



**STATEMENT OF HUMAN RIGHTS FIRST AND THE LEADERSHIP  
CONFERENCE ON CIVIL RIGHTS TO THE 2nd MEETING OF THE  
PREPARATORY COMMITTEE OF THE**

**DURBAN REVIEW CONFERENCE**

**October 9, 2008**

My name is Tad Stahnke and I am the Director of the Fighting Discrimination Program at Human Rights First. We are joined in this statement by the Leadership Conference on Civil Rights. Since 2002, Human Rights First has been working to strengthen the efforts of governments to combat violent hate crime, including racist, xenophobic, antisemitic, anti-Muslim, anti-Roma, and homophobic violence throughout the 56 countries of the Organization for Security and Cooperation in Europe.

We were present in Durban in 2001, and we seek to foster credible international discussions on the important issue of racism while, at the same time, working to prevent a recurrence of the anti-Semitism and other problems that plagued the Durban conference.

We have advocated that the agenda of the Durban Review Conference be limited to a review of implementation of commitments contained in the Durban Declaration and Program of Action, and not opened to consideration of other issues such as defamation of religions. We were pleased to see that defamation of religions was not mentioned in the outcome documents of the regional meetings in Abuja and Brasilia. Nevertheless, we are concerned about the number and the nature of the provisions in the Abuja document relating to incitement.

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We therefore offer five principles that we hope would guide you in your consideration of any provisions on incitement in the Outcome Document of the Durban Review Conference.

1. References to incitement should be accompanied by **elaboration of concrete steps that should be taken by States to prevent and punish violence against individuals or property on account of race, ethnicity, religion, gender, sexual orientation, or similar status**, as well as steps that should be taken by international organizations to assist states in that regard.
2. References to incitement should be prefaced by **strong reiteration of the obligation of States under international human rights law to guarantee and to ensure the right to freedom of expression and the right to freedom of thought, conscience and religion, and stress that any restrictions on those rights be limited to certain narrowly defined circumstances**, as prescribed by articles 18, 19, and 20 of the ICCPR, and be applied by an independent judiciary. It is necessary to secure rights first, before elaborating permissible limitations.
3. References to incitement should **stress the obligation of States, as well as national and local authorities to refrain themselves from incitement**, pursuant to article 20 of the ICCPR and article 4 of the ICERD.
4. Because the interrelationship among incitement, the right to freedom of expression, and the right to freedom of thought, conscience and religion or belief is an area of international human rights law that has not been extensively elaborated, any characterization of incitement in the Durban Review Conference Outcome Document **should not extend beyond the current state of international law**.
5. For the same reason, the provisions of the Durban Review Conference Outcome Document **should not prejudice the ability of the Human Rights Committee and the Committee on the Elimination of Racial Discrimination to interpret article 20 of the ICCPR and article 4 of the ICERD**, respectively, in accordance with their mandates, so as to allow the interpretation of these articles to take place in a legal framework, rather than by political negotiation.

Thank you for your attention.

## Ten-Point Plan for Combating Hate Crimes

- 1. Acknowledge and condemn violent hate crimes whenever they occur.** Senior government leaders should send immediate, strong, public, and consistent messages that violent crimes which appear to be motivated by prejudice and intolerance will be investigated thoroughly and prosecuted to the full extent of the law.
- 2. Enact laws that expressly address hate crimes.** Recognizing the particular harm caused by violent hate crimes, governments should enact laws that establish specific offenses or provide enhanced penalties for violent crimes committed because of the victim's race, religion, ethnicity, sexual orientation, gender, gender identity, mental and physical disabilities, or other similar status.
- 3. Strengthen enforcement and prosecute offenders.** Governments should ensure that those responsible for hate crimes are held accountable under the law, that the enforcement of hate crime laws is a priority for the criminal justice system, and that the record of their enforcement is well documented and publicized.
- 4. Provide adequate instructions and resources to law enforcement bodies.** Governments should ensure that police and investigators—as the first responders in cases of violent crime—are specifically instructed and have the necessary procedures, resources and training to identify, investigate and register bias motives before the courts, and that prosecutors have been trained to bring evidence of bias motivations and apply the legal measures required to prosecute hate crimes.
- 5. Undertake parliamentary, interagency or other special inquiries into the problem of hate crimes.** Such public, official inquiries should encourage public debate, investigate ways to better respond to hate crimes, and seek creative ways to address the roots of intolerance and discrimination through education and other means.
- 6. Monitor and report on hate crimes.** Governments should maintain official systems of monitoring and public reporting to provide accurate data for informed policy decisions to combat violent hate crimes. Such systems should include anonymous and disaggregated information on bias motivations and/or victim groups, and should monitor incidents and offenses, as well as prosecutions. Governments should consider establishing third party complaint procedures to encourage greater reporting of hate crimes and conducting periodic hate crime victimization surveys to monitor underreporting by victims and underrecording by police.
- 7. Create and strengthen antidiscrimination bodies.** Official antidiscrimination and human rights bodies should have the authority to address hate crimes through monitoring, reporting, and victim assistance.
- 8. Reach out to community groups.** Governments should conduct outreach and education efforts to communities and civil society groups to reduce fear and assist victims, advance police-community relations, encourage improved reporting of hate crimes to the police and improve the quality of data collection by law enforcement bodies.
- 9. Speak out against official intolerance and bigotry.** Freedom of speech allows considerable latitude for offensive and hateful speech, but public figures should be held to a higher standard. Members of parliament and local government leaders should be held politically accountable for bigoted words that encourage discrimination and violence and create a climate of fear for minorities.
- 10. Encourage international cooperation on hate crimes.** Governments should support and strengthen the mandates of intergovernmental organizations that are addressing discrimination—like the Organization for Security and Cooperation in Europe, the European Commission against Racism and Intolerance, and the Fundamental Rights Agency—including by encouraging such organizations to raise the capacity of and train police, prosecutors, and judges, as well as other official bodies and civil society groups to combat violent hate crimes. Governments should also provide a detailed accounting on the incidence and nature of hate crimes to these bodies in accordance with relevant commitments.