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Report of the Secretary-General on the rights of persons belonging to national or ethnic, religious and linguistic minorities*

Summary

The present report, submitted in accordance with Human Rights Council decision 2/102, covers developments concerning minorities and activities undertaken by the United Nations and the Office of the High Commissioner for Human Rights, in the light of Commission resolution 2005/79 in which the Commission requested the Secretary-General to review the performance and effectiveness of the independent expert on minority issues and the Working Group on Minorities after two years and to report to the Commission on the matter.

* This document is submitted late so as to include the most up-to-date information possible.

I. INTRODUCTION

1. Pursuant to General Assembly resolution 60/251, all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights were assumed as of 19 June 2006 by the Human Rights Council. In accordance with the same resolution, the Council is in the process of reviewing all mandates and mechanisms. The present report is submitted in accordance with that resolution and Council decision 2/102 and pursuant to Commission resolution 2005/79 in which the Commission requested the Secretary-General to review the performance and effectiveness of the independent expert on minority issues and the Working Group on Minorities after two years and to report to the Commission on the matter (para. 14).

2. The report covers developments concerning minorities and activities undertaken by the United Nations, with a particular focus on the work of the two mechanisms.

3. With respect to recent developments, the 2005 World Summit Outcome reaffirmed the importance of minority rights' protection and promotion to the work of the United Nations, stating that "the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to political and social stability and peace and enrich the cultural diversity and heritage of society" (para. 130). This reiterates global positions enunciated in previous statements of global commitment. For example, States resolved in the Millennium Declaration "[t]o strengthen the capacity of all our countries to implement the principles and practices of democracy and respect for human rights, including minority rights" (para. 25). The Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance "[u]rges States to protect the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and to develop appropriate legislative and other measures to encourage conditions for the promotion of that identity, in order to protect them from any form of racism, racial discrimination, xenophobia and related intolerance. In this context, forms of multiple discrimination should be fully taken into account;" (Programme of Action, para. 172).

4. Calls for the promotion of intra- and inter-ethnic, religious and community dialogue and the sharing of experiences to meet the challenges to the integration of diversity and counter exclusive ideologies and extremism have also moved higher on the international agenda, following the reference in paragraph 144 of the World Summit Outcome to the Secretary-General's Alliance of Civilizations initiative and the release of the report of the High-level Group under the initiative. The report notes in its paragraph 6.22 that "[e]stablishing coherent integration strategies requires regular dialogue among representatives of government and immigrant communities, civil society representatives, religious organizations and employers, engaging at local, regional, national and international levels. While informal and ad hoc engagement is valuable, institutional structures that support dialogue on a regular ongoing basis can ensure the efficacy of such approaches in promoting greater integration. Such efforts help achieve a balance between the demands of integration and the need to maintain one's cultural and religious identity" (see www.unaoc.org).

5. As Member States have recognized at the 2005 World Summit and other recent forums, the inclusion and full participation of minorities and other disadvantaged and marginalized groups in local, national and international affairs is of direct importance to global efforts to address the challenges of development and peace and security. The efforts of Member States

and of the mechanisms of the Council in this regard are essential contributions to the integration of minority concerns into the work of the Organization to reduce poverty, establish stable and socially inclusive societies and address systematic and long-standing discrimination against specific minority communities.

6. The present report outlines some of the principal interventions undertaken under the aegis of OHCHR aimed at strengthening the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities. These include efforts to promote dialogue and mutual understanding on thematic issues and to support through capacity-building States that request such assistance.

II. INTERNATIONAL FRAMEWORK OF STANDARDS AND MECHANISMS

A. The international framework of standards

7. Although the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (the Minorities Declaration) is the only United Nations instrument addressing exclusively the rights of persons belonging to minorities, minority rights are recognized in several core international human rights instruments. Particular reference can be made to the provisions of articles 21 and 27 of the Universal Declaration of Human Rights, relating to, *inter alia*, participation in public and political life and participation in cultural life, respectively, which are not the subject of separate mandates under the Human Rights Council. Provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and article 27 of the International Covenant on Civil and Political Rights also provide protection for persons belonging to minorities.

8. The Minorities Declaration lays down a number of purposes and principles as well as the rights of claim holders and the responsibilities of duty bearers. The purposes of the Declaration are to recognize plural identities and promote inclusive and stable societies. It reaffirms the rights of persons belonging to minorities to enjoy all human rights and fundamental freedoms in accordance with the principles of non-discrimination and equality before the law. Three additional pillars or principles contained in the Declaration relate to protection of existence, promotion and protection of identity, and the right to effective participation. Several of the Declaration's provisions reaffirm and emphasize the right to effective participation of persons belonging to minorities and the duty of States to ensure the effective participation of minorities in decisions affecting them.

9. The United Nations has met the challenge of setting out the rights of persons belonging to minorities. States Members of the United Nations have enshrined special protections and rights for persons belonging to minorities in international and domestic law. Thus, the Commission, whose mandates are now under the purview of the Council, focused attention on efforts to raise further awareness and promote implementation of those rights and on the establishment of mechanisms for promoting and protecting those rights, including through the work of the Working Group on Minorities and the independent expert on minority issues.

B. Charter-based mechanisms dealing with minority issues

10. The Working Group on Minorities was established in 1995 pursuant to Economic and Social Council resolution 1995/31 with a threefold mandate: to review the promotion and practical realization of the Declaration; to examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments; and to recommend further measures, as appropriate, for the promotion and protection of the rights of persons belonging to minorities.

11. The Commission on Human Rights, in its resolution 2005/79, commended the role of the Working Group on Minorities as a forum for dialogue with non-governmental organizations (NGOs) and affirmed the importance of retaining such a forum on this thematic issue for examining solutions to problems involving minorities. It amended the mandate of the Working Group and decided that at its annual sessions it should focus its work on interactive dialogue with NGOs and on conceptual support to and dialogue with the independent expert (para. 9).

12. In accordance with the same resolution, the mandate of the independent expert on minority issues was established for two years with the mandate (a) to promote the implementation of the Minorities Declaration; (b) to identify best practices and possibilities for technical cooperation by OHCHR at the request of Governments; (c) to apply a gender perspective in his/her work; (d) to cooperate closely with relevant United Nations bodies, mandates and mechanisms as well as regional organizations; and (e) to take into account the views of NGOs on matters pertaining to the mandate. The independent expert was requested to submit annual reports including recommendations for effective strategies for the better implementation of minority rights. On 29 July 2005, the High Commissioner for Human Rights appointed Gay McDougall (United States of America) as independent expert on minority issues.

1. Working Group on Minorities

Promotion of dialogue and mutual understanding

13. One of the challenges faced by the United Nations is to provide a space for representatives of civil society from all parts of the world to speak in international forums, to raise issues with experts and have direct contact with government representatives.

14. The Working Group on Minorities has provided an annual venue for examining possible solutions to problems involving minorities, including for the promotion of mutual understanding between and among minorities and Governments. It offers the only space within the United Nations for minority representatives to engage directly in a dialogue and consultation with Governments on these matters in an international setting. Participation in the meetings of the Working Group is open to minority representation at the community and grass-roots levels and, unlike some other forums, there is no requirement that only representatives of international NGOs may speak at these meetings.

15. Minority representatives, in their assessments of the impact of their participation in the Working Group, have stated that it has led to improved dialogue with the authorities in their

country, led to their being taken more seriously, helped them establish links with other minority NGOs, helped with their advocacy work domestically and increased their own confidence in non-violent channels to express their grievances.

Thematic advice

16. The Working Group on Minorities, with its broad five-member composition representing the different regions of the world, has contributed to a better understanding of the variety of minority situations globally and given added recognition to activities on minority issues.

17. The implementation of the rights contained in the Minorities Declaration has highlighted the need not only to understand and redress inequality but also to accommodate difference and diversity. Best and good practices for managing diversity and supporting the integration of minorities in the life of the country in which they live have been the focus of papers prepared or solicited by OHCHR or submitted by minority experts to the Working Group. (Papers prepared for the Working Group are available on the OHCHR website.) Such efforts have aimed at achieving a balance between the demands of integration and the need to respect different cultural, religious and linguistic identities.

18. Expert papers on thematic minority issues considered at the Working Group have placed particular emphasis on measures to develop intercultural education, mainstream minority rights in programmes and strategies to achieve the Millennium Development Goals and facilitate the participation of minorities in public life. Thus, consideration has been given to lessons learned and practical policy measures aimed at achieving the effective participation of minority representatives through the establishment of advisory and consultative bodies on issues of particular concern to minorities, cultural and regional forms of autonomy, as well as affirmative action measures to support access to public services and public office.

19. Minority representatives have raised in the Working Group concerns about their treatment by police and security forces and about discrimination in the criminal justice system, and have discussed the importance of greater integration of members of minorities in the agencies responsible for law and order and criminal justice. With a view to offering guidance for technical assistance, and pursuant to paragraph 74 (a) of the Durban Programme of Action, which “[u]rges States and invites non-governmental organizations and the private sector ... [t]o create and implement policies that promote a high-quality and diverse police force free from racism, racial discrimination, xenophobia and related intolerance, and recruit actively all groups, including minorities, into public employment, including the police force and other agencies within the criminal justice system (such as prosecutors)”, OHCHR commissioned a paper for discussion with Governments and other partners on “integration with diversity in policing, security and criminal justice”. The paper (E/CN.4/Sub.2/AC.5/2006/WP.1), submitted to the Working Group at its twelfth session, aims to provide practical guidance and examples of good practices to assist Governments, United Nations officials, NGOs and others in ensuring that agencies of the criminal justice system and law enforcement agencies are representative of, responsive to and accountable to the community as a whole.

20. Tools for better understanding the provisions and principles contained in the Minorities Declaration and related human rights standards have been prepared, submitted or considered under the aegis of the Working Group on Minorities. Particular mention should be made

of the commentary of the Working Group on Minorities on the Minorities Declaration (E/CN.4/Sub.2/AC.5/2005/2) and the Profile and Matrix on the Human Rights Situation of Persons Belonging to Minorities (hereafter the Minority Profile and Matrix). The Minority Profile and Matrix (E/CN.4/Sub.2/AC.5/2006/3) is an outcome of the OHCHR Minority Fellowship Programme and arose from the need identified by the Minority Fellows to better understand the content and scope of the Minorities Declaration, the commentary on the Declaration and other international standards and jurisprudence relating to minorities.

2. Independent expert on minority issues

21. The new mandate of independent expert is giving added visibility to minority issues. The mandate has drawn on the conceptual groundwork undertaken by the Working Group on Minorities, by reaffirming the need to focus on minority issues in the context of poverty alleviation, social inclusion and stability. Particular attention in the independent expert's forthcoming report is given to the question of the incorporation of minority concerns into strategies for achieving poverty reduction. In her report, the independent expert indicates that minorities are often neglected or excluded from efforts to achieve the Millennium Development Goals and therefore urges Governments, in the contexts of country reporting on the Goals and in Poverty Reduction Strategy Papers (PRSPs), to provide a detailed examination of the situations of minority groups and statistical data that help to reveal the status of minorities in relation to other groups.

22. As part of her work, the independent expert has also issued statements, letters and other appeals, including jointly with other special procedures mandate holders, where the situation of minorities is a matter of concern. She has also indicated her intention to integrate minority concerns in citizenship issues, promote the mainstreaming of minority concerns in the work of the United Nations, and devote greater attention to the situation of women and children belonging to minorities.

23. Additionally, the independent expert has visited Hungary and Ethiopia. Recommendations in reports on country visits may include suggestions for the provision of technical cooperation and advice from OHCHR. As a special procedure of the Council, the independent expert has also proposed to study and, when appropriate, take initiatives on the specific minority situations brought to the attention of the Working Group by minority representatives and Governments.

24. The working methods of the independent expert are filling some of the gaps in the protection of minority rights identified in past reports submitted to the Commission on Human Rights.

Cooperation between the Working Group on Minorities and the independent expert on minority issues

25. The Commission on Human Rights, in its resolution 2005/79, not only commended the role of the Working Group, but also decided that it should provide conceptual support of, and dialogue with, the independent expert.

26. Given the importance of strengthening cooperation between various mandates and the complementary aspects of their work, the Working Group on Minorities, at its twelfth session in 2006, proposed a two-year programme of work, drawn up jointly with the independent expert, which would include the organization of a series of regional seminars on the application of integration with diversity in policing, security and criminal justice, and the preparation of three thematic studies: on positive country experiences in self-government for minorities; on ways and means of strengthening the application of the Minorities Declaration; and on double discrimination against women belonging to minorities (see A/HRC/Sub.1/58/19).

III. THE WORK OF THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

27. OHCHR presented a Plan of Action in May 2005 (A/59/2005/Add.3, annex) setting out the vision for the future work of the Office, which identified non-discrimination, equality and the protection of specific groups such as minorities as being at the core of its mandate. It was proposed that the leadership, capacity and activities of OHCHR should be enhanced in the sphere of equality, non-discrimination and the promotion and protection of the rights of marginalized groups, in particular through the mainstreaming of human rights in the work of the United Nations and the development of more focused and realistic country engagement strategies and closer partnerships with civil society. Additionally, OHCHR services the mandates of the Working Group on Minorities and the independent expert on minority issues. Further information is contained in the reports on the eleventh and twelfth sessions of the Working Group on Minorities (E/CN.4/Sub.2/2005/27 and A/HRC/Sub.1/58/19) and the reports of the independent expert on minority issues (E/CN.4/2006/74 and A/HRC/4/9 and addenda).

28. Regional or subregional meetings organized by OHCHR and the Working Group on Minorities have played an important role in identifying problems and areas for United Nations action on minority issues and situations. Moreover, the regional consultations of human rights presences of OHCHR have identified efforts to combat discrimination and exclusion of particular groups such as minorities as a specific area requiring further action. In August 2006 a needs assessment mission was undertaken to Nepal with a view to assisting the OHCHR office there in developing its programmes and activities for combating the social exclusion of Dalits, indigenous peoples, and ethnic and religious minorities, and particularly in addressing the situation of women belonging to these communities. Various issues were raised including with respect to improving access to justice for all sectors of the population.

29. United Nations organizations can contribute to policies and programmes addressing the economic, political or social exclusion of persons belonging to minorities. A common understanding and a consolidated approach across the United Nations system for promoting and protecting minority rights are needed to fulfil the rights contained in the Minorities Declaration. Reaffirmation of the central principles to minority rights, i.e. the right to existence, plural identities, participation and non-discrimination, is key to developing a common understanding of work on minority issues and meeting the challenge of integrating minority issues not only into human rights work, but also in the work of the United Nations on development, peace and security. OHCHR currently supports training on minority issues and strengthening of thematic expertise so that it is better placed to give advice on non-discrimination and minority issues in the work of the United Nations, including in the context of staffing of country and regional offices.

30. Article 9 of the Minorities Declaration is a cornerstone for pursuing the inclusion of minority issues into the work of members of the United Nations family, as it stipulates that “[t]he specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields”. Efforts need to be directed towards integrating minority issues into the work of United Nations country teams, activities under Action 2, and the Common Country Assessment/United Nations Development Assistance Framework and PRSPs. The United Nations development agencies, including UNDP, are well placed to influence and work on the multidisciplinary dimensions of minority issues and to focus on disparities and inequalities. In this regard, note may be taken of the most recent consultation organized by UNDP in cooperation with the independent expert on minority issues and OHCHR to consider the question of engaging with minorities in development processes. The conclusions and recommendations emanating from this meeting concerned possible steps for the future incorporation of minority issues into the work of UNDP on democratic governance, social inclusion, conflict prevention and resolution, and civil society partnerships. As a follow-up to the consultation, the Democratic Governance Group within the UNDP Bureau for Development Policy has prioritized further work on “Minorities in Development” in its workplan for 2007.

31. OHCHR established the Minority Fellowship Programme in 2005 with a view to building the capacity of civil society and empowering representatives of minorities to know their rights and to use United Nations human rights mechanisms. A total of 21 persons have benefited from the Programme since its inception: 5 in 2005, 6 in spring and, exceptionally, 10 in August 2006, to coincide with the twelfth session of the Working Group on Minorities. The participants have come from different ethnic, religious and linguistic communities from all regions of the world: representatives of the community of Copts in Egypt, Palestinian Arabs in Israel, Turkmen in Iraq, Muslim women in Canada, Uzbeks in Kyrgyzstan, Roma in Kosovo, Bulgaria and Hungary, Afro-descendants in Uruguay, Dalits in India and Nepal, Kurds in the Islamic Republic of Iran, Khasi in India, Kachin in Myanmar, Terik in Kenya, Ogoni in Nigeria, Karamoja in Uganda, Wayeyi in Botswana and Anywa in Ethiopia. Thus, the majority of participants in the Minority Fellowship Programme come from non-European countries.

IV. CONCLUSIONS

32. **The present report identifies some of the principal interventions undertaken under the aegis of the OHCHR that aim at strengthening the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities. The report notes the efforts that are being made to promote dialogue and mutual understanding on thematic issues and to support capacity-building of States that request such assistance for the implementation of human rights, including minority rights, through the complementary mechanisms of the Working Group and the independent expert. The Human Rights Council is mandated to serve as a forum for dialogue on thematic issues on all human rights and, therefore, may wish to consider how it can maintain and improve existing mechanisms, including a forum on minority issues offering opportunities for the meaningful participation of civil society and a special procedure of the Council.**
