

## **SHATTERING THE RED LINES: THE DURBAN II DRAFT DECLARATION**

*Selected provisions of United Nations draft published at Second Preparatory Session (Oct. 2008)*

### **Summary**

The dominant thesis of the 88-page Durban II draft declaration (“Draft Outcome Document”)\* is that the U.S., Western Europe, Israel, and other liberal democracies—their principles, institutions, policies, respective histories and national identities—are singularly racist, and, in addition, discriminatory against Islam. Free speech, wealth, globalization, security measures to combat anti-Western terrorism—all of these are attacked as causes of racism, discrimination, and the “defamation of Islam.” Indeed, the new language seeking to distort human rights law for the purposes of Islamic censorship makes the Durban II draft even more regressive than the 2001 text.

In particular, the draft—compiled by a committee that includes Libya as chair, and Iran, Pakistan, and Cuba as vice-chairs—focuses on one specific country, Israel, which it portrays as the enemy of humanity, using language lifted verbatim from the notorious 2001 Tehran Declaration.

This report examines a small selection of the 646 provisions of the Durban II draft declaration, highlighting several that breach the European Union’s red lines. As set forth by France on behalf of the EU, in a [19 September 2008 statement](#) to the UN Human Rights Council, the EU red lines reject (1) singling out one region of the world in particular; (2) reopening the 2001 Durban declaration by inserting a prohibition against “defamation of religion,” designed to restrict free speech and impose the censorship of Islamic anti-blasphemy laws; (3) drawing up an order of priority among victims; and (4) politicizing or polarizing the discussion.

Earlier this year, French President Nicolas Sarkozy pledged—“without ambiguity”—to withdraw the EU from the Durban II process if the 2001 excesses repeated themselves and the EU’s concerns were ignored. His presidency of the EU, and ability to act on the pledge, concludes on December 31, 2008.

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\* *Draft Outcome Document for the Durban Review Conference 2009, as published by the United Nations, <http://www2.ohchr.org/english/issues/racism/DurbanReview/session2-documentation.htm>, at Second Substantive Session (6 to 17 October 2008).*

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**Pledges by European Union Governments**

**FRENCH PRESIDENT NICOLAS SARKOZY:**

“You have spoken about the Durban conference. I will tell you: The Durban conference in 2001 led to intolerable excesses from certain states and numerous NGOs that turned the conference into a forum against Israel. No one has forgotten. A follow-up conference is planned for 2009. Mr. President [of the CRIF], you asked me a question. I will answer very frankly. **France will not allow a repetition of the excesses and abuses of 2001.** Our European partners share France’s concerns. **France will chair the EU in the final months preceding the review conference. I say to you: if ever our legitimate demands are not taken into account, we will disengage from the process. I think my answer is unambiguous.**”

*Source: [Nicolas Sarkozy au diner annuel du crif](#), February 13, 2008.*

**U.K. MINISTER FOR EUROPE JIM MURPHY:**

“There should be no repeat of the disgraceful anti-Semitism that blighted events surrounding the 2001 world conference against racism... **[We] will play no part in an international conference that exhibits the degree of anti-Semitism that was disgracefully on view on the previous occasion...** If it gets to a point that we come to the view that the conference cannot be a success, the option of withdrawal from the conference remains available to us.”

*Source: [Parliamentary debates](#), May 13, 2008.*

**NETHERLANDS FOREIGN MINISTER MAXIME VERHAGEN:**

“*Report from Radio Netherlands, May 18, 2008:* **The Netherlands will not accept it if there are any attempts to call Israel a racist state at a UN conference** in the South African city of Durban next year, said Foreign Minister Maxime Verhagen. He said that the Netherlands was involved in the organization of the new Durban conference and would not hesitate to withdraw if there is a similar negative spiral of events.

*Source: [Radio Netherlands](#), May 18, 2008.*

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**DANISH FOREIGN MINISTER PER STIG MØLLER:**

“If the OIC (Organization of the Islamic Conference) pushes through this draft resolution, they shall not expect European or Western countries to be present at the table... we cannot accept that religion be conflated with racism.

*Source: “Danish foreign minister threatens Western boycott of Durban II,” [Europe News](#), citing [Jyllands-Posten](#), October 28 2008.*

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*Key phrases highlighted in bold.*

Text from Durban II Draft Declaration	Breach of Red Line	Analysis
<p><i>Note that some of the most <b>worrying trends since 2001 include racio-religious profiling and discrimination, defamation of Muslims, their faith and beliefs</b>, incitement to religious hatred and its concomitant effects on multiculturalism, national and international peace and stability as well as human rights of the affected communities. (Par. 26, <a href="#">Section 1.</a>)</i></p>	<p>“Defamation of Religion” (Re-opening 2001 Declaration)</p>	<p>Claims “defamation of Islam” is one of most worrying trends since 2001. Omits mention of the September 11 terrorist attacks that occurred in week after adoption of 2001 Durban declaration.</p>
<p><i>Agrees that <b>defamation of religions</b> cannot be dissociated from a profound reflection on the trends of racism, racial discrimination, xenophobia and related intolerance that are developing in the current political and ideological context. (Par. 27, <a href="#">Section 1.</a>)</i></p>	<p>“Defamation of Religion” (Re-opening 2001 Declaration)</p>	<p>Conflates religion with race. Cites “defamation of religions,” a notion that has no basis in, and is inconsistent with, international human rights law. Attempt to grant UN legitimacy to Islamic anti-blasphemy provisions.</p>
<p><i>Acknowledges that the <b>most disturbing phenomenon is the intellectual and ideological validation of Islamophobia</b>. When it is expressed against migrants it takes the form of religio-ethnic or religio-racial tones, when it is expressed in the form of <b>defamation of religions</b>, it <b>takes cover behind the freedom of expression</b> and when it is expressed in the form of profiling. It <b>hides behind the war against terrorism</b>. Believes that association of terrorism and violence with Islam or any other religion including through <b>publication of offensive caricatures</b> and making of hate documentaries would purposely complicate our common endeavours to address several contemporary issues including fight against terrorism and occupation of foreign territories and peoples. (Par. 30, <a href="#">Section 1.</a>)</i></p>	<p>“Defamation of Religion” (Re-opening 2001 Declaration)</p>	<p>Attempt to grant UN legitimacy to Islamic anti-blasphemy provisions. Muslims as greatest victims, and as targets of Western racism.</p>

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<b>Text from Durban II Draft Declaration</b>	<b>Breach of Red Line</b>	<b>Analysis</b>
<p><i>Urges</i> States to take serious steps to address the contemporary forms of racism, racial discrimination, xenophobia and related intolerance and in this context to take firm action against negative stereotyping of religions and <b>defamation of religious personalities, holy books, scriptures and symbols.</b> (<i>Par. 100, <a href="#">Section 5</a></i>)</p>	<p>“Defamation of Religion” (Re-opening 2001 Declaration)</p>	<p>Attempt to import Islamic anti-blasphemy prohibitions into international human rights law.</p>
<p>National laws alone cannot deal with the rising tide of <b>defamation and hatred against Muslims</b>, especially if such trends are spreading to the grass root communities. A framework is needed to analyze national laws and understand their provisions. This could then be compiled in a <b>single "universal document" as guidelines for legislation – aimed at countering "defamation of religions"</b>. (<i>Par. 142, <a href="#">Section 5</a></i>)</p>	<p>“Defamation of Religion” (Re-opening 2001 Declaration)</p>	<p>Attempt to import Islamic anti-blasphemy prohibitions into international human rights law.</p>
<p><i>Calls</i> upon the Durban Review Conference to provide guidelines for States taking into account the assessment of various Durban follow up mechanisms as well as the recommendations of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the issue of <b>defamation or negative stereotyping of religions.</b> (<i>Par. 146, <a href="#">Section 5</a></i>)</p>	<p>“Defamation of Religion” (Re-opening 2001 Declaration)</p>	<p>Attempt to import Islamic anti-blasphemy prohibitions into international human rights law.</p>

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<p>...[O]ne of the principal reasons fomenting the tide of racism is the growing increase in the <b>right wing extremist political discourse, including in some of the most liberal and pluralistic societies</b>. This trend has led to the deepening of the racist tendencies in those societies through propaganda against immigrants and promotion of cultural and <b>religious superiority doctrines</b>. Immunity granted to such acts has led to denial of basic human rights to the affected communities including their right to freely practice and preserve their religious and cultural identities. <b>Effective legislation is needed</b> at the national, regional and international levels to curb these tendencies as well as to ensure relief to the victims. (Par. 80, <a href="#">Section 5</a>)</p>	<p>Censorship (Re-opening 2001 Declaration)</p>	<p>Advocates censorship in Western democracies. Ignores extremist incitement by radical Islamic, left-wing and other groups.</p>
<p>That permissible <b>limitations on the exercise of the right to freedom of expression</b> are elaborated and, where appropriate, <b>incorporated into national legislation</b>. (Par. 96c, <a href="#">Section 5</a>)</p>	<p>Censorship (Re-opening 2001 Declaration)</p>	<p>Calls for new laws to restrict free speech.</p>
<p><i>Acknowledge that</i> intellectual and political <b>resistance to multiculturalism</b> is one of the <b>root causes of the resurgence of racist and xenophobic violence</b>. Rejection of diversity has led to negation of the very humanity of the immigrants, foreigners and minorities. The <b>most serious manifestation of racism is</b> the democratic legitimization of racism and xenophobia in the guise of defending '<b>national identity</b> or preference'. No country, religion or minority should be discriminated on the grounds of its race, colour and creed. (Par. 25, <a href="#">Section 1</a>)</p>	<p>Politicization</p>	<p>Equates national identity with racism. Describes legitimate alternatives to multiculturalism (e.g., integration) as root cause of "racist violence."</p>

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<p>Calls upon the Durban Review Conference to demonstrate the political will to confront those phenomena, and acknowledges that a <b>failure of the Durban review process would, above all, pave the way for intensification of worrying racist and xenophobic trends</b>, namely, the upsurge in racist violence and the political use of racism and its intellectual legitimization. (Par. 227, <a href="#">Section 1</a>)</p>	<p>Politicization</p>	<p>Portrays Libyan-led, anti-Western conference as necessary to combat racism.</p>
<p>Indicating that the process of <b>globalization</b> is a driving force whose benefits should be distributed equally in all countries, and expressing the resolve to prevent and offset the <b>adverse effects of this process</b>, which can <b>include poverty, underdevelopment and cultural homogenization</b>. (Par. 300, <a href="#">Section 1</a>)</p>	<p>Politicization</p>	<p>Attacks globalization. Issue not relevant to racism.</p>
<p>Stress the need of raising global awareness about the repercussions, manifestations and consequences of all the <b>racist practices of the occupying powers</b> and any of their acts that stem from racist ideology. (Par. 63, <a href="#">Section 1</a>)</p>	<p>Politicization (Anti-Israel, Anti-Western)</p>	<p>Coded censure of Israel (the only country named elsewhere as “occupying power”) and possibly the United States.</p>
<p>Draws attention to the <b>impact of counter-terrorism measures on the rise of racism</b>, racial discrimination, xenophobia and related intolerance, including the practice of racial, ethnic, national and religious profiling. (Par. 19, <a href="#">Section 1</a>.)</p>	<p>Politicization (Anti-Western)</p>	<p>Links counter-terrorism to racism, in transparent reference to U.S. and other Western democracies. By contrast, omits mention of hatred that fuels terrorism.</p>
<p>Recognize that <b>colonialism and slavery have been the prime sources and manifestation of racism</b>, racial discrimination, xenophobia and related intolerance and the people of Asian decent were victims of colonialism and continue to be victims of its consequences. (Par. 15, <a href="#">Section 1</a>)</p>	<p>Politicization (Anti-Western)</p>	<p>Exclusive focus on particular history of Western colonialism. Ignores worse forms of racism that led to the Holocaust, the Rwandan genocide, and the current genocide in the Darfur province of Sudan.</p>

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<p><i>Noting that some of the other obstacles hampering progress in the collective struggle against racism and racial discrimination include: weak legislation and policies, lack of moral, educational and practical strategies, non-implementation of international legal framework and commitments by some, persisting <b>impunity on different grounds such as freedom of expression, counter terrorism or national security</b> as well as sharp increase in the extreme right wing xenophobic political platforms. (Par. 60, <a href="#">Section 1</a>)</i></p>	<p>Politicization (Anti-Western)</p>	<p>Attacks free expression, counter-terrorism, and national security as pretexts for impunity” and “obstacles hampering progress” against racism.</p>
<p>...the effect which national legislation to combat terrorism has had on the implementation of the Convention, particularly on identity, entry and residence checks of foreigners, the right of asylum and extradition. When examining periodic reports, the Committee has expressed its concern about reported cases of “<b>Islamophobia</b>” following the 11 September attacks. Furthermore, while taking note that the criminal legislation of some States includes offences where religious motives are an aggravating factor, it has <b>regretted that incitement to racially motivated religious hatred is not outlawed</b>. The Committee has recommended that States give early consideration to the extension of the crime of incitement to racial hatred to cover <b>offences motivated by religious hatred</b> against immigrant communities. (Par. 53, <a href="#">Section 3</a>.)</p>	<p>Prioritizing Victims</p>	<p>Special treatment for Islamophobia. Mentions September 11 attacks and hatred, yet ignores hatred that fueled the attackers and which continues to fuel other terrorist attacks around the world.</p>



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<p><i>Noting that some of the other obstacles hampering progress in the collective struggle against racism and racial discrimination include: weak legislation and policies, lack of moral, educational and practical strategies, non-implementation of international legal framework and commitments by some, persisting <b>impunity on different grounds such as freedom of expression, counter terrorism or national security</b> as well as sharp increase in the extreme right wing xenophobic political platforms. (Par. 60, <a href="#">Section 1</a>)</i></p>	<p>Politicization (Anti-Western)</p>	<p>Attacks free expression, counter-terrorism, and national security as pretexts for “impunity” and “obstacles hampering progress” against racism.</p>
<p>...the effect which national legislation to combat terrorism has had on the implementation of the Convention, particularly on identity, entry and residence checks of foreigners, the right of asylum and extradition. When examining periodic reports, the Committee has expressed its concern about reported cases of “<b>Islamophobia</b>” following the 11 September attacks. Furthermore, while taking note that the criminal legislation of some States includes offences where religious motives are an aggravating factor, it has <b>regretted that incitement to racially motivated religious hatred is not outlawed</b>. The Committee has recommended that States give early consideration to the extension of the crime of incitement to racial hatred to cover <b>offences motivated by religious hatred</b> against immigrant communities. (Par. 53, <a href="#">Section 3.</a>)</p>	<p>Prioritizing Victims</p>	<p>Special treatment for Islamophobia. Mentions September 11 attacks and hatred, yet ignores hatred that fueled the attackers and which continues to fuel other terrorist attacks around the world.</p>

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<p>Calls upon States to pay attention to the serious nature of incitement to religious hatred such as anti-Semitism, Christianophobia and, <b>more particularly, Islamophobia</b>, and to promote the fight against those phenomena by strengthening interreligious and intercultural dialogue concerning the common ethics of all religions and by adopting legislation aimed at ending impunity in this respect. (<i>Par. 143, <a href="#">Section 1</a></i>)</p>	<p>Prioritizing Victims</p>	<p>Subtle attempt to impose hierarchy of victims with Muslims at the top.</p>
<p>Reaffirm that <b>a foreign occupation founded on settlements, its laws based on racial discrimination</b> with the aim of continuing domination of the occupied territory, as well as its practices, which consist of reinforcing a total military blockade, isolating towns, cities and villages under occupation from each other, totally contradict the purposes and principles of the Charter of the United Nations and constitute a serious violation of international human rights and humanitarian law, <b>a new kind of apartheid, a crime against humanity, a form of genocide and a serious threat to international peace and security.</b> (<i>Par. 57, <a href="#">Section 1</a>; identical text at Par. 11, <a href="#">Section 4.</a></i>)</p>	<p>Singling Out Israel</p>	<p>Thinly veiled vilification of Israel. Revives worst demonization language of Feb. 2001 Tehran Declaration, by repeating its <a href="#">Art. 20</a> verbatim. Language similar to 2001 NGO Declaration (<a href="#">Arts. 98-99</a>) that was condemned by High Commissioner Mary Robinson.</p> <p>Inflammatory accusations against Israel constitute gross violation of EU red line on singling out countries.</p>
<p>Reiterates its concern about the <b>plight of the Palestinian people under foreign occupations</b>, urges respect for international human rights law and international humanitarian law and calls for a just, comprehensive and lasting peace in the region. (<i>Par. 114, <a href="#">Section 1</a></i>)</p>	<p>Singling Out Israel</p>	<p>Violates EU red line on singling-out countries.</p>

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<p><i>Notes that the Palestinian people continue to be denied the fundamental right of self determination.</i> In order to consolidate the occupation, they have been subjected to <b>unlawful collective punishment, torture</b>, economic blockade, severe restriction on movement and arbitrary closure of their territories. Illegal settlements continue to be built in the occupied territories. <b>The Review Conference must look into the human rights situation</b> and urge member states to implement the provisions of DDPA with a view to bring lasting peace in the Middle East. <i>(Par. 115, <a href="#">Section 1</a>)</i></p>	Singling Out Israel	Advocates using Durban II conference to condemn Israel.
<p>Express deep concern at the <b>plight of Palestinian refugees</b> and displaced persons who were <b>forced to leave their homes because of war and racial policies of the occupying power</b> and who are prevented from returning to their homes and properties because of a <b>racially based law of return</b>, and recognize the <b>right of return of the Palestinian refugees</b> as established by the General Assembly in its resolutions, particularly resolution 194 (III) of 11 December 1948, and <b>call for their return to their homeland</b> in accordance with and in implementation of this right. <i>(Par. 116, <a href="#">Section 1</a>.)</i></p>	Singling Out Israel	Attacks Israel's raison d'être as the Jewish homeland, as recognized by the United Nations and League of Nations. Violates EU red line on singling out countries.
<p>Re-emphasize the responsibility of the international community to provide <b>international protection for the Palestinian people under occupation against aggression, acts of racism</b>, intimidation and denial of fundamental human rights, including the rights to life, liberty and self-determination. <i>(Par. 117, <a href="#">Section 1</a>)</i></p>	Singling Out Israel	Palestinians as victims of alleged Israeli racism. Violation of EU red line on singling-out countries.

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Recognize <b>Jerusalem</b> as a city of reverence and religious sanctity for three major religions of the world and call for an international effort to <b>bring foreign occupation, together with all its racial practices, to an end</b> , especially in holy shrines dear to the three religions. ( <i>Par. 305, <a href="#">Section 1</a></i> )	Singling Out Israel	Israel’s protection of religious freedom and shrines in Jerusalem described as “racist”. Taken verbatim from 2001 Tehran Declaration, <a href="#">Art. 19</a> . Violation of EU red line on singling-out countries.
<i>Expresses</i> deep regret the practices of <b>racial discrimination against the Palestinians</b> as well as other inhabitants of the Arab occupied territories which have an impact on all aspects of their daily existence such as to prevent the enjoyment of fundamental rights, express our deep concern about this situation and renew the call for the cessation of all the <b>practices of racial discrimination to which the Palestinians and the other inhabitants of the Arab territories occupied by Israel are subjected</b> . ( <i>Par. 93, <a href="#">Section 5</a></i> )	Singling Out Israel	Lifted verbatim from notorious 2001 Tehran Declaration, <a href="#">Art. 21</a> .  Violation of EU red line on singling-out countries.
<i>Reiterates</i> that the Palestinian people continue to be denied the fundamental right of self determination and <b>urges member States to look at the situation of Palestinian people during the Durban Review Conference</b> and implement the provisions of DDPA with a view to bring lasting peace in the Middle East. ( <i>Par. 127, <a href="#">Section 5</a></i> )	Singling out Israel	Advocates using Durban II conference to focus on condemning Israel.

*For more information: [www.unwatch.org/durban2](http://www.unwatch.org/durban2)*