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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Written statement* submitted by the International Human Rights Association of American Minorities (IHRAAM), a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Discriminatory incarceration severely impacts the African American national minority

The Civil Rights Movement moved African Americans toward integrating into the United States on the basis of nondiscrimination and equality under the law. It produced an environment where consultation between civil society and government took place, leading to the legal entrenchment of voting rights and repeal of discriminatory policies in relation to health care, housing, education and employment.

Despite significant policy changes addressing their inequality before the law, however, socioeconomic inequalities linger and continue to affect the societal development of the African American national minority. According to a 2011 Pew Research publication, African Americans from 2005 to 2009 lost an overall 53% of their total household wealth compared to 16% among European Americans. This particular disparity may be directly related to the housing market bubble of 2006 and the recession of 2007 in the U.S.; several class action mortgage discrimination claims have been filed by the NAACP against lenders across the country, alleging that lenders disproportionately targeted minorities for high cost, high risk subprime lending, which has resulted in disproportionately higher rates of default and foreclosure for minority African American and Hispanic borrowers.

While the African American middle class is growing along with the emergence and increase in African American millionaires, African American joblessness is double that of European Americans. Furthermore, inadequate funding allocated to public schools in inner-city communities places many African American students at a disadvantage with their European American counterparts. The current economic crisis may put discrimination against African Americans on the ascendant once again, eroding the gains of the brief era of affirmative action, and indicating the vulnerability of advances based on temporary special measures. Furthermore, this highlighted disparity post-Civil Rights speaks to the inability of the African American community to build and amass inter-generational wealth, due to generations of African American enslavement and discriminatory treatment.

IHRAAM would like to highlight the problematic nature of the current U.S. prison system as it concerns African Americans, addressing the contributing factors behind the over-incarceration of African Americans, their involvement in the prison labour market and their subsequent denial of basic housing and voting rights upon their release from prison.

The U.S. presently leads the world in the incarceration of adults, and the previous decade saw the most dramatic increase in incarceration rates among its citizenry. Despite a recent decrease in the imprisonment rates in the U.S., there remains the stark reality that for every 100,000 Americans 743 are incarcerated. During the 1980s, the U.S. War on Drugs resulted in numerous policies to address the growing use and distribution of drugs within American society. It led to the targeting of underprivileged communities of colour whose members, according to the Drug Policy Alliance, are far more likely to be stopped, searched, arrested, prosecuted, convicted and incarcerated for drug law violations than are European Americans. The Drug Policy Alliance research further found that while African Americans comprise 14% of regular drug users, they represent 37% of those arrested for drug offenses. In addition, African Americans serve almost as much time in federal prison for a drug offense as European Americans do for a violent offense. Higher arrest and incarceration rates for African Americans can be directly correlated to the approach taken by law enforcement. Individuals from impoverished African American communities don't have the financial means to obtain the proper legal counsel to represent them when they face the criminal justice systems.

Currently, African Americans make up 40% of the prison population but only represent around 13% of the national population. An African American male is seven times more

likely to be imprisoned than his European American counterpart (Justice Policy Institute, 2012). Michelle Alexander's widely acclaimed new book, *The New Jim Crow: Mass Incarceration in the Age of Colourblindness*, drew attention to the fact that more African American men are in prison or jail, on probation or parole than were enslaved in 1850, before the Civil War began. *Forbes Magazine* quoted the following from it: "The New Jim Crow offers a devastating account of a legal system doing its job perfectly well. We have simply replaced one caste system with another one." (2010).

During the 1990s under the governmental administration of William Clinton, the U.S. prison system was privatized. With the privatization of the prison system, elements within various industries along with investors in depressed regions throughout the U.S. saw the possibility of economic gain in the exploitation of this extensive prison population. Employers saw an opportunity to access cheap labour along with a means to avoid paying workers unemployment, vacation, pension or compensation time. Insofar as the majority of the two million incarcerated Americans are nonviolent offenders rather than truly criminal or dysfunctional persons, they represent a trapped labour force which can be enticed to work at rates unachievable among the workforce at large.

Like the post Civil War prison farms, today's prison-industrial complex functions to provide required labour, largely on a racially specific basis, to business and military production. Between this factor and the development and management of prison complexes themselves, prison privatization has led to an incentive to incarcerate citizens and attendant Congressional lobbying. A majority of prisons in the U.S. are now privately owned, and are major competitors on Wall Street. 74% percent of states within the U.S. have legally recognized the contracting of prison labor to major corporations. If 40% of the prison population is African American and they are experiencing an unequal distribution of judicial fairness by the criminal justice system, one can determine that there exists structural discrimination as it relates to the U.S. prison system.

The overwhelming majority of prisoners released from this institutional system face multiple challenges in their attempt to re-enter society. The global economic crisis is impacting the availability and access to employment opportunities and also the level of funding of social services. Many employers discriminate against persons with an imprisonment record. Due to their felony record, formerly imprisoned African Americans are denied government funded public housing and even the right to vote, further disempowering the African American national minority's efforts to address its needs through the electoral system by the depletion of its numbers of registered voters. Not unsurprisingly, 70% of impoverished African American former inmates return to the prison system within two years; this is directly connected, inter alia, to the lack of systematic rehabilitation programs that afford an opportunity to acquire the necessary skills to be a productive citizen.

Immediate action is required and essential to change the problematic nature of the prison system in the U.S. The state must address this emergency which directly targets African Americans on such an extremely discriminatory basis, ultimately denying both their human and civil rights. A thorough analysis of the current prison system must be taken by the State with the aim of changing laws and sentencing for nonviolent offenses, and ending the over-incarceration of African Americans. Engagement by civil society and the State is crucial in rectifying decades of structural discrimination being faced by the African American community.

The criminalization of African Americans is turning Martin Luther King Jr's dream into nightmare. All steps needed must be taken by civil society and the U.S. government to address this crisis, since more African American males are incarcerated today than were enslaved during the dark ages of American history.