



**Enhancing the effectiveness of international, regional and national
human rights mechanisms in protecting and promoting
the rights of religious minorities**

Expert Seminar

Vienna, 22-23 May 2012

CONCEPT NOTE

I Background

i. Declaration anniversary activities

By resolution 47/135 of 18 December 1992, the General Assembly adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (hereafter Declaration). The year 2012 marks the 20th anniversary of the adoption of the Declaration, the only UN human rights instrument devoted to minority rights. As the Human Rights Council affirmed in March 2012, the anniversary offers an important opportunity to reflect on the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as well as on achievements, best practices and challenges with regard to the implementation of the Declaration

In March 2012, the Secretary-General's Policy Committee stressed that the 20th anniversary of the Declaration is to be used to raise awareness and promote the implementation of the Declaration, and it decided to bolster system-wide work and collaboration in this area by creating a UN Network on Racial Discrimination and Protection of Minorities, to be coordinated by OHCHR.

OHCHR is marking the anniversary through a range of activities and events throughout the year, all aimed to enhance the implementation of the Declaration. Following a Human Rights Council panel devoted to the Declaration in March 2012, OHCHR is organizing a series of consultations and seminars in different regions, all focussing on different topical minority rights challenges. These events will bring together UN experts, relevant regional bodies, government representatives and minority and NGO representatives not only take stock of the current human rights situation in the respective areas but also to explore ways in which the UN, regional organizations and relevant mechanisms could cooperate further and increase their combined impact to advance minority rights. The Vienna seminar is the first in the series of these events,

and it is organised in cooperation with the Government of Austria, the main sponsor of the Human Rights Council's resolution on minorities.

ii. Religious minorities as a focus

The seminar will focus on the rights of persons belonging to religious minorities. It is widely acknowledged that religious minorities are particularly vulnerable in many countries and regions and their protection merits increasing attention. As the High Commissioner for Human Rights stressed in her 2011 statement condemning religious attacks around the world, "all countries have religious minorities and many of their members face discrimination to a greater or lesser extent". The prevalence of human rights problems affecting religious minorities is also reflected in the Human Rights Council's Universal Period Review (UPR) process: in the first cycle, States proposed close to 400 recommendations concerning freedom of religion and belief, and most of them concern religious minorities.

Time and again, human rights treaty bodies, the Special Rapporteur on Freedom of Religion and Belief and other UN and regional mechanisms have issued findings that reveal violence, hostility and discriminatory attitudes towards religious minorities, often fuelled by abusive discourse in the media, the Internet and social media. The situation has been further aggravated by the economic downturn, including in Europe. In addition to such hostility, the findings of UN and regional human rights mechanisms show that religious minorities in Europe and elsewhere face a range of other human rights challenges. These include such issues as undue obstacles in obtaining planning permissions for places of worship, problems in accessing cemeteries, restrictions on the use of religious dress and symbols as well as registration procedures that are particularly strict for minority religious associations. In his report submitted to the Human Rights Council in March 2012, the Special Rapporteur also highlighted human rights implications that having a State religion can have, stating that "while the mere existence of a State religion may not in itself be incompatible with human rights, this concept must neither be exploited at the expense of the rights of minorities nor lead to discrimination on the grounds of religion or belief".

These human rights questions are of direct relevance for the implementation of the Declaration on Minorities, which covers "national and ethnic, religious and linguistic" minorities. Although these four categories often overlap and in some cases coincide, in the minority rights context it is the national, ethnic and linguistic minorities that have often been the main focus of consideration when it comes to the implementation of international minority rights standards. At the same time, rights of persons belonging to religious minorities have been approached largely from the point of view of non-discrimination and freedom of religion. Problems affecting minority communities are indeed often linked to violations of the principle of non-discrimination, but there are also other relevant rights contained in the Declaration on Minorities. For example, the Declaration also addresses the right to participate in decision-making, and, as the Commentary on the Declaration, adopted by the former UN Working Group on Minorities in 2004, notes "religious minorities may also require different types or contexts of participation than ethnic or national minorities". Furthermore, the Independent Expert on Minority Issues has stressed that particularly relevant to the rights of religious minorities are the provisions in article 2 of the Declaration relating to the right to establish and maintain their own associations and to establish and maintain free and peaceful contacts with other members of their group, as well as contacts across frontiers.

Just as the minority rights guarantees in Article 27 of the Covenant on Civil and Political Rights carry important added normative value in respect of religious minorities that go beyond the

rights contained in Article 18 on freedom of thought, conscience and religion and 26 on non-discrimination, the Declaration on Minorities provides standards that are complementary to the principles contained in the UN Declaration on Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. In examining the situation of religious minorities with respect to international, regional and national mechanisms it is therefore important to explore both minority rights standards and standards devoted to freedom of religion or belief and non-discrimination.

The role of minority rights instruments and mechanisms in respect of religious minorities is increasingly recognised. For example, the Independent Expert on Minority Issues stated in her report to the Human Rights Council in March 2012 that she is particularly concerned about the situation of religious minorities in all regions, and that she will therefore address the rights and security of religious minorities as a thematic priority in 2012-2014. Such work by the Independent Expert and other key actors, including the important work pursued by the Special Rapporteur on Freedom of Religion and Belief, can be facilitated by increasingly active participation of persons belonging to religious minorities in the UN Forum on Minority Issues and other minority rights mechanisms as well as in the capacity building initiatives, such as the OHCHR minority rights fellowship programme. Invoking minority rights to address concerns of religious minority can yield benefits that go beyond human rights. As the High Commissioner on Human Rights has stated, the attacks on religious minorities are a “tragic reminder that the protection of minority rights is not only a human rights imperative but also a key element in preventing conflict.”

At the European level, the nexus between minority rights standards and the protection of religious minorities is evident, for example, in the Opinions of the Advisory Committee on the Council of Europe’s Framework Convention for the Protection of National Minorities, which include a range of references and concerns related to religious minorities in State Parties, and these are often echoed in the corresponding recommendations of the Committee of Ministers. The European Commission on Racial Intolerance (ECRI) is another Council of Europe mechanism that has frequently addressed religious minorities. Furthermore, although the European Convention on Human Rights does not include specific minority rights provisions, the European Court of Human Rights has issued a number of judgments concerning freedom of religion that concern religious minorities. The significance of these issues in Europe is reflected also in the work of OSCE; its Office for Democratic Institutions and Human Rights (ODIHR) has set up an Advisory Panel of Experts on Freedom of Religion or Belief to serve primarily as an advisory and consultative body and the OSCE High Commissioner on National Minorities has also of addressed issues related to religion within his mandate.

As regards the European Union context, the Treaty of Lisbon affirms that the rights of persons belonging to minorities are a value on which the Union is founded. The situation of religious minorities has been addressed in various reports and surveys published by the Fundamental Rights Agency, pointing out positive practices but also demonstrating, *inter alia*, the level of discrimination experienced by Muslims in many EU countries. In terms of normative protection, while there is no EU law devoted to minority rights *per se*, the European Commission has proposed a directive that would bolster legal protection against discrimination on the basis of religion and belief, which is currently prohibited by EU law only in the context of employment as these grounds are not covered by the EU Racial Equality Directive.

In addition to UN and regional efforts, the necessity of addressing concerns of religious minorities has been recognized by various national bodies, often at the prompting of NGOs and minority representatives. There are, for example, a number of examples of national human rights

institutions and specialized bodies invoking human rights provisions relating to non-discrimination and freedom of religion together with minority rights standards to address human rights concerns of religious minorities.

II Objectives and output

The expert seminar will bring together renowned experts on minority rights and freedom of religion or belief, representatives of International Organisations, Governments, National Human Rights Institutions, and civil society, including minority representatives, to examine the above developments and explore how minority rights, including the principles of the UN Declaration on Minorities, could be used more effectively to ensure protection of religious minorities. The participants will include representatives of OHCHR, the UN independent Expert on Minority Issues and the Special Rapporteur on Freedom of Religious and Belief, as well as representatives of key European organizations and mechanisms dealing with religious minorities.

In addition to reviewing the recent developments in the work of relevant human rights mechanisms, participants will make suggestions aimed to enhance collaboration between human rights mechanisms at the international, regional and national levels on these issues and to integrate protection of religious minorities more effectively into the work of such mechanisms. While the focus of the seminar will be on developments in Europe, the participants will also examine these issues from a global perspective, bringing in examples of both positive examples and challenges from other regions.

The substantive part of the Seminar will be structured around three sessions, which will address developments, including obstacles with respect to guaranteeing the rights of religious minorities through human rights mechanisms, respectively, at the 1) international 2) regional and 3) national levels. At the start of each session, an expert will present a critical overview pertinent to the topic of the session, a commentator will offer views on the same topic; thereafter, the floor will be open for discussion.

The outcome of the seminar will be a report reflecting the discussions and suggestions made at the seminar. The report, as well as expert papers prepared for the seminar, will be made available to the relevant human rights mechanisms, NHRIs, NGOs and others concerned. OHCHR will provide information on the seminar to the 2012 session of the Forum on Minority Issues as well as to the new UN Network on Racial Discrimination and Protection of Minorities, and OHCHR and other participating entities will consider follow-up activities in light of the suggestions made at the seminar.