



SIDE EVENT OF THE 8th FORUM ON MINORITY ISSUES

Minority Rights Protection in the UN System:

Looking back and looking ahead – A Forum for the Future

25 November 2015

13 :00 – 15 :00

United Nations Office at Geneva (Palais des Nations)

Building E, Room XXIII (1st floor)

8-14 Avenue de la Paix, Geneva, Switzerland

Concept note

I. Introduction

The former Working Group on Minorities was established 20 years ago, in 1995. It became a subsidiary organ of the Sub-Commission on the Promotion and Protection of Human Rights. Between 1995 and 2006, the Working Group held 12 sessions and aimed at being a forum for dialogue. It facilitated greater awareness of the differing perspectives on minority issues and sought better understanding and mutual respect among minorities and between minorities and Governments. It also acted as a mechanism for hearing suggestions and making recommendations for the peaceful and constructive solution to problems involving minorities, through the promotion and protection of their rights.

In 2007, the Working Group was replaced by the Forum on Minority Issues, established by Human Rights Council resolution 6/15, to provide a platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious and linguistic minorities, as well as thematic contributions and expertise to the work of the Special Rapporteur on minority issues. The Forum identifies and analyzes best practices, challenges, opportunities and initiatives for the further implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

The Forum, however, does not stand alone, and other UN mechanisms and bodies also play pivotal roles in promoting and protecting minority rights, and seeking to improve the situation of minority groups worldwide. These including the mandate of Special Rapporteur on minority issues, as well as the Human Rights Council's Universal Periodic Review, Treaty Bodies, and the UN Network on Racial Discrimination and Protection of Minorities (See Annex below for more information).

However, despite dedicated UN mechanisms, much remains to be done on the protection of minorities. Minorities in all regions continue experiencing discrimination, exclusion or violence owing to such factors as their numerical size; their non-dominant social, economic and political position; their distinct ethnicity, culture, religion or language; social stigma; and the suspicion and prejudice with which they are often viewed by the majority.

The Special Rapporteur on minority issues has therefore decided to convene a side event, at the margins of the 8th Forum on Minority Issues, as an opportunity for experts, governments, civil society, minorities and other stakeholders to discuss the progress made and challenges remaining regarding the promotion and protection of minority rights within the United Nations. In particular, participants will be asked to discuss how the functioning, structure and practice of the Forum on Minority Issues, can be improved to better promote and protect the rights of minorities.

II. Objectives of the Side Event

The aim of this side event is:

- To assess the progress made and challenges remaining in the UN system in addressing the situation of minorities since the creation of the Working Group on Minorities.
- To consider how to improve the structure and working methods of the Forum on Minority Issues to ensure its continued effective contribution to the promotion and protection of minority rights.
- To discuss how to better secure systematic attention to minority rights within the UN system.
- To share views on how to give greater visibility to and ensure more effective implementation of the recommendations of the Forum.
- To discuss how UN mechanisms, in particular the Forum, can remain useful, relevant and accessible by minorities on the ground.

III. Panellists

The Side Event will bring together various experts with long standing expertise in minority rights, and who have personally contributed to the development of minority rights mechanisms at the United Nations:

- Mr Gerhard Doujak, Head of the Human Rights Department at the Austrian Federal Ministry for Europe, Integration and Foreign Affairs
- Mr. Asbjørn Eide – former Chair and member of the UN Sub-Commission on the Promotion and Protection of Human Rights
- Mr. Antti Korkeakivi – Chief, Indigenous Peoples and Minorities Section, Office of the High Commissioner for Human Rights
- Mr. Mark Lattimer – Executive Director of Minority Rights Groups International
- Ms Kamaleswary Letchumanan, OHCHR Minority Fellow
- Ms. Gay McDougall – Former Independent Expert on minority issues, and member-elect of the United Nations Committee on the Elimination of Racial Discrimination (CERD)

Moderator: Ms. Rita Izsák – Special Rapporteur on minority issues

IV. Format

The event is public, and it is hoped that it will be attended by UN Member States, UN bodies and specialized agencies, regional organizations, minorities, minority rights experts, civil society, academics and other relevant stakeholders. After each panelist delivers her or his remarks and recommendations, the floor will be opened for a debate. Time will be allotted for the panelists to make concluding remarks.

V. Venue

The side event will take place **in room XXIII** in Palais des Nations, from 13:00 to 15:00. Interpretation in English, French and Spanish will be provided.

Background: Minority rights in international law

Minorities have been exposed to many forms of oppression over the centuries, and questions regarding their treatment have been a constant point of tension in international law. However, the development of a specific international framework for the protection of the rights of minorities was not immediately forthcoming. Notably, specific protection and promotion of the rights of minorities was not included in the Charter of the United Nations nor in the Universal Declaration of Human Rights (UDHR). It was argued that the absence or explicit recognition of minority rights in the UN foundational instruments did not reflect a failure to protect minorities as their concerns were considered to be largely included under the broader framework of universal rights, including the Convention on the Prevention and Punishment of the Crime of Genocide (1948). However, UN Member States were nonetheless keen to affirm their commitment to minority rights, and passed a resolution on the same day as the adoption of the UDHR which noted that “the United Nations cannot remain indifferent to the fate of minorities”.¹

To this end, in 1947 the United Nations established Sub-Commission on Prevention of Discrimination and Protection of Minorities. The mechanism, which focused on the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities, was key in focusing international attention on minority rights, and also led to other important developments on minority rights, inclusion of Article 27 on the rights of persons belonging to minorities in the International Covenant on Civil and Political Rights, and the issuance by the Human Rights Committee of General Comment 23 on the Rights of Minorities

Furthermore, other UN instruments and mechanisms have also played an important role in defending minority rights, including the International Covenant on the Elimination of Racial Discrimination (ICERD). ICERD, while not making explicit

¹ General Assembly resolution 217C(III), 10 December 1948 <http://www.un-documents.net/a3r217c.htm>

reference to the term “minority”, through its focus on discrimination has brought dedicated attention to the specific challenges faced by minorities worldwide.

Finally, in 1992, the United Nations adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Minorities Declaration). The adoption of the Declaration was an important step forward in developing a more coherent international framework on minority rights. Using a four pillar framework for minority protection, the Declaration addresses individual rights with collective dimensions, sets out the fundamental standards for the protection of the existence and identity of minorities, elaborates on the principles of equality and non-discrimination, and makes clear the right of persons belonging to minorities to participate not only in cultural, religious, social, economic and public life, but also in decisions affecting them.

a. The Former Working Group on Minorities

While each of these mechanisms played an important role in better developing the international normative framework around minority rights, this rather piecemeal approach led to a patchwork of regulation and lack of understanding around minority rights. Thus, in 1995, the Working Group on Minorities was established.² A subsidiary organ of the Sub-Commission on the Promotion and Protection of Human Rights, it was the first dedicated United Nations forum to focus exclusively on Minority Rights. Between 1995 and 2006, the Working Group held 12 sessions and provided a key opportunity for dialogue about minority issues at the global level.

The Working Group on Minorities played a key role in ensuring that the Sub-Commission and other human rights bodies integrated a focus on minority issues into their work. It also was instrumental in developing the conceptual framework of the rights of persons belonging to minorities, and indeed, one of its key objectives was to review the promotion and practical realization of the Declaration.

The Working Group also published numerous papers on topics highly relevant for minority rights, such as recognition of the existence of minorities; minority

² Economic and Social Council resolution 1995/31 of 25 July 1995

participation in public life, including through autonomy and integrative measures; inclusive development; multicultural and intercultural education; and conflict prevention. This research has largely informed the development of customary international law and soft law standards governing minority rights today.

b. Forum on Minority Issues

In 2007, the Working Group was replaced by the Forum on Minority Issues, established by Human Rights Council resolution 6/15.

Over the years since its establishment in 2007, the Forum on Minority Issues body has conducted much essential work to promote minority rights as contained in the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

A 2-day event which brings together hundreds of participants from every region, including representatives of States, regional and inter-governmental organisations, United Nations bodies, civil society organisations. Its essence is the opportunity to engage the widest range of participants capable of making constructive contributions to the important issues at hand. Crucial to the Forum is the full participation of minorities themselves, ensuring that their voices and opinions are reflected in the Forum's working practice and outcome document, the final recommendations. To-date the Forum has addressed one thematic issue for detailed consideration during each of its annual meetings. Over the course of the first years of the Forum, working practices have been developed based on the provision of a set of draft recommendations. A number of identified minority rights experts are requested to introduce agenda items followed by interventions from all participants, many of whom are also minorities. All are encouraged to present their views and experiences regarding challenges, but also to provide essential information about good practices and positive initiatives in the field of minority issues and minority/majority relations. The final recommendations are therefore shaped from the diverse experiences of minorities, governments and others. They are based on international human rights norms and offer action-oriented solutions of practical value to all stakeholders and that can be applied to a variety of national or minority

specific contexts. The final recommendations are presented by the Special Rapporteur to the March session of the Human Rights Council.

c. Other complementary mechanisms

The work of the Special Procedures mandate-holders, issues are mandated to report, advise and provide recommendations on human rights issues from a thematic and country-specific perspective. Their substantive reports frequently address specific minority concerns both on thematic topics and more specifically in their country mission reports, and offer a timely and reliable source of information for the Human Rights Council and a solid basis for protecting minorities and effectively improving the situations of minority groups worldwide.

Minority rights issues are also among concerns frequently raised in the work of the Human Rights Council's Universal Periodic Review, representing the 9th most discussed topic at the 1st cycle of the Human Rights Council's UPR process.³

Minorities are also a topic of ongoing concern for Human Rights Treaty Bodies in their work. In particular, Treaty Bodies responsible for monitoring the implementation of international human rights conventions, also regularly review State Parties' implementation of those rights vis-à-vis the situation of minorities.

This is achieved, inter alia, by the issuance of minority specific concluding observations in their periodic review of States Parties and through the publication of "general comments" or "general recommendations". In particular, CERD has issued a number of general recommendations relevant to minority rights, as has the Human Rights Committee, which for example, in its general comments 23 interpreted Article 27 of the ICCPR as establishing that individuals belonging to minorities should not be denied the right, in community with members of their group, to enjoy their own culture, to practice their religion and speak their language.

More recently, the Secretary General established in 2012 the United Nations Network on Racial Discrimination and Protection of Minorities, which aims to foster cooperation and to enhance the impact and coordination of the work of the UN

³Minority Issues in the First Cycle of the Universal Periodic Review (UPR) An analysis by the UN Special Rapporteur on minority issues, Rita Izsák, available at <http://www.ohchr.org/Documents/Issues/IEMinorities/MinoritiesIssues1stcycleUPRProcess.pdf>

system in the field of racial discrimination and protection of minorities, both at headquarters and in the field. The Network brings together over 20 UN entities, ranging from those dealing with development and humanitarian issues to entities focusing on peace and security issues.

The Office of the United Nations High Commissioner for Human Rights continue to significantly invest on training for government officials, for members of security and police forces, and for civil society groups, including through the Minorities Fellowship Programme, which has proved to be an excellent tool for building capacity among minority representatives and minority organizations on the essence and working methods of the various human rights mechanisms and instruments.