



# **Minority Rights: International Standards and Guidance for Implementation**



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# **CONTENTS**

	<i>Page</i>
Introduction .....	1
<b>I. DEFINITIONS</b> .....	<b>2</b>
A. Who are minorities under international law? .....	2
B. Are indigenous peoples considered to be minorities? .....	3
C. Do minority rights apply to non-citizens? .....	4
D. What is the relationship between minorities, non-citizens and stateless persons? .....	5
<b>II. SCOPE OF MINORITY RIGHTS PROTECTION</b> .....	<b>7</b>
A. Survival and existence .....	7
B. Promotion and protection of the identity of minorities .....	8
C. Equality and non-discrimination .....	8
D. Effective and meaningful participation .....	12
<b>III. MINORITY RIGHTS PROTECTION UNDER INTERNATIONAL HUMAN RIGHTS LAW</b> .....	<b>14</b>
A. Main sources of minority rights .....	14
B. Additional sources of minority rights .....	17
<b>IV. INTERNATIONAL HUMAN RIGHTS MECHANISMS AVAILABLE TO ADDRESS ISSUES CONCERNING MINORITIES</b> .....	<b>19</b>
A. Human rights treaty bodies .....	19
B. Human rights special procedures .....	21
C. Human Rights Council mechanisms .....	24
D. ILO mechanisms .....	25
E. UNESCO mechanisms .....	26

	<i>Page</i>
<b>V. FRAMING QUESTIONS FOR ANALYSIS .....</b>	27
A. Structures and settings to improve the situation of minorities .....	27
B. Assessing the situation of minorities in the national context .....	28
C. Identifying priorities to address the situation of minorities .....	28
D. Awareness-raising and public information .....	33
<b>VI. FRAMING QUESTIONS FOR ACTION .....</b>	35
A. Does the situation of persons belonging to religious minorities require particular attention? .....	35
B. Does the situation of women belonging to minorities require particular attention? .....	36
C. Are there instruments that are especially relevant for monitoring the situation of children belonging to minorities? .....	38
D. Can the promotion and the protection of the rights of minorities help to prevent or resolve conflict? .....	40
E. How to better ensure the effective participation of minorities in the work of the United Nations? .....	41
F. What activities is the United Nations currently undertaking to provide human rights capacity-building to representatives of minorities and minority communities? .....	42
Annex: Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities .....	45

## **ACKNOWLEDGEMENTS**

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The purpose of the Inter-Agency Group is to implement article 9 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which requires the specialized agencies and other organizations of the United Nations system to contribute to the full realization of the rights and principles set forth in the Declaration, within their respective fields of competence.

Earlier drafts of this publication benefited greatly from inputs received from the Inter-Agency Group. The Office of the United Nations High Commissioner for Human Rights wishes to express its gratitude to all the contributors.

## **ABBREVIATIONS**

IAGM	Inter-Agency Group on Minority Issues
ILO	International Labour Organization
MDG	Millennium Development Goal
NGO	non-governmental organization
NHRI	national human rights institution
OCHA	Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNITAR	United Nations Institute for Training and Research
WHO	World Health Organization

## **Introduction**

Efforts by non-dominant groups to preserve their cultural, religious or ethnic differences emerged with the creation of nation States in the eighteenth and nineteenth centuries. The recognition and protection of minority rights under international law began with the League of Nations through the adoption of several "minority treaties". When the United Nations was set up in 1945 to replace the League of Nations, it, too, gradually developed a number of norms, procedures and mechanisms concerned with minorities.

In particular, the 1966 International Covenant on Civil and Political Rights and the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (hereinafter: United Nations Minorities Declaration) recognize and protect the rights of persons belonging to minorities. In practice, however, these rights are far from being realized.

The promotion and protection of the rights of minorities require particular attention to be paid to issues such as the recognition of minorities' existence; efforts to guarantee their rights to non-discrimination and equality; the promotion of multicultural and intercultural education, nationally and locally; the promotion of their participation in all aspects of public life; the inclusion of their concerns in development and poverty-reduction processes; disparities in social indicators such as employment, health and housing; the situation of women and the special concerns of children belonging to minorities.

Minorities around the world are also often the victims of armed conflicts and internal strife. The situation of refugees and internally displaced persons from minority backgrounds, in particular women and children, is of special concern. Persons belonging to national or ethnic, religious and linguistic minorities are also often victims of multiple discrimination and they may lack access to, among other things, adequate housing, land and property, and even a nationality.

Since country engagement and a human rights-based approach constitute key elements in identifying durable solutions to address the plight of minorities, this publication was prepared by OHCHR to raise additional awareness, among its staff and colleagues in other United Nations organizations and specialized agencies, of minority rights and the impediments minorities face in the enjoyment of these rights. It is expected that this publication will assist United Nations colleagues to help strengthen programmes for minorities at the country level based on the principles established in relevant international human rights instruments and documents, in particular the United Nations Minorities Declaration.

# I. DEFINITIONS

## A. Who are minorities under international law?

Adopted by consensus in 1992, the United Nations Minorities Declaration in its article 1 refers to minorities as based on national or ethnic, cultural, religious and linguistic identity, and provides that States should protect their existence. There is no internationally agreed definition as to which groups constitute minorities. It is often stressed that the existence of a minority is a question of fact and that any definition must include both objective factors (such as the existence of a shared ethnicity, language or religion) and subjective factors (including that individuals must identify themselves as members of a minority).

The difficulty in arriving at a widely acceptable definition lies in the variety of situations in which minorities live. Some live together in well-defined areas, separated from the dominant part of the population. Others are scattered throughout the country. Some minorities have a strong sense of collective identity and recorded history; others retain only a fragmented notion of their common heritage.

The term minority as used in the United Nations human rights system usually refers to national or ethnic, religious and linguistic minorities, pursuant to the United Nations Minorities Declaration. All States have one or more minority groups within their national territories, characterized by their own national, ethnic, linguistic or religious identity, which differs from that of the majority population.

According to a definition offered in 1977 by Francesco Capotorti, Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, a minority is:

*A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.<sup>1</sup>*

While the nationality criterion included in the above definition has often been challenged, the requirement to be in a non-dominant position remains important. In most instances a minority group will be a numerical minority, but in others a numerical majority may also find itself in a minority-like or non-dominant position, such as Blacks under the apartheid regime in South

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<sup>1</sup> E/CN.4/Sub.2/384/Rev.1, para. 568.

Africa. In some situations, a group which constitutes a majority in a State as a whole may be in a non-dominant position within a particular region of the State in question.

In addition, it has been argued that the use of subjective criteria, such as the will on the part of the members of the groups in question to preserve their own characteristics and the wish of the individuals concerned to be considered part of that group, combined with certain specific objective requirements, such as those listed in the Capotorti definition, should be taken into account. It is now commonly accepted that recognition of minority status is not solely for the State to decide, but should be based on both objective and subjective criteria.

The question often arises as to whether, for example, persons with disabilities, persons belonging to certain political groups or persons with a particular sexual orientation or identity (lesbian, gay, bisexual, transgender or intersexual persons) constitute minorities. While the United Nations Minorities Declaration is devoted to national, ethnic, religious and linguistic minorities, it is also important to combat multiple discrimination and to address situations where a person belonging to a national or ethnic, religious and linguistic minority is also discriminated against on other grounds such as gender, disability or sexual orientation. Similarly, it is important to keep in mind that, in many countries, minorities are often found to be among the most marginalized groups in society and severely affected by, for example, pandemic diseases, such as HIV/AIDS, and in general have limited access to health services.

## **B. Are indigenous peoples considered to be minorities?**

Similarly to minorities, there is no universally accepted international definition of indigenous peoples. Guidance in this regard can be obtained, for instance, from the work of the Working Group on Indigenous Populations, the provisions of Convention No. 169 of the International Labour Organization (ILO) and the contents of the United Nations Declaration on the Rights of Indigenous Peoples. Various sources cite the following characteristics, either alone or in combination: indigenous peoples are descendants of the peoples who inhabited the land or territory prior to colonization or the establishment of State borders; they possess distinct social, economic and political systems, languages, cultures and beliefs, and are determined to maintain and develop this distinct identity; they exhibit strong attachment to their ancestral lands and the natural resources contained therein; and/or they belong to the non-dominant groups of a society and identify themselves as indigenous peoples.

While indigenous peoples can claim minority rights under international law, there are United Nations mandates and mechanisms dedicated specifically to protecting their rights. In its work, the United Nations has applied the

principle of self-identification with regard to indigenous peoples and minorities. In practical terms, a number of connections and commonalities exist between indigenous peoples and national, ethnic, linguistic and religious minorities. Both groups are usually in a non-dominant position in the society in which they live and their cultures, languages or religious beliefs may be different from the majority or the dominant groups.

Both indigenous peoples and minorities commonly wish to retain and promote their identity. Situations can be found on the ground where an indigenous group could find itself in a minority-like situation and, equally, some minorities have strong and long-standing attachments to their lands and territories as do indigenous peoples. Minorities, however, do not necessarily have the long ancestral, traditional and spiritual attachment and connections to their lands and territories that are usually associated with self-identification as indigenous peoples.

In terms of rights, minorities have traditionally highlighted their rights to have their existence as a group protected, their identity recognized and their effective participation in public life and respect for their cultural, religious and linguistic pluralism safeguarded. Indigenous peoples, while also highlighting such rights, have also traditionally advocated recognition of their rights over land and resources, self-determination and being part of decision-making in matters that affect them. The United Nations Declaration on the Rights of Indigenous Peoples requires States to consult and cooperate with indigenous peoples to obtain their free, prior and informed consent before undertaking development activities that might have an impact on them, whereas the United Nations Minorities Declaration contains a more general right to participate in decision-making and requires that the legitimate interests of persons belonging to minorities should be taken into account in national planning and programming.

This publication does not address the specificities of indigenous peoples, as its main focus is on non-indigenous national, ethnic, linguistic and religious minorities.

### **C. Do minority rights apply to non-citizens?**

Under the provisions of human rights instruments, States have an obligation to protect the rights of all persons subject to or under their jurisdictions. Express exceptions to this principle relate, *inter alia*, to political rights.

The Commentary on the United Nations Minorities Declaration by the Working Group on Minorities is important as it clarifies the interpretation of the substantive provisions of the document. Regarding citizenship for instance, it considers that "while citizenship as such should not be a distinguishing criterion that excludes some persons or groups from enjoying minority rights under the Declaration, other factors can be relevant in

distinguishing between the rights that can be demanded by different minorities".

For example, "those who have been established for a long time on the territory may have stronger rights than those who have recently arrived." It suggests that "the best approach appears to be to avoid making an absolute distinction between 'new' and 'old' minorities by excluding the former and including the latter, but to recognize that in the application of the Declaration the 'old' minorities have stronger entitlements than the 'new'."<sup>2</sup>

In practice, under international law, certain minority rights have been made applicable to recently arrived migrants who share an ethnic, religious or linguistic identity. Their treatment is to be rooted in the customary international law principle of non-discrimination, which is fundamental in international law and is reflected in all human rights instruments and documents. Indeed, the right not to be discriminated against is guaranteed under several instruments of direct relevance to minorities. These include the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention relating to the Status of Stateless Persons, the Convention relating to the Status of Refugees, and the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live.

#### **D. What is the relationship between minorities, non-citizens and stateless persons?**

A particular problem relating to minorities and citizenship is that all too often members of certain groups are denied or deprived of their citizenship because of their national or ethnic, religious and linguistic characteristics. This practice is contrary to international law, particularly in regard to article 9 of the 1961 Convention on the Reduction of Statelessness, which states that "a Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds." It is thus important to note that discrimination against a person on one of the aforementioned grounds resulting in the arbitrary deprivation of nationality may contribute to meeting some of the requirements in the determination of refugee status.

Most of the world's estimated 15 million stateless persons also belong to ethnic, religious or linguistic minorities. Discrimination against minorities has frequently led to their exclusion from citizenship. Such exclusion is often experienced in newly independent States that define citizenship in a manner that excludes persons belonging to certain minority groups who

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<sup>2</sup> E/CN.4/Sub.2/AC.5/2005/2, paras. 10–11.

are considered as “outsiders” despite long-standing ties to the territory of the new State. Just as discrimination against minorities may be a cause of statelessness, the very fact that members of a group are stateless can undermine their exercise of a broad range of human rights. Although in principle most human rights are guaranteed to everyone under the jurisdiction of the State, in practice non-citizens, including stateless persons, face obstacles in exercising these rights. These obstacles may be greater still if the stateless person also belongs to a minority group.

Statelessness can be addressed by applying the norms set out in the major universal and regional human rights instruments, including those pertaining to birth registration, the right to acquire a nationality, non-discrimination in the acquisition, change and retention of nationality by men and women, and the conferral of nationality on children. The Convention on the Reduction of Statelessness provides detailed guidance in this respect.

## **II. SCOPE OF MINORITY RIGHTS PROTECTION**

Based on the experiences of minority communities worldwide, and on the contents of the United Nations Minorities Declaration and other international standards relating to minority rights, the following can be identified as major concerns: survival and existence, promotion and protection of the identity of minorities, equality and non-discrimination, and effective and meaningful participation.

### **A. Survival and existence**

According to the above-mentioned Commentary of the Working Group on Minorities, any action for the protection of minorities should focus primarily on the protection of the physical existence of persons belonging to minorities, including protecting them from genocide and crimes against humanity. The 2001 Durban Declaration affirms that "the ethnic, cultural, linguistic and religious identity of minorities, where they exist, must be protected and that persons belonging to such minorities should be treated equally and enjoy their human rights and fundamental freedoms without discrimination of any kind" (para. 66).

During conflicts, the physical integrity of persons belonging to minority groups is of course at greatest risk and attention should be paid to ensuring that minorities, including those displaced internally within their own country or externally as refugees, have access to humanitarian aid and relief such as food, shelter and health care. As former United Nations Secretary-General Kofi Annan remarked at the Stockholm International Forum in January 2004: "We must protect especially the rights of minorities, since they are genocide's most frequent targets."<sup>3</sup>

Lack of respect for, lack of protection and lack of fulfilment of the rights of minorities may be at least a contributing factor if not the primary cause of displacement and may—in the worst cases—even lead to the extinction of such communities. The displacement of minorities can thus serve as an indicator of the degree to which their rights are respected, protected and fulfilled in the country from which they are displaced. Although it can be difficult to identify all minority groups as such in a situation of displacement, protection mechanisms, including humanitarian assistance programmes, need to be designed in a way which enables these groups to retain their identity to the greatest extent possible. It is important to note that the protection of the existence of minorities also requires respect for

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<sup>3</sup> United Nations press release SG/SM/9126/Rev.1, 11 February 2004.

and protection of their religious and cultural heritage, which are essential to their group identity.

## **B. Promotion and protection of the identity of minorities**

Central to the rights of minorities are the promotion and protection of their identity. Promoting and protecting their identity prevent forced assimilation and the loss of cultures, religions and languages—the basis of the richness of the world and therefore part of its heritage. Non-assimilation requires diversity and plural identities to be not only tolerated but protected and respected. Minority rights are about ensuring respect for distinctive identities while ensuring that any differential treatment towards groups or persons belonging to such groups does not mask discriminatory practices and policies. Therefore, positive action is required to respect cultural, religious and linguistic diversity, and acknowledge that minorities enrich society through this diversity.

## **C. Equality and non-discrimination**

The right not to be discriminated against is paramount in protecting the rights of persons belonging to minorities in all regions of the world. Minorities everywhere experience direct and indirect, *de jure* and *de facto* discrimination in their daily lives.

Non-discrimination and equality before the law are two of the basic principles of international human rights law. The principle of non-discrimination prohibits any distinction, exclusion, restriction or preference which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.<sup>4</sup> There is no requirement to demonstrate discriminatory intent. The phrase “purpose or effect” refers to legislation and/or policies which may be textually neutral but are interpreted in a manner that results in discrimination. International human rights law prohibits both direct and indirect discrimination.

Indirect discrimination is more subtle and, therefore, harder to recognize and eliminate. It occurs when a practice, rule or requirement is neutral on its face but has a disproportionate impact on particular groups, unless the practice, rule or requirement is necessary and appropriate to achieve a legitimate objective. Focusing on the unequal impact of a measure on an individual as a member of a group helps to better identify the root causes of discrimination and inequality.

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<sup>4</sup> See International Convention on the Elimination of All Forms of Racial Discrimination, art. 1 (1).

Differential treatment may be permissible if its objective is to overcome past discrimination or address persisting inequalities. In fact, international human rights law provides for the adoption of special measures in favour of certain persons or groups for the purpose of eliminating discrimination and achieving full equality, not only in law but also in practice. Several legal instruments envisage this. The International Convention on the Elimination of All Forms of Racial Discrimination permits the implementation of special measures "for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms".<sup>5</sup>

The Convention on the Elimination of All Forms of Discrimination against Women allows for "temporary special measures" which accelerate de facto equality between men and women.<sup>6</sup> The Human Rights Committee, in its general comment No. 18 (1989) on non-discrimination, held that States parties are sometimes required to "take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant" and that "such action may involve granting for a time to the part of the population concerned certain preferential treatment in specific matters as compared with the rest of the population... as long as such action is needed to correct discrimination in fact".

In its general recommendation No. 32 (2009), the Committee on the Elimination of Racial Discrimination provided further guidance on the scope of the principle of non-discrimination under article 1 (1) of the Convention and, more importantly, the meaning of "special measures". The Committee specified that "the list of human rights to which the principle applies under the Convention is not closed and extends to any field of human rights regulated by the public authorities in the State party [...] to address racial discrimination 'by any persons, group or organization'."<sup>7</sup>

Regarding "special measures" to advance equality, the Committee asserted that the term also includes measures that in some countries may be described as "affirmative measures", "affirmative action" or "positive action", whereas the term "positive discrimination" is, in the context of international human rights standards, a *contradictio in terminis* and should be avoided. "Measures" includes the full span of legislative, executive, administrative, budgetary and regulatory instruments, at every level in the State apparatus, as well as plans, policies, programmes and preferential regimes in areas such as employment, housing, education, culture, and participation in public life for disfavoured groups, devised and implemented

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<sup>5</sup> Art. 1, para. 4. See also art. 2, para. 2.

<sup>6</sup> Art. 4, para. 1.

<sup>7</sup> See also art. 2 (1) (d) and (b).

on the basis of such instruments. The obligation to take special measures is distinct from the general positive obligation of States parties to the Convention to secure human rights and fundamental freedoms on a non-discriminatory basis to persons and groups subject to their jurisdiction; this is a general obligation flowing from the provisions of the Convention as a whole and integral to all parts of the Convention. Special measures should be appropriate to the situation to be remedied, be legitimate, be necessary in a democratic society, respect the principles of fairness and proportionality, and be temporary.

It is important to note that the Committee, in its general recommendation, also specified that "special measures should not be confused with specific rights pertaining to certain categories of person or community, such as, for example the rights of persons belonging to minorities to enjoy their own culture, profess and practise their own religion and use their own language [...]. Such rights are permanent rights, recognized as such in human rights instruments, including those adopted in the context of the United Nations and its agencies. States parties should carefully observe distinctions between special measures and permanent human rights in their law and practice. The distinction between special measures and permanent rights implies that those entitled to permanent rights may also enjoy the benefits of special measures."<sup>8</sup>

While the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination can contribute to successful integration in societies, it is extremely important to ensure that integration is not understood to mean, and does not lead to, forced assimilation into the dominant culture. The implementation of the rights of persons belonging to minorities has highlighted the need not only to understand and redress inequality but also to accommodate difference and diversity. Special measures to protect the existence and identity of minorities and encourage conditions for the promotion of that identity, including through minority language education, are to be distinguished from temporary special measures. Special measures to protect minorities can be permanent. The open-ended engagement of a State to ensure effective participation by adopting special procedures resulting in the creation of institutions, and making arrangements through which members of minorities are able to make decisions, exercise legislative and administrative powers, and develop their culture, constitutes the best approach to preventing conflicts. In this regard, the Committee on Economic, Social and Cultural Rights adopted general comment No. 21 (2009) on the right of everyone to take part in cultural life, which entails an obligation on States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves.

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<sup>8</sup> See also Committee on the Elimination of Discrimination against Women, general recommendation No. 25 (2004), para. 19, and "Recommendations of the Forum on Minority Issues" (A/HRC/10/11/Add.1, para. 12).

To further the protection of minorities in accordance with the principle of non-discrimination, they should have equal access to social services, and to employment in the public and private sectors, including through positive action. In many instances, the root causes of human rights violations are found in the inequalities between groups in their enjoyment of economic, social and cultural rights. Due regard must, therefore, be paid to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Economic, Social and Cultural Rights. It is particularly important to pay attention to the situation of persons belonging to minorities when developing, implementing and evaluating poverty reduction programmes, and working towards achieving the Millennium Development Goals (MDGs). Moreover, measures for minorities to effectively participate in and be consulted on development and economic projects should be adopted and the impact of such projects on persons belonging to minorities assessed.

Individuals must not be subjected to discrimination for manifesting their group identity. The importance of this principle is captured in the Commentary of the Working Group on Minorities as follows: "Governments or persons belonging to majorities are often tolerant of persons of other national or ethnic origins until such time as the latter assert their own identity, language and traditions. It is often only when they assert their rights as persons belonging to a group that discrimination or persecution starts."<sup>9</sup>

More recently, the Committee on Economic, Social and Cultural Rights adopted general comment No. 20 (2009), which provides guidance on the obligation of States parties to guarantee non-discrimination in the exercise of each of the economic, social and cultural rights enshrined in the Covenant. It spells out various distinctions in the manifestation of discrimination. It clarifies how formal and substantive discrimination, direct and indirect forms of differential treatment, and discrimination in the private and public spheres can amount to a violation of article 2 (2) of the Covenant. As an example of indirect discrimination, it notes that requiring a birth registration certificate for school enrolment may discriminate against ethnic minorities or non-nationals who do not possess, or have been denied, such certificates.

The 2001 Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance provides an innovative anti-discrimination agenda with specific reference to Africans and people of African descent, Asians and persons of Asian descent, indigenous peoples, migrants, refugees, minorities, the Roma and others. Regarding people of African descent in particular, the World Conference, in its Programme of Action, specifically "requests the Commission on Human Rights to consider establishing a

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<sup>9</sup> E/CN.4/Sub.2/AC.5/2005/2, para. 53.

working group or other mechanism of the United Nations to study the problems of racial discrimination faced by people of African descent". To this end, the Working Group of Experts on People of African Descent was established by Commission on Human Rights resolution 2002/68 of 25 April 2002. Its mandate is, *inter alia*, to make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world.

The need to ensure that minorities are treated equally and enjoy human rights and fundamental freedoms without discrimination of any kind was reiterated by the Durban Review Conference, which in its Outcome Document "urges States to bolster measures to eliminate the barriers and to broaden access to opportunities for greater and more meaningful participation by [...] persons belonging to national or ethnic, religious and linguistic minorities in the political, economic, social and cultural spheres of society".

#### **D. Effective and meaningful participation**

The participation of persons belonging to minorities in public affairs and in all aspects of the political, economic, social and cultural life of the country where they live is in fact essential to preserving their identity and combating social exclusion. Mechanisms are required to ensure that the diversity of society with regard to minority groups is reflected in public institutions, such as national parliaments, the civil service sector, including the police and the judiciary, and that persons belonging to minorities are adequately represented, consulted and have a voice in decisions which affect them or the territories and regions in which they live. Participation must be meaningful and not merely symbolic, and recognize, for instance, that minorities are commonly underrepresented and that their concerns may not be adequately addressed. The participation of women belonging to minorities is of particular concern.

Participation must be effective. During its second session, on 12 and 13 November 2009, the Forum on Minority Issues focused on minorities and effective political participation. A key reference for the session was article 2 (2) of the United Nations Minorities Declaration, which provides for the right of persons belonging to national or ethnic, religious and linguistic minorities "to participate effectively in cultural, religious, social, economic and public life". For the participation of persons belonging to minorities to be effective, it is not sufficient for States to ensure their formal participation; States must also ensure that the participation of representatives of minorities has a substantial influence on the decisions which are taken, so that there is, as far as possible, shared ownership of these decisions.<sup>10</sup>

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<sup>10</sup> See A/HRC/13/23, para. 52, in which the independent expert on minority issues refers to: Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities,

The international community has recognized these challenges and has put at the disposal of minorities several instruments and mechanisms to ensure their international and national protection. However, as societies evolve, it is vital for these instruments and mechanisms to be continuously re-examined, evaluated and adjusted where necessary to ensure that they allow for effective participation.

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Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and public affairs (ACFC/31DOC(2008)001, paras. 18 and 19).

### **III. MINORITY RIGHTS PROTECTION UNDER INTERNATIONAL HUMAN RIGHTS LAW**

#### **A. Main sources of minority rights**

In 1992 the General Assembly adopted the United Nations Minorities Declaration by consensus (resolution 47/135). It is the main reference document for minority rights. It grants to persons belonging to minorities:

- Protection, by States, of their existence and their national or ethnic, cultural, religious and linguistic identity (art. 1);
- The right to enjoy their own culture, to profess and practise their own religion, and to use their own language in private and in public (art. 2 (1));
- The right to participate effectively in cultural, religious, social, economic and public life (art. 2 (2));
- The right to participate effectively in decisions which affect them on the national and regional levels (art. 2 (3));
- The right to establish and maintain their own associations (art. 2 (4));
- The right to establish and maintain peaceful contacts with other members of their group and with persons belonging to other minorities, both within their own country and across State borders (art. 2 (5)); and
- The freedom to exercise their rights, individually as well as in community with other members of their group, without discrimination (art. 3).

States are to protect and promote the rights of persons belonging to minorities by taking measures to:

- Ensure that they may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law (art. 4 (1));
- Create favourable conditions to enable them to express their characteristics and to develop their culture, language, religion, traditions and customs (art. 4 (2));
- Allow them adequate opportunities to learn their mother tongue or to have instruction in their mother tongue (art. 4 (3));

- Encourage knowledge of the history, traditions, language and culture of minorities existing within their territory and ensure that members of such minorities have adequate opportunities to gain knowledge of the society as a whole (art. 4 (4));
- Allow their participation in economic progress and development (art. 4 (5));
- Consider the legitimate interests of minorities in developing and implementing national policies and programmes, and international programmes of cooperation and assistance (art. 5);
- Cooperate with other States on questions relating to minorities, including exchanging information and experiences, to promote mutual understanding and confidence (art. 6);
- Promote respect for the rights set forth in the Declaration (art. 7);
- Fulfil the obligations and commitments States have assumed under international treaties and agreements to which they are parties.

Finally, the specialized agencies and other organizations of the United Nations system shall also contribute to the realization of the rights set forth in the Declaration (art. 9).

In 2005, the Working Group on Minorities adopted a commentary intended to guide the understanding and application of the United Nations Minorities Declaration.<sup>11</sup>

The **International Covenant on Civil and Political Rights** and, in particular, article 27 inspired the contents of the United Nations Minorities Declaration. It states that:

*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.*

This article protects the rights of persons belonging to minorities to their national, ethnic, religious or linguistic identity, or a combination thereof, and to preserve the characteristics which they wish to maintain and develop. Although it refers to the rights of minorities in those States in which they exist, its applicability is not subject to official recognition of a minority by a State. States that have ratified the Covenant are obliged to ensure that

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<sup>11</sup> See chap. I, sect. C, above. In addition, the Working Group considered the Minority Profile and Matrix, which provides a checklist of issues and measures based on the provisions and principles contained in the United Nations Minorities Declaration and the Commentary (E/CN.4/Sub.2/AC.5/2006/3).

all individuals under their jurisdiction enjoy their rights; this may require specific action to correct inequalities to which minorities are subjected.

The Human Rights Committee's general comment No. 23 (1994) on the rights of minorities provides an authoritative interpretation of article 27. The Committee stated that "this article establishes and recognizes a right which is conferred on individuals belonging to minority groups and which is distinct from, and additional to, all the other rights which, as individuals in common with everyone else, they are already entitled to enjoy under the Covenant." The right under article 27 is an autonomous one within the Covenant. The interpretation of its scope of application by the Human Rights Committee has had the effect of ensuring recognition of the existence of diverse groups within a State and of the fact that decisions on such recognition are not the province of the State alone, and that positive measures by States may be "necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practise their religion, in community with the other members of the group."

The **International Covenant on Economic, Social and Cultural Rights** mentions explicitly in article 2 (2) that "the States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

**General comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health** states that health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, including ethnic minorities. Furthermore, all health facilities, goods and services must be culturally appropriate, for instance respectful of the culture of minorities. "States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including [...] minorities, to preventive, curative and palliative health services".

Article 1 of the **International Convention on the Elimination of All Forms of Racial Discrimination** defines discrimination as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

Article 30 of the **Convention on the Rights of the Child** provides that "in those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is

indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language".

The **Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law**, adopted by General Assembly resolution 60/147 of 16 December 2005, states that "restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property." This principle could be broadly interpreted to include the right to have one's status as indigenous person or person belonging to a minority restored, in particular where this is provided for under national legislation and if such status is lost as a consequence of displacement.

## B. Additional sources of minority rights

The **Convention on the Prevention and Punishment of the Crime of Genocide** is a legal source referred to in the United Nations Minorities Declaration for protecting the rights of minorities. It is one of the first conventions that the General Assembly adopted (resolution 260 A (III) of 9 December 1948) and relates to the protection of groups, including minorities, and their right to physical existence. No mechanism has been established to monitor its implementation. The ad hoc International Criminal Tribunals for the former Yugoslavia and for Rwanda were the first to apply this international Convention. Its article II defines genocide as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Imposing measures intended to prevent births within the group;
- Forcibly transferring children of the group to another group."

The **Rome Statute of the International Criminal Court** provides for the prosecution of cases that encompass not only the crime of genocide but also crimes against humanity. Acts which would constitute crimes against humanity are listed in its article 7, paragraph 1. It is important to note,

for example, that forced population transfers intended to move persons belonging to minorities away from the territory on which they live, or with that effect, as well as forced sterilizations, would constitute serious breaches of the Rome Statute.

The **ILO Discrimination (Employment and Occupation) Convention, 1958** (No. 111) requires States to adopt and implement national policies to promote and ensure equality of opportunity and treatment in employment and occupation, with a view to eliminating direct and indirect discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin (arts. 1 and 2). These national policies must address discrimination and promote equality, in law and in practice, regarding access to education and training, employment services, recruitment, access to particular occupations, as well as terms and conditions of employment.

The 1998 **ILO Declaration on Fundamental Principles and Rights at Work** provides that all members of the Organization have an obligation to respect, promote and realize the fundamental principles and rights at work ("core labour standards"). These include the principle of non-discrimination in employment and occupation, freedom of association and the right to collective bargaining, and the elimination of forced and compulsory labour, as well as child labour. The enjoyment of equality of opportunity and the treatment of minorities are monitored under this Declaration.

The 2003 **UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage** provides safeguards and promotes the practices, representations, expressions, knowledge, skills—as well as the associated instruments, objects, artefacts and cultural spaces—that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. For this purpose, the Convention establishes a fund and a listing system of representative and endangered heritage.

The 2005 **UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions** encourages States to incorporate culture as a strategic element in national and international development policies and to adopt measures aimed at protecting and promoting the diversity of cultural expressions within their territory. It emphasizes the importance of the recognition of equal dignity and respect for all cultures, including that of persons belonging to minorities, and of the freedom to create, produce, disseminate, distribute and have access to traditional cultural expressions, and asks States to endeavour to create environments conducive thereto.

In addition, several regional human rights treaties include provisions that can be invoked to advance minority rights. The Council of Europe's Framework Convention for the Protection of National Minorities contains particularly detailed provisions on minority rights in various fields.

## **IV. INTERNATIONAL HUMAN RIGHTS MECHANISMS AVAILABLE TO ADDRESS ISSUES CONCERNING MINORITIES**

### **A. Human rights treaty bodies**

To ensure that the rights contained in international human rights conventions are realized, committees have been established to monitor the progress made by States parties in fulfilling their obligations. Those of particular relevance to minority rights are:

- The Human Rights Committee, which oversees the implementation of the International Covenant on Civil and Political Rights (see also chap. III, sect. A above, in particular regarding its article 27);
- The Committee on Economic, Social and Cultural Rights, which oversees the implementation of the International Covenant on Economic, Social and Cultural Rights;
- The Committee on the Elimination of Racial Discrimination, which oversees the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination;
- The Committee on the Rights of the Child, which oversees the implementation of the Convention on the Rights of the Child;
- The Committee on the Elimination of Discrimination against Women, which oversees the implementation of the Convention on the Elimination of All Forms of Discrimination against Women;
- The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, which oversees the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and
- The Committee on the Rights of Persons with Disabilities.

By ratifying these conventions, States parties undertake to submit periodic reports to the respective committees outlining the legislative, judicial, policy and other measures they have taken to ensure the enjoyment of, *inter alia*, the minority-specific rights contained in these instruments. On the basis of the information the committees receive, they can pursue a dialogue with the reporting States parties. Once a State party's report has

been considered, a committee issues “concluding observations”, which may state that violations of the rights of minorities have taken place, urge the State party to desist from any further infringements of the rights in question or call on it to adopt measures to improve the situation.<sup>12</sup> United Nations staff members with responsibilities in countries where minorities face particular issues can contact the secretariat preparing the sessions of the various committees studying that country.

Moreover, the Committee on the Elimination of Racial Discrimination has established an **early warning mechanism** to draw the attention of the States parties to situations where racial discrimination has reached alarming levels. The Committee has in fact adopted both early warning measures and urgent procedures to prevent as well as to respond more effectively to violations of the Convention. Criteria for early warning measures could apply when the following indicators are present:

- A significant and persistent pattern of racial discrimination, as evidenced in social and economic indicators;
- A pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other State officials;
- Adoption of new discriminatory legislation;
- Segregation policies or de facto exclusion of members of a group from political, economic, social and cultural life;
- Lack of an adequate legislative framework defining and criminalizing all forms of racial discrimination or lack of effective mechanisms, including lack of recourse procedures;
- Policies or practice of impunity regarding: (i) violence targeting members of a group identified on the basis of race, colour, descent or national or ethnic origin by State officials or private actors; (ii) grave statements by political leaders/prominent people that condone or justify violence against a group identified on the ground of race, colour, descent, national or ethnic origin; (iii) development and organization of militia groups and/or extreme political groups based on a racist platform;
- Significant flows of refugees or displaced persons, especially when those concerned belong to specific ethnic groups;
- Encroachment on the traditional lands of indigenous peoples or forced removal of these peoples from their lands, in particular for the purpose of exploitation of natural resources;

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<sup>12</sup> For more information about human rights treaty bodies, see [www.ohchr.org](http://www.ohchr.org).

- Polluting or hazardous activities that reflect a pattern of racial discrimination with substantial harm to specific groups.<sup>13</sup>

In addition to the human rights treaty bodies, the mandate of the **Special Adviser on the Prevention of Genocide** was created in 2004, *inter alia*, to act as an early warning mechanism for the Secretary-General and the Security Council by bringing to their attention situations that could result in genocide. To this end, the Special Adviser collects information on massive and serious violations of human rights and international humanitarian law with an ethnic or racial dimension that could lead to genocide, makes recommendations to the Security Council (*through the Secretary-General*) on actions to prevent or halt genocide, and liaises with the United Nations system on activities for the prevention of genocide (including strengthening the United Nations capacity to analyse and manage information relating to genocide and related crimes). The legislative framework for the work of the Special Adviser is the Convention on the Prevention and Punishment of the Crime of Genocide.<sup>14</sup>

## B. Human rights special procedures<sup>15</sup>

### The Independent Expert on minority issues

The mandate of the United Nations Independent Expert on minority issues was established in 2005, *inter alia*, to promote the implementation of the United Nations Minorities Declaration, to identify best practices and opportunities for technical cooperation by OHCHR, to engage in consultation and dialogue with Governments regarding minority issues in their countries, and to take into account the views of non-governmental organizations (NGOs).<sup>16</sup>

Information on the specific situation of a particular group or individual as well as on the general situation of minorities in a country or region can be sent to the Independent Expert through OHCHR. Based on information received from a variety of sources, the Independent Expert can raise issues directly with Governments. The Independent Expert sends urgent appeals or letters of allegation, usually together with other special procedure mandate-holders. The Independent Expert undertakes country visits at the invitation of Governments to further constructive consultation, observe relevant programmes and policies, register concerns, and identify areas for cooperation. In addition, the Independent Expert engages in work on

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<sup>13</sup> For more information about this Committee's early warning mechanism, see A/62/18, annex III.

<sup>14</sup> For more information about the mandate, see [www.un.org/preventgenocide/adviser](http://www.un.org/preventgenocide/adviser) (accessed 26 August 2010).

<sup>15</sup> The generic name given to the mechanisms established under the Human Rights Council—formerly the Commission on Human Rights—to address either specific country situations or thematic issues in all parts of the world.

<sup>16</sup> For more information about the mandate of the Independent Expert, see [www.ohchr.org](http://www.ohchr.org).

thematic priorities, including producing thematic reports and convening seminars and consultations.

A key thematic priority in 2006 and 2007 was highlighting the fact that many minorities are failing to benefit from poverty alleviation policies and strategies to achieve the MDGs. In 2007, the Independent Expert also convened an expert consultation focusing on the discriminatory denial or deprivation of citizenship as a tool for excluding national, ethnic, religious and linguistic minorities. In 2008, the Independent Expert worked extensively with UNDP to strengthen its engagement with minorities in development processes.

### **The Forum on Minority Issues**

In 2007, the Human Rights Council, by resolution 6/15, established the Forum on Minority Issues to provide a platform for promoting dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities. The Forum provides thematic contributions and expertise to the work of the Independent Expert on minority issues; identifies and analyses best practices, challenges, opportunities and initiatives for the further implementation of the United Nations Minorities Declaration. The Independent Expert on minority issues guides the work of the Forum, prepares its annual meetings and includes the thematic recommendations of the Forum in his/her report. The Forum is also expected to contribute to the efforts of the High Commissioner for Human Rights to improve cooperation among United Nations mechanisms, bodies and specialized agencies, funds and programmes on activities related to the promotion and protection of the rights of persons belonging to minorities, including at the regional level.<sup>17</sup>

The inaugural session of the Forum took place on 15 and 16 December 2008. Its thematic focus was on minorities and the right to education. The participants included representatives of Member 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 (NHRIs) and other national bodies, academics and experts on minority issues, and NGOs. The spotlight was on the views of experts and participants from minority communities. Several experts from each region were invited by OHCHR, for instance because they belonged to a minority group or because of their professional expertise in education, particularly as it relates to the rights and experiences of minorities.

The Forum adopted a set of recommendations on the theme, which were included in the annual report of the Independent Expert on minority issues

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<sup>17</sup> For more information about the Forum, see [www.ohchr.org](http://www.ohchr.org).

(A/HRC/10/11/Add.1) and submitted to the Human Rights Council at its tenth session in March 2009.

In guiding the work of the Forum on Minority Issues, the Independent Expert also contributed substantively towards the preparation of the second session, which focused on minorities and effective political participation, and submitted a background document on the subject (A/HRC/FMI/2009/3). In it she discusses the right to effective participation as a fundamental human right affirmed in several key international legal instruments and underpinning the realization of all human rights of women and men belonging to ethnic or national, religious and linguistic minorities.

The Forum produced action-oriented recommendations, which are intended to increase the inclusion and recognition of minorities in decision-making processes while enabling them to maintain their own identity and characteristics. The Forum's recommendations were submitted to the Human Rights at its thirteenth session (A/HRC/13/25).

The Office of the United Nations High Commissioner for Human Rights provided substantive support to the Forum. One of its contributions was a document with an overview of its work and that of human rights bodies with regard to minorities and the right to effective participation (A/HRC/FMI/2009/5). It also organized a panel discussion entitled "The Minorities Declaration: challenges and opportunities" to examine the extent to which regional organizations, civil society and other stakeholders have been using the United Nations Minorities Declaration as a tool and source of reference in their work. The event offered an opportunity for the panellists and the other participants to identify positive examples of and major obstacles to the use of the United Nations Minorities Declaration.

Preceding the Forum, the United Nations Working Group on Minorities held 12 sessions between 1995 and 2006 and provided a platform for representatives of minorities to raise issues within the United Nations and enter into a dialogue directly with Governments. The Working Group not only contributed to the conceptualization of the rights of persons belonging to minorities but also identified good practices and other measures for the promotion and protection of minorities. Numerous papers were prepared and submitted for its consideration. A list of those documents is available on the OHCHR website.

### **Other special procedures**

OHCHR provides secretariat support to several other special procedures with mandates to examine, monitor, advise and publicly report on human rights situations. Those with responsibility for specific countries or territories are known as "country mandates"; those working on specific major human rights concerns worldwide are known as "thematic mandates". These mechanisms

respond to individual complaints, conduct studies, provide advice on technical cooperation and engage in general promotional activities. Most mandate-holders receive information on specific allegations of human rights violations and send urgent appeals or letters of allegation to Governments asking for clarification. Upon invitation, they also undertake country visits.

In addition to the Independent Expert on minority issues, other mandate-holders responsible for civil, cultural, economic, political and social rights are relevant to the situation of minorities, and many receive information about violations of the rights of minorities related to their particular human rights focus and expertise. Particularly relevant are the mandates on: extrajudicial, summary or arbitrary executions; adequate housing as a component of the right to an adequate standard of living; extreme poverty; the right to food; freedom of opinion and expression; freedom of religion or belief; the right to health; the right to education; the situation of human rights defenders; internally displaced persons; contemporary forms of racism, racial discrimination, xenophobia and related intolerance; torture and other cruel, inhuman or degrading treatment or punishment; trafficking in persons; and violence against women, its causes and consequences. There are also new mandates that can be of particular interest for minorities, notably the Independent Expert in the field of cultural rights.<sup>18</sup>

## C. Human Rights Council mechanisms

### The universal periodic review

In 2006, the General Assembly adopted resolution 60/251 and decided that the Human Rights Council should undertake a universal periodic review (UPR) of the fulfilment by each State of its human rights obligations and commitments. All United Nations Member States will be reviewed in this way every four years. The review is based on three reports: one by the State itself and two by OHCHR, namely a compilation of United Nations information (from reports of treaty bodies, special procedures and other relevant official United Nations documents) and a summary of stakeholders' input (from NGOs, NHRIs, academic institutions and regional organizations). For the preparation of these three documents, which may include information on the human rights situation of persons belonging to minorities, United Nations entities can: (i) advise States on how to prepare their reports in a consultative manner; (ii) send submissions to OHCHR and/or draw attention to their own publications for OHCHR review, to be considered for the compilation of United Nations information reports; and (iii) disseminate information to stakeholders, including NGOs, for the preparation of their input.

The review of a State takes place during a three-hour interactive dialogue before the Working Group on the Universal Periodic Review, composed

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<sup>18</sup> For more information about special procedures, see [www.ohchr.org](http://www.ohchr.org).

of the 47 members of the Human Rights Council. Afterwards, the Human Rights Council meets in a plenary session to consider and adopt the UPR outcome, which includes a report with a summary of the proceedings, the conclusions and/or recommendations, and the voluntary commitments made by the State. At this plenary session, representatives of United Nations entities and stakeholders, including NHRIs and NGOs, have an opportunity to speak during the one-hour meeting devoted to each State under review.

In the follow-up phase, United Nations entities can provide support, *inter alia*, by: ensuring the translation (including into minority languages) and broad dissemination of UPR documents; encouraging/facilitating the use of the recommendations, including on minority issues, by all relevant actors at the national level; and considering UPR documentation when preparing United Nations planning instruments, including common country assessments (CCA)/ United Nations Development Assistance Frameworks (UNDAFs) and their own specific programmes. The promotion and protection of the rights of persons belonging to minorities often come up in the reports by the States themselves and in the compilation prepared by OHCHR as well as in the recommendations and the statements made by Member States.

#### D. ILO mechanisms

The application of ILO conventions is subject to supervision by the **Committee of Experts on the Application of Conventions and Recommendations** and the **Conference Committee on the Application of Standards**. In their periodic reports on the application of the **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**, States are required to specify the action they have taken to eliminate discrimination and the results achieved. Trade unions and employers' organizations have the right to submit observations on the Convention's application to the supervisory bodies. In their comments and conclusions, the supervisory bodies monitor the application of the Convention in law and in practice. The Committee of Experts frequently provides comments on the enjoyment of equality of opportunity and the treatment of minorities.

Reports concerning Convention No. 111 are due every two years. The Committee meets once a year in November–December. Its report is published each year in March and discussed by the Committee on the Application of Standards during the annual session of the International Labour Conference in June.<sup>19</sup>

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<sup>19</sup> The comments and conclusions of the supervisory bodies are available from the International Labour Standards website of the International Labour Organization: [www.ilo.org/public/english/standards/norm](http://www.ilo.org/public/english/standards/norm) (accessed 24 August 2010).

The follow-up to the **1998 Declaration on Fundamental Principles and Rights at Work** provides for the submission of annual reports by ILO members, as well as the publication, by the Director-General, of a yearly global report on the fundamental principles and rights covered by the Declaration. The 2003 and 2007 global reports focused on eliminating discrimination at work, both considered minority issues.<sup>20</sup>

## E. UNESCO mechanisms

The **Committee on Conventions and Recommendations of the Executive Board** examines confidential (group and individual) complaints regarding alleged human rights violations within the fields of competence of UNESCO (education, science, culture and information, especially relating to articles 18, 19, 20, 26 and 27 of the Universal Declaration of Human Rights) that occurred within the territories of UNESCO member States. The Committee is composed of 29 members and meets twice a year. It tries to resolve the reported problems in a spirit of cooperation, dialogue and mutual understanding rather than acting as a tribunal.

In urgent cases, the Director-General may personally make humanitarian representations on behalf of alleged victims of human rights violations in UNESCO fields of competence.

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<sup>20</sup> The global reports and further information on the Declaration follow-up are available from [www.ilo.org/declaration](http://www.ilo.org/declaration).

## **V. FRAMING QUESTIONS FOR ANALYSIS**

The following checklists give examples of questions to be considered in planning activities to promote and protect the rights of minorities in accordance with the United Nations Minorities Declaration. These examples should be considered as work-in-progress that could be expanded in due course, in particular by taking into consideration experiences from the field.

### **A. Structures and settings to improve the situation of minorities**

- Are minority groups organized in the country? Do women and men have equal access to organizational structures and mechanisms that are representative of minorities, such as NGOs working to promote the rights of minorities?
- Is there a particular neutral setting or space for dialogue between representatives of minorities and central and/or local government officials and is there room for the United Nations country team to promote the establishment and/or strengthening of such a dialogue?
- What are the main structures currently in place in the country (Government, international community, civil society) to promote and protect the rights of minorities as set forth in the United Nations Minorities Declaration?
- Is there a specific mechanism for collecting disaggregated data, including on access to education, housing and health care, and health conditions, that could independently reflect the realities faced by minorities in the country? Do disaggregated data, including by gender and age, exist?
- Has the United Nations country team established a mechanism (including any thematic group) or policy to consult minorities and address their concerns?
- Has CCA included a particular reference to the situation of minorities? If so, have their situation and concerns been included in UNDAF for support? Does your country programme take into consideration the situation and concerns of minorities?
- Have the particular needs of minorities been analysed in the preparation of the appeals (e.g., for donor and agency funding for Consolidated Appeals Processes and Common Humanitarian Action Plans) for those countries where their human rights and humanitarian situations are particularly challenging?

## **B. Assessing the situation of minorities in the national context**

- Are minority groups recognized in the country? If so, is it through any specific legal or policy framework?
- What are the most relevant concerns for minorities in the country, i.e., gaps and situation analysis to assess rights to which minorities are entitled and that are not being enjoyed and for what reasons?
- Are these concerns specific to minorities or do other groups or segments of society share the same concerns?
- Do these concerns affect women and men alike within minority groups and in society at large?
- What recommendations have the human rights treaty bodies or the special procedures made regarding the situation of minorities?
- Are there NGOs working on the issues that affect minorities? Have they, or NHRIs, produced reports, surveys or other studies, or have concerns relating to minorities been raised by the media or international NGOs?
- Do any disaggregated data exist along national or ethnic, religious and linguistic lines, demonstrating the situation of minorities in relation to the general population?

## **C. Identifying priorities to address the situation of minorities**

### **1. Protection of the existence of national or ethnic, religious and linguistic minorities**

- Historically, have there been cases of persecution, systematic and widespread violence, atrocities, sexual violence, or acts of genocide perpetrated against minorities?
- Are there cases in which members of minority groups are being physically expelled or forcibly deported from the country?
- Are there specific situations in which minority groups and/or their members are particularly excluded or targeted?
- Are there situations in which minorities are suffering as a direct or indirect result of the historical events and does this legacy still have an impact on their lives or livelihoods?
- Are cases of violence against minorities systematically investigated and, if not, why not? What are the main causes of violence against minorities?
- Are freedom of religion and the right to enjoy and maintain one's own culture respected?

- Are women belonging to minorities particularly at risk of abuse and social exclusion, and what are the precautionary measures in place to address their situation?

## **2. Promotion and protection of identity, education and culture**

- What types of programmes and actions can be developed to create favourable conditions that would enable women and men belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs?
- How can minorities' enjoyment of adequate opportunities to learn and/or have instruction in their mother tongue, including the knowledge of their history, traditions, language and culture, be ensured?
- In a humanitarian crisis and, in particular, during displacement, how can the right of children belonging to minorities to learn their mother tongue be ensured?

## **3. Promotion and protection of equality and non-discrimination**

- Has the State adopted comprehensive constitutional provisions and/or legislation on non-discrimination, and to what extent do they reflect the rights and the protection of minorities?
- Are there obvious distinctions in the enjoyment of fundamental human rights between different groups, including minorities?
- Are allegations of discrimination systematically recorded when the alleged victims belong to minorities?
- To what extent can the United Nations country team adopt a coordinated approach to combating both social and institutional discrimination?
- Has discrimination against women belonging to minorities within their communities been recorded? How is the United Nations acting to protect their rights?
- Is there discrimination against minority groups in access to basic services (health care, clean water, food and education)?
- What are the dynamics perpetuating practices of multiple discrimination and who are the most vulnerable? Which mechanisms can be promoted to address problems linked to multiple discrimination?

## **4. Promotion and protection of participation in public life**

- Do minorities have access to information on public policies and decisions taken on their behalf, especially when they are not involved in decision-making?

- Are there mechanisms to ensure dialogue within and with minority groups at the national, regional or local government levels?
- Are there mechanisms for the effective political participation of minorities at the local and State levels? Are parliamentary or other kinds of lobby groups concerned with minorities?
- Are the Government and parliament ensuring the effective functioning and funding of national agencies, institutions and/or mechanisms with responsibility for promoting minority political participation?
- Has the State adopted special arrangements required to secure the right of minorities to political participation at different stages of the country's transition from situations of gross human rights violations and armed conflict, particularly with respect to refugees and internally displaced persons?
- Are minorities represented in public administration (i.e., as Members of Parliament, in the judicial services and law enforcement, etc.)? If so, is it proportionate to the size of their communities and the interests to be addressed? If not, what should be done to promote their integration in the public service?
- Does the participation of members of minorities in public life have an effect on gender equality within the community and in the society at large? What kinds of mechanisms have been or could be promoted to encourage the participation of women belonging to minorities?
- What are the possibilities for the United Nations to build the capacity of minority groups to participate in decision-making and to monitor the implementation of public policies?

##### **5. Protection and protection of basic social services for minorities**

- How does poverty affect minorities in the country? Are persons belonging to minority groups disproportionately affected by poverty? Why?
- Do minority groups experience or present special health concerns? Are they affected, for example, by HIV/AIDS or do incidences of poverty-related diseases or malnutrition affect them differently from the rest of the population? If so, what are the causes?
- What can be done to better ensure that social services are equally accessible and appropriate to the specific needs of women and men belonging to minority groups?
- What are the possibilities for the United Nations to help the Government to improve social policies supporting the provision of basic social services to minorities?

- What resources do minorities control or manage locally for service delivery? Are these services gender-sensitive?
- Are minority groups able to monitor the delivery of basic social services?
- Do the main social indicators, such as hunger, child mortality rates, health conditions and school enrolment, reflect any particular difference between the conditions of mainstream society and those of minorities?

#### **6. Promotion and protection of participation in development**

- In assessments and project design, have the widest possible consultations with the targeted groups been ensured?
- Have efforts been deployed to ensure the participation of the most marginalized and vulnerable (e.g., women, people living with HIV/AIDS, children, people with disabilities, youth, non-citizens), including the creation of conditions to ensure their equal involvement in the process?
- Has the rights-based approach to development been implemented, including to ensure the active, free and meaningful participation of those affected by the development processes?
- Have the legitimate interests of minorities been taken into account in the development of national policies and programmes, including in planning and implementation?

#### **7. Promotion and protection of the right of minorities to maintain associations**

- Is the right to form associations and trade unions ensured by national legislation and equally accessible to workers belonging to minorities?
- Is there any particular obstacle in the country to minorities fully enjoying these rights?
- Have efforts been made by minority civil society organizations to establish a network for the exchange of information and the coordination of action?

#### **8. Promotion of access to decent work and economic opportunities**

- Do minorities have equal access to employment and income-generating opportunities? What is the situation of women belonging to minorities in this respect? Is there a tendency for women or men belonging to minorities to be concentrated in certain occupations or sectors (e.g., domestic and care work, construction, manufacturing in export-processing zones)? If so, what are the working conditions that prevail there?

- Does the regulatory and policy framework, particularly labour legislation and national employment policies, take into account the work-related human rights of minorities? What implementation and enforcement mechanisms are in place?
- Do minorities enjoy the fundamental rights of freedom of association and the right to collective bargaining, the elimination of forced labour and child labour, as well as freedom from discrimination? Are these rights guaranteed to minorities, in law and in practice, on an equal footing with other workers?
- Do policies and programmes promoting decent work, including those specifically focusing on minorities, take into consideration the specific position of minorities, and in particular of women belonging to minorities, in the labour market and in the workplace? Are appropriate mechanisms in place to assess the impact of these policies and programmes?
- Do minorities have equal access to productive resources, including credit, technology, vocational and skills training, information, and land? Is there a gender disparity in access?
- Do minorities enjoy the right to adequate housing and how is this enjoyment related to their situation with regard to access to land and property?
- What kinds of formal and informal social protection measures are in place to protect workers? What kind of strategy can be supported to extend social protection coverage to workers belonging to minorities, especially when they are concentrated in the informal economy?
- Is statistical information on the position of minorities in the formal and informal economy being collected and regularly analysed?
- Are workers belonging to minorities represented in trade unions and employers' organizations, and do they participate in the country's social dialogue?

#### **9. Promotion and protection of the rights of children belonging to minorities**

- How is the general situation of children belonging to minorities in the country? What information is available to assess the situation? Is there a need to improve the information?
- If there is internal displacement, how is the situation of children belonging to minorities being monitored?
- Is attention being paid to the needs of refugee children?

- Are the human rights of children ensured by national laws and in practice, including their access to education and health care, freedom from exploitation and child labour? Are there effective enforcement mechanisms and do they take the situation and needs of children belonging to minorities into account?

#### **10. Promotion and protection of the rights of displaced minorities**

- Are there minority groups within the internally displaced or refugee population?
- What are the causes of their displacement? Are these linked to their minority status?
- If displaced outside their country of origin, have they been given access to refugee status determination procedures? How have their claims for refugee status been assessed?

#### **11. Promotion and protection of the rights of stateless minority populations and individuals**

- Have stateless minority populations and stateless individuals been identified?
- Are the births of children belonging to minorities registered so as to document where they were born and who their parents are? Would birth registration programmes reduce statelessness?
- Is information available on nationality procedures in a form that is accessible and understandable to members of minorities?
- Are there mechanisms to reduce statelessness, such as facilitated naturalization based on lawful, habitual residence on the territory and acquisition of nationality at birth by children who would otherwise be stateless?
- Do stateless minority populations habitually resident in the territory enjoy the full range of civil, economic, social and cultural rights guaranteed to non-citizens under international law?

#### **D. Awareness-raising and public information**

As a basic tool for empowerment, targeted awareness-raising activities could make a difference in the promotion and protection of the rights of minorities. A wide variety of innovative approaches can draw public attention to their situation.

To this end, it might be useful to consider:

- Preparing informational materials, including in different languages, and disseminating them widely.
- Developing campaigns using international days, such as 10 December, which is Human Rights Day.
- Supporting activities for training/capacity-building and outreach, including for representatives of minorities.

## **VI. FRAMING QUESTIONS FOR ACTION**

### **A. Does the situation of persons belonging to religious minorities require particular attention?**

There are several issues of particular concern to religious minorities which should be considered when monitoring the situation on the ground and devising strategies. These can be identified by raising the following questions:

- Have there been cases before the courts or complaints brought to the attention of United Nations human rights treaty bodies or special procedures, in particular the Special Rapporteur on freedom of religion or belief, with respect to the rights of persons belonging to religious minorities?<sup>21</sup>
- Is there recognition and respect for the right to profess and practise religion without discrimination and interference from the State or others? Do guarantees exist for this?
- Are there limitations or restrictions placed on the right to manifest one's religion or belief?
- Is there freedom to adopt, change or renounce a religion or belief? How is freedom to adopt, change or renounce a religion or belief recognized and respected in law and in practice?
- What measures are in place to ensure freedom of worship or assembly in connection with a religion or belief?
- Is social pressure or forced conversion an issue affecting minorities? If so, how is the Government addressing this?
- Is there recognition of religious minorities' holy days by the State? Are they recognized as public holidays?
- Is there recognition and protection of the right to hold religious ceremonies?
- What is the procedure for the appointment of religious leaders, priests and teachers, for those belonging to religious minorities?

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<sup>21</sup> See, in particular, the framework for communications annexed to the report of the Special Rapporteur on freedom of religion (E/CN.4/2006/5) and the "Guidelines for review of legislation pertaining to religion or belief" prepared by the Advisory Panel of Experts on Freedom of Religion and Belief of the Organization for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) in consultation with the Council of Europe's Venice Commission in 2004.

- Do people belonging to religious minorities have the right to effectively participate in and be represented on religious advisory bodies? Where such advisory bodies exist, to whom do they provide counsel?
- Does the Government encourage interfaith and inter-religious dialogue at all levels? How does it do so? Where communal and sectarian tensions exist, how does the Government address such matters?
- Where religious education is on the curriculum, what measures are in place, if any, to promote interfaith and inter-religious understanding and dialogue?
- Does the constitution or other national legislation declare the State to be secular and/or officially recognize a religion or religions?
- Is there a requirement that the Head of State or other public officials belong to a certain religion?
- Is there a requirement to indicate religious affiliation on identity cards?
- What measures are in place to protect holy places, including against desecration, and to ensure access to them by religious minorities?
- Is there Government or other official support for the repair and maintenance of religious buildings? Is such support subject to any restrictions?
- Do criteria exist for establishing new religious buildings and are they agreed to in consultation with representatives of religious minorities or their institutions? In that regard, are the following issues of importance for the minority: keeping a geographical distance between different religious buildings or maintaining a distance between existing religious buildings and new ones?

## **B. Does the situation of women belonging to minorities require particular attention?**

Discrimination against women remains a persistent and universal problem. However, some women's problems are compounded by their uniquely disadvantaged position in society as members of national, racial, ethnic, religious or linguistic minorities. Women and girls from disadvantaged minority groups experience multiple and intersectional forms of discrimination based on both their minority status and their gender. Such multidimensional discrimination may make them particularly vulnerable to violations of their rights in public and private life, including in some cases violence and sexual assault both outside and within their communities. They may also be subjected to traditional harmful practices, such as female genital mutilation.

Women belonging to minorities often find themselves marginalized and face exclusion within their own communities and in the wider society alike. They have limited opportunities for education and for political participation and lack a political voice, decent work and income-generating opportunities, social and financial capital, and basic social services. Women are also frequently discriminated against with regard to ownership and inheritance of property—an area where minorities and indigenous peoples already face discrimination.

In armed conflicts, the vulnerability of women to exploitation and abuse is greatly increased and women belonging to minorities are often severely affected. As caregivers and often with primary responsibility for children, women are often less able to flee conflict zones. Women may become the victims of rape and sexual assault used as a "weapon" in conflict. If the men are killed or forced to flee, women may face additional challenges with regard to their homes and property rights.

A gender perspective is therefore of particular relevance when addressing the situation of minorities in a given country, including in their own communities. However, given the gender stereotypes within cultural patterns that are often resistant to social change, this may not be easy. Below, a practical checklist is proposed with issues relevant to women belonging to minorities:

- Access by women belonging to minorities to specific social services, including education in their own language, culturally sensitive health care and childcare facilities;
- The social and economic conditions of women belonging to minorities and their relation to exploitation and abuse, including trafficking;
- How does poverty affect women and men differently within the minority community and society at large;
- The situation of women belonging to minorities vis-à-vis matrimonial property rights and the tenure of land and property in general;
- Access to employment and income-generating activities, including equal access to human and financial resources, such as capital, credit, land, information and technology, training and skills development, market and saving opportunities, and social networks;
- Women's level of participation in decision-making, including in local development plans and poverty-reduction strategies;
- Non-discrimination in relation to the acquisition, change and retention of nationality by women and transmittal of their nationality to their children, and the impact on the lives of women and children belonging to minorities;

- Barriers women face in accessing administration of justice and the availability of specialized legal advices and legal literacy training;
- Violence within the community and how to address it from within;
- Abuse and targeting of women in conflicts;
- Access to education and training—discrimination between boys and girls;
- Equal access by women belonging to minorities to humanitarian aid in conflicts or natural disasters;
- The particular situation of refugee and internally displaced women in camps where they may face sexual and gender-based violence or problems in accessing specific social and health facilities, water and sanitation, skills and vocational training, childcare or other services;
- Particular discrimination against women on the basis of work and descent (caste) and gender, for example women being forced to do particular tasks, such as manual scavenging, or forced into prostitution;
- Interaction between various grounds of discrimination and the special situation of women belonging to minorities in global migration. The specific vulnerabilities of migrant women belonging to minorities to exploitation and abuse, including trafficking, need to be taken into account for policy formulation;
- Supporting dialogue with women belonging to minorities especially in conflict situations (with particular reference to Security Council resolution 1325 (2000));
- Assessing the impact of legislation and policies on addressing the discrimination affecting women belonging to minorities;
- Supporting the training and empowerment of women belonging to minorities;
- Supporting the creation or work of organizations focusing on the concerns of women belonging to minorities.

### **C. Are there instruments that are especially relevant for monitoring the situation of children belonging to minorities?**

Under international human rights law, children (every human being below 18 years of age) have the right to special care and protection. The Convention on the Rights of the Child is the most comprehensive instrument on this matter, recognizing civil, cultural, economic, political and social

rights. The application of the norms set forth in the Convention is anchored in four major principles: non-discrimination; the best interests of the child; the rights to life, survival and development; and respect for the views of the child.

The Convention applies to everyone equally and specifies that children belonging to ethnic, religious or linguistic minorities shall not be denied the right to enjoy their own culture, to profess and practise their own religion, or to use their own language (art. 30). The Convention also lists situations in which States are obliged to take measures to protect children's interests, for instance, protecting them from physical or mental harm and neglect; special consideration of children in conflict with the law; the right of children with disabilities to special treatment; the right to birth registration and to acquire a nationality; the right of refugee children to receive appropriate protection and humanitarian assistance; education and care; health care for all children; free and compulsory primary education; protection from economic exploitation; protection from all forms of abuse and exploitation and prohibition of the recruitment of children under the age of 15 into the armed forces.

In its general comment No. 6 (2005), the Committee on the Rights of the Child noted:

*State obligations under the Convention apply to each child within the State's territory and to all children subject to its jurisdiction (art. 2). These State obligations cannot be arbitrarily and unilaterally curtailed either by excluding zones or areas from a State's territory or by defining particular zones or areas as not, or only partly, under the jurisdiction of the State. Moreover, State obligations under the Convention apply within the borders of a State, including with respect to those children who come under the State's jurisdiction while attempting to enter the country's territory. Therefore, the enjoyment of rights stipulated in the Convention is not limited to children who are citizens of a State party and must therefore, if not explicitly stated otherwise in the Convention, also be available to all children—including asylum-seeking, refugee and migrant children—irrespective of their nationality, immigration status or statelessness.*

This is of particular relevance to children belonging to minorities who may be stateless or lack registration documents, which can make them more vulnerable to abuse, trafficking and other forms of exploitation. Stateless children may be denied the full enjoyment of their rights under the Convention owing to discriminatory access to education, social and health services.

Regrettably, children belonging to minorities in many cases lack protection in each one of the above-mentioned fields. For this reason, particular attention should be paid, *inter alia*, to:

- The right to life;
- Non-discrimination;
- The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;
- Preservation of identity;
- Situations of violence;
- Family and community violence, including possible abuse and neglect;
- Health care and services for children and access for children belonging to minorities;
- Equity between men and women and boys and girls within the community;
- Situation of children with disabilities who belong to minorities;
- Segregation in education;
- Lack of access to education and learning of the mother tongue and culture;
- Freedom of religion;
- Economic exploitation, including child labour;
- Sexual abuse and exploitation;
- Child trafficking;
- Children in emergencies, in particular refugee and internally displaced children belonging to minorities.

#### **D. Can the promotion and the protection of the rights of minorities help to prevent or resolve conflict?**

Promoting and protecting the rights of persons belonging to minorities have been demonstrated to be effective means of conflict prevention and resolution, and of building stable, inclusive societies in post-conflict situations. If minority rights are respected based on the rule of law, all groups, regardless of their language, religion, culture or ethnicity, will be able to exercise all their rights on an equal footing and freely express and pursue their legitimate aspirations. However, in most countries, this principle is far from being realized and, often, long-term and well-

entrenched inequality, discrimination and exclusion are the root cause of many conflicts, particularly where the State is considered to be failing to act to remedy the situation or is deliberately excluding minorities. Refugee, returnee and internally displaced minorities are often left out of the peace and reconciliation process. Effective prevention should encompass dialogue among all sectors of society, confidence-building and a fair distribution of resources.

Effective participation by minorities in public life is an essential component of a peaceful and democratic society and should take place across a wide range of areas. Where minorities are systematically excluded from decision-making, efforts should be made to facilitate their representation at all levels, for example in parliaments and other legislative bodies, including through the allocation of seats. The promotion of rights, identity and culture can be strengthened through the introduction and promotion of certain forms of self-governance, including territorial or cultural autonomy.

Ensuring the promotion of meaningful and informed consultation and participation and the management by minorities of matters directly affecting them as a way of protecting and promoting their interests and identities, is an effective means for promoting stability and integration in societies where minorities live.

#### **E. How to better ensure the effective participation of minorities in the work of the United Nations?**

Effective and meaningful participation is crucial in any work of the United Nations but particularly relevant to minorities. Participation cannot be separated from capacity-building and empowerment. The success of any planning, monitoring, review and evaluation programme addressed to minorities depends on involving their representatives at the right time and ensuring the inclusion of their views in all stages.

There is an expectation that, before any programmes and projects are designed, their targeted beneficiaries will be consulted. Representatives of minorities also expect that any consultative civil society body set up to advise or cooperate with the United Nations will be composed of representatives of all segments of the population, including minorities.

There are a number of ways in which the United Nations can support the effective participation of persons belonging to minorities. Below is a checklist of issues to be promoted in this respect. In particular, a stakeholder analysis may help to decide how to establish the widest possible consultation. Suggestions for ensuring that this happens can also be found in the checklist.

The United Nations may support the effective participation of persons belonging to minorities by ensuring:

- Their participation in the development, design, implementation and evaluation of United Nations programmes, particularly through civil society advisory or consultative bodies to the United Nations;
- The promotion of their participation in decision-making through inclusion in public and political life, at the national, regional or local level, particularly through advisory or consultative bodies;
- Participation in electoral processes;
- The promotion of their participation in cultural decision-making bodies or religious advisory bodies;
- Their participation in the sharing of the benefits of development and economic progress on an equal footing with the rest of society;
- Affirmative action programmes are in place to increase access for persons belonging to minorities to jobs and internships or fellowship programmes.

Efforts should be made, *inter alia*, to:

- Ensure access to the United Nations work by minority groups, including by making information available in minority languages;
- Ensure ownership by minorities through participation;
- Ensure the participation of persons belonging to non-dominant groups in programme planning and analysis of situations affecting women and children;
- Assess the efficiency of existing consultation mechanisms before establishing new ones;
- Promote joint initiatives with minority organizations, when possible;
- Facilitate collaborative efforts and better coordination as much as possible.

## **F. What activities is the United Nations currently undertaking to provide human rights capacity-building to representatives of minorities and minority communities?**

Many United Nations entities undertake capacity-building activities. Efforts should be made to include participants belonging to minorities in these activities. Below are examples of some of these initiatives.

## **1. Programme in Peacemaking and Conflict Prevention**

This Programme was initiated by UNITAR in 1993 to make United Nations efforts in conflict prevention and resolution more effective. Since then, it has expanded to provide a range of research and training. The UNITAR Training Programme to Enhance the Conflict Prevention and Peacebuilding Capacities of Indigenous Peoples' Representatives is based on a problem-solving negotiation approach to strengthen participants' capacity to negotiate more effectively to have their needs met, while also promoting constructive relationships between members of their communities and those in the dominant community.

UNITAR also organizes this Programme regionally focusing mainly on the training of representatives from the most excluded groups, including indigenous and minority communities, with the aim of strengthening their negotiation skills. These regional training courses include specific sessions on identity and conflict. In addition, UNITAR organizes an annual regional training programme for African governmental officials and United Nations peace operation staff, and the UNITAR-International Peace Institute's Fellowship Programme in Peacemaking and Preventive Diplomacy for middle- and senior-level United Nations staff and diplomats from around the world using negotiation simulations focusing on minority concerns and strengthening skills in conflict analysis and mediation.<sup>22</sup>

## **2. Minority Fellowship Programme**

OHCHR organizes annual human rights training programmes specifically addressed to minorities. The Minority Fellowship Programme is aimed at strengthening the knowledge of representatives of minorities of the United Nations system and mechanisms so they can better promote and protect the rights of their communities. The Minority Fellowship Programme started in 2005 and is currently available in English and Arabic.<sup>23</sup>

## **3. Community-led Training**

In addition, through OHCHR, the United Nations also carries out community-led human rights training to encourage former fellows and other representatives of minorities to use the skills acquired through their work with OHCHR to extend their human rights knowledge to the entire community. The proposals are submitted to OHCHR (Indigenous Peoples and Minorities Section), which analyses their relevance and presents them to the OHCHR Grants Committee for possible funding. The community-led training is a training series at the community and grass-root levels on the promotion and protection of human rights with representatives of minorities

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<sup>22</sup> For more information, see [www.unitar.org](http://www.unitar.org).

<sup>23</sup> For more information, see [www2.ohchr.org/english/issues/minorities/fellowprog.htm](http://www2.ohchr.org/english/issues/minorities/fellowprog.htm) (accessed 26 August 2010).

directly involved in formulation, methodology, programme implementation and evaluation.

The long-term objective is to develop a harmonized inter-agency programme and more opportunities for the fellows already trained to further cooperate with United Nations agencies and NHRIs when they return to their communities. In this context, United Nations colleagues in the field are encouraged to promote the programme and encourage former fellows to contact their respective agencies and programmes with a view to further cooperation.

#### **4. The United Nations Voluntary Trust Fund on Contemporary Forms of Slavery**

The Fund gives small grants (up to \$15,000) to organizations for projects that provide legal, financial and humanitarian assistance to victims of contemporary forms of slavery and often supports projects of minority organizations. It has awarded grants, for instance, for medical aid, food, shelter and vocational training to girl victims of trafficking for sexual and economic exploitation; support for a rehabilitation centre for street children; identification and release of bonded labourers in the carpet industry and stone quarries; education and provision of health care to children who had been working in brick kilns. The deadline for applications is the month of December each year. More information on the Fund, including application forms and criteria, can be found on its website.<sup>24</sup>

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<sup>24</sup> [www2.ohchr.org/english/about/funds/slavery](http://www2.ohchr.org/english/about/funds/slavery) (accessed 26 August 2010).

## ANNEX

### **Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities**

*(Adopted by General Assembly resolution 47/135  
of 18 December 1992)*

*The General Assembly,*

*Reaffirming that one of the basic aims of the United Nations, as proclaimed in the Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,*

*Reaffirming faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,*

*Desiring to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations,*

*Inspired by the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,*

*Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live,*

*Emphasizing that the constant promotion and realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States,*

*Considering that the United Nations has an important role to play regarding the protection of minorities,*

*Bearing in mind* the work done so far within the United Nations system, in particular by the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

*Taking into account* the important work which is done by intergovernmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

*Recognizing* the need to ensure even more effective implementation of international human rights instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

*Proclaims* this Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities:

## **Article 1**

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

## **Article 2**

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
4. Persons belonging to minorities have the right to establish and maintain their own associations.

5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

### **Article 3**

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination.
2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration.

### **Article 4**

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.
3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.
4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.
5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

## **Article 5**

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.
2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

## **Article 6**

States should cooperate on questions relating to persons belonging to minorities, *inter alia*, exchanging information and experiences, in order to promote mutual understanding and confidence.

## **Article 7**

States should cooperate in order to promote respect for the rights set forth in the present Declaration.

## **Article 8**

1. Nothing in the present Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.
2. The exercise of the rights set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.
3. Measures taken by States to ensure the effective enjoyment of the rights set forth in the present Declaration shall not *prima facie* be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.
4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

## **Article 9**

The 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 of competence.