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Recommendations of the Forum on Minority Issues at its fifteenth session on the theme “Review, rethink, reform: thirtieth anniversary of the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”

Report of the Special Rapporteur on minority issues, Fernand de Varennes

Summary

The recommendations contained in the present report are drawn primarily from the discussions and contributions made by participants at the fifteenth session of the Forum on Minority Issues, held on 1 and 2 December 2022, and from those made at the four regional forums held in 2022. They focus on the theme “Review, rethink, reform: thirtieth anniversary of the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities” and are the outcome of panel discussions on the following four topics: (a) review: normative frameworks and the mainstreaming of the Declaration at the United Nations; (b) rethink: minority rights defenders and their role in promoting the principles of the Declaration; (c) reform: filling the gaps in the implementation of the human rights of minorities; and (d) open dialogue: urgent situations faced by minorities. The recommendations are based on international law and standards. They aim to provide guidance for the further implementation of the Declaration.



I. Introduction

1. The present report was prepared pursuant to Human Rights Council resolutions 6/15 and 19/23. It contains the recommendations of the Forum on Minority Issues from its fifteenth session, held in Geneva on 1 and 2 December 2022 on the theme “Review, rethink, reform: thirtieth anniversary of the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”. The work of the Forum was guided by the Special Rapporteur on minority issues, Fernand de Varennes. The Forum was chaired by Daniel Abwa. Some 580 participants from 79 countries registered, including representatives of States, United Nations mechanisms, bodies and specialized agencies, funds and programmes, intergovernmental organizations, regional organizations and mechanisms in the field of human rights, national human rights institutions and other relevant national bodies, minorities, academics and experts on minority issues and non-governmental organizations.

2. The recommendations contained in the present report are drawn primarily from the discussions and contributions made by the participants at the fifteenth session of the Forum. They also reflect the discussions and contributions made at the four regional forums held on the same topic, organized by the Special Rapporteur with the support of the Tom Lantos Institute and other non-governmental organizations, for the Americas (hosted by the Government of Argentina), Africa and the Middle East (hosted by the Government of Morocco) and Asia and the Pacific, Europe and Central Asia (hosted by the Government of Austria), which involved over 100 participants each. The recommendations are based on international law and standards and good practices in the protection of the human rights of minorities. They aim to provide guidance for the further implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, taking the opportunity – on the occasion of the thirtieth anniversary of the adoption of the Declaration – to take stock of the state of minority rights protection, identify gaps in the minority protection regime and make recommendations on ways forward.

3. Key elements of the legal and normative framework from a human rights perspective include the Universal Declaration of Human Rights, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the Framework Convention for the Protection of National Minorities of the Council of Europe.

4. The recommendations of the Forum at its fifteenth session are organized under the four agenda items that framed the discussion during the session. The recommendations:

- (a) Aim to address the gaps in the implementation of the Declaration as well as new challenges that have appeared since its adoption;
- (b) Highlight the primary responsibility of the State in implementing and promoting the principles of the Declaration;
- (c) Reaffirm the ultimate role of minority human rights defenders in bringing the principles of the Declaration to life and thus recognize that they too need protection;
- (d) Highlight the need to eliminate persistent obstacles to the implementation of the Declaration;
- (e) Stress the importance of the inclusion of minorities and their representatives in policymaking and decision-making processes affecting them;
- (f) Emphasize the positive effects of minority women and minority youth leadership on the implementation of the Declaration.

5. The recommendations also recognize the important role the United Nations, international and regional organizations, civil society organizations, representatives of minorities and other stakeholders can have in eliminating persistent obstacles to the

implementation of the Declaration and generating the means to achieve wider and tangible progress.

6. The recommendations are intended to be implemented in countries throughout the world in order to assist States to better understand their human rights obligations in relation to minorities and to assist them in identifying approaches for the full respect of universal human rights standards.

7. They are also intended to encourage further wide-reaching discussions with representatives of minorities on the way forward and action-oriented means to enhance the protection of the human rights of minorities and to translate the provisions of the Declaration into action on the ground.

II. General recommendations

8. States should ratify, accede to and adhere to all international and regional human rights instruments that protect and promote the human rights of minorities.

9. States should ensure full implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

10. States should strengthen their efforts to protect the right to life of minorities and take all necessary measures to prevent crimes against minority youth and women.

11. States managing humanitarian aid must take urgent action to avoid discriminating against minorities, including Roma persons with disabilities and Dalits with disabilities, in receiving the aid.

12. States should evaluate the content of existing educational curricula, including textbooks, on the basis of clear standards on intercultural education, including adequate representation of minorities, including Roma and Dalits, with the effective participation of minorities.

13. The United Nations should ensure that minorities such as Roma and Dalits are included throughout their regional and country-specific programmes and use its extensive competency to address the increasing number of violations of the human rights of minorities resulting from environmental injustice.

14. The media should responsibly and proactively raise awareness about minority issues in order to educate the general public and hold decision makers accountable for their decisions that affect minorities.

III. Recommendations to address gaps in the normative frameworks and to mainstream the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities at the United Nations

15. In order to ensure the protection and enjoyment of the rights of minorities, a legally binding treaty and a monitoring body should be considered by States and the United Nations by:

(a) Presenting a clear definition of minorities and breaking away from the old colonial constructs, including on the basis of “old” and “new” minorities, as proposed by the Special Rapporteur on minority issues in his 2019 report to the General Assembly;¹

(b) Recognizing the right of minorities to self-identification, self-determination and self-governance;

(c) Depicting recognition of minorities as a duty on States;

¹ [A/74/160](#), para. 53.

(d) Providing clear legal protection for minorities, including in situations of armed conflict;

(e) Placing greater emphasis on minorities' socioeconomic and cultural rights;

(f) Calling for flexible adoption of constitutional provisions by States parties that will not restrict the scope of minority protection to citizens only, but will extend it to non-citizens belonging to minorities;

(g) Enshrining in the protection of minorities inclusion on the basis of sexual orientation and gender identity.

16. All States should align their legislation with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

17. All States must elaborate, adopt and implement normative frameworks to protect and promote the linguistic rights of minorities which should guarantee, among other things, access to public services in minority languages.

18. All States should take all appropriate measures to ensure the respect, protection and fulfilment of the right of persons belonging to national or ethnic, religious and linguistic minorities to continued instruction in their mother tongue throughout all levels of their education, including preschool and tertiary education.

19. States should revise laws and practices, including laws on building and construction that are invoked in the management of religious centres and places of worship, that restrict the activities of religious minorities based on public order and national security concerns and ensure that laws regulating the activities of religious organizations are in conformity with international human rights standards.

20. All States should ensure that minorities are represented in the development of policies and laws aimed at their inclusion through affirmative action, such as quotas in parliaments and by considering alternative methods of representation, such as consociationalism.

21. All States, the United Nations and regional organizations should acknowledge that the minority question, especially in postcolonial States, is intrinsically connected to the decolonization process and the creation of new States. Thus, they should acknowledge the special status of minorities, compared to other vulnerable groups, in relevant international and national legal norms and their implementation.

22. All States and the United Nations need to devise a more specific provision for the meaningful participation of minorities in development decision-making, in both individual and collective capacities, building on article 2 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

23. All States should develop long-term, comprehensive policies for combating negative stereotypes of, and discrimination against, minority individuals and groups, and should promote intercultural understanding by, among other things, the teaching of the culture and history of minorities in the national curriculum.

24. State policies should acknowledge the diversity of minority groups, including Roma, and address any intersectional discrimination they might be facing.

25. All States, the United Nations and international and regional organizations should identify, mainstream, maintain and renew best practices on minority language policies such as official multilingualism and the use of minority languages in education, State institutions, toponymy and the public media and their promotion in all possible areas.

26. All States, the United Nations, international and regional organizations, civil society and businesses should ensure that their efforts to eliminate racial discrimination include caste- and descent-based discrimination.

27. All States and the United Nations should act to protect and promote the right to self-determination of minority communities and develop a deeper understanding of this right.
28. All States should ensure that administrative procedures that were previously carried out face-to-face and are now being substituted by telematic services are accessible to linguistic minorities.
29. The “Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations”, published by the Organization for Security and Cooperation in Europe in 2008, should be revisited by the United Nations to provide normative and practical guidance at the global level on the prevention and settlement of disputes involving minorities.
30. The United Nations is encouraged to review the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities with a view to mainstreaming in it an intersectional approach to minority issues and including in it specific provisions on minorities with disabilities.
31. United Nations human rights mechanisms should mainstream the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in their jurisprudence.
32. The Human Rights Council should give more prominence to minority issues as part of the universal periodic review.
33. When it comes to legal and institutional frameworks for minority protection, States, the United Nations, regional organizations and civil society should address the gaps in the protection of the substantive rights of minorities, such as: (a) citizenship rights, including multiple citizenship; (b) economic rights, including land, with a focus on sustainable and inclusive development of minority regions while protecting the natural environment; (c) the right to participation in decision-making, which needs to reflect existing State practice with regard to norms of autonomy; and (d) gaps relating to the rights of religious minorities.
34. The United Nations human rights system should put in place protection mechanisms for minority rights in digital space and accountability mechanisms for holding perpetrators of online hate speech and violence responsible for their acts.
35. United Nations agencies should develop and enforce specific guidelines for identifying and supporting minorities who are internally displaced persons or refugees.
36. The United Nations system should provide adequate protection mechanisms for minorities facing multiple forms of discrimination, such as minorities that include lesbian, gay, bisexual, transgender and intersex persons, and ensure that their rights are mainstreamed within the entire United Nations system.
37. United Nations agencies should regularly consult with minority organizations, minority human rights defenders, including former Office of the United Nations High Commissioner for Human Rights (OHCHR) minority fellows, who have both the human rights expertise and personal experience of minority issues.
38. United Nations country and regional offices should establish positions of minority human rights officer to advise, promote and monitor the implementation and mainstreaming of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in the United Nations system.
39. The United Nations should prepare clear guidelines on mainstreaming minority rights before, during and after conflicts.
40. The United Nations should consider establishing a mechanism which would involve a review of the minority human rights records of all States Members of the United Nations.

41. The United Nations should consider establishing an independent accountability mechanism which will regularly review the Organization's performance and response to minority issues and will formulate concrete recommendations for improvement.

42. The Forum on Minority Issues needs to address specific next steps that would allow for the development, with the equal participation of minorities, of a legally binding treaty on minority rights. The treaty should have an associated oversight mechanism that would enable the systematic development of guidance for both States and non-State actors and would extend the scope of international minority protection, focused on the inclusion of caste-affected groups, named minorities with a particularly grave history of exclusion and persecution, such as Roma, and immigrant minorities.

43. The Forum on Minority Issues should consider establishing a consortium of experts and practitioners to systematically contribute to the development of relevant standards at the United Nations.

IV. Recommendations to focus on the role of minority rights defenders in promoting the principles of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

44. All States should fully acknowledge the important role minority rights defenders play as government partners in protecting and promoting human rights. All States must ensure that all minority rights defenders have a safe and an enabling environment in which to carry out their work free from threats, violence or any form of harassment.

45. States must put a stop to all reprisals, including assassination, defamation, prosecution and intimidation, against minority rights defenders and human rights defenders working in the field of minority issues.

46. All States, the United Nations and international, regional and civil society organizations should effectively support women belonging to minorities who are defending minority rights and should guarantee their protection.

47. The United Nations should enhance minorities' access to the United Nations itself, including to the procedure for obtaining consultative status with the Economic and Social Council, and create more platforms from which minority voices can raise issues.

48. The United Nations should strengthen protection mechanisms for activists defending the rights of minorities.

49. The United Nations should support and promote the meaningful participation of minority rights defenders with disabilities so that they can reflect their existing challenges at the international level.

50. All States, the United Nations and international, regional and civil society organizations must recognize the multiple, layered and intertwined forms of oppression faced by minority women and create more opportunities and more support for and with minority women so that they can better articulate their agency and voices, better mobilize resources and ultimately protect their human rights.

51. All States, the United Nations and international, regional and donor organizations should support and invest in strengthening the capacity of female and youth minority rights defenders and proactively involve them in decision-making processes rather than viewing them merely as beneficiaries of various programmes.

52. All States, the United Nations and regional and civil society organizations should collect and mainstream good practices, not only about specific minority rights, but also how States are managing the diversity of their societies and how different ethnic, religious, linguistic and ethnic groups are living together, rather than side by side.

53. All States, the United Nations and regional and civil society organizations should recognize and encourage everyone to stand up for the rights of others, particularly those who are oppressed and persecuted because they belong to a minority group.
54. The United Nations human rights mechanisms should seek new ways, in addition to communications, urgent action and recommendations, of engaging with States to address violations of minority rights.
55. The media should stop targeting minority rights defenders for publicly raising their concerns.
56. In order to counter the narrative of “othering” faced by minorities, minority rights defenders should consider adopting the strategy of constructive resilience and dispelling stereotypes by becoming active members of society and working shoulder to shoulder with representatives of other ethnic, linguistic and religious groups.
57. Minority communities should work much more closely together, given the similarities in their experiences and cases.

V. Recommendations to fill the gaps in the implementation of the human rights of minorities

58. The Secretary-General of the United Nations should appoint a high-level panel to review the limitations of the current framework and to recommend a series of reforms to achieve rights protection, better United Nations coordination and a stronger voice for minority groups.
59. The United Nations should create an expert mechanism mandated to review the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities by States (specifically under arts. 1, 4 and 6) and the specialized agencies and other organizations of the United Nations system (under art. 9).
60. States and the United Nations, through the General Assembly, should adopt a resolution for the creation of a permanent forum for minorities as a consultative mechanism for national or ethnic, religious and linguistic minorities and other stakeholders as a platform for building upon and strengthening the protection of the rights of minorities worldwide.
61. All States should contribute to the establishment of a voluntary fund on minorities, which would give organizations and individuals with limited means an opportunity to attend the Forum on Minority Issues and enable initiatives such as the OHCHR Minorities Fellowship Programme and the regional forums to continue, flourish and expand.
62. States, the United Nations and the Human Rights Council should strengthen the Forum on Minority Issues by increasing the number of days each session lasts and ensuring an intersectional dimension to its sessions. This may also include providing the support and resources for the organization of regional forums.
63. All States, the United Nations and regional, international and civil society organizations should ensure that, when tackling issues of discrimination faced by minorities, they include minorities as equal stakeholders in the decision-making process rather regarding them only as victims.
64. The United Nations should adopt a resolution recognizing the unique discriminatory practices affecting minority communities discriminated against on the basis of work and descent and establish a working group to examine the gaps in their protection.
65. The United Nations should create a dialogue series, which would take place online several times a year, and would bring government officials, donors, civil society organizations and business leaders together to discuss issues, commit to implementing solutions and monitor progress in relation to minority issues.

66. The Forum on Business and Human Rights and the Forum on Minority Issues should make joint efforts to create a joint discussion about business and the human rights of minorities.

67. The Forum on Minority Issues should strengthen its efforts to provide a platform for cooperation and dialogue on human rights.

68. Members of civil society, including those belonging to minority groups, should shift from competition to solidarity, which may also include creating an online global platform that would allow civil society organizations to connect, to be informed about existing initiatives, and ultimately to create opportunities to build solidarity so that they can avoid working in silos.

69. In order to maximize its effectiveness in the field of minority rights protection, the United Nations should specifically target the regional specificities of minority rights situations by creating stronger partnerships and increased synergies with intergovernmental or transnational organizations at the regional level.

70. Regional intergovernmental organizations should increase their efforts to further the recognition, promotion and protection of minority rights and ensure monitoring and reporting on their implementation.

71. The United Nations network on racial discrimination and protection of minorities should be more strongly engaged with the Forum on Minority Issues, which might include reporting to the Forum about minority-related activities conducted by each United Nations agency.

VI. Recommendations to respond to the urgent situations faced by minorities

72. States, the United Nations, international and regional organizations and civil society should prioritize their efforts to develop social cohesion and resilience, and to empower people and communities to recognize and respond to warning signs long before hate crimes against minorities take place.

73. States should develop effective mechanisms or strengthen existing mechanisms to identify, respond to and impose sanctions for hate speech and incitement to discrimination, hostility or violence targeting ethnic or national, religious and linguistic minorities, including online and on social media platforms.

74. States should strengthen their efforts to address loopholes in, and lack of effective enforcement of, legislation and tolerance of the forced marriage of minority women and girls, the incidence of abduction of minority girls and their forced conversion in connection with a forced marriage.

75. States should ensure that language policies are not based on the idea that minority identities are a threat and must ensure that the policies are developed in effective consultation with minority representatives and that they do not limit the rights of minorities to preserve and develop their identity.

76. States should increase their quotas to grant asylum to more refugees with minority backgrounds in their respective countries and to allow special concessions for refugees with minority backgrounds who may not have proper travel and identification documentation owing to the conditions from which they were forced to flee.

77. The United Nations and States should initiate consultations with minority organizations on practical action for the protection of minority representatives suffering from systematically targeted violent attacks.

78. The United Nations, States and international and regional organizations should strengthen their efforts to provide rehabilitation support to minority representatives who have survived gross human rights violations.

79. The United Nations, States and international and regional organizations should ensure that asylum and refugee centres are subjected to “minority equality and sensitivity” monitoring and that anti-racism training is provided for all officials, support staff and interpreters to ensure that refugees with minority backgrounds receive their support on the basis of equality and without discrimination.

80. The Office of the United Nations High Commissioner for Refugees should adopt measures to ensure strict confidentiality in its refugee assessment processes, so that refugees with a minority background who come to register with them feel safe to declare their religion or belief without fear of being targeted or subjected to discrimination.

81. All States should work together, in partnership with civil society and international organizations, to effectively rein in the growth of extremist influence and to protect the rights, freedoms and safety of minority groups by devoting greater resources and attention to the need to prevent extremism in order to identify and address what pulls people into its oppressive grip.

82. The United Nations, States, the media and human rights organizations must strengthen their efforts to recognize the ongoing, systematically targeted attacks against minorities and the intentional destruction of a substantial part of an ethnic, religious or linguistic group as genocide.

83. Whenever systematic attacks on minorities are ongoing, the Human Rights Council should establish independent fact-finding missions to collect evidence, map and document the attacks and conduct investigations.

84. In the event of conflicts involving minorities, the United Nations should deploy peacekeeping forces to restore order, establish peace and protect minorities and their human rights.
