



19th session of the Human Rights Council

Panel to commemorate the twentieth anniversary of the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

“Implementation of the Declaration: achievements, best practices and challenges”

CONCEPT NOTE

Date and venue

Tuesday 13 March 2012, 12:00-15:00, Room XX, Palais des Nations

Mandate and background

During its 18th session, the Human Rights Council adopted resolution 18/3 which noted that 2012 will mark the twentieth anniversary of the adoption of the Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities (Declaration). In this connection, the Council decided “to convene, at its nineteenth session, a panel discussion to commemorate the twentieth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, with a particular focus on its implementation as well as on achievements, best practices and challenges in this regard”.

As provided for in the resolution, the anniversary offers an important opportunity to examine how the Declaration has served the purpose of advancing the rights of persons belonging to national or ethnic, religious and linguistic minorities. On this

basis, the panel discussion will highlight positive initiatives and good practices, which have been shown to be successful for the protection and promotion of the rights of minorities, and which could be replicated. Although implementation of the Declaration has facilitated positive measures, a lot more needs to be done to improve its implementation in all countries and regions. Through the discussion, challenges to implementation will be identified and possible avenues to overcome these challenges shared.

Adopted by consensus in 1992 by the General Assembly, the Declaration remains the first UN human rights instrument devoted solely to minorities. In its preamble the Declaration provides that the promotion and protection of the rights of persons belonging to minorities contribute to the political and social stability of States in which they live. The Declaration is inspired by Article 27 of the International Covenant on Civil and Political Rights (ICCPR) contains both, rights pertaining to minorities and the obligations upon State with respect to minority groups. The Declaration establishes in Article 1 that, “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.”

Focus and objectives

The expert panellists representing different regions will take account of and reflect in their presentations the fact that a variety of country situations present a range of minority circumstances and challenges to minorities and States. Yet, the Declaration provides all States with guidance and inspiration regarding measures and approaches that can apply to a variety of situations and serve to improve the protection of the rights of minorities. The panel will contribute to increase awareness and understanding as to practices that work and challenges which must be tackled. In this regard, the panel will address the following areas that can be considered as the pillars on which the Declaration is built: (i) Protection of existence; (ii) Protection and promotion of identity; (iii) Equality and non- discrimination; and (iv) Right to effective participation.

Protection of existence

The Declaration stipulates that States are to protect the existence of minorities (art 1) in recognition that minorities are often at a risk of being the targets of violence. In situations of unrests and conflicts, for example, minorities may be at greater risk of being subjected to violence, displacement or expulsion, and other human rights violations which, in some cases may include or could lead to the ultimate crime of genocide. The importance attached to the protection of the existence of minorities is well established under the 1948 Genocide Convention which prohibits the destruction

of "a national, ethnical, racial or religious group, as such". The protection of existence of minorities requires accommodating diversity supported by appropriate frameworks, including those based on their effective participation in decision-making processes.

Protection and promotion of identity

The Declaration provides in Article 2 that "[p]ersons belonging to national or ethnic, religious and linguistic 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." Furthermore, States are also required to encourage conditions for the promotion of minorities' identity (art 1). Hence, conditions for expression of minorities' culture, customs, languages, traditions and institutions are to be created and maintained to affirm and protect the distinctive characteristics and collective identity of minorities while rejecting forced assimilation. In this regard the preservation of minority cultures and languages is paramount.

Equality and non- discrimination

The principles of non-discrimination and equality are fundamental in the enjoyment and exercise of all human rights for all. The Declaration elaborates on the principle of non-discrimination with regard to minorities (art.4) and provides that "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". Many violations of the rights of minorities have a basis in discrimination resulting in exclusion on the grounds inter alia of ethnicity, religion and language.

Right to effective participation

The exercise of the right to effective participation is a key component of the protection of minority rights and it helps to ensure the fulfilment of many other fundamental human rights. Effective participation particularly in decisions which have an impact on minorities, is a precondition for the full and equal enjoyment of human rights. Removing barriers to minorities' access to effective participation in economic, social and cultural life is crucial and is usually linked to lack of access to education resulting in lack of formal qualifications.

Speakers and panelists

Welcome address: HE Christian Strohal, Permanent Representative of Austria, vice-President of the Human Rights Council

Opening statement: Ms. Kyung-wha Kang OHCHR Deputy High Commissioner (TBC)

Moderation: Mr. Mark Lattimer (United Kingdom) Director of Minority Rights Group International

Panel:

Ms. Rita Izsák (Hungary), United Nations Independent Expert on minority issues

Ms. Soyata Maiga (Mali), Member of the African Commission on Human and Peoples' Rights and Special Rapporteur on the Rights of Women in Africa

Mr. Joshua Castellino (India), Professor of Law – Head of the Law Department, Middlesex University

Mr. Pastor Elias Murillo Martinez (Colombia), Member of the Committee on the Elimination of Racial Discrimination

Format

The panel will adopt an innovative and interactive format, with no presentation other than the opening address. The moderator will set the framework of the discussion. He will introduce each panellist and begin the discussion. There will be two sequences of about 30 minutes each during which each of the four panellists will address the questions posed. During the first sequence, the moderator will ask a common question to each of the panellists. This question will be broad and will focus on the individual perspective of each panellist as to the implementation of the Declaration.

Each panelist will be allowed 5 minutes to share his/her own perspective in addressing the question posed. The comments from the panellists will be followed by 45 minutes of interaction during which the floor will be open for interventions, comments and questions from Member States and Observers, NGOs and others to which the panellists will reply.

During the second sequence, the moderator will address a specific question to each panelist. This approach will allow targeting the discussions on specific issues related to the implementation of the Declaration: achievements and challenges. Once again, each panellist will be offered 5 minutes for replies. The comments from the panellists

will be followed by another 45 minutes of interaction, whereby the floor will be open for comments and questions from Member States and Observers, to which the panellists will reply.

The Member States and Observers are encouraged to prepare and formulate their statements in terms of questions and sharing of experience in order to stimulate a constructive debate. The interactive discussion will be followed by concluding remarks by the moderator.

Outcome

The discussion will collect ideas and suggestions on practical ways to apply practices that have been proven to work in the protection and promotion of the rights of persons belonging to national or ethnic, religious and linguistic minorities. By articulating challenges in the implementation of the Declaration, the discussion will also inform on possible avenues which could be undertaken to integrate more effectively the rights of minorities in the work of the Human Rights Council and its mechanisms.