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PREVENTION OF DISCRIMINATION:
PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Written statement* submitted by the Minority Rights Group,
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.

[5 July 2003]

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

The Working Group on Minorities

Next year will see the tenth session of the Working Group on Minorities (WGM), and it is a good opportunity to evaluate how effective it has been in implementing its mandate. Part of such an evaluation should involve recognising and addressing the criticisms that have been levelled at it.

The WGM is the only forum or mechanism devoted solely to minority issues within the United Nations system. The WGM contributes to the Sub-Commission's role as think-tank for the Commission on Human Rights, by organising thematic discussions, commissioning expert papers and drafting recommendations on issues relevant to minorities. A crucial part of this work involves examining peaceful, constructive solutions to situations involving minorities.

One of its strengths is its openness to non-ECOSOC NGOs, for many of whom, it is the only channel for putting their issues onto the UN agenda. In some cases it may be the first time that the situation of a particular minority has been brought to the UN's attention. Furthermore, these NGOs are then able to access and lobby the myriad of decision-makers present in Geneva, including government missions, Special Rapporteurs, other UN agencies, and international NGOs. On returning home, they can draw attention to their UN statement to bolster their media and advocacy work.

The WGM also offers a neutral, non-confrontational environment for minority NGO delegates to meet with representatives of their governments. They may engage in open dialogue during the session, or arrange to meet to discuss further outside the meeting room. In the experience of Minority Rights Group International (MRG), which has brought about 100 minority representatives to the WGM since 1996, this may be the first time a constructive dialogue has been undertaken between the two parties, and it often signals the beginning of a long-term exchange of views.

Here, some of the NGOs that MRG works with, speak about their experiences at the WGM:

"CEMIRIDE put the Ogiek issue onto the international agenda at the Working Group on Minorities. The government took the issue on board, the Lands Minister had a meeting with us. Now the Minister is in consultations with the Ogiek people. All this is due to the international focus, which began with the WGM. We used the statements we made at the WGM to lobby the government. Now we have an official statement from the President that minority rights have to be protected in the new Constitution. We believe that the fact that we tabled these issues at the WGM contributed to these developments, and made it easier for us to gain access to the government - they take us more seriously. And for most minorities, the WGM is the only avenue of access to the UN system."

Representative of Centre for Minority Rights Development (CEMIRIDE), Kenya

"We made many statements at the WGM about the Hmong people, the government knows about them. After I returned to Thailand, the local administrative authorities invited me to a meeting to discuss minority issues. Now one of the National Human Rights Commissioners has called a meeting with the Hmong representatives, and will make recommendations to the Cabinet, I believe this in part because of the attention we drew to this at the WGM. In Geneva we learnt that we can make progress with the government if we use peaceful processes, and avoid being confrontational. And the government sees not only that we understand what minority rights are, and how the international system works, but also that we see their side of things, and the limitations on what they can do."

Representative of Bahn Ruam Jai Project, Thailand

"Participating in the WGM helped in a lot of ways, we felt empowered. Once we had said these things at the UN, it was easier to say them in India. We spoke at the WGM to ask for Tamils who were in pre-trial detention, to either be tried or released. Finally, the Justice Sadashiva Committee was set up to review their situation. 90% were released. We cannot guarantee that this was solely due to our advocacy, but SICHREM was at the forefront of the legal work on this issue. We also believe that, as a result of our taking part in the WGM, the authorities took us more seriously, they made an effort to contact us, we also gave testimony to the Committee."

Representative of South India Cell for Human Rights Education and Monitoring (SICHREM), India

However, these NGO activists also recognise the weaknesses of the WGM, one of which is the level of attendance by NGOs and government delegates. Furthermore, they are often disappointed that the WGM offer an opinion on their statements, for example by condemning the government for the violations which they allege or pressing it to respond. Finally, the thematic discussions do not always provoke a lively dialogue, or produce concrete, practical recommendations.

To improve the quality of dialogue at the working group, the thematic discussions could be linked more directly to the situations described by NGO representatives in their statements. These often point to recurring themes or patterns of violations; each year the working group members, in consultation with all present, could pick out one or two of these recurring themes for further discussion, with a view to proposing practical solutions. This might also go some way towards satisfying NGO representatives' desire to elicit some response to the allegations they make. At the same time, while there is a debate within the WGM on whether it can go further in responding to the complaints of violations presented to it, and the mandate does not appear to exclude the possibility of

some form of adjudication, there is as yet no consensus on this issue, nor is it clear whether member states would be willing to accept such a role. What is clear is that it

cannot take emergency action in situations of tension which show potential of developing into violent conflict.

MRG believes that the creation of a voluntary fund to facilitate NGO representatives to take part in the WGM would be an important step towards strengthening the working group. Greater participation by NGOs would root the discussions of the WGM more

strongly in the realities of minority communities. Government participation would almost certainly improve: in MRG's experience, if governments know that an NGO from their country will be present, they attend as well, in order to be able to react to the allegations made. This in turn would strengthen the thematic discussions, as government and NGO representatives would contribute from their practical experience. In the medium term, a caucus of minority representatives, such as that which was formed at this year's session, would be able to lobby for improved protection mechanisms for minorities at the UN. If the large number of UN voluntary funds is reduced, as has been suggested, consideration could be given to setting up an umbrella fund for participation of NGOs in UN human rights fora, including the WGM. Provisions could be made for States with a particular interest in minority issues to contribute to this fund whilst "earmarking" their contribution to support the WGM.

In summary, there is considerable evidence that the working group is contributing to improved respect for minority rights and dialogue between minorities and governments, in ways that often escape public attention. The United Nations human rights bodies and member states need to look seriously into ways of strengthening and providing better support to the WGM, and creating complementary mechanisms to fill the gaps which the WGM cannot cover. As a first step, the Sub-Commission, in its resolution on the rights of persons belonging to minorities, should state clearly its support for the Working Group, recommend the establishment of a voluntary fund for participation in the group, and support the call for a new special mechanism on minorities and conflict prevention.