be reflected in the draft Declaration and Programme of Action and receive ample consideration at the meeting in South Africa.