

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 and 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.



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/AC.5/2005/2
4 April 2005

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and
Protection of Human Rights
Fifty-seventh session
Working Group on Minorities
Eleventh session
30 May-3 June 2005

**COMMENTARY OF THE WORKING GROUP ON MINORITIES TO
THE UNITED NATIONS DECLARATION ON THE RIGHTS OF
PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS
AND LINGUISTIC MINORITIES**

Note by the Secretary-General

1. The Working Group on Minorities, at its tenth session, adopted the commentary on the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, originally drawn up by its former Chairperson, Mr. Asbjørn Eide, and contained in document E/CN.4/AC.5/2001/2, as a commentary of the Working Group as a whole.
2. The text of the commentary of the Working Group as a whole is attached in the form of a pamphlet for reproduction in the United Nations Guide for Minorities.

PART I

FINAL TEXT OF THE COMMENTARY TO THE UNITED NATIONS DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES OF THE WORKING GROUP ON MINORITIES

I. INTRODUCTION

1. In 1992, in its resolution 47/135, the United Nations General Assembly proclaimed the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Assembly requested that intensified efforts be made to disseminate information on the Declaration and promote understanding thereof.

2. This commentary has been prepared in the context of the Working Group on Minorities of the Sub-Commission on the Promotion and Protection of Human Rights. It is intended to serve as a guide to the understanding and application of the Declaration. The first draft, prepared by **Asbjørn Eide as Chairperson-Rapporteur**, was submitted to the Working Group on Minorities for discussion in 1998¹ and was subsequently circulated to Governments, intergovernmental and non-governmental organizations and individual experts for comments. A compilation of those comments was submitted to the Working Group at its fifth session in 1999.² Additional comments were made during that session and at the sixth session in 2000.³ The Working Group requested Mr. Eide on that basis to finalize the Commentary and to ensure its publication in the planned United Nations manual on minorities. The present final text therefore draws on written work or oral contributions by many experts, Governments and international and non-governmental organizations, and thus takes into account a broad body of opinion. **The Working Group on Minorities, at its tenth session adopted the Commentary on the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities originally drawn up by its former Chairperson, Asbjørn Eide, and contained in document E/CN.4/AC.5/2001/2, as a Commentary of the Working Group as a whole.**

II. PURPOSES OF THE DECLARATION: ADVANCING HUMAN RIGHTS AND THE PRINCIPLES OF THE CHARTER OF THE UNITED NATIONS

3. The purposes of the Declaration, as set out in the General Assembly resolution 47/135 and the preamble to the Declaration, is to promote more effective implementation of the human rights of persons belonging to minorities and more generally to contribute to the realization of the principles of the Charter of the United Nations and of the human rights instruments adopted at the universal or regional level. The Declaration on Minorities is inspired by article 27 of the International Covenant on Civil and Political Rights. The General Assembly holds that the promotion and protection of the rights of minorities contribute to the political and social stability of the States in which minorities live and contribute to the strengthening of friendship and cooperation among peoples and States.

4. The Declaration builds on and adds to the rights contained in the International Bill of Human Rights and other human rights instruments by strengthening and clarifying those rights which make it possible for persons belonging to minorities to preserve and develop their group identity. The human rights set out in the Universal Declaration of Human Rights must at all times be respected in the process, including the principle of non-discrimination between individuals. The State is obliged to respect and ensure to every person within its territory and subject to its jurisdiction, without discrimination on any ground, including race, ethnicity, religion or national origin, the rights contained in the instruments to which that State is a party.

5. It is in the light of these purposes and principles that the articles of the Declaration on Minorities must be interpreted.

III. INTERPRETATION OF AND COMMENTS ON THE TITLE AND THE INDIVIDUAL ARTICLES

THE TITLE AND SCOPE OF THE DECLARATION

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

6. The beneficiaries of the rights under article 27 of the International Covenant on Civil and Political Rights, which has inspired the Declaration, are persons belonging to “ethnic, religious or linguistic minorities”. The Declaration on Minorities adds the term “national minorities”. That addition does not extend the overall scope of application beyond the groups already covered by article 27. There is hardly any national minority, however defined, that is not also an ethnic or linguistic minority. A relevant question, however, would be whether the title indicates that the Declaration covers four different categories of minorities, whose rights have somewhat different content and strength. Persons belonging to groups defined solely as religious minorities might be held to have only those special minority rights which relate to the profession and practice of their religion. Persons belonging to groups solely defined as linguistic minorities might similarly be held to have only those special minority rights which are related to education and use of their language. Persons who belong to groups defined as ethnic would have more extensive rights relating to the preservation and development of other aspects of their culture also, since ethnicity is generally defined by a broad conception of culture, including a way of life. The category of national minority would then have still stronger rights relating not only to their culture but to the preservation and development of their national identity.

7. The Declaration does not, in its substantive provisions, make such distinctions. This does not exclude the possibility that the needs of the different categories of minorities could be taken into account in the interpretation and application of the various provisions.

8. Regional European instruments on minority rights use only the concept “national minorities” and do not refer to “ethnic, religious or linguistic minorities”. The most important among them are the instruments and documents of the Council of Europe⁴ and the Organization for Security and Cooperation in Europe.⁵ When applying those instruments it is important to

define “national minority”, but the same problem does not arise for the United Nations Declaration on Minorities: even if a group is held not to constitute a national minority, it can still be an ethnic, religious or linguistic minority and therefore be covered by the Declaration.

9. This can be important in several respects. In relation to the European regional instruments, some States argue that “national minorities” only comprise groups composed of citizens of the State. Even if that is accepted (at present it is a matter of some controversy), it would not apply to the United Nations Declaration on Minorities because it has a much wider scope than “national minorities”. As the Declaration is inspired by article 27 of the International Covenant on Civil and Political Rights, it may be assumed that the Declaration has at least as wide a scope as that article. In conformity with article 2 of the Covenant, States parties are under an obligation to respect and ensure the application of article 27 to everyone within its territory and under its jurisdiction, whether the person - or group of persons - are citizens of the country or not. This is also the view expressed by the Human Rights Committee in paragraphs 5.1 and 5.2 of its general comment No. 23 (fiftieth session, 1994). Persons who are not (yet) citizens of the country in which they reside can form part of or belong to a minority in that country.

10. 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. Those who live compactly together in a part of the State territory may be entitled to rights regarding the use of language, and street and place names which are different from those who are dispersed, and may in some circumstances be entitled to some kind of autonomy. Those who have been established for a long time on the territory may have stronger rights than those who have recently arrived.

11. 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”.

12. The word “minority” can sometimes be misleading in itself. Outside Europe, and particularly in Africa, countries are often composed of a large number of groups, none of which make up a majority.

13. The relevant factors differ significantly between States. What is required is to ensure appropriate rights for members of all groups and to develop good governance in heterogeneous societies. By good governance is here understood legal, administrative and territorial arrangements which allow for peaceful and constructive group accommodation based on equality in dignity and rights for all and which allows for the necessary pluralism to enable the persons belonging to the different groups to preserve and develop their identity.

14. The Declaration sets out rights of persons belonging to minorities mainly in article 2 and spells out the duties of the States in which they exist in articles 1, 4 and 5. While the rights are consistently set out as rights of individuals, the duties of States are in part formulated as duties

towards minorities as groups. This is most clearly expressed in article 1 (see below). While only individuals can claim the rights, the State cannot fully implement them without ensuring adequate conditions for the existence and identity of the group as a whole.

15. The rights of persons belonging to minorities differ from the rights of peoples to self-determination. The rights of persons belonging to minorities are individual rights, even if they in most cases can only be enjoyed in community with others. The rights of peoples, on the other hand, are collective rights. While the right of peoples to self-determination is well established under international law, in particular by common article 1 of the two International Covenants on Human Rights, it does not apply to persons belonging to minorities. This does not exclude the possibility that persons belonging to an ethnic or national group may in some contexts legitimately make claims based on minority rights and, in another context, when acting as a group, can make claims based on the right of a people to self-determination.

16. Within the United Nations and also within the Organization of American States, a distinction is drawn between the rights of persons belonging to minorities and those of indigenous peoples. The latter have particular concerns which are not properly addressed in the Declaration on Minorities. The main instrument at the global level relating to indigenous peoples is the Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169) of the International Labour Organization (ILO), which has been ratified by only a small number of States. The draft declaration on the rights of indigenous peoples, adopted by the Working Group on Indigenous Populations and transmitted by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities in 1993 to the Commission on Human Rights, is still under consideration by the Commission.

17. Persons belonging to indigenous peoples are of course fully entitled, if they so wish, to claim the rights contained in the instruments on minorities. This has repeatedly been done under article 27 of the International Covenant on Civil and Political Rights. Persons belonging to indigenous peoples have made several submissions under the Optional Protocol to that Covenant.

18. That protocol does not generally make it possible to claim the group-oriented rights sought by indigenous peoples, but some modification of that point follows from general comment No. 23 of the Human Rights Committee (fiftieth session, 1994). The Committee noted that, especially in the case of indigenous peoples, the preservation of their use of land resources can become an essential element in the right of persons belonging to such minorities to exercise their cultural rights (para. 7). Since the indigenous peoples very often have collective rights to land, individual members of the group may be in a position to make claims not only for themselves, but for the indigenous group as a whole.

19. Some see a link between the right of persons belonging to minorities to effective political participation and the right of peoples to self-determination. The issue of effective participation is addressed below in the comments on articles 2.2 and 2.3. If participation is denied to a minority and its members, this might in some cases give rise to a legitimate claim to self-determination. If the group claims a right to self-determination and challenges the territorial integrity of the State, it would have to claim to be a people, and that claim would have to be based on article 1 common to the Covenants and would therefore fall outside the Declaration on Minorities. This

follows also from article 8.4 of the Declaration (see below). The same would apply in other contexts where the collective right to self-determination is claimed. The Declaration neither limits nor extends the rights to self-determination that peoples have under other parts of international law.⁶

20. While the Declaration does not provide group rights to self-determination, the duties of the State to protect the identity of minorities and to ensure their effective participation might in some cases be best implemented by arrangements for autonomy in regard to religious, linguistic or broader cultural matters. Good practices of that kind can be found in many States. The autonomy can be territorial, cultural and local, and can be more or less extensive. Such autonomy can be organized and managed by associations set up by persons belonging to minorities in accordance with article 2.4. But the Declaration does not make it a requirement for States to establish such autonomy. In some cases, positive measures of integration (but not assimilation) can best serve the protection of minorities.

ARTICLE 1

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.

21. The relationship between the State and its minorities has in the past taken five different forms: elimination, assimilation, toleration, protection and promotion. Under present international law, elimination is clearly illegal. The Declaration is based on the consideration that forced assimilation is unacceptable. While a degree of integration is required in every national society in order to make it possible for the State to respect and ensure human rights to every person within its territory without discrimination, the protection of minorities is intended to ensure that integration does not become unwanted assimilation or undermine the group identity of persons living on the territory of the State.

22. Integration differs from assimilation in that while it develops and maintains a common domain where equal treatment and a common rule of law prevail, it also allows for pluralism. The areas of pluralism covered by the Declaration are culture, language and religion.

23. Minority protection is based on four requirements: protection of the existence, non-exclusion, non-discrimination and non-assimilation of the groups concerned.

24. The protection of the existence of minorities includes their physical existence, their continued existence on the territories on which they live and their continued access to the material resources required to continue their existence on those territories. The minorities shall neither be physically excluded from the territory nor be excluded from access to the resources required for their livelihood. The right to existence in its physical sense is sustained by the Convention on the Prevention and Punishment of the Crime of Genocide, which codified customary law in 1948. Forced population transfers intended to move persons belonging to minorities away from the territory on which they live, or with that effect, would constitute

serious breaches of contemporary international standards, including the Rome Statute of the International Criminal Court. But protection of their existence goes beyond the duty not to destroy or deliberately weaken minority groups. It also requires respect for and protection of their religious and cultural heritage, essential to their group identity, including buildings and sites such as libraries, churches, mosques, temples and synagogues.

25. The second requirement is that minorities shall not be excluded from the national society. Apartheid was the extreme version of exclusion of different groups from equal participation in the national society as a whole. The Declaration on Minorities repeatedly underlines the rights of all groups, small as well as large, to participate effectively in society (arts. 2.2 and 2.3).

26. The third requirement is non-discrimination, which is a general principle of human rights law and elaborated by, inter alia, the International Convention on the Elimination of All Forms of Racial Discrimination, which also covers discrimination on ethnic grounds. The Declaration on Minorities elaborates the principle of non-discrimination in its provision that the exercise of their rights as persons belonging to minorities shall not justify any discrimination in any other field, and that no disadvantage shall result from the exercise or non-exercise of these rights (art. 3).

27. The fourth requirement is non-assimilation and its corollary, which is to protect and promote conditions for the group identity of minorities. Many recent international instruments use the term “identity”, which expresses a clear trend towards the protection and promotion of cultural diversity, both internationally and internally within States. Relevant provisions are articles 29 and 30 of the Convention on the Rights of the Child, article 31 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, article 2.2 (b) of ILO Convention No. 169, which refers to respect for the social and cultural identity, customs and traditions and institutions of indigenous peoples, as well as provisions of regional instruments such as those of the Organization on Security and Cooperation in Europe, including its 1990 Copenhagen Conference on the Human Dimension and its 1991 Geneva Meeting of Experts on National Minorities. Another recent instrument in the same direction is the European Framework Convention for the Protection of National Minorities.

28. Minority group identity requires not only tolerance but a positive attitude towards cultural pluralism on the part of the State and the larger society. Not only acceptance but also respect for the distinctive characteristics and contribution of minorities to the life of the national society as a whole are required. Protection of their identity means not only that the State should abstain from policies which have the purpose or effect of assimilating minorities into the dominant culture, but also that it should protect them against activities by third parties which have an assimilatory effect. The language and educational policies of the State concerned are crucial in this regard. Denying minorities the possibility of learning their own language and of receiving instruction in their own language, or excluding from their education the transmission of knowledge about their own culture, history, tradition and language, would be a violation of the obligation to protect their identity.

29. Promotion of the identity of minorities requires special measures to facilitate the maintenance, reproduction and further development of their culture. Cultures are not static; minorities should be given the opportunity to develop their own culture in the context of an ongoing process. That process should be an interaction between the persons belonging to the minority themselves, between the minority and the State, and between the minority and the wider national society. The measures required to achieve this purpose are set out in greater detail in article 4 of the Declaration.

1.2 States shall adopt appropriate legislative and other measures to achieve those ends.

30. Article 1.2 requires “appropriate legislative and other measures”. Legislation is needed and it must be complemented by other measures in order to ensure that article 1 can be effectively implemented. Both process and content are important here. In terms of process, it is essential that the State consult the minorities on what would constitute appropriate measures. This follows also from article 2.3 of the Declaration. Different minorities may have different needs that must be taken into account. Any differences in policy, however, must be based on objective and reasonable grounds in order to avoid discrimination.

31. “Other measures” include, but are not limited to, judicial, administrative, promotional and educational measures.

32. In general terms, the content of the measures which have to be adopted are set out in the other provisions of the Declaration, particularly articles 2 and 4, which will be discussed below. One set of measures stems directly from article 1.1: States must adopt laws protecting against acts or incitement to acts which physically threaten the existence of groups or threaten their identity. This obligation also follows from the International Convention on the Elimination of All Forms of Racial Discrimination. Under article 4 of that Convention, States are required to adopt legislative measures intended to protect groups against hatred and violence on racial or ethnic grounds. A comparable obligation is contained in article 20 of the International Covenant on Civil and Political Rights.

ARTICLE 2

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.

33. Article 27 of the International Covenant on Civil and Political Rights has almost the same language, but the Declaration is more explicit in requiring positive action. Article 27 of the Covenant requires that persons belonging to minorities “shall not be denied the right to ...”, whereas article 2 of the Declaration uses the positive expression “have the right to ...”. Article 27 has been interpreted by the Human Rights Committee as requiring more than mere passive non-interference.⁷ The Declaration on Minorities makes it clear that

these rights often require action, including protective measures and encouragement of conditions for the promotion of their identity (art. 1) and specified, active measures by the State (art. 4).

34. The words “freely and without interference or any form of discrimination” at the end of article 2.1 show that it is not enough for the State to abstain from interference or discrimination. It must also ensure that individuals and organizations of the larger society do not interfere or discriminate.

2.2 Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.

35. The right to participate in all aspects of the life of the larger national society is essential, both in order for persons belonging to minorities to promote their interests and values and to create an integrated but pluralist society based on tolerance and dialogue. By their participation in all forms of public life in their country, they are able both to shape their own destinies and to contribute to political change in the larger society.

36. The words “public life” must be understood in the same broad sense as in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, though much is covered already by the preceding words “cultural, religious, social and economic”. Included in “public life” are, among other rights, rights relating to election and to being elected, the holding of public office, and other political and administrative domains.

37. Participation can be ensured in many ways, including the use of minority associations (see also article 2.4), membership in other associations, and through their free contacts both inside the State and across borders (see article 2.5).

2.3 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.

38. While article 2.2 deals generally with the right to participation in all aspects of the public life of a society, article 2.3 deals specifically with the right of persons belonging to minorities to effective participation “in decisions ... concerning the minority to which they belong or the regions in which they live”. As such decisions have a particular impact on persons belonging to minorities, the emphasis on effective participation is here of particular importance. Representatives of persons belonging to minorities should be involved beginning at the initial stages of decision-making. Experience has shown that it is of little use to involve them only at the final stages where there is very little room for compromise. Minorities should be involved at the local, national and international levels in the formulation, adoption, implementation and monitoring of standards and policies affecting them.

39. In 1991, the Conference on Security and Cooperation in Europe held a Meeting of Experts on National Minorities in Geneva. The States there assembled noted approaches used with positive results in some of the participating States. These included advisory and

decision-making bodies - in particular with regard to education, culture and religion - on which minorities were represented. Also mentioned were assemblies for national minority affairs, local and autonomous administration, as well as autonomy on a territorial basis, including the existence of consultative, legislative and executive bodies chosen through free and periodic elections. Reference was further made to forms of self-administration by a national minority of aspects concerning its identity in situations where autonomy on a territorial basis did not apply, and decentralized or local forms of government.⁸

40. In early May 1999, a group of independent experts met in Lund, Sweden, to draw up a set of recommendations on the effective participation of national minorities in public life. The recommendations are built upon fundamental principles and rules of international law, such as respect for human dignity, equal rights and non-discrimination, as they affect the rights of national minorities to participate in public life and to enjoy other political rights.⁹ At its fifth session, at the end of May 1999, the Working Group on Minorities adopted a set of recommendations on the same topic.¹⁰

41. The following commentary draws extensively on these recommendations. The purpose is not to set out only the minimum rights under article 2.3 of persons belonging to minorities, but also to provide a list of good practices which may be of use to Governments and minorities in finding appropriate solutions to issues confronting them.

42. Effective participation provides channels for consultation between and among minorities and Governments. It can serve as a means of dispute resolution and sustain diversity as a condition for the dynamic stability of a society. The number of persons belonging to minorities is by definition too small for them to determine the outcome of decisions in majoritarian democracy. They must as a minimum have the right to have their opinions heard and fully taken into account before decisions which concern them are adopted. A wide range of constitutional and political measures are used around the world to provide access for minorities to decision-making.

43. The variety in the composition, needs and aspirations of different types of minority groups requires identification and adoption of the most appropriate ways to create conditions for effective participation in each case. The mechanisms chosen have to take into account whether the persons belonging to the minority in question live dispersed or in compactly settled groups, whether the minority is small or large, or an old or a new minority. Religious minorities may also require different types or contexts of participation than ethnic or national minorities. It should be noted, however, that in some cases religion and ethnicity coincide.

44. Effective participation requires representation in legislative, administrative and advisory bodies and more generally in public life. Persons belonging to minorities, like all others, are entitled to assemble and to form their associations and thereby to aggregate their interests and values to make the greatest possible impact on national and regional decision-making. They are entitled not only to set up and make use of ethnic, cultural and religious associations and societies (see commentary to article 2.4 below), but also to establish political parties, should they

so wish. In a well-integrated society, however, many persons belonging to minorities often prefer to be members of or vote for parties which are not organized on ethnic lines but are sensitive to the concerns of the minorities.

45. Where minorities are concentrated territorially, single-member districts may provide sufficient minority representation. Proportional representation systems, where a political party's share in the national vote is reflected in its share of the legislative seats, may assist in the representation of minorities. Some forms of preference voting, where voters rank candidates in order of choice, may also facilitate minority representation and promote inter-communal cooperation.

46. Decentralization of powers based on the principle of subsidiarity, whether called self-government or devolved power, and whether the arrangements are symmetrical or asymmetrical, would increase the chances of minorities to participate in the exercise of authority over matters affecting themselves and the entire society in which they live.

47. Public institutions should not, however, be based on ethnic or religious criteria. Governments at local, regional and national levels should recognize the role of multiple identities in contributing to open communities and in establishing useful distinctions between public institutional structures and cultural identities.

48. States should also establish advisory or consultative bodies involving minorities within appropriate institutional frameworks. Such bodies or round tables should be attributed political weight and effectively consulted on issues affecting the minority population.

49. There should be equal access to public sector employment across the various ethnic, linguistic and religious communities.

50. Citizenship remains an important condition for full and effective participation. Barriers to the acquisition of citizenship for members of minorities should be reduced. Forms of participation by resident non-citizens should also be developed, including local voting rights after a certain period of residence and inclusion of elected non-citizen observers in municipal, regional and national legislative and decision-making assemblies.

2.4 Persons belonging to minorities have the right to establish and maintain their own associations.

51. Persons belonging to minorities are entitled, in the same way as other members of society, to set up any association they may want,¹¹ including educational or religious institutions, but their right to association is not limited to concerns related to their cultural, linguistic or religious identity. The right to associate of persons belonging to minorities extends both to national and to international associations. Their right to form or join associations can be limited only by law and the limitations can only be those which apply to associations of majorities: limitations must be those necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of rights and freedoms.

2.5 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.

52. The right to contacts has three facets, permitting intra-minority contacts, inter-minority contacts, and transfrontier contacts. The right to intra-minority contacts is inherent in the right of association. Inter-minority contacts make it possible for persons belonging to minorities to share experience and information and to develop a common minority platform within the State. The right to transfrontier contacts constitutes the major innovation of the Declaration, and serves in part to overcome some of the negative consequences of the often unavoidable division of ethnic groups by international frontiers. Such contacts must be “free”, but also “peaceful”. The latter limitation has two aspects: contacts must not involve the use of violent means or preparation of the use of such means; and the aims must be in conformity with the Declaration and generally with the purposes and principles of the Charter of the United Nations, as set out also in article 8.4 of the Declaration.

ARTICLE 3

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.

53. The main point here is that persons can exercise their rights both individually and collectively, the most important aspect being the collective exercise of their rights, be it through associations, cultural manifestations or educational institutions, or in any other way. That they can exercise their rights in community with other members of the group applies not only to the rights contained in the Declaration, but any human right. They shall not be subject to any discrimination as a consequence of exercising their rights. This principle is important, because 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. Article 3.1 makes it clear that they shall not be subjected to discrimination for manifesting their group identity.

3.2 No disadvantage shall result for any person belonging to a minority as a consequence of the exercise or non-exercise of the rights set forth in the present Declaration.

54. While article 3.1 provides that persons belonging to minorities shall not be subjected to discrimination for exercising, individually or collectively, their minority rights, article 3.2 makes it clear that they shall also not be disadvantaged in any way for choosing not to belong to the minority concerned. This provision is directed both towards the State and the agencies of the minority group. The State cannot impose a particular ethnic identity on a given person (which is what the apartheid regime in South Africa sought to do) by the use of negative sanctions against

those who do not want to be part of that group; nor can persons belonging to minorities subject to any disadvantage persons who on objective criteria may be held to form part of their group but who subjectively do not want to belong to it. While, under conventional law, responsibility for human rights compliance normally rests with the State, the Declaration in this respect implies duties - at least morally - for persons representing minorities. Furthermore, States would be under a duty to prohibit the taking of measures by minorities to impose their particular rules on any person who did not want to be part of the minority concerned and therefore did not want to exercise her or his rights.

ARTICLE 4

4.1 States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively their human rights and fundamental freedoms without any discrimination and in full equality before the law.

55. Article 4 sets out the State measures that should be taken in order to achieve the purpose of the Declaration and is its most important part, together with article 2, which sets out the rights. While States are generally obliged under international law to ensure that all members of society may exercise their human rights, States must give particular attention to the human rights situation of persons belonging to minorities because of the special problems they confront. They are often in a vulnerable position and have, in the past, often been subjected to discrimination. In order to ensure equality in fact, it may under some circumstances be necessary for the State to take transitional affirmative action, as provided for in article 2.2 of the International Convention on the Elimination of All Forms of Racial Discrimination, which is applicable to ethnic as well as racial minorities, provided these measures do not disproportionately affect the rights of others.

4.2 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.

56. This paragraph of article 4 calls for more than mere tolerance of the manifestation of different cultures within a State. The creation of favourable conditions requires active measures by the State. The nature of those measures depends on the situation of the minority concerned, but should be guided by the purpose set forth in article 4.2, which is twofold. On the one hand, individual members of the minority shall be enabled to express the traditional characteristics of the group, which may include a right to use their traditional attire and to make their living in their own cultural ways. On the other hand, they shall be enabled, in community with other persons belonging to the group, to develop their culture, language and traditions. These measures may require economic resources from the State. In the same way as the State provides funding for the development of the culture and language of the majority, it shall provide resources for similar activities of the minority.

57. The words "except where specific practices are in violation of national law and contrary to international standards" require some comment. The meaning of the words "contrary to international standards" is simple enough. In particular, it is intended that the practices must not

be contrary to international human rights standards. This, however, should apply to practices of both majorities and minorities. Cultural or religious practices which violate human rights law should be outlawed for everyone, not only for minorities. The qualification contained in the final words of article 4.2 is therefore only a specific application of a universal principle applicable to everyone.

58. The first part of the phrase “in violation of national law” raises somewhat more difficult questions. It is clear that the State is not free to adopt whatever prohibitions against minorities’ cultural practices that it wants. If that were the case, the Declaration, and article 4.2 in particular, would be nearly empty of content. What is intended, however, is to respect the margin of appreciation which any State must have regarding which practices it wants to prohibit, taking into account the particular conditions prevailing in that country. As long as the prohibitions are based on reasonable and objective grounds, they must be respected.

4.3 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.

59. Language is among the most important carriers of group identity. In line with the general requirement in article 1 that States shall encourage the promotion of the linguistic identity of the minority concerned, measures are required for persons belonging to minorities to learn their mother tongue (which is a minimum) or to have instruction in their mother tongue (which goes some steps further).

60. The steps required in these regards depend on a number of variable factors. Of significance will be the size of the group and the nature of its settlement, i.e. whether it lives compactly together or is dispersed throughout the country. Also relevant will be whether it is a long-established minority or a new minority composed of recent immigrants, whether or not they have obtained citizenship.

61. In cases where the language of the minority is a territorial language traditionally spoken and used by many in a region of the country, States should to the maximum of their available resources ensure that linguistic identity can be preserved. Pre-school and primary school education should ideally in such cases be in the child’s own language, i.e. the minority language spoken at home. Since persons belonging to minorities, like those belonging to majorities, have a duty to integrate into the wider national society, they need also to learn the official or State language(s). The official language(s) should gradually be introduced at later stages. Where there is a large linguistic minority within the country, the language of the minority is sometimes also an official language of the State concerned.

62. At the European regional level, educational rights relating to minority languages are developed at greater length in the European Charter for Regional or Minority Languages, adopted by the Council of Europe. On this subject, a group of experts elaborated the Hague Recommendations regarding the Education Rights of National Minorities (October 1996), prepared under the auspices of the Foundation on Inter-Ethnic Relations.

63. In regard to non-territorial languages spoken traditionally by a minority within a country, but which are not associated with a particular region of that country, a uniform solution is more difficult to find. The principles stated above should be applied where appropriate, but where the persons belonging to the minority live dispersed, with only a few persons in each particular place, their children need to learn the language of the surrounding environment more fully at an earlier stage. Nevertheless, they should always also have an opportunity to learn their mother tongue. In this regard, persons belonging to minorities have a right, like others, to establish their private institutions, where the minority language is the main language of instruction. However, the State is entitled to require that the State language also be taught. One question to be addressed is whether the State is obliged to provide subsidies for such teaching. It would be a requirement that the State does ensure the existence of and fund some institutions which can ensure the teaching of that minority language. It follows from the general wording of article 4.3 that everyone should have adequate opportunities “wherever possible”. How far the obligation to fund teaching of minority languages for persons belonging to dispersed groups goes would therefore depend on the resources of the State.

64. Greater difficulties arise in regard to languages used solely by persons belonging to new minorities. These are usually more dispersed than are the older and settled minorities, and the number of languages spoken at home by migrants in a country of immigration can be quite large. Furthermore, the children have a great need to learn to use the language of the country of immigration as quickly and as effectively as possible. Should, however, some new minorities settle compactly together in a region of the country and in large number, there is no reason to treat them differently from old minorities. It should be noted, however, that the European Charter for Regional or Minority Languages does not cover the languages of migrants. In any case, persons belonging to new minorities are entitled to set up their own private educational institutions allowing for the teaching of and instruction in their mother tongue. The State is entitled to demand that the official language also be taught.

4.4 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.

65. Experience has shown that in societies where different national, ethnic, religious or linguistic groups coexist, the culture, history and traditions of minority groups have often been neglected and the majorities are frequently ignorant of those traditions and cultures. Where there has been conflict, the minority groups’ culture, history and traditions have often been subject to distorted representations, resulting in low self-esteem within the groups and negative stereotypes towards members of the group on the part of the wider community. Racial hatred, xenophobia and intolerance sometimes take root.

66. To avoid such circumstances, there is a need for both multicultural and intercultural education. Multicultural education involves educational policies and practices which meet the separate educational needs of groups in society belonging to different cultural traditions, while intercultural education involves educational policies and practices whereby persons belonging to different cultures, whether in a majority or minority position, learn to interact constructively with each other.

67. Article 4.4 calls for intercultural education, by encouraging knowledge in the society as a whole of the history, tradition and culture of the minorities living there. Cultures and languages of minorities should be made accessible to the majorities as a means of encouraging interaction and conflict prevention in pluri-ethnic societies. Such knowledge should be presented in a positive way in order to encourage tolerance and respect. History textbooks are particularly important in this regard. Bias in the presentation of the history and neglect of the contributions of the minority are significant causes of ethnic tension. The United Nations Educational, Scientific and Cultural Organization has concerned itself with the need to eliminate such prejudices and misrepresentations in history textbooks, but much remains to be done.

68. This paragraph of article 4 also emphasizes the complementary duty to ensure that persons belonging to minorities gain knowledge of the society as a whole. This provision should counteract tendencies towards fundamentalist or closed religious or ethnic groups, which can be as much affected by xenophobia and intolerance as the majorities.

69. The overall purpose of article 4.4 is to ensure egalitarian integration based on non-discrimination and respect for each of the cultural, linguistic or religious groups which together form the national society. The formation of more or less involuntary ghettos where the different groups live in their own world without knowledge of, or tolerance for, persons belonging to the other parts of the national society would be a violation of the purpose and spirit of the Declaration.

70. A concern similar to that of article 4.4 is expressed in the International Convention on the Elimination of All Forms of Racial Discrimination (art. 7) and in the Convention on the Rights of the Child (art. 29).

4.5 States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development of their country.

71. There is often a risk that minorities, owing to their limited number compared to the majority and for other reasons, may be subjected to exclusion, marginalization or neglect. In the worst cases, the land and resources of minorities are taken over by the more powerful sectors of society, with consequent displacement and marginalization of persons belonging to the minorities. In other cases, persons belonging to minorities are neglected in the economic life of the society. Article 4.5 requires steps being taken to ensure that this does not happen. It should also prevent minorities being made into museum pieces by a misguided requirement that they remain at their traditional level of development while the members of the surrounding society experience significant improvements in their standard of living.

72. Article 4.5 calls for the integration of everyone in the overall economic development of society as a whole, while ensuring that this integration takes place in ways which make it possible for persons belonging to minorities to preserve their own identity. The balancing act required by these two separate aims can be difficult, but is facilitated by the existence of active

and free associations of minorities which are fully consulted in regard to all development activities which affect or can affect their minority. Measures taken under article 2 to ensure participation facilitate this process.

ARTICLE 5

5.1 National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

73. The participation of persons belonging to minorities in the economic progress and development of their country (art. 4.5) can be achieved only if their interests are taken into account in the planning and implementation of national policies and programmes. Their interests go beyond purely economic aspects, however. Planning of educational policy, health policy, public nutrition policy or housing and settlement policies are among the many aspects of social life in which the interests of the minorities should be taken into account. While the authorities are required to take only “legitimate” interests into account, this is no different from what is required in relation to majorities: an accountable Government should not promote “illegitimate interests” of any group, whether majority or minority. The interests of minorities should be given “due regard”, which means that they should be given reasonable weight compared with other legitimate interests that the Government has to take into consideration.

5.2 Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

74. This provision is of particular interest for development assistance, but relates also to other economic cooperation among States, including trade and investment agreements. There have been many instances in the past where such cooperation has neglected or directly violated the interests of minorities. Development agencies, financial institutions and others involved in international cooperation have a dual task: firstly, to ensure that legitimate interests of minorities are not negatively affected by the measures implied in the cooperation envisaged; and secondly, to ensure that persons belonging to minorities can benefit as much as members of majorities from that cooperation. The notion of “due regard” means that proper weight should be given to the interests of the minorities, all factors taken into account. An assessment should be made of the likely impact of the cooperation on the affected minorities. This should be an integral part of any feasibility study.

ARTICLE 6

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

75. Two sets of considerations underlie this provision. One is to share and exchange knowledge about good practices, whereby States can learn from each other. The other is to promote mutual understanding and trust. The latter is of particular importance.

76. Situations involving minorities often have international repercussions. Tensions between States have arisen in the past and in some cases continue in the present over the treatment of minorities, particularly in relations between the home State of a given minority and other States where persons belonging to the same ethnic, religious or linguistic group reside. Such tensions can affect the security of the countries involved and create a difficult political atmosphere, both internally and internationally.

77. Article 6 encourages States to cooperate in order to find constructive solutions to situations involving minorities. In accordance with the Charter of the United Nations, States should observe the principle of non-intervention in their bilateral relations. They should abstain from any use of force and also from any encouragement of the use of violence by parties to group conflicts in other States, and should take all necessary measures to prevent incursion by any armed group or mercenaries into other States in order to participate in group conflicts. On the other hand, they should, in their bilateral relations, engage in constructive cooperation to facilitate, on a reciprocal basis, the protection of equality and promotion of group identities. One approach, much used in Central and Eastern Europe, is for States to conclude bilateral treaties or other arrangements concerning good neighbourly relations based on the principles of the Charter and on international human rights law, combining commitments of strict non-intervention with provisions for cooperation in promoting conditions for the maintenance of group identities and transborder contacts by persons belonging to minorities. Provisions on minorities contained in such treaties and other bilateral arrangements should be based on universal and regional instruments relating to equality, non-discrimination and minority rights. Such treaties should include provisions for the settlement of disputes regarding their implementation.

ARTICLE 7

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

78. The cooperation called for in article 7 can be undertaken at the regional and subregional levels, as well as at the level of the United Nations. At the European level, a number of intergovernmental mechanisms and procedures have been established whose purpose, at least partially, is to promote in a peaceful way the rights of minorities and achieve constructive group accommodation. These mechanisms include the Council of the Baltic Sea States and its Commissioner on Democratic Institutions and Human Rights, including the Rights of Persons belonging to Minorities; the OSCE, with its Office of the High Commissioner on National Minorities; and the Council of Europe, which has adopted several instruments of relevance for minorities. In the United Nations, cooperation can take place through the Working Group on Minorities.

79. The treaty bodies, in particular the Committee on the Elimination of All Forms of Racial Discrimination, the Human Rights Committee and the Committee on the Rights of the Child, can also play important roles in this regard. (See also below under article 9.)

ARTICLE 8

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.

80. The Declaration does not replace or modify existing international obligations in favour of persons belonging to minorities. It is an addition to, not a substitute for, commitments already made.

8.2 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.

81. The rights of specific categories of persons are supplementary to the universally recognized rights of every person. The Declaration is intended to strengthen the implementation of human rights in regard to persons belonging to minorities, but not to weaken for anyone the enjoyment of universal human rights. Consequently, the exercise of rights under the Declaration must not negatively affect the enjoyment of human rights for persons who do not belong to a minority, nor for persons who belong to the minority. In their efforts to preserve the collective identity of the minority, agencies of the minority concerned cannot on the basis of the Declaration adopt measures which interfere with the individual human rights of any person belonging to that minority.

8.3 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.

82. In accordance with article 1 of the Universal Declaration of Human Rights, all human beings are born free and equal in dignity and rights. Article 2 of the Universal Declaration provides that everyone is entitled to all the rights set out in that declaration without distinction of any kind such as race, language, religion or national origin. The question has been raised as to whether special measures in favour of national or ethnic, religious or linguistic minorities constitute a distinction in the enjoyment of human rights. The same question could be put with even greater emphasis with respect to the definition of racial discrimination contained in article 1.1 of the International Convention on the Elimination of All Forms of Racial Discrimination, which reads: "The term 'racial discrimination' shall mean 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." The question would then be whether special measures under the Declaration on Minorities, which would indeed be taken on the basis of "national or ethnic origin", would constitute a preference and therefore constitute impermissible discrimination.

83. Article 8.3 answers this question by pointing out that such measures shall not prima facie be considered to be contrary to the principle of equality. Under normal circumstances, measures to ensure effective participation, or to ensure that minorities benefit from economic progress in society or have the possibility to learn their own language will not be a privilege vis-à-vis other members of the society. It is essential, however, that such measures do not go beyond what is reasonable under the circumstances and are proportional to the aim sought to be realized.

8.4 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.

84. As stated in the preamble, the Declaration is based on the principles of the Charter of the United Nations. Note should also be taken of the conviction expressed in the preamble that the promotion and protection of the rights of minorities contribute to the political and social stability of States. Article 8.4 serves as a reminder that nothing in the Declaration can be construed as permitting any activity which is contrary to the purposes of the Charter. Particular mention is made of activities that are contrary to the sovereign equality, territorial integrity and political independence of States. As pointed out above, the rights of persons belonging to minorities are different from the rights of peoples to self-determination, and minority rights cannot serve as a basis for claims of secession or dismemberment of a State.

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.

85. Wherever possible, the agencies and bodies of the United Nations system shall contribute to the full realization of the Declaration. Projects of technical cooperation and assistance shall take the standards contained in the Declaration fully into account. The Working Group on Minorities established by the United Nations in July 1995 serves as a stimulus for such cooperation. This article should be seen in the light of the Charter of the United Nations (Arts. 55 and 56), according to which the Organization shall promote respect and observance for human rights and fundamental freedoms. Promotion of the rights of persons belonging to minorities form part of that obligation. United Nations organs and specialized agencies should give special consideration to requests for technical cooperation and assistance that are designed to achieve the aims of this Declaration.

Notes

¹ E/CN.4/Sub.2/AC.5/1998/WP.1.

² E/CN.4/Sub.2/AC.5/1999/WP.1.

³ E/CN.4/Sub.2/AC.5/2000/WP.1.

⁴ The Framework Convention for the Protection of National Minorities, adopted by the Council of Europe in 1994.

⁵ Most important are the Helsinki Final Act of 1975 and the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe, 1990, section IV, paragraphs 30 to 40.

⁶ Reference can also be made here to general comment No. 23 (1994), adopted by the Human Rights Committee at its fiftieth session. It deals with article 27 of the International Covenant on Civil and Political Rights (the minority rights provision), and points out, in paragraph 3.1, the distinction between the right of peoples to self-determination and the rights of persons belonging to minorities, which are protected under article 27.

⁷ Human Rights Committee, general comment No. 23, adopted at the fiftieth session, 1994, paragraphs 6.1 and 6.2.

⁸ Report of the CSCE Meeting of Experts on National Minorities, Geneva, 19 July 1991, Part IV. See also the second progress report of Special Rapporteur A. Eide on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities (E/CN.4/Sub.2/1992/37), paragraphs 122-155.

⁹ The Lund recommendations can be found on the web site of the OSCE High Commissioner on National Minorities, <http://www.osce.org/hcnm/documents/lund.htm>.

¹⁰ Report of the Working Group on Minorities on its fifth session (E/CN.4/Sub.2/1999/21), paragraphs 81-88.

¹¹ Universal Declaration of Human Rights, article 20; International Covenant on Civil and Political Rights, article 22.

Pamphlet No. 1

**MINORITIES, THE UNITED NATIONS AND REGIONAL
MECHANISMS**

This series of pamphlets is designed to provide members of minorities with practical information on the operations and procedures of the United Nations, its various agencies, and regional mechanisms that have been established in Africa, the Americas, and Europe. This introductory pamphlet begins with an overview of the UN's purposes and structure and then describes in greater detail those bodies that are likely to be the most important in promoting and protecting the rights of persons belonging to minority groups. The second section provides a brief outline of human rights norms and international law, so that minority rights may be understood in their proper context.

AN OVERVIEW OF THE UNITED NATIONS SYSTEM

Summary: The United Nations is an international organization, composed of a number of separate bodies that are responsible for addressing security, economic, humanitarian, and other issues. The UN Charter sets forth the organization's purposes, which include maintaining peace and security; promoting economic, social, cultural, and humanitarian cooperation; and promoting and encouraging respect for human rights. Since adoption of the Universal Declaration of Human Rights in 1948, contemporary international human rights law has been supplemented and expanded by a number of other treaties and declarations. Although rights of concern to minorities are found in most of these documents, instruments and procedures specifically devoted to the rights of persons belonging to minorities have largely been developed only during the past decade.

The establishment of the United Nations

As the Second World War drew to a close, the victorious powers decided to establish a world organization that would prevent further conflict and help build a better world. This new organization was the United Nations, known as the UN, which was founded in 1945. The founders of the UN saw the organization as having essentially three purposes - to ensure international peace and security, to promote social and economic development, and to promote the observance of human rights. In pursuit of these goals, the UN has developed a large, complex network of organizations that have an impact on virtually every area of human activity.

The United Nations is a *voluntary* association of independent and sovereign member States. Its 189 member States include almost every State in the world, from all regions and encompassing all political and economic systems.

The UN is *not* a world government with powers to compel its members to take particular actions, such as to observe human rights. The only exception to this rule is that the UN Security Council may require States to take certain actions to maintain or restore international peace and security; by joining the UN, States agree to abide by the Security Council's decisions.

The UN is only as effective as its member governments enable it to be and can only act with the agreement of a majority of those members. Within the authority given to it by States, however, the UN is able to provide assistance and advice to States, promote international cooperation, and even bring political pressure to bear on States through UN organs and institutions.

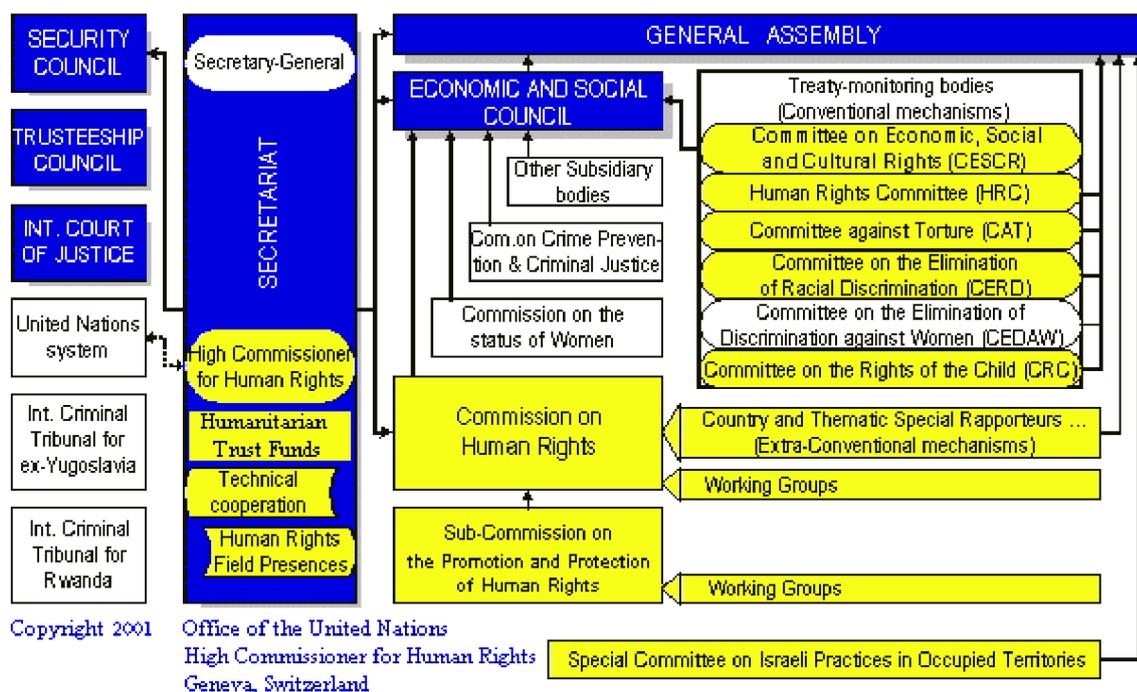
Neither non-governmental organizations (NGOs) nor members of the public have any decision-making role in the UN's deliberations. However, NGOs are essential to the UN's work, both in providing support for UN programs and in lobbying the UN and its member States to adopt new initiatives or act with greater effectiveness. At some levels, the UN does allow NGOs to participate in its meetings, but final decision-making is restricted to member

States. (The only exception to this general rule is the International Labour Organization , whose unique tripartite system gives equal representation to trade unions and employers' organizations, in addition to governments.

This series of pamphlets describes the many possible avenues open to members of minority groups to influence the UN and to benefit from the support that it can offer.

Structure of the United Nations

The United Nations is a large and complex organization, and it is useful to be familiar with its overall organisational structure. Figure 1 shows those parts of the UN that are particularly relevant to minorities.



The highest body of the UN is the *General Assembly*, in which each member state has one vote. The UN General Assembly meets annually from September to December at the UN's headquarters in New York and sets policies to guide all of the UN's activities. Its resolutions may carry significant political importance, but it cannot directly make international law or take decisions (except on internal matters, such as the budget) that are binding on its member States.

Many people believe that the *Security Council* is the most powerful body of the UN, although it is much smaller than the General Assembly. As its name implies, the Security Council deals with issues relating to peace and security. It has the power to take decisions which are binding on UN members, such as imposing trade sanctions on a particular country or even authorizing military intervention. The Security Council is composed of fifteen member States, ten of which are elected every two years by the General Assembly. The other five states (Peoples' Republic of China, France, Russian Federation, United Kingdom of Great

Britain and Northern Ireland, and the United States of America) are known as the "permanent members," and all five of them must agree before the Security Council can adopt a decision that is binding on other States. In recent years, the Security Council has been increasingly willing to act or make recommendations in situations where human rights -- including minority rights -- are violated.

Below the General Assembly are a great number of subsidiary bodies covering issues as diverse as disarmament, economic development, refugees, women's issues, crime prevention and control, international law, human rights, and the environment. Many of these bodies come under the umbrella of the *Economic and Social Council* (ECOSOC), which reports to the General Assembly.

Subsidiary to ECOSOC is the central human rights body in the UN, the 53-member *Commission on Human Rights*. It meets every year for six weeks in Geneva and adopts resolutions, hears reports, and debates human rights issues arising all over the world. The Commission is composed of government representatives, unlike its *Sub-Commission on Promotion and Protection of Human Rights*, which is made up of independent experts elected by the Commission. These two bodies (and various working groups and special rapporteurs that report to them) are the most significant bodies dealing with human rights in the UN system, and they are described in Pamphlet No. 3. The only minority-specific UN organ is the *Working Group on Minorities*, a group of five independent experts that reports to the Sub-Commission; its work is described in Pamphlet No. 2.

The UN civil service is called the *Secretariat* and is composed of permanent and temporary employees from all over the world. Most UN officials are based at UN Headquarters in New York, but most human rights work (as well as some other issues) is done at the UN's office in Geneva, Switzerland. The most senior UN official is the *Secretary-General*, currently Mr. Kofi Annan.

The chief human rights official in the UN is the *UN High Commissioner for Human Rights*, whose office is based in Geneva. The High Commissioner's staff is responsible for servicing nearly all of the UN's human rights bodies and implementing the various procedures that are described in this series of pamphlets. The High Commissioner is appointed by the Secretary-General; the current High Commissioner is Ms. Mary Robinson.

The UN system also includes a number of important international organizations that are related to the UN but which have their own structures, mandates, and membership. These bodies are known as *specialised agencies*, and those which might be of particular interest to minorities include the UN Educational, Scientific and Cultural Organization (UNESCO, based in Paris), the and the International Labour Organization (ILO, based in Geneva). The *UN High Commissioner for Refugees* is similar to the High Commissioner for Human Rights in that he is appointed by the Secretary-General and based in Geneva; the current High Commissioner is Mr. Ruud Lubbers.

The final major component of the UN system is the *International Court of Justice* (ICJ). Its functions include deciding disputes between States which have accepted its jurisdiction; interpreting disputes between States that may arise from the interpretation of a treaty (including some human rights treaties) to which the States are parties; and offering advisory opinions on legal matters when requested by a UN organ (such as the Security Council or

General Assembly) or a specialized agency. Only States can be parties before the Court, and neither individuals nor NGOs can invoke the Court's jurisdiction.

Non-governmental organizations (NGOs)

Although they are not specifically provided for in the UN Charter itself, non-governmental organizations are vital to many of the UN's functions. The Economic and Social Council has adopted arrangements for appropriate NGOs to be granted "consultative status" with ECOSOC, which enables the organizations to receive UN documentation and participate in many UN meetings. Both international and national NGOs are eligible to apply for consultative status, so long as they are concerned with issues that are relevant to the UN's work. There are approximately 1,000 NGOs in consultative status with the UN at this time.

Organizations applying for consultative status must fill in a questionnaire and provide detailed information about their structure, finances, and other matters. The application process and other matters relating to NGOs are handled by the Non-Governmental Organizations Section of the Department of Economic, Social and Cultural Affairs (DESA) in the United Nations in New York.

BASIC HUMAN RIGHTS PRINCIPLES

Summary: Human rights are commonly understood as being those rights which are inherent in the mere fact of being human. The concept of human rights is based on the belief that every single human being is entitled to enjoy his or her rights without unreasonable distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. Human rights are legally protected under international human rights law, which obliges States to guarantee rights under treaties which they have accepted or under the norms of customary law which apply to all States. A variety of mechanisms and procedures has been developed to assist in ensuring that human rights norms are fully implemented.

The following are some of the most important characteristics of human rights:

Human rights are founded on respect for the *inherent dignity and worth of each person*.

Human rights are *universal*, meaning that they are applied equally and without discrimination to all people. While the significance of national and regional particularities and various historical, cultural, and religious backgrounds should be borne in mind, all States, regardless of their political, economic, and cultural systems, have a duty to promote and protect all human rights and fundamental freedoms.

Human rights are *indivisible, interdependent, and interrelated*. One cannot respect some human rights and not others. In practice, the violation of one right will often affect respect for several other rights, and all human rights should therefore be seen as having equal importance.

International Human Rights Law

A great number of international human rights treaties and other instruments have been adopted by the United Nations and accepted by States since 1945. Other instruments have been adopted at a regional level, reflecting the particular human rights concerns of the region. Every State's domestic constitution or other laws also formally protect basic human rights. In many States, the language used to proclaim human rights has been drawn directly from international instruments.

Treaties

The most common way in which a State expresses its agreement to be bound by international law is through a treaty. A treaty is a formal agreement among States to be bound by particular rules and may be designated by many different names, such as covenant, charter, protocol, convention, accord, and agreement. A treaty is legally binding on those States which have consented to be bound by its provisions – in other words are party to the treaty. Most of the principal international human rights treaties have been ratified by well over 100 States, and some enjoy near universal acceptance.

A State becomes a party to a treaty by whatever formal means of consent is required under its own law, as well as by the terms of the treaty itself. Depending on the precise timing and other factors, this process may lead to ratification, accession, adhesion, or succession to a treaty; all have the same legal effect. Merely signing a treaty expresses a State's intention to ratify it at a later date but does not by itself bind the State to the full set of treaty obligations.

When ratifying a treaty, a State may enter reservations to that treaty. These statements indicate that, while it consents to be bound by most of the treaty's provisions, the State does not agree to be bound by certain specific provisions. If you seek to hold a State accountable for human rights treaties it has ratified, it is essential to check to see whether the State has entered any reservations to the treaty which would limit its acceptance of certain obligations.

The legal effect of a treaty in a country's domestic law depends on the State's legal system. In some countries, treaties are "self-executing" and are considered to be superior to domestic legislation and even the constitution. In other States, treaties may prevail over domestic law but not over the constitution. In yet other States, a treaty will have no domestic legal effect unless it is formally incorporated into domestic law by the appropriate legislative process. Whatever a treaty's status may be domestically, a State is legally bound to observe its provisions at the international level.

Pamphlet No. 4 on Human Rights Treaty Bodies gives further information about how the treaty bodies can be used to promote and protect minority rights.

Customary international law

Customary international law is the term used to describe a widely accepted practice followed by States which derives from a sense of legal obligation. Because customary law is, by definition, not found by looking at a text, there is a great deal of disagreement over its exact content. However, most people today would agree that, at a minimum, the following human rights norms have become part of customary law: prohibition against genocide, prohibition against slavery, prohibition against torture and prohibition against systematic racial discrimination (such as apartheid).

Customary law is binding on *all* States (except those that may have objected to it during its formation), whether or not they have ratified any relevant treaty.

Declarations and resolutions adopted by UN organs

Neither the UN General Assembly nor other UN bodies have the authority to create rules of law that are legally binding on States, but they have adopted a wide range of *declarations, proclamations, recommendations, guidelines, and principles*. These statements, particularly when they are adopted unanimously or by consensus, represent important political and moral commitments by States that may influence their conduct of international relations. The most important of these statements are usually designated declarations, such as the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minority Rights). Another important declaration is the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (Declaration on Religious Intolerance). Even though they do not have binding legal effect, such formal statements may be seen as declaratory of broadly

accepted principles by the international community, and States that support their adoption may be expected to live up to the political commitments they have freely undertaken.

Defining human rights

The writing or drafting of human rights standards can be a long and difficult process. The governments involved represent peoples from all parts of the world, with differing political, economic, and social systems. Since the most effective instruments are generally those that enjoy a high degree of agreement, governments generally prefer to have consensus on the text. This makes it more likely that a treaty will be widely ratified or that a declaration represents a meaningful political commitment by States. However, even treaties that are adopted by consensus become legally binding on an individual State only after it ratifies the treaty.

Most human rights are not absolute, and they can be limited in specific circumstances. For example, if an individual is found guilty of a crime after a fair trial, the State may lawfully restrict his or her freedom of movement by imprisonment; freedom of expression does not extend to libel and slander; and freedom of assembly does not allow you to gather a crowd in a busy intersection. While every treaty has slightly different provisions, among the legitimate reasons that a State may limit the exercise of certain rights are to protect the rights of others, national security, public order (*ordre public*), public health, or public morality. But any limits a State places on rights must be *provided by law* (not simply by executive fiat), *necessary* to achieve the stated purpose, and *consistent with the concept of a democratic society*.

In a legitimate state of emergency that is publicly declared, a State can take measures which suspend or derogate from certain rights. Again, however, such derogations are permitted only to the extent absolutely necessary in the specific situation and may never involve discrimination based on race, colour, sex, language, religion, or social origin. Certain rights -- known as "non-derogable rights" -- may never be suspended even in situations of war and armed conflict. These include the right to life, freedom from torture, freedom from slavery, and freedom of thought, conscience, and religion. Even in times of armed conflict, where humanitarian law or the law of war applies, human rights law continues to afford protection. The Committee on Economic, Social and Cultural Rights has also argued that States may never derogate from action to protect the "core content of economic, social and cultural rights".

Implementing and enforcing human rights

The obligation to promote, protect and ensure the enjoyment of human rights (more commonly phrased as the obligation to respect, protect and fulfil human rights) is primarily a responsibility of States and their governments. Most human rights must be guaranteed by States to all people within their territories, whether they are citizens, aliens, tourists, or even illegal entrants. Certain human rights may apply only to particular groups of people; for example, the right to vote in elections may be restricted to those who are citizens of the State. A State's responsibilities include the obligation to take affirmative measures to ensure that human rights are protected, as well as abstaining from interfering with the free exercise of certain rights. States must provide effective domestic remedies for persons who allege that their rights have been violated.

Ensuring that human rights are observed is also a legitimate concern of the international community. Under Article 55 of the UN Charter, the UN is to promote universal respect for and observance of human rights, and all UN member States pledge to take joint and separate action in cooperation with the UN to achieve this goal. In addition, over 125 States are party to one of the three main regional conventions on human rights.

Various mechanisms have been created by treaties or by the actions of international organizations to promote and protect human rights, and the remaining pamphlets in this series describe many of them in detail. Some mechanisms are based on legally binding obligations that States have assumed under the various treaties, and it may be possible to invoke one of these formal treaty mechanisms if you believe that your rights under a treaty have been violated. Some treaties offer the possibility of filing complaints about human rights violations, and most enable NGOs to contribute at least informally to examinations of a country's compliance with its treaty obligations.

Other mechanisms are founded on the inherent authority of international organs to consider matters within their competence. These mechanisms also may provide an option for individuals or NGOs to file communications alleging violations in a State (e.g., UNESCO and the "1503 procedure") or for direct participation in discussions about human rights in more "political" forums within the UN, such as the Commission on Human Rights. (see Pamphlet No. 3) The Working Group on Minorities of the UN Sub-Commission on Promotion and Protection of Human Rights, which is described in Pamphlet No. 2, provides an opportunity for those concerned with minority rights to review the practical realization of the UN "Declaration on Minority Rights", examine solutions to problems involving minorities and recommend measures for the promotion and protection of the rights of persons belonging to minorities.

Figure 2 summarizes some of the international instruments that are particularly relevant to minorities, setting out which instruments are legally binding and which are not. It also indicates the possible range of actions available under each type of instrument, depending on whether or not your country is a party to the treaty in question.

Figure 3 summarizes some of the regional instruments that are particularly relevant to minorities and indicates the possible range of actions available under the different instruments. Fuller details of the different regional mechanisms are contained in pamphlets on the Inter-American system, African Regional Mechanisms, the European Convention on Human Rights and the Framework Convention for the Protection of the Rights of National Minorities, pamphlets numbers 5, 6, 7 and 8, respectively.

TYPES OF INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

TYPE OF INSTRUMENT	NAME OF INSTRUMENT	POSSIBLE ACTION ON VIOLATIONS
<p>LEGALLY-BINDING, WITH A COMPLAINTS MECHANISM</p>	<p>INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS</p> <p>CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION</p> <p>CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN</p> <p>CONVENTION AGAINST TORTURE</p>	<p>DECISIONS ON FORMAL COMPLAINTS OR COMMUNICATIONS BY A TREATY BODY</p> <p>COMMENT ON OR CRITICISM OF A STATE'S PERIODIC REPORT</p>
<p>Legally binding, but no complaints mechanism</p>	<p>International Covenant on Economic, Social and Cultural Rights</p> <p>Convention on the Rights of the Child</p>	<p>Comment on or criticism of a State's periodic report</p>
<p>Not legally binding</p>	<p>Universal Declaration of Human Rights</p> <p>Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities</p> <p>Declaration on Religious Intolerance</p>	<p>Public criticism by UN bodies of violations in specific countries</p> <p>Discussion of issues of concern to minorities</p> <p>Development of new principles, guidelines, etc., in order to influence State conduct</p>

TYPES OF REGIONAL INSTRUMENTS

NAME OF REGIONAL INSTRUMENT	POSSIBLE ACTIONS
European Convention on Human Rights	Legally binding judgments by the European Court of Human Rights, based on formal complaints.
European Framework Convention for the Protection of National Minorities	Periodic state reports filed by parties; conclusions and recommendations adopted by Council of Europe, Council of Ministers, based on opinions submitted to it by an Advisory Committee. The Advisory Committee usually conducts an on-site mission and consults with non-governmental groups and others when it considers State reports; all actions are normally made public.
European Charter for Regional or Minority Languages	A Committee of Experts examines periodic reports submitted by State parties and prepares a report and proposals for recommendations which are submitted to the Council of Ministers.
American Convention on Human Rights	Formal complaints first considered by Inter- American Commission on Human Rights, which may issue public report with recommendations; for those States that have accepted its jurisdiction, there is a possible appeal to the Inter-American Court of Human Rights for a legally binding judgment. A complaint may brought by one State against another, but only if both have accepted this optional inter-State jurisdiction. The Court also has the power to give Advisory Opinions, if requested to do so by a State Party or the Commission.
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador"	Right of petition to the Inter-American Commission on Human Rights for alleged violation of trade union or education rights, as set forth in the Additional Protocol.
Charter of the Organization of American States and Declaration on the Rights and Duties of Man	The Inter-American Commission on Human Rights may prepare country reports on the human rights situation in any OAS member State or may investigate and adopt a report and recommendations based on an individual petition filed with respect to any OAS member State.
African Charter on Human and Peoples Rights	Individual petitions may be considered confidentially by the African Commission on Human and Peoples' Rights, which may eventually make its decisions and recommendations public. The Commission also can decide to refer to the OAU Assembly of Heads of State and Government communications relating to "special cases which reveal the existence of a series of serious or massive violations of human and peoples' rights". The Commission considers periodic reports from States in public. NGOs recognized as "Observers may be invited specially to be present at closed sessions dealing with issues of particular interest to them."
Protocol to the African Charter on Human and Peoples' Rights` establishing and African Court on Human and Peoples' Rights	After it is ratified by 15 States, the 1998 Protocol will create an African Court on Human and Peoples' Rights, which will have the authority to issue legally binding decisions on individual complaints. Not yet in force as of mid-2001.

Pamphlet No. 2

MINORITIES AND THE UNITED NATIONS: THE UN WORKING GROUP ON MINORITIES

Summary: The diversity that minorities bring to the States in which they live contributes to cultural richness both nationally and internationally. However, tensions between majority and minority groups have been frequent throughout history. Only recently has the United Nations formally addressed the rights of persons belonging to minorities, and interest has increased significantly since the adoption in 1992 of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. This pamphlet discusses the Working Group on Minorities that was created to review implementation of the Declaration.

A Brief History

Almost all States have one or more minority groups within their national territories, groups distinguished by their own ethnic, linguistic, or religious identity that differs from that of the majority population. Harmonious relations among minorities and between minorities and majorities, as well as respect for each group's identity, are a great asset to society. Meeting the aspirations of minorities and ensuring their rights acknowledges the dignity and equality of all individuals, fosters participatory development, and contributes to the lessening of tensions both within and among States.

Until recently, the protection of minorities' rights did not attract the same level of attention at the United Nations as that of other rights. Interest in issues affecting minorities has grown, however, as ethnic, racial and religious tensions have escalated, all too often as a result of violations of minority rights.

Today, minority rights are violated in many parts of the world. Minorities seek to be recognized as such by their governments and wish to secure their rights to identity, to speak their own language, to profess and practice their own religion, to enjoy their own culture, and to establish and maintain their own associations. They also want to participate in public and political life and in designing and implementing development policies and projects that affect them.

The international community now recognizes that it is not sufficient merely to ensure that there is no discrimination against minorities. Special measures are essential to protect and promote the rights of minorities, particularly those necessary for minorities to preserve their identity and culture. Only over the past decade has the international community taken such measures. These include the adoption of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Minorities Declaration) in 1992, and the subsequent creation of the UN Sub-Commission Working Group on Minorities.

The Working Group on Minorities

To ensure more effective protection of the rights of persons belonging to minorities, the Sub-Commission on Promotion and Protection of Human Rights (then known as the Sub-Commission on Prevention of Discrimination and Protection of Minorities) established the Working Group on Minorities in 1995. The Working Group is composed of five experts who are members of the Sub-Commission, one representing each of the five geographic regions the United Nations uses to apportion seats on UN bodies. (Membership of the Working Group on Minorities can be found via the web site of the Office of the High Commissioner for Human Rights: www.unhchr.ch/html/menu2/2/subwg.htm) The Working Group meets between Sub-Commission sessions for one week each year, normally in May in Geneva. It prepares a formal report that is submitted to and discussed by the Sub-Commission when it meets each August. The report also is made available as a background document for the Commission on Human Rights. (For further information on the Sub-Commission and Commission, see Pamphlet No. 3).

The Working Group's Mandate

The Working Group was established to examine ways and means to promote and protect the rights of persons belonging to minorities as set out in the Minorities Declaration. The three major tasks of the Working Group are:

- to review the promotion and practical realization of the Minorities Declaration
- to examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments
- to recommend further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities

These three elements are discussed at each of the sessions of the Working Group, often from the perspective of different rights or sets of rights.

The Working Group provides a framework within which non-governmental organizations (NGOs), members of minority groups or associations, academics, governments, and international agencies may meet to discuss issues of concern and attempt to seek solutions to problems. The hope is that these meetings and the dialogue they foster will lead to greater awareness of the different perspectives on minority issues and to increased understanding and mutual tolerance among minorities and between minorities and governments. The Working Group also provides a forum for encouraging peaceful and constructive solutions to problems involving minorities and on the application, meaning, and scope of the principles contained in the Minorities Declaration.

Under the major headings set out above, the agenda of the Working Group includes a wide range of subjects. Issues discussed under the item on the promotion and practical realization of the Minorities Declaration have included a review of the status of the Declaration in various countries and the meaning of specific rights set forth in the Declaration. One of the Working Group's primary activities during its first few sessions has been discussion of a commentary on the Minorities Declaration prepared by its Chairperson, which is available as an additional pamphlet (See Part I of the UN Guide for Minorities). Other topics have included language rights, intercultural and multicultural education, and the right to participate in political and public life.

When information is presented about the situation of minorities in a specific country, that country's representative may respond. If no representative is present, the Working Group may forward information presented by minority representatives or NGOs to the government concerned in order to give the government an opportunity to provide additional information.

Discussion of possible solutions to problems involving minorities has thus far included examining the role of national human rights institutions, the role of the media in protecting minorities, and the benefits of autonomy and integrative arrangements for encouraging greater respect for minority rights.

Many of the recommendations proposed by participants (not just members of the Working Group) are set forth in the Working Group's annual report to the Sub-Commission. The Sub-Commission may then forward suggestions for new measures to promote and protect minority rights to the Commission on Human Rights and the Economic and Social Council for action.

Within its mandate, the Working Group is also open to suggestions as to how it might improve its effectiveness or which issues it should address in the future. It has discussed how to make best use of the papers submitted as background documents at the various sessions; creation of a database on information pertaining to minorities; and potential links between the Working Group and other bodies, such as the committees that supervise implementation of international human rights treaties, Special Rapporteurs, international agencies, regional mechanisms, and national human rights institutions.

The Working Group also has organized, together with national institutions and NGOs, a series of seminars on various topics related to the Minorities Declaration or specific rights contained therein. The reports of the seminars then serve as a basis for further discussion during Working Group sessions. Since 1995, seminars have been organized on the issue of intercultural and multicultural education (Geneva, Switzerland, and Montreal, Canada), the role of the media in protecting minorities (Geneva), the effective participation of minorities (Flensburg, Germany), multiculturalism in Africa (Arusha, Tanzania, and Kidal, Mali) and Afro-descendants issues of the Americas. The reports of these seminars or workshops may be found on the web site of the Office of the High Commissioner for Human Rights (www.unhchr.ch).

Participating in the Working Group

A unique feature of the Working Group on Minorities is that it has adopted very flexible arrangements to encourage participation in its sessions by all those interested in and able to contribute to its work. As a result, relevant NGOs, representatives of minority groups, and academics with expertise on minority issues, in addition to governments and international agencies, may participate in person, including providing written submissions, in the Working Group's sessions. The only limits placed on such participation is that participation may be refused if a person or group advocates the use of violence or if an NGO created along ethnic lines has become a political party.

The procedure for applying to participate in a session of the Working Group is as follows:

1. Write a brief letter or send an e-mail to the Secretariat of the Working Group with information about your organization, its activities in the field of minority protection, and any further information that you feel may be relevant to the Working Group.
2. On the basis of the letter you have sent, you will generally be accredited to [attend follow](#) the Working Group on Minorities (or, in exceptional cases, you will receive an

explanation as to why your participation has been rejected). Decisions regarding participation are normally made by the Secretary of the Working Group. In special cases, the request may be referred to the Chairperson of the Working Group, who may consult with any of the Group's members who are familiar with NGOs in the regions they represent.

3. On the morning the Working Group begins, you need to visit the Villa des Feuillantines, close to the main entrance of the Palais des Nations. If your name is on the list of participants for the Working Group, you will be issued a pass that will be valid for the session of the Working Group. Having secured a pass, you should then present yourself to the security guards at the United Nations and make your way to the meeting room, normally in the Palais des Nations, E or New Building, for the opening of the session, usually at 10 a.m. on the Monday morning.

The sessions of the Working Group provide an opportunity for minorities from all over the world to meet, share experiences, and address their common interests and common challenges. It is therefore vitally important that minorities take advantage of the opportunities the Working Group offers.

At the same time, it is also important to recognize the limitations of the Working Group. It cannot provide immediate answers to queries about specific situations or find immediate solutions to minority problems. Nor is the Working Group empowered to take action on complaints about alleged violations of minority rights. Rather, the Working Group should be considered as an additional mechanism to address minority issues and one element in the process of providing more effective redress for violations and long-term solutions to current problems.

There are three main ways of participating in the Working Group: making oral statements during the Group's sessions; providing written information and/or papers; and meeting and talking with others about issues of concern to you.

Oral Statements

If you are able to come to Geneva and participate personally in the Working Group's annual meetings, one of the best ways to bring your issue to the attention of the international community is to make a formal oral presentation during the session. By making such a statement, your concern may be recorded and included in the report of the Working Group, which is then submitted to the Sub-Commission and made available as a background document to the Commission on Human Rights.

To make a statement as effective as possible, you should keep the following suggestions in mind:

- To ask to make a statement, you must request that your name (if you are an academic) or the name of your organization be included on the list of speakers. The Chairperson will then call your organization or your name, on a first-listed, first-called basis. If you are not present, you may lose your turn and not have a chance to make your statement. If you leave the meeting for a short period, try to have someone else there to read your speech in case you are called unexpectedly.
- Prepare your statement well in advance, preferably before the beginning of the session. Make sure that it is clear and logical and that it includes facts to support the points you are

trying to make. Although you should not try to make “complaints” to the Working Group, you should illustrate your discussion of specific problems or concerns by using specific examples. However, you should avoid emotional or politically charged language. Your statement should be as relevant as possible to the agenda item under which you have decided to speak, although the items are often general in scope. In every case, it is useful to refer to the rights contained in the Minorities Declaration, since the Declaration remains the major reference of the Working Group’s agenda. It also is advisable to include specific suggestions or recommendations for further action by the Working Group.

- You must deliver your statement in one of the six official languages of the United Nations, i.e., Arabic, Chinese, English, French, Russian, or Spanish. Remember that many of the people in the room will not speak your language fluently and will therefore rely on the interpreters to know what you are saying. If the interpreters have a text, their task is made easier and your message is conveyed more effectively. You should provide them with six copies of your statement well before you are called on to speak. You also should give two copies of your statement to the Secretariat for the files.
- Although it may seem obvious, you should speak slowly and clearly. Some people become overly excited or emotional while speaking and tend to speak more quickly than normal. This often means that no one can understand them, and the impact of their statement is accordingly diminished. If you hear speakers who appear to be particularly effective in communicating their message, try to copy their techniques.
- The allotted speaking time is usually five minutes, although it may vary according to the number of items to be discussed during the session and the time remaining. Practice your statement beforehand and make sure you can read it in the time allowed. If you exceed that time, the Chairperson is likely to interrupt you and ask you to conclude. Make sure that you convey the most important points of your statement first, and be prepared to offer conclusions and recommendations that can stand on their own if you run out of time.
- When you finish speaking, people may come over to your seat and ask you for a copy of your statement. It is a good idea to have 20 or more copies ready to distribute, if possible. Generally, it ~~is would be~~ helpful ~~if you gave to give~~ the government representative from your country a copy. Many people respond better to materials in writing, and this may also ensure that your message will be communicated to those who might not have been in the room when you spoke.

Providing Information and Background Papers

The work undertaken by the Working Group is not limited to reacting to statements delivered during its annual sessions. There are a number of ways you can provide additional information.

At each session, short papers prepared by members of the Working Group, NGOs, academics, governments, and specialized agencies provide a basis for discussion during the session. These papers are usually thematic in nature, as opposed to considering a specific country. In the past, they have dealt with such subjects as the definition and classification of minorities, education rights, best practices in the area of minority protection, citizenship and the minority rights of non-citizens, universal and regional mechanisms for minority protection, effective participation and representation of minorities, and language rights. A detailed list of the papers may be found on the web site of the Office of the High Commissioner (www.unhchr.ch). These papers are circulated at the sessions. Some appear in all six official

languages of the United Nations, although most are available only in French, English, and Spanish. Some papers are circulated only in their original language.

NGOs and others are encouraged to prepare papers for future sessions of the Working Group. You should contact a member of the Working Group or the Secretariat if you are willing to submit a paper, indicating the subject on which you wish to write. You should consult the agenda of the next session to ensure that your paper will be discussed. The Secretariat will inform you of deadlines, the length of the document (usually limited to six to eight pages), and other technical matters. There is no guarantee that your work will be accepted by the Working Group and distributed, but a well-written paper on a relevant topic will almost always be welcome.

Contacts and Networking

The sessions of the Working Group provide an opportunity to meet with a wide range of people who are members of minority groups themselves or who are involved in minority issues. Given that many international, specialized, and humanitarian agencies are based in Geneva, it is also relatively easy to make appointments with officials of these agencies during your stay. Of course, it is best to meet such officials when you have specific questions to pose or information to provide, although many agencies consider it part of their job to maintain contacts with minority organizations. Contact details for the secretariat working on minority issues in a particular agency, ~~is to~~ may be found in the relevant other pamphlets in this series.~~XX and XX.~~

There are several NGOs based in Geneva that are willing to help participants in the Working Group. You should contact them either before you arrive in Geneva or upon your arrival. Their contact information can be found at the end of this pamphlet.

There are many opportunities during the week-long Working Group sessions to meet people informally. You should not hesitate to convey your concerns, share your experiences, or seek the support of others for your cause. You can make appointments with people in the coffee shop closest to the conference room, have a meal with them, or talk to them at the receptions that are usually held during the Working Group session. It is often easiest to contact participants and members just before the beginning or after the end of a meeting, after having noted where they are sitting in the room. If you want to talk to a member of the Working Group or a government representative, it is useful to have a clear idea beforehand of what you want to say to them. Think about what it is you wish to convey, have a clear message, and communicate it in a straightforward way.

To draw greater attention to an issue that concerns you and to further the dialogue between minorities and governments, you should encourage your own government to participate in the Working Group. This may prove particularly useful in soliciting a response from the government to any concerns that are raised, and it may even encourage your authorities to take action to remedy the situation you have highlighted. Outside of specific country situations, government participation is also essential if the Working Group's activities are to have increased visibility and credibility.

Impact of the Working Group

Meetings of the Working Group are unlikely to be news in your country, and the Group can have no impact if no one knows about it. It is largely up to those who participate in the

sessions to ensure that the sessions are publicized. It is important to encourage media coverage of the Group's activities.

A press room, located in the United Nations building in Geneva, services a wide range of international media organizations. Staff at the press room can be helpful in putting you in touch with resident international press representatives or a media representative from your own country. You can simply put press releases into the pigeon holes located in the press room, but prior personal contact with journalists is often important if your press releases are to attract their interest. It is always useful to talk to media representatives in Geneva in advance of your statement and to make sure they have copies of it, but you also will need to convince them that your statement is newsworthy.

You should also have supporters at home working in tandem with you. While you are in Geneva, they can contact local media to inform them in advance of the issues you are addressing at the Working Group and encourage them to cover the story. It may be useful to provide background information on the Working Group to help local media understand the context in which you will be speaking. Make sure that you are available to any journalists who might want to contact you and that your press releases provide telephone and/or e-mail contacts.

While publicity is important in most human rights work, you should be careful about politicizing issues that may be very sensitive in your own country or that may incite your government to retaliate against you or the group you represent. Should you fear that this may happen, you may wish to bring your concern to the attention of the Secretariat of the Working Group and the Chairperson. They could then, for example, refer the matter to the new Special Rapporteur on Human Rights Defenders for inquiry or urgent action. If you or your organization are harassed, upon your return home, for statements made at the Working Group, you should inform the Secretariat of the Working Group.

The Role of NGOs between Sessions

NGOs have an important role to play once the session of the Working Group is over. By referring to the studies, conclusions, and recommendations of the Working Group, you may bolster your own case and bring additional pressure to bear on the authorities in your or another country. You also can contribute to developing norms and interpretations of difficult issues in a way that will be favourable to minority demands.

Activities you may wish to undertake include:

- encouraging the adoption of specific measures at the local and national levels to implement the rights contained in the Minorities Declaration
- contributing to implementing the conclusions and recommendations adopted by the Working Group
- drawing the attention of government authorities, NGOs, and minority groups in your country to the work and recommendations of the Working Group
- organizing workshops or seminars to discuss particular issues of concern
- organizing training sessions to raise greater awareness of the rights contained in the Declaration.

Further Information and Contacts

All communications regarding participating in the Working Group or other matters should be addressed to:

Secretariat of the Working Group on Minorities
Office of the High Commissioner for Human Rights
8-14 avenue de la Paix
1211 Geneva
Switzerland
e-mail: wgminorities.hchr@unog.ch
web site: www.unhchr.ch

Among NGOs that can be useful in facilitating your stay in Geneva and participation in sessions of the Working Group are:

International Service for Human Rights (for information on coverage of minority issues at all United Nations meetings, training, and strategy) - Tel: +41 22-733-5123;
Fax: +41 22-733-0826; e-mail: ishr@worldcom.ch ; web site: www.ishr.ch

Mandat International (for accommodation, word-processing, documentation centre, office space, fax and e-mail services, and photocopying) - Tel: +41 22-959-8855;
Fax: +41 22-959-88-51; e-mail: info@mandint.org ; web site: www.mandint.org

Geneva International Welcome Centre (for accommodation and information on hospitals, doctors, banks, restaurants, and other services in Geneva) - Tel: +41 22-918-0270;
Fax: +41 22-918-02-79; web site: www.geneva.ch

Minority Rights Group, (for participating in sessions of the Working Group)
International Secretariat, 54 Commercial Street (Floors 2-4)

London E1 6LT, United Kingdom
Tel: 00 44 (0)20 7978 9498; Fax: 00 44 (0)20 7422 4201
Web site: www.minorityrights.org

In addition to the many books and articles on minorities written by academics and activists, a number of important studies have been undertaken by members of the Sub-Commission. The classic study, first published in 1979, is Francesco Capotorti, *Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities*, UN Human Rights Study Series No. 5, reprinted in 1991. Other recent studies of interest are listed on OHCHR's web site at www.unhchr.ch

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~~S. Asbjørn Eide's report on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities (UN Doc. E/CN.4/Sub.2/1993/34 (1993)); a working paper by Erica-Irene Daes and Asbjørn Eide on distinctions between the rights of minorities and those of indigenous peoples (UN Doc. E/CN.4/Sub.2/2000/10 (2000)); and a working paper by Y.K.J. Yeung-Sik Yuen on the human rights problems and protections of the Roma (UN Doc. E/CN.4/Sub.2/2000/28 (2000)).~~

Pamphlet No. 3

**MINORITIES AND THE UNITED NATIONS:
THE CHARTER-BASED SYSTEM OF THE UN
AND HOW TO USE IT**

Summary: The most important UN bodies for minorities are the Sub-Commission on the Promotion and Protection of Human Rights and the Commission on Human Rights. (The Working Group on Minorities of the Sub-Commission is discussed in Pamphlet No. 2). Each of these bodies has a number of avenues through which minority concerns may be made known to UN experts and government representatives. In addition, communications alleging gross violations of the human rights of minorities may be filed under the 1503 procedure.

Introduction

The authority and competence of UN bodies to consider human rights issues generally, and their status in particular countries, are derived either from multilateral treaties to which a State may be a party or from the constitutional authority of the United Nations itself. Treaty-based procedures are discussed in Pamphlet No. 4; this pamphlet outlines ways of addressing the human rights situation in any member State of the United Nations through mechanisms created by UN organs. These mechanisms are normally referred to as "Charter-based", since the authority to create them stems from the UN Charter.

The United Nations is a political body that, at most levels, is made up of government representatives. Unlike the treaty-based bodies, which are composed of independent experts, members of the Charter-based bodies receive instructions from their governments and take positions accordingly. The one exception to this practice is the Sub-Commission on the Promotion and Protection of Human Rights (Sub-Commission), which is discussed below. In addition, non-governmental organizations (NGOs) have access to many of these bodies and, although they do not enjoy the right to vote, they may participate in public discussions about human rights in a variety of ways.

The UN bodies responsible for human rights matters are arranged in a hierarchy, from the UN General Assembly through to individual rapporteurs and small working groups. (The overall structure of the UN is described in Pamphlet No. 1.) Below the General Assembly and its constituent committees is the Economic and Social Council (ECOSOC). Subsidiary to that are the Commission on Human Rights (Commission), the Commission on the Status of Women (Women's Commission), and the newly created Permanent Forum on Indigenous Issues. The Sub-Commission is below the Commission. The Sub-Commission meets for three weeks annually in August and reports to the Commission, which meets for six weeks in March-April. The Commission reports to ECOSOC, which usually meets in June. Annual sessions of the General Assembly are normally held in New York, September through December. The Commission and Sub-commission meet in Geneva, Switzerland, which is also home to the Office of the High Commissioner for Human Rights. The Office is the branch of the UN Secretariat that is primarily responsible for human rights matters.

This leaflet provides information on each of these UN human rights bodies and offers advice on how minorities can participate in their meetings to raise awareness of issues of particular concern to minorities.

Sub-Commission on the Promotion and Protection of Human Rights

The Sub-Commission, as it is universally known, is composed of 26 individual experts, nominated by their governments and elected by the Commission. Individual Sub-Commission members may serve as “rapporteurs” who prepare studies for the Sub-Commission on particular topics. The Sub-Commission has working groups on minorities, communications (discussed further below), indigenous populations, and contemporary forms of slavery.

The Sub-Commission was conceived of as a kind of “think tank” for the Commission. Its tasks are to identify, initiate, carry out, and debate studies on human rights topics. Until 1999, it was named the Sub-Commission on Prevention of Discrimination and Protection of Minorities, but its current name more accurately reflects the broad range of its competence. The Sub-Commission’s annual agenda always includes an item on the protection of minorities, and it receives a report each year from its Working Group on Minorities, which normally meets every year for one week in May. You should consult Pamphlet No. 2 in this series, which discusses the Working Group in detail. It is through the Working Group that many minority issues are brought to the attention of the Sub-Commission, although new issues can also be raised during the Sub-Commission’s sessions each August.

The Sub-Commission’s activities include general debates - mainly thematic, recommendations for action forwarded to the Commission on Human Rights, and the adoption of resolutions. The Sub-Commission is viewed by many NGOs as *their* forum, as NGOs with consultative status can participate in the discussions and use attendance at the Sub-Commission as an opportunity to speak to a wide range of people on matters of concern. Many Sub-Commission members are interested in issues relating to minorities; and NGOs that are not focused on minorities may also be prepared to take up the cause of minorities. However, the open approach to accreditation that exists at the Working Group on Minorities does not apply to the Sub-Commission. Only those NGOs that have formal “consultative status” with ECOSOC are allowed to submit documents and give oral presentations at Sub-Commission sessions.

Information about how to obtain formal NGO status with ECOSOC is available from the Non-Governmental Organizations Section, Department of Economic and Social Affairs, Room DC1-1480, United Nations, New York, NY 10017, USA; Tel: +1 212-963-4842; Fax: +1 212-963-9248. In Geneva, you may wish to contact the NGO Liaison Office, Tel: +41 22-917-21-27; Fax: +41 22-917-05-83. Organizations applying for consultative status must fill in a questionnaire, which, when completed, is submitted to the Committee on Non-Governmental Organizations. This Committee makes its recommendations to ECOSOC, which takes the final decision. Please consult the web site www.unog.ch (UN and NGOs) for more information.

A lack of consultative status can be a serious impediment for those wishing to work within the United Nations system, but it is usually relatively easy to consult with accredited NGOs and provide them with information. Some NGOs may even be willing to use their speaking

slot under the relevant agenda item to present your information. Perhaps the best known NGO concerned with minority issues is the London-based Minority Rights Group, which frequently participates in sessions of both the Sub-Commission and its Working Group on Minorities. The Geneva-based International Service for Human Rights also is prepared to assist those unfamiliar with the UN but who wish to participate in meetings in Geneva or New York. Other non-governmental organizations that may assist in providing advice and support to representatives of minorities are: the International Centre for Ethnic Studies (Colombo, Sri Lanka) and the International Movement Against All Forms of Discrimination and Racism (Geneva).

Statements are made in the order in which people ask to speak, but priority is always given to members of the Sub-Commission. Thus, you should put your name down on the speaker's list under the relevant item as soon as possible. You should plan to be available for several hours before and after your scheduled speaking time to make sure that you are in the room when you are called to speak. If you are not present, you may lose your turn and not have a chance to make your statement. If you leave the meeting for a short period, try to have someone else there to read your speech in case you are called unexpectedly.

Clearly, the main benefit of attending the Sub-Commission is the opportunity to convey your concerns on minority issues to a wide range of human rights activists. This opportunity exists not only in the formal context of speaking or submitting documents to the Sub-Commission itself, but also by contacting NGO representatives and other interested representatives and organizations outside the formal meetings. Many alliances are formed over coffee or lunch, and Geneva is an excellent venue in which to exchange experiences with other NGOs and individuals with whom you may share common concerns.

Participation in Sub-Commission sessions is governed by a number of rules (related to length of oral and written submissions, agenda items, etc.), of which any NGO in consultative status should be aware. Both country-specific and issue-specific submissions are permissible, and it is often a good idea to try to coordinate strategies with other NGOs to avoid duplication of efforts. However, personal participation in Sub-Commission sessions is a time-consuming, expensive, and relatively demanding effort, and you should undertake it only after seeking the advice of those with experience in such matters and determining that the potential benefits outweigh the costs.

Commission on Human Rights

The Commission on Human Rights is the largest and most important UN human rights forum. More than 3,000 people generally participate in the Commission's work during its six-week sessions, which are held in Geneva in March and April. The Commission is composed of 53 member States, each represented by a government delegation. Most of the remaining UN member States attend the Commission as observers; they also have the right to speak. A large number of NGOs, representing virtually every human rights cause on the globe, also participates in Commission sessions.

(The Commission should not be confused with the Human Rights Committee, an entirely different body that was created under the International Covenant on Civil and Political Rights. The latter is composed of independent experts whose task is to monitor compliance with the provisions of the Covenant. It is described in Pamphlet No. 4.)

The agenda of the Commission includes just about every human rights issue imaginable, and the Commission adopts approximately 100 resolutions and decisions each year. Those resolutions that express concern over or even condemnation of the human rights situation in a particular country are usually the subject of intense lobbying by governments. The atmosphere is much more like that of the General Assembly than the more low-key human rights bodies established by the various human rights treaties (see Pamphlet No. 4). The Commission's deliberations include hours of formal speeches, and thousands of pages of documentation are distributed.

As in the Sub-Commission, statements are made in the order in which people ask to speak, but priority is always given to members of the Commission, observer States and organizations, and lastly to NGOs with ECOSOC status. Thus, you should put your name on the speaker's list under the relevant item and pay the same amount of attention to the speaking order as at the Sub-Commission, described above. Formal participation in the Commission is limited to governments and those NGOs that have consultative status with the United Nations. While NGOs are essential in providing information and applying political and moral pressure, their influence is generally less significant at the Commission than at the Sub-Commission. At the same time, however, many of the procedural innovations and substantive issues addressed by the Commission over the years have been influenced by NGO initiatives and lobbying. The NGOs that are most knowledgeable about the way the Commission works tend to be larger organizations, such as Amnesty International, Fédération Internationale des Droits de l'Homme, Human Rights Watch, and the International Commission of Jurists. But NGOs that focus on a single issue or country may also have an impact on the Commission if the work of those NGOs is carefully prepared.

Since the Commission addresses a wide range of human rights issues, minority rights are rarely at the forefront of its debates. Minority issues are a sub-item of the Commission's agenda, sharing time with matters relating to internally displaced persons, migrants, disabled persons, contemporary forms of slavery, and other issues concerning vulnerable groups. Issues pertaining to minorities are often raised under other agenda items, such as those relating to racial discrimination, religious intolerance, and development, so there are ample opportunities for minority representatives to contribute to the Commission's work.

Governments decide all the business of the Commission. You may wish to use the Commission as a venue in which to initiate a dialogue with your government that could be continued at home. Of course, you don't need to go to Geneva to influence your government in this way, though you do need to follow the issues closely. Given that government delegations operate on instructions from their capital, lobbying the foreign ministry is often as effective as appearing in Geneva. On the other hand, only your actual presence will enable you to respond to last-minute developments or unexpected resistance to an action you might favour.

Speaking formally to the Commission may attract attention because of the Commission's position as the most important UN human rights forum. At the same time, however, yours will be competing with a great number of other issues for the attention of governments and the media. As at the Sub-Commission, the Commission is a great place to meet and network with other NGOs, and it offers a good opportunity to make your concerns known to a much wider constituency, although progress is often slow and difficult to measure. Few, however, can afford to attend the full six-week session unless they are based in Geneva.

Many proposals for studies to be conducted by the Sub-Commission, including those on minorities' issues, may require the endorsement of the Commission on Human Rights, so NGOs may find it useful to follow the decision-making work of the Commission.

Rapporteurs and Working Groups

The work of the Commission on Human Rights is not limited to its annual meeting in Geneva. The Commission has a host of working groups that meet to draft new standards, such as the one that drafted the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and another that is now drafting a declaration on the rights of indigenous peoples. These may meet in conjunction with Commission sessions or at different times. The web site of the Office of the High Commissioner for Human Rights (www.unhchr.ch) provides a calendar of meetings. NGO participation in working groups is often easier and less formal than participation in plenary sessions of the Commission.

In addition to standard setting, an important element of the Commission's work is the "thematic and country mechanisms" it has created to investigate and report on human rights problems and to offer recommendations for measures to be taken, including through technical assistance, to address those problems.

Among the possible outcomes of the Commission's consideration of the human rights situation in specific countries are:

- appointment of a Special Rapporteur on the country, who will prepare a public report that will be submitted to the Commission the following year
- discussion and/or adoption of a resolution on the country
- adoption of a "president's statement" on the country
- engaging in a serious debate about the human rights situation in a country, during which the country's representative may exercise a right of reply, but stopping short of considering a formal resolution.

The thematic or country mechanisms usually consist of either an individual expert or a working group of five members (apportioned geographically). The individual experts are known by a variety of names, the most common of which is "Special Rapporteur". Whatever their title, they perform similar functions. Some of these mechanisms deal with particular countries while others are concerned with particular thematic issues, such as human rights defenders, freedom of expression, migrants, religious intolerance, internally displaced persons, housing, food, education, the right to development, summary and arbitrary executions, torture, enforced disappearance, or violence against women.

Each of the Special Rapporteurs gathers information, either from NGOs or pursuant to specific requests from governments. This information is incorporated into a report that is transmitted each year to the Commission. These reports often include a fairly comprehensive summary of the allegations made to the Special Rapporteur about violations relating to the issue or country for which the Special Rapporteur is responsible. At times, the Special Rapporteur may visit a country—with its government's consent—to look at a

situation in more depth. The reports may contain comments and recommendations on a government's human rights performance.

There are now approximately 15 "country mechanisms" and 20 "thematic mechanisms" dealing with a wide range of human rights issues. A list of them can be found on the OHCHR web site (www.unhchr.ch) under "OHCHR Programme, Extra-conventional mechanisms". Each of these Rapporteurs or working groups can be sent information c/o the High Commissioner's Office in Geneva, Switzerland. Several of the thematic mechanisms provide a particular format in which to submit information, including those whose mandates allow them to take "urgent actions". These include the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on violence against women; the Working Group on Arbitrary Detention; the Working Group on Enforced and Involuntary Disappearances; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on Human Rights Defenders. To send information, use the following Fax numbers: +41 22-917-9006 or 9003.

Other mechanisms have no special format to follow when submitting information, though the information should be as reliable and convincing as possible. If your concern is with an individual victim, include basic information, such as the name of the victim (with identity number, if possible), date and place of the incident, and some indication of the suspected identity of the perpetrators or their official status. Send information via Fax number: +41 22-917-9006.

Information may be submitted at any time, but given that the Special Rapporteur would want to include any government response to the allegations and that reports must be submitted to the Commission during March-April, it is best to submit the information by October or November of the preceding year, at the latest. Information submitted after this time may not be addressed until the following session of the Commission, one year later.

Subsequent developments should always be brought to the attention of the Rapporteur or group, whether it tends to disprove the allegation or confirm it. This helps the mechanism to act more effectively and avoid mistakes.

Confidential Communications under the 1503 Procedure

It is possible for individuals and NGOs to make complaints to the United Nations about widespread human rights abuses in any country. The process now known simply as the "1503 procedure" (named for the number of the Economic and Social Council resolution that created it), was established in 1970 and revised in 2000 to enhance its effectiveness, although it is still likely to be useful to minorities in certain situations.

The procedure was created to consider only situations of a "consistent pattern of gross and reliably attested violations of human rights". It is *not* available to deal with a single violation or victim, nor with violations that are not sufficiently serious. The sort of violations most commonly considered are widespread acts of discrimination, unfair trial, torture, killings by government authorities, and arbitrary detention (although 1503 complaints are not limited to these violations).

As with other human rights communications, a 1503 complaint should be as comprehensive and factual as possible. The working groups that consider 1503 communications initially organize their work based on the Universal Declaration of Human Rights, so you should indicate which articles of the Declaration you believe have been violated. Most submissions consist of a cover letter summarizing the allegations, the detailed body of the communication, and annexes setting forth relevant documents, witness statements, etc.

Apart from the requirement of alleging a pattern of sufficiently serious violations, there are few procedural requirements that are difficult to overcome. If you decide to use the procedure, you can; it does not matter whether you are an individual or an NGO, a victim, or only someone with “reliable knowledge of the violations,” as long as the information is not based exclusively on media reports. There is no restriction on who may submit a communication, although well-known NGOs may be more likely to have their communications considered favourably. Communications should be submitted to the Office of the High Commissioner, Sub-Commission on the Promotion and Protection of Human Rights, c/o Support Services Branch, OHCHR-UNOG, 1211 Geneva 10, Switzerland.

The primary disadvantage of the 1503 procedure is that it is entirely confidential; in theory, the applicant is not even told what disposition is made of the communication. It can also be lengthy, as communications are initially considered by a five-person working group of the Sub-Commission, which meets annually after the August Sub-Commission session. Those communications that are accepted are then forwarded to a working group of the Commission that determines which are then forwarded to the Commission, normally with recommendations to be discussed by the full Commission. The entire process takes a minimum of several months.

The ultimate action available to the Commission is initiation of a thorough study of a situation or creation of an ad-hoc committee. However, the latter requires the consent of the government and has never been invoked. The more realistic possible outcomes of a 1503 complaint are:

- To discontinue consideration of the matter when further consideration or action is not warranted
- To keep the situation under review in the light of any further information received from the government concerned and any further information that may reach the Commission under the 1503 procedure
- To keep the situation under review and to appoint an independent expert
- To discontinue consideration of the matter under the confidential procedure governed by Council resolution 1503 (XLVIII) in order to consider the same matter under the public procedure of Council resolution 1235 (XLII)

Despite the relatively mild nature of most of these potential actions, governments try vigorously to avoid being placed under scrutiny under the 1503 procedure, perhaps because even a request for information suggests that there is some evidence of “gross violations”.

The Chairman of the Commission makes a public statement each year indicating which countries have been considered confidentially and which countries are no longer under consideration. Unfortunately, the substance of the communications is not divulged. The situations in 80 countries have been considered by the Commission since the procedure's inception, and, on average, the Commission spends two to three days in private session each year considering between five and ten different countries.

Putting together a communication that will be taken seriously requires significant time and energy, and the ultimate "reward" may be small. Minority situations have been considered under the procedure; it is another means of bringing quiet diplomatic pressure to bear on a government. Many NGOs believe that more can be accomplished by focusing on more public initiatives, but you should keep the 1503 procedure in mind, particularly since many minority issues constitute widespread or official discrimination against minority groups and not just individual human rights violations.

Other UN Bodies

The **Commission on the Status of Women** consists of 45 government representatives and meets annually in New York. Its primary functions are discussion, review of women's issues, and following-up on recommendations of the 1995 Fourth World Conference on Women.

The **Economic and Social Council** and the **General Assembly** are important policy-making bodies, although ECOSOC generally follows the lead of the Commission on Human Rights on both human rights issues, generally, and minority rights, in particular. The General Assembly and the Security Council are the highest bodies in the United Nations, but there is little that an individual or NGO can do directly at the General Assembly. NGOs have no right to participate in its debates or other activities. The best way to influence the General Assembly is by raising concerns with your own foreign ministry and encouraging your government to take supportive positions on issues of concern to minorities when the General Assembly meets.

High Commissioner for Human Rights

The Office of the High Commissioner for Human Rights, which is housed in a building separate from UN Headquarters in Geneva, is responsible for servicing and supporting nearly all of the UN's human rights activities. The UN Secretariat's job is to promote and protect human rights, as defined in the High Commissioner's mandate and other mandates. You should not hesitate to contact relevant Secretariat officials directly for advice.

Further Information and Contacts

All the UN bodies and special procedures described in this pamphlet may be contacted in care of the Office of the UN High Commissioner for Human Rights:

OHCHR-UNOG
Palais des Nations
1211 Geneva 10
Switzerland

The visiting address of the Office is Palais Wilson, 52 Rue des Pâquis, 1201 Geneva 1.

The UN “hot lines” for contacting rapporteurs about a situation that requires urgent action are:

Fax: +41 22-917-9006 and +41 22-917-9003

The High Commissioner’s Office maintains an excellent web site with information about upcoming meetings, lists of rapporteurs, and general information about both the Charter-based and treaty-based mechanisms serviced by the Office. The web site is a good place to begin if you would like an overview of the UN’s human rights activities. Its address is: www.unhchr.ch

Among NGOs that can be useful in facilitating your stay in Geneva and participation in sessions of the Commission or Sub-Commission are:

International Service for Human Rights (for information on coverage of minority issues at all United Nations meetings, training, and strategy) - Tel: +41 22-733-5123;

Fax: +41 22 -733-0826; e-mail: ishr@worldcom.ch ; web site: www.ishr.ch

Mandat International (for accommodation, word-processing, documentation centre, office space, fax and e-mail services, and photocopying) - Tel: +41 22-959-8855;

Fax: +41 22-959-8851; e-mail: info@mandint.org ; web site: www.mandint.org

Geneva International Welcome Centre (for accommodation and information on hospitals, doctors, banks, restaurants, and other services in Geneva) - Tel: +41 22-918-0270;

Fax: +41 22-918-02-79; web site: www.geneva.ch

There are several publications that describe the bodies and procedures discussed in this pamphlet in greater detail. These include International Service for Human Rights, *Info-Pack: Information on UN Human Rights Procedures* (Geneva, updated semi-annually); G. Alfredsson and E. Ferrer, *Minority Rights: A Guide to United Nations Procedures and Institutions* (Minority Rights Group and Raoul Wallenberg Institute, 1998); H. Hannum, *Guide to International Human Rights Practice* (Transnational, 1999).

**MINORITIES AND THE UNITED NATIONS:
HUMAN RIGHTS TREATY BODIES
AND COMPLAINT MECHANISMS**

Summary: The United Nations' treaty-based human rights system includes legal procedures through which members of minorities can seek protection of their rights. This pamphlet describes six major international human rights treaties that deal with civil and political rights; economic, social, and cultural rights; racial discrimination; children's rights; women's rights; and torture, respectively. The first section outlines the system of State reporting common to all human rights treaties and suggests ways in which minorities and their representatives can raise their concerns before international treaty bodies. The second section describes complaint mechanisms that are available under four of the treaties to individuals who believe their rights have been violated.

UN Human Rights Treaties

There are six major, legally binding international human rights treaties within the UN human rights system that deal with a broad range of human rights (see chart below). To use them, you must know to which treaties your country is a party. The full text of each treaty can be found on the OHCHR web site (www.unhchr.ch) under "Treaties"; a list of the countries that have ratified the treaties can be viewed through a link on the text of each treaty.

Each of these treaties has a committee that monitors the way in which States Parties are fulfilling their human rights obligations under the respective treaty. The committees, also known as treaty bodies, vary in size from 10 to 23 members and are composed of international human rights experts. Committee members serve for four-year terms and, although they are elected by the States Parties, they serve in their personal capacity and not as representatives of their governments. Members generally do not take part in deliberations concerning their own country. The committees meet for several weeks each year, usually in Geneva. The Committee on the Elimination of Discrimination Against Women meets in New York; and the Human Rights Committee meets once in New York and twice in Geneva each year.

If your country is not a party to a relevant treaty, you cannot invoke the treaty's procedures formally to redress violations of the treaty's protections. In these cases, however, you may be able to use the Charter-based procedures created by the UN Commission on Human Rights and other bodies, which are described in Pamphlet No. 3 of this series.

HUMAN RIGHTS TREATIES AND THEIR SUPERVISORY BODIES

HUMAN RIGHTS TREATY	NAME OF SUPERVISORY BODY	NUMBER OF MEMBERS	NUMBER AND VENUE OF SESSIONS	NUMBER OF GENERAL COMMENTS OR RECOMMENDATIONS ADOPTED AS AT 1 MAY 2001	NUMBER OF GENERAL DISCUSSION DAYS HELD AS AT 1 MAY 2001	AVAILABILITY OF INDIVIDUAL COMPLAINTS PROCEDURE	INQUIRIES INTO GRAVE OR SYSTEMATIC VIOLATIONS
International Covenant on Civil and Political Rights (ICCPR)	Human Rights Committee	18 members	3 sessions per year: 2 in Geneva, 1 in New York	28	-	YES UNDER FIRST OPTIONAL PROTOCOL to the ICCPR	-
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights	18 members	2 sessions per year in Geneva	14	19	-	-
International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	Committee on the Elimination of Racial Discrimination (CERD)	18 members	2 sessions per year in Geneva	27. In addition, 2 statements have been adopted, including one on the human rights of the Kurdish people.	1 (on the Roma)	YES THROUGH ACCEPTANCE OF ARTICLE 14 of ICERD	-
Convention on the Rights of the Child (CRC)	Committee on the Rights of the Child (CRC)	10 members	3 sessions per year in Geneva	1	9	-	-
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Committee on the Elimination of Discrimination Against Women (CEDAW)	23 members	2 sessions per year in New York	24	-	YES UNDER OPTIONAL PROTOCOL to the CEDAW	YES UNDER OPTIONAL PROTOCOL TO CEDAW
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	Committee against Torture (CAT)	10 members	2 sessions per year in Geneva	1	-	YES THROUGH ACCEPTANCE OF ARTICLE 22 of CAT	YES THROUGH ACCEPTANCE OF ARTICLE 20 OF CAT

There are two ways in which the committees monitor a State Party's implementation of its treaty obligations. The first is by considering reports submitted periodically by governments on their implementation of the treaties. States Parties are legally obliged to submit these reports, which inform the supervisory body about actions the State has taken to implement its obligations under the particular treaty, both through legislation and by other means.

The committees also monitor treaty compliance by considering complaints, generally called "communications", made by individuals that their rights under a particular treaty have been violated. Four treaty bodies deal with such complaints. The complaint procedures are discussed in greater detail below.

In addition, many of the treaty bodies adopt General Comments or Recommendations that interpret or elaborate treaty provisions. Several of the treaty bodies also hold general discussion days on particular themes or on the content of treaty provisions. Occasionally, general discussion days have contributed to the formulation and adoption of a treaty body's general comments or recommendations. For example, the Committee on the Elimination of Racial Discrimination held its first thematic discussion on 15 and 16 August 2000 on the question of discrimination against Roma. Following the discussion, the Committee adopted its General Recommendation XXVII on Discrimination against Roma and indicated its intention

to organize other thematic discussions at future sessions. A compilation of all treaty bodies' general comments or recommendations is prepared and issued at regular intervals. The latest compilation is contained in document HRI/GEN/1/Rev.5.

The Rights Protected

This section summarizes some of the articles in each of the six treaties that may be of particular interest to minorities. However, minorities are entitled to *all* of the rights accorded to those who live within the jurisdiction of the State. Non-governmental organizations (NGOs) and others should use the mechanisms outlined in this pamphlet whenever they feel that a State could do a better job guaranteeing human rights, whether the problems identified are specific to minorities or more general. The last page of this pamphlet contains a list of guides and web site addresses offering further details on how NGOs may provide information to particular treaty bodies.

International Covenant on Civil and Political Rights

The ICCPR protects a wide range of rights, many of which are similar to rights often called “civil rights” or “civil liberties” in domestic law. The ICCPR is the only global treaty that includes a provision specifically referring to minority rights (European mechanisms concerned with minorities are discussed in Pamphlets Nos. 7, 8 and 9):

Article 27: 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 practice their own religion, or to use their own language.

This article technically applies only to “persons belonging to... minorities”, not to minority groups or communities themselves, although the collective aspect of this right is underscored in the next phrase “in community with the other members of their group”. The articulation of minority rights is relatively narrow and is confined to those areas concerned with identity and culture, i.e., the rights to culture, to the free exercise of religion, and to use one's own language. The wording “shall not be denied” may give the impression that the State has merely to refrain from certain actions rather than be obliged to adopt positive measures to promote or assist minorities in exercising their rights. However, the Human Rights Committee has observed that States may be required to adopt “positive measures of protection” to protect rights from being violated not only by the government but also by other persons. You should consult the full text of the committee's General Comment No. 23/50 on article 27, which was adopted in 1994.

Although the introductory phrase of article 27 may appear to exclude newly arrived immigrants, the Human Rights Committee has interpreted the article broadly to include all those within a State's jurisdiction, including migrant workers and visitors. The committee also has suggested that a State may need to ensure the “effective participation of members of minority communities in decisions which affect them” in order to guarantee full enjoyment of the right to culture.

A number of other rights in the ICCPR may be particularly relevant to minorities, along with the general protections that apply to all individuals:

Article 1 sets forth the right of “all peoples” to self-determination, which includes the right to determine their political status and freely pursue their economic, social and cultural development. Peoples also may freely dispose of their natural wealth and resources. However, according to the Human Rights Committee, this right does not belong to minorities per se, even though the distinction between “peoples” and “minorities” may be difficult to discern.

Article 2.1 guarantees that the rights protected by the Covenant apply to all individuals, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. This entitlement applies to all individuals within the territory or under the jurisdiction of a State (see also General Comment No. 18).

Article 3 provides for the equal enjoyment of all rights for men and women (see also General Comment No.28).

Article 12 guarantees free movement and choice of residence for everyone lawfully within the territory of a State, as well as the right to leave any country and to enter one's own country (see also General Comment No. 27).

Article 17 protects against interference with a person's privacy, family, home, or correspondence, as well as against attacks on honor and reputation.

Article 18 is essential to minorities and protects freedom of thought, conscience, and religion. Minorities may manifest their religion in public or private through worship, observance, practice, and teaching, and parents are free to ensure that the religious and moral education of their children conforms to their own convictions (see also General Comment No. 22).

Article 19 protects freedom of opinion and expression. This is basic to the ability of minorities to communicate in their own language and includes “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media.” As is true for many other rights, freedom of expression may be legitimately restricted by law, but only where such restrictions are necessary to protect the rights of others or to protect national security, public order, public health, or public morality.

Article 20 requires governments to prohibit by law any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence (see also General Comment No. 11).

Article 22 guarantees freedom of association. While most of its provisions concern trade unions, this article also protects the right to form and participate in minority educational, cultural, political, and other organizations.

Article 25 sets forth the rights and opportunities of citizens to participate in the conduct of public affairs, to vote and be elected and to have access to public service (see also General Comment No. 25).

Article 26 is a general non-discrimination clause that guarantees equality before the law and equal protection for all. This right does not preclude the State from making reasonable distinctions among categories of people, such as the need to speak the official language under

certain circumstances, but it prohibits any unreasonable distinction based on one's status as a member of a minority group (see also General Comment No. 18).

Further information of interest to minorities is contained in the Human Rights Committee's contribution to the preparatory process of the Durban World Conference against Racism (document A/CONF.189/PC.2/14). Jurisprudence arising from the consideration of individual cases (namely Communications Nos. 197/1985, 196/1985, 167/1984, 511/1992, and 694/1996) may also be helpful. The full text of these cases can be found on OHCHR's web site (www.unhchr.ch) in the treaty bodies database, jurisprudence section.

International Covenant on Economic, Social and Cultural Rights

While the ICESCR clearly sets out economic, social and cultural rights, it allows States greater flexibility in how they respect these rights than does the ICCPR with regard to civil and political rights. Some have described many of the rights in ICESCR as creating obligations of result rather than obligations of conduct. In other words, States enjoy a wide degree of discretion in determining how best to protect these rights, given the different circumstances in each country.

Article 2(1) of the Covenant recognizes the different capacities among countries to provide services such as health care and education. At the same time, article 2(1) establishes that each State party has committed itself "to take steps... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant, including particularly the adoption of legislative measures."

While governments may try to use the language of "progressive realization" as an excuse for inaction, the Committee on Economic, Social and Cultural Rights has made it clear that concrete steps must be taken towards meeting the goals of the ICESCR. In particular, no State may deliberately take retrogressive measures without providing acceptable justification for doing so. The Committee also has indicated that States are obliged, at a minimum, to ensure that essential levels of basic foodstuffs, primary health care, basic housing, and at least the most basic forms of education are available, commensurate with the resources at the State's disposal. The ICESCR also includes a non-discrimination clause (in Article 2[2]) to guarantee that rights will be exercised without discrimination of any kind. This non-discrimination provision must be applied immediately, rather than only progressively.

There are other articles in the ICESCR of particular interest to minorities:

Article 3 requires States to ensure the equal enjoyment of all rights for men and women.

Articles 6 and 7 concern the right to work, including the opportunity to gain one's living by work freely chosen, as well as the right to enjoy just and favorable conditions of work.

Article 11 sets forth the right to an adequate standard of living, including adequate food, clothing, housing, and the continuous improvement of living conditions.

Article 12 requires States to ensure the highest attainable standard of physical and mental health, including an obligation to reduce infant mortality and to promote the healthy development of the child.

Articles 13 and 14 set forth the right of everyone to education, including a provision that primary education must be compulsory and free for all. Of particular interest to minorities is the liberty of “individuals and bodies” to establish and direct educational institutions, as long as these institutions conform to whatever minimum standards may be established by the State.

Article 15 states that everyone has the right to take part in cultural life and to have his/her intellectual property protected.

In order to clarify the meaning of some of these rights, the Committee has adopted a number of General Comments, which can be found on the OHCHR’s web site (www.unhchr.ch) These General Comments help define, among other things, the right to housing (General Comments Nos. 4 and 7); the right to an adequate standard of living, in particular the right to food (General Comment No. 12); the right to education, including primary education (General Comments Nos. 11 and 13); and the right to health (General Comment No. 14).

The Committee holds general days of discussion on particular themes and issues, many of which are of direct interest to minority representatives and NGOs. NGOs have participated regularly in those discussions.

International Convention on the Elimination of All Forms of Racial Discrimination

Many people, including members of minority groups, make the mistake of assuming that the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) applies only to what is traditionally thought of as “racial” discrimination, i.e., formal legal schemes that discriminate based on colour. In fact, the application of the ICERD is much more expansive, since “racial discrimination” is defined 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” (emphasis added). In fact, the Committee on the Elimination of Racial Discrimination (CERD) has consistently considered discrimination against minorities in its examination of the periodic reports submitted to it by States, and it should be a primary focus of minority representatives who wish to provide complementary or alternative information to a government's description of the situation of minorities in a country.

Since 1993, the Committee has developed mechanisms towards preventing serious violations of the Convention called early warning measures, which are designed to prevent existing problems from escalating into conflicts, and urgent action procedures, which are intended to address problems requiring immediate attention. The Committee also issues statements, such as that released in 1999 on the human rights of the Kurdish people.

The ICERD also specifically allows States to adopt “special measures” to ensure that certain racial or ethnic groups or individuals can enjoy equal rights in practice, provided that such measures do not lead to the permanent maintenance of separate rights for different racial groups. These measures are often known as “affirmative action” or “positive discrimination”, and they may be adopted to correct historical injustices and to ensure that minorities are treated fairly.

A State's obligation under the ICERD extends not only to its own actions and those of other public authorities. It also must prohibit and bring to an end racial discrimination by any private person, group, or organization (Article 2[1][d]). States must punish, by law, the dissemination of ideas based on racial superiority or hatred and must prohibit organizations from promoting and inciting racial discrimination (Article 4[a]). States must also adopt “immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups” (Article 7).

The rights that must be guaranteed without racial discrimination are specified in Article 5 and parallel those in other international human rights treaties. They include equal treatment before judicial bodies, the right to participate in public affairs and have equal access to public service, freedom of movement and residence, freedom of opinion and expression, and the right of access to any place or service intended for use by the general public.

Convention on the Rights of the Child

With 191 States Parties, this is the most widely ratified human rights treaty. It focuses on the promotion and protection of children's rights (children are defined as persons below 18 years of age), and it extends to children most of the rights guaranteed to “everyone” under other international instruments. The following are among the articles that may be of particular interest to minorities:

Article 2 provides that the rights in the Convention must be guaranteed without discrimination on the basis of, among other qualities, race, colour, language, religion, or national or ethnic origin.

Article 3 sets forth the basic principle of the Convention, which is that the best interests of the child should be the primary consideration in all actions concerning children.

Article 6 recognizes the child's right to life, survival and development.

Article 7 requires that children be registered immediately after birth and have the right to a name and nationality.

Article 12 recognizes respect for the views of the child.

Article 17 encourages the mass media to cooperate in producing and disseminating material from diverse cultural sources and “to have particular regard to the linguistic needs of the child who belongs to a minority group”.

Article 20 provides that due regard should be paid to a child's ethnic, religious, cultural, and linguistic background, when it is necessary to place the child in a home other than that of his/her family.

Article 24 recognizes the child's right to health.

Article 28 provides for the child's right to education, including access to primary education.

Article 29 reflects the fundamental purpose of education, and states, among other things, that a child's education shall be directed to developing respect for: human rights and fundamental freedoms; his/her own cultural identity, language, and values; the national values of the country in which the child lives and from which he or she may have originated; and the values of other civilizations (see also General Comment 1).

Article 30 essentially extends to children the provisions of article 27 of ICCPR regarding the right to enjoy one's culture, practice one's religion, and use one's own language.

Article 31 calls upon States to respect and promote a child's right to participate in cultural and artistic life.

Convention on the Elimination of All Forms of Discrimination Against Women

The Committee on the Elimination of Discrimination Against Women supervises this Convention, which deals with the rights of women. These rights include the right to equal treatment under the law; equality in education, political participation, employment, health, and the economy; freedom from sexual exploitation; and the possibility of temporary special measures to overcome inequality. In addition to agreeing to eliminate discrimination against women by “any person, organization or enterprise”, States agree to take appropriate measures “to modify or abolish existing laws, regulations, *customs and practices*” that discriminate against women (emphasis added).

The Committee on the Elimination of Discrimination Against Women has consistently spoken out about the situation of women during armed conflict and about gender-based violence. In 1992, the Committee adopted a general comment (No.19) on violence against women, reflecting a major international concern: that women continue to suffer multiple discrimination because of their gender.

Certain articles of the Convention on the Elimination of Discrimination Against Women may be of particular relevance to minority women. For example:

Article 5 obliges States to take “all appropriate measures... [t]o modify the social and cultural patterns of conduct of men and women” in order to eliminate “prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”

Article 7 concerns the right of women to participate in public life and to hold public office (see also General Recommendation No.23).

Article 10 requires that educational programmes eliminate stereotyped concepts of the roles of men and women.

Article 12 requires the elimination of discrimination against women with respect to access to health care services (see also General Recommendation No.24).

Article 14 concerns the particular problems faced by rural women, many of whom may be members of minorities.

Article 16 reiterates that women and men shall be equal in all matters related to marriage and family, including the right to marry freely and only with full and free consent. It also provides that no legal effect may be given to the betrothal or marriage of a child (see also General Recommendation No.21).

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Members of minorities have the same right to be protected against torture and other cruel, inhuman, or degrading treatment or punishment as any other individual. The Torture Convention requires States to make torture a crime and to punish or extradite alleged torturers whenever they may be found within a country's jurisdiction.

How to Use the Reporting System

All major international human rights treaties, including those discussed in this pamphlet, require States Parties to submit a report to the supervisory committees every two to five years on how the government is fulfilling its treaty obligations. Each report should contain detailed information on what efforts the State has made to realize the human rights contained in the treaty, including areas in which progress has been made and where the State has encountered obstacles or problems. For example, the UN's *Manual on Human Rights Reporting* states that information submitted on Article 27 of the International Covenant on Civil and Political Rights should identify the minority groups that exist in the country, describe the "positive measures" adopted by States to preserve those minorities' identities, and describe any measures taken "to provide minorities with equal economic and political opportunities".

The respective treaty bodies review the reports with representatives from the State concerned in public sessions. After considering the State's report, the committee adopts its "Concluding Observations", a public document that evaluates the State's performance by recognizing positive developments, highlighting areas of concern, and providing suggestions and recommendations on specific issues. (The latest listing of States reports due and considered under the principal international human rights treaties is contained in HRI/GEN/4/Rev.1; the latest compilation of the "Guidelines on the Form and Content of Reports to be submitted by States Parties to the International Human Rights Treaties" is contained in document HRI/GEN/2/Rev.1.)

The reporting system encourages openness and constructive dialogue between the State and the committee. In practice, however, problems do arise. Not all reports are reviewed in a timely fashion; not all governments give sufficient attention to the comments, suggestions,

and recommendations of the committees; and not enough publicity is given to the whole process.

Nevertheless, this review process offers an opportunity for any individual or group to help a treaty committee better understand the situation of minorities in a country. There are a number of activities you can undertake to make the best possible use of the reporting system, most of which are relevant to all the treaty bodies discussed above. Special rules or practices of some of the committees are mentioned under the appropriate headings, but you can follow the advice below to raise issues before any of the committees.

Encourage the government to make a comprehensive and accurate report

A government department or agency, or sometimes several of them, is responsible for preparing the country's reports for submission to the relevant supervisory committee. It is important to find out who is responsible for preparing these reports and when they are being prepared. The Ministry for Foreign Affairs often coordinates the preparation of a country's report and should be able to provide this information.

The reports themselves will become public UN documents after they are submitted to a committee, but there is no formal requirement that States discuss their reports with their own citizens or invite outside individuals or bodies to help prepare them. However, many governments do allow or even encourage such participation, and minority individuals and organizations should take advantage of this possibility. Whether or not it is possible to participate in the drafting of a report, you can publicize the fact, in the media and elsewhere, that a government report on human rights is being prepared. Once a government's report is completed and sent to the relevant committee, minority-specific organizations or more mainstream human rights NGOs may wish to submit their own supplementary information to the committee.

Prepare an alternative (also called complementary, shadow or parallel) report

In some countries, alternative reports are coordinated by established human rights or community organizations with a special interest in the treaty's field of human rights. This enables various groups to contribute to the report and provides a more comprehensive view of the government's performance. Most of the treaties discussed here include issues of specific concern to minorities. You should consider how you can contribute to a discussion of these issues within the larger context of the entire report.

In some cases, it might be appropriate to prepare a specific alternative report wholly devoted to minority concerns. While this is likely to bring attention to specific minority issues, it also involves a great deal of work and resources, both financial and human.

In either case, an alternative report should directly address specific articles of the relevant treaty and specific observations set forth in the government's report. It should be concise, factually accurate, and free of unnecessary political comment. Publication and submission of an alternative report can itself draw attention to the human rights problems discussed in the report. For example, a media launch of an alternative report could be the first step in a continuing campaign to highlight omissions in the State's report and to publicize ongoing human rights issues.

The fact that a report has not been submitted on time does not preclude minorities' involvement in the reporting process. Some committees review the situation in non-reporting States Parties in the absence of a report precisely to encourage the submission of State reports. When a country is scheduled for review under this procedure, information from NGOs and other groups can be helpful to committees.

Participate in committee meetings

Additional information, whether on specific issues or in the context of an alternative NGO report, is usually sent directly to the relevant supervisory committee in Geneva or New York. Even if the government has not publicized the fact that a report is being prepared, schedules of when reports are being considered by committees may be obtained from the High Commissioner's web site. It is important that the relevant committee receives your information well before the committee meets to consider the State's report. You should contact the Office of the High Commissioner in Geneva or the Department for the Advancement of Women in New York to make sure that the information you wish to provide is disseminated in time.

The most effective approach is to coordinate your information with that of other organizations that are also providing alternative reports on the same treaty. This allows the committee to receive a comprehensive alternative view to the State's report, instead of just a large quantity of uncoordinated information. It is best to organize the information you submit according to the sequence in which the rights are set forth in the particular treaty. When available, you should refer to relevant authorities and supporting material, such as statistical evidence, official reports, court decisions, or materials from other bodies within the UN system (such as UNESCO, the International Labour Organization, or even other treaty bodies). If possible, you should send 20 copies of your materials to the appropriate committee, together with a written request that they be distributed to all committee members, wherever this is permitted.

Although it may require a considerable outlay of resources, you also might consider going to Geneva or New York when the committee meets to consider the State's report, in order to provide information directly to committee members. This can prove useful in clarifying points that may have been unclear in the written information prepared by NGOs or minority representatives.

The rules covering the participation of NGO representatives vary from committee to committee. Probably the most extensive opportunity for both written and oral submissions exists before the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights.

The Committee on the Rights of the Child accepts written information and may invite NGOs to participate in its pre-session working group. NGOs may attend but not participate in the committee's formal session, in which the public discussion with State representatives occurs. An informal "NGO Group for the Convention on the Rights of the Child" helps coordinate NGO participation in committee sessions and has prepared a useful guide for participants which is available on its web site (www.defence-for-children.org).

The Committee on Economic, Social and Cultural Rights allocates the afternoon of the first day of each session to hearing NGOs, and NGOs also may speak during part of the

committee's pre-session meetings. In 2000, the Committee adopted a paper on NGO participation (document number E/C.12/2000/6) which outlines how NGOs can best contribute to the Committee's work. A guide on how NGOs can use this committee is available electronically via www.cohre.org.

Even if a committee does not provide for formal participation in meetings, you can always seek out individual committee members outside of the formal sessions to speak to them about your concerns. While you should be careful not to badger or unnecessarily intrude on members, you should not hesitate to present them with useful, diplomatically phrased information.

If possible, it may help to seek the advice of experienced NGOs and organizations in Geneva that facilitate participation in UN human rights meetings. There also are a number of publications designed to help NGOs navigate effectively through the UN (see references at the end of this pamphlet).

Formal accreditation as an NGO in "consultative status" with the United Nations is not always required in working with the treaty bodies, but it may be helpful in gaining access to the committees. If you are planning to attend a committee session, it is a good idea to contact the Office of the High Commissioner or the Division for the Advancement of Women well in advance to ensure that you are aware of current practices. The Secretariat will generally be able to help you obtain access to committee venues.

Publicize the committee's review and monitor the government's follow-up to the committee's recommendations

None of the work of the treaty bodies means much if knowledge of the outcome of that work remains in Geneva or New York. You should consider ensuring that a committee's conclusions and recommendations are made known to the media and the general public in your country as soon as possible after they are issued, at the end of each session. You can obtain a copy of a committee's conclusions in person, via the UN's human rights web site, or through human rights NGOs based in Geneva. You should also be able to obtain the committee's conclusions from the government concerned, although there are often delays in producing these records. Again, all information related to the committee's review of a State report should be public.

Committee conclusions on a country's performance in protecting minority rights should be used to generate media and public awareness of the problem. If you have contacted domestic NGOs and media outlets prior to the committee's review, they are more likely to want to learn how the process turned out. You may wish to issue a press release once the committee's concerns and recommendations are issued, highlighting both the positive and negative conclusions reached by the committee.

Some governments are responsive to the recommendations of the treaty committees, but others may need to be encouraged by NGOs and public opinion to implement the committees' conclusions. Although most committees now try to follow up on their recommendations formally, it may be useful to publicize the government's report, the committee's observations, and the government's responses to the committee. The UN treaty-monitoring system can only work if it is actively supported by those most interested in seeing it become effective, i.e., affected minority groups and organizations themselves.

Making complaints (“communications”) about human rights violations

The ICCPR, ICERD, CAT, and CEDAW have mechanisms that enable individuals to send a formal complaint, generally called a “communication”, to the corresponding committee, alleging that their rights have been violated. However, complaints mechanisms are optional, and a State Party may choose not to permit its citizens or other individuals to complain against it under the treaty procedures. You should ensure that the State concerned has not filed a reservation to any of the treaty's provisions, which limits the State's obligations.

The optional provisions are set out in the first Optional Protocol to the ICCPR, Article 14 of CERD, Article 22 of CAT, and the Optional Protocol to CEDAW, which entered into force on 22 December 2000. The procedure for handling complaints is similar for all four treaties; this pamphlet can only summarize the most important factors. Because the process is quasi-judicial and constrained by the particular provisions of each treaty, you should be certain to consult the exact language of the treaty before filing a complaint.

In every case, the relevant committee considers a complaint, along with the comments of the government concerned, and adopts “views” or “opinions” as to whether or not a violation has occurred. (The designation of the committee's conclusions as “views” or “opinions” underscores the fact that the committee cannot issue legally binding judgements or decisions.) The committee's conclusions are based on its evaluation of written information rather than on oral hearings. Even though a committee's “views” are not legally binding, ignoring them exposes a government to domestic and international criticism that it is not complying with its international obligations. A committee may make recommendations to the government and request follow-up information on what actions, if any, the government has taken.

Several of the committees have developed model forms to facilitate their examination of complaints; these forms can be found on the OHCHR web site (www.unhchr.ch) under “OHCHR Programme, Conventional Mechanisms, Communications, complaints procedures”. Use of these forms is not required, but they do offer guidance on what kind of information should be included in a communication. Every communication should clearly indicate the name of the committee to which it is addressed and should be sent to the Office of the High Commissioner for Human Rights in Geneva.

The first step a committee takes in considering a complaint is to determine whether the complaint is admissible. This means that the complaint meets the minimum requirements for consideration.

The first requirement is that the complainant be a *victim* of a human rights violation. ICCPR and CAT allow only individuals to submit complaints; CERD and CEDAW allow groups of individuals to complain. Individuals or groups may be represented by a lawyer or others acting on their behalf. The complaint must allege specific violations of rights; no general complaints about the human rights situation in a country are allowed. Many NGOs have helped victims gain access to the committees.

The most demanding requirement is that *all domestic remedies in the State concerned must have been exhausted*. Whenever possible, you should submit formal complaints to the local authorities or invoke judicial procedures where available before filing a complaint at the international level. However, you need not do this if domestic remedies are unduly delayed,

the judicial system is inherently unfair or does not function independently, or theoretically available remedies would be hopeless. For example, a complaint that a law is racially discriminatory or that existing laws do not adequately provide for use of a minority language may be made without going through judicial motions if, for example, the judiciary in the country does not have the authority to declare a law contrary to international norms. If a government claims that an applicant has not exhausted domestic remedies, it is up to the government to specifically identify the remedies that it believes are available.

There are also a number of more *technical requirements* for admissibility, although these do not usually present problems. Communications must not be anonymous, although you may request that your name not be divulged to the State if you believe there is any danger of retaliation. However, this may make it more difficult for a State to respond to the allegations. A complaint cannot be written in insulting or abusive language; and a complaint cannot be considered if the same situation is being investigated under another international procedure.

As much relevant information as possible should be included in the initial communication in support of the *substantive allegations* made. This information should include statements or affidavits from the author of the complaint, witnesses, family members, or others who have relevant information about the specific issues raised. If the authorities are involved, include information such as the number and kind of police or security services, details of any arrests or searches, etc. You should include texts of relevant laws and directives, legal judgements, and copies of any publications or documents that may have been seized as annexes. If the situation does not obviously constitute a human rights violation, you should try to refer to relevant international opinions, both within and outside the United Nations. Although it is not required, it is usually a good idea to seek legal advice from someone who understands the UN system.

Either before or after a decision on admissibility is made, a complaint may be communicated to the government concerned for its response. This should be the minimum goal of any communication. If the State replies, a copy of the reply is sent to the complainant, who may then comment on the State's response. The committee sets time limits for the various responses. The failure of a State to respond does not prevent the committee from proceeding with its examination.

If a complaint is found to be admissible, the committee then examines the allegations, the responses, if any, from the State, and any counter-responses from the complainant. In some cases, admissibility issues may be "joined to the merits" of a case, so that both issues are decided at the same time. The committee eventually adopts its views and recommendations, which are made public immediately following the session at which they are adopted and sent to the complainant and the government. Most decisions on admissibility, even if they are negative, are also made public. All of the decisions are reproduced in the committee's annual report.

Perhaps the greatest advantage of the individual complaint process is that it treats the individual complainant and the State as equals and establishes the principle that formal international oversight of an individual's complaints against his/her government is legitimate. However, the entire process, from filing the complaint until adoption of the committee's views, is lengthy: it may take three or four years. In addition, the committees' deliberations are confidential, and there is no opportunity to call witnesses or to engage the government in an oral debate, as there would be in a domestic court. Although most committees have designated one of their members to follow up on how a State responds to the committee's

views, compliance with committee recommendations has been weak. However, the situation is slowly improving.

The complaint machinery is nevertheless a worthwhile last hope for minorities who have exhausted all other avenues to redress their grievances. States do sometimes respond positively to the process, and the mere fact that a well-founded case is brought to one of the committees may encourage a State to re-examine its policies or begin a dialogue with minority representatives. While communications must relate to specific violations, they may be used as part of a broader campaign to call attention to the human rights situation in a country. As is true for a committee's examination of periodic reports, much of the burden for using a complaint to encourage positive change rests on the complainant and others who are directly concerned with the effective implementation of minority rights.

Urgent Cases

If there is an imminent, real, and serious risk to someone's life, you can request that a committee adopt interim measures and immediately appeal to a State to either refrain from certain actions or undertake certain actions to protect that person. The rules of procedure of the Human Rights Committee, the Committee Against Torture and the Committee on the Elimination of Discrimination Against Women provide for this possibility. States are not obliged to comply, but they often do. Such a course should be adopted only when you have specific information about an imminent risk, e.g., a pending execution or deportation.

Further Information and Contacts

All the treaty bodies described in this pamphlet, except the Committee on the Elimination of Discrimination against Women, may be contacted in care of the Office of the UN High Commissioner for Human Rights:

OHCHR-UNOG

Palais des Nations

1211 Geneva 10, Switzerland

fax: +41 22-917-9022

The visiting address of the Office is Palais Wilson, 52 Rue des Pâquis, 1201 Geneva 1

You should identify the specific committee to which you are writing in the letter and address.

Communications regarding the Convention on the Elimination of All Forms of Discrimination Against Women should be directed in care of UN Headquarters in New York:

UN Division for the Advancement of Women

DC2, 12th Floor,

2 UN Plaza, New York, NY 10017, USA

fax: +1 212-963-3462

e-mail: daw@un.org

web site: www.un.org/womenwatch/daw

A number of works describe the practical aspects of using the treaty-based procedures described above. These include G. Alfredsson and E. Ferrer, *Minority Rights: A guide to United Nations Procedures and Institutions* (Minority Rights Group and Raoul Wallenberg Institute, 1998), and H. Hannum, *Guide to International Human Rights Practice* (Transnational, 1999).

Other useful guides on the work of particular treaty bodies are Atsuko Tanaka with Yoshinobu Nagamine, *The International Convention on the Elimination of All Forms of Racial Discrimination: A Guide for NGOs* (International Movement Against All Forms of Discrimination and Racism and Minority Rights Group International, 2001); Michael Banton, *Combating Racial Discrimination: the UN and its Member States* (Minority Rights Group International, 2000); Division for the Advancement of Women, *Assessing the Status of Women: A Guide to Reporting under the Convention on the Elimination of All Forms of Discrimination Against Women* (Commonwealth Secretariat, United Nations and International Women's Rights Action Watch, 2000).

NGO guides to other treaty bodies may be found at the following web sites:

UN Committee on Economic, Social and Cultural Rights: www.cohre.org/unframe.htm

Committee on the Rights of the Child: www.defence-for-children.org

Guidelines for National NGOs on Alternative Reporting to UN Treaty Bodies, including the Committee against Torture: www.ap.t.ch/cat/guidelines.htm

Anti-Racism Information Service (ARIS): www.antiracism-info.org

Pamphlet No. 5

PROTECTION OF MINORITY RIGHTS IN THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

Summary: All 35 members of the Organization of American States fall within the jurisdiction of the Inter-American Commission on Human Rights, which has the authority to prepare reports on the human rights situation in any country in the Americas. It also may receive and consider complaints that any state is violating the provisions of the American Declaration on the Rights and Duties of Man or the American Convention on Human Rights. The Convention creates an Inter-American Court of Human Rights, which can issue binding judgments in cases alleging violations of the American Convention. This pamphlet describes the circumstances under which minorities can use the Commission and Court to secure protection for their rights.

Organization of American States (OAS)

The OAS was founded in 1948 and has a membership of 35 states in the Western Hemisphere: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay, and Venezuela. It is a regional organization that encompasses a wide range of political, security, and economic interests, and it has taken an active role in the promotion and protection of human rights since the 1960s. Its headquarters are in Washington, DC.

All of the OAS member States are bound by the OAS Charter and by the 1948 American Declaration on the Rights and Duties of Man. (Although the latter is only a declaration and not a treaty, the OAS deems that all of its members are politically bound to observe its provisions.) In addition, a number of more specific human rights treaties have been adopted since 1969; these include the American Convention on Human Rights (1969) and its Additional Protocols on economic, social and cultural Rights (1988, known as the Protocol of San Salvador) and the abolition of the death penalty (1990); the Inter-American Convention to Prevent and Punish Torture (1985); the Inter-American Convention on Forced Disappearance of Persons (1994); and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994). Only those states that have formally these treaties are bound by their provisions, and a current list of ratifications may be found on the OAS website: <http://www.oas.org>.

Of course, members of minority groups may be subjected to torture or disappearance, and minority women may be the victims of violence, but the most important OAS instruments for minorities are undoubtedly the American Declaration (Declaration) and the American Convention on Human Rights (Convention). As of early 2001, 24 States had ratified the Convention; twelve

of these had also ratified the protocol on economic, social, and cultural rights, and eight States had ratified the protocol on capital punishment.

The two OAS bodies most directly concerned with human rights are the *Inter-American Commission on Human Rights* and the *Inter-American Court of Human Rights*, both of which are discussed below.

The substantive rights protected

As noted above, the Declaration is applicable to all OAS member States, while the Convention is binding only on those states that have ratified it. The Declaration addresses a broad range of human rights, while the 1969 Convention is concerned primarily with civil and political rights; the latter has since been expanded by an additional protocol on economic, social, and cultural rights. It is important to bear in mind that minorities are entitled to *all* of the rights set forth in these documents, but among the rights of greatest interest to minorities are the following (the article numbers refer to the Declaration):

Article 2 guarantees equality before the law, "without distinction as to race, sex, language, creed or any other factor." Article 1 of the Convention obliges States to respect Convention rights without discrimination based on "race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition". Article 24 of the Convention provides broadly for equal protection of the law "without discrimination".

Article 3 guarantees freedom of religion. Article 12 of the Convention also provides that parents have the right to provide for the religious and moral education of their children in accord with their own convictions.

Article 4 guarantees free expression. Article 13 of the Convention also prohibits any advocacy of national, racial, or religious hatred that constitutes an incitement to lawless violence.

Article 5 guarantees that the law will protect everyone from attacks on their honor, reputation, and private and family life. [Convention articles 11 and 14]

Article 8 protects freedom of movement and the right to choose one's residence. [Convention article 22]

Article 12 sets forth the right to an education, including free primary education. There is no comparable right in the Convention, but the Protocol of San Salvador sets forth the right to education and specifies that education should foster "understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups." The Protocol also affirms the right of parents to select the type of education to be given to their children and the right of everyone to establish educational institutions in accordance with domestic law.

Article 13 sets forth the right of everyone to take part in the cultural life of the community and to the protection of intellectual property. A similar provision is included in article 14 of the Protocol of San Salvador.

Article 18 provides the right to a fair trial. Article 8 of the Convention specifies that an accused has the right to a translator or interpreter if necessary.

Article 20 guarantees the right to vote and participate in government, but article 23 of the Convention permits these rights to be limited on the basis of, inter alia, language.

Article 22 guarantees freedom of association "to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labor union or other nature." [Convention article 16]

Inter-American Commission on Human Rights

The Commission consists of seven independent experts, nominated by States and elected by the OAS General Assembly. It meets in Washington, DC, ~~usually~~ for two ~~two-or~~ three-week regular sessions annually. It also meets for two "extraordinary" sessions, of varying duration, annually. It may hold oral hearings or hear statements from individuals, NGO representatives, and governments. The Commission ~~also may meet in special session and~~ may conduct on-site visits, with the consent of the country concerned. All correspondence should be directed to the Commission's office in Washington, DC.

The Commission's jurisdiction is very broad, covering every OAS member State and extending to both the preparation of country-specific reports and the investigation of individual complaints about human rights violations. The Commission exercises similar authority under the American Declaration (applicable to all States) and the American Convention (applicable only to States which have ratified it). As a legal matter, it is important to know under which instrument you may be asking the Commission to act, but practice and procedure are similar under both. The Commission's authority is governed by its Statute, Regulations, and Rules of Procedure, all of which are available on the Commission's website in English and Spanish (information also is available in Portuguese and French).

Because of the small size of both the Commission and its staff, procedures may be subject to delay and may be less formal ~~often are much more informal~~ than, for example, those under the European Convention on Human Rights (see Pamphlet No. 7). ~~However, this informality also may make the Commission more easily accessible to those with little knowledge of international legal procedures.~~

Country reports

Perhaps the most unusual and effective authority of the Commission is its ability to initiate an investigation into the situation of human rights in any country in the OAS, either in response to

individual or NGO information it receives or at its own initiative. Of course, such an investigation is launched only when a majority of the Commission believes that it is warranted, and there is no way of mandating that the Commission initiate a study. Neither individuals nor NGOs have a formal role to play in this process, but it is upon information supplied by them that most of the Commission's conclusions are based.

The Commission may gather information in any way it sees fit, including through hearings or direct testimony. It usually requests the State concerned to cooperate in facilitating an on-site visit, where Commission members will meet with individuals, NGOs, and government representatives. Such a visit is obviously an excellent opportunity for minorities to present their concerns directly to the Commission and is often the occasion for a great deal of publicity.

The Commission's findings are almost always published, and they include a great deal of information on the country's legal system and social condition, as well as on the human rights issues that are of concern. They may address conditions of minorities within a State, as did recent reports. Although a State is not obligated to respond directly to the Commission's conclusions or recommendations, a public report by the Commission is a powerful means of exercising political pressure to improve human rights. Where discrimination against minorities is widespread, whether or not it is legally sanctioned, you should consider contacting the appropriate lawyer on the Commission's staff and exploring the possibility of persuading the Commission to undertake an investigation.

Individual complaints of human rights violations

Any individual, group of individuals, or NGO may file a complaint with the Commission alleging that human rights are being violated in an OAS member State. If the State is a party to the American Convention, the Convention will be the governing law; if not, the rights protected are those set forth in the American Declaration. In neither case is there a requirement that the petitioner be a victim of a violation, although the petition should refer to specific instances of alleged violations. The petition may concern a single incident and a single individual or may raise broader concerns that affect many people.

The complaint should set out the facts in as much detail as possible, including the government acts or agents that are being challenged and the human rights that they violate. As with other procedures, you must explain how you have exhausted any domestic legal remedies that are available. However, you may be excused from exhausting remedies if there is no due process in the country; access to remedies has been prevented; there is unwarranted delay in the domestic proceedings; or if the complainant was unable to obtain necessary legal assistance. The mere fact that you were unsuccessful in domestic proceedings is not enough, unless the domestic procedure itself violated human rights guarantees; the Commission is not an appellate body whose task is to review domestic decisions.

The Commission is strict in requiring that a complaint be filed within six months of the date on which domestic remedies were finally exhausted (or within six months of the incident, if there are no remedies available).

The Commission ~~may or may not~~ delivers a formal opinion as to whether a complaint is "admissible," i.e., whether it meets all of the formal requirements for submission. A preliminary analysis by the relevant staff attorney will normally result in 1) rejection of the petition as being "manifestly ill-founded," which usually means that the right complained of is not guaranteed under the Declaration or Convention; 2) a request for further information; or 3) communication of the complaint to the government concerned. If the case is urgent and there is a possibility of irreparable harm to the life or physical integrity of the victim, you may ask that the Commission adopt "precautionary measures" by requesting the State not to act in a way that would prejudice the case's final outcome. For example, the Commission may request that an execution or deportation be stayed or that the government refrain from some other action that would render the complaint moot.

If the government responds, the petitioner will have the opportunity to reply in writing. If the government does not respond or merely offers a general denial, the Commission has the authority to deem the facts alleged to be true. At any time, the petitioner (or the government) may ask for an oral hearing, although the Commission will grant such a request only when necessary. The Commission also will offer to mediate or facilitate a "friendly settlement" between the complainant and the government, which has to be agreed to by both parties. Such a settlement might include, for example, the payment of compensation; release of a person from prison; or even the government's willingness to amend a law or practice.

If there is no friendly settlement, the Commission deliberates in private and eventually prepares a report, including conclusions and recommendations, on the cases. After a three-month waiting period, the report is either sent to the Court or normally published (and reprinted in the Commission's annual report to the OAS General Assembly). The Commission's report is *not* legally binding on States, and the Commission cannot directly order release of a prisoner, payment of compensation, or amendment of a law that violates human rights. It can (and does) recommend any of these or other options, and it is then up to the State to decide whether or not to comply. States' record of compliance is far from consistent, and it may be up to the petitioner or an NGO to pressure the State to adopt the Commission's recommendations.

The process just described may take years, as ~~the Commission tends to be somewhat lax about deadlines. In addition,~~ the lack of resources makes it difficult to deal with up to 1,000 pending cases expeditiously. A favorable opinion from the Commission will represent at least an important moral and political victory, however, and the process itself may encourage the State to consider meeting the complainant's demands even before a final report is adopted. Not many individual cases have dealt with minority issues per se, although non-discrimination, freedom of expression, and freedom of religion are fundamental human rights within the inter-American system and would certainly be important issues to raise in appropriate situations.

Inter-American Court of Human Rights

Acceptance of the Court's jurisdiction is optional, even for those States that are parties to the American Convention, so the first thing you must do is confirm that the State with which you are concerned has done so. States that are not party to the Convention cannot be brought before the Court. The Court consists of seven judges, and its seat is in San Jose, Costa Rica.

The Court is empowered to issue *advisory opinions* on various aspects of human rights, including the compatibility of domestic legislation with the American Convention. To date, nearly twenty such opinions have been rendered. Only member States and OAS organs can request advisory opinions. Although, by their nature, the Court's advisory opinions are not legally binding, they are important sources of jurisprudence and should be consulted whenever relevant to a particular case or issue.

The Court also has issued final judgments in a somewhat higher number of *contentious cases*. These cases can reach the Court only after the Commission has made its report; either the Commission itself or the State concerned can refer the case to the Court. The Court hears representatives of the petitioners during its consideration, in addition to the Commission and the government, and the proceedings are relatively formal. The Court also may undertake its own investigation of the facts and hear witnesses, if it considers it necessary.

The great advantage of a judgment by the Court is that it is legally binding on the State. The Court can order compensation or other relief, and it also may award attorney's costs and reimbursement for expenses. The Court's jurisprudence to date has been relatively sparse, although it has included such important issues as the responsibility of a State for forced disappearances and several cases concerning the death penalty.

Further information and contacts

All communications to the Commission should be addressed to:

Inter-American Commission on Human Rights

1889 F Street, N.W.

Washington, DC 20006

USA

tel. +1 (202) 458-6000; fax 458-3992

Although it is unlikely that you will need to contact the Court directly, its address is simply:

Inter-American Court of Human Rights, San José, Costa Rica

There has been a great deal of writing about the inter-American system, and you can readily find additional information in both English and Spanish. A particularly useful data base of the jurisprudence of the Commission and Court may be found at the website of the Washington College of Law of American University:

<http://www.wcl.american.edu/pub/humright/digest/index.html>.

Pamphlet No. 6

**MINORITY RIGHTS UNDER THE
AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS**

Summary: The African Charter is a regional human rights instrument designed to reflect the history, values, traditions, and development of Africa. The Charter combines African values with international norms by not only promoting internationally recognized individual rights, but also by proclaiming collective rights and individual duties. This pamphlet outlines the rights contained in the Charter that are of particular interest to minorities and describes the work of the Charter's oversight body, the African Commission on Human and Peoples' Rights.

The Organization of African Unity

The Organization of African Unity (OAU) was created in 1963 as a regional organization, initially dedicated primarily to the eradication of colonialism. Today, all African States except Morocco are members of the OAU.

The entrenchment of the principle of non-interference in the internal affairs of States and the emphasis on State sovereignty in the OAU Charter meant that for many years the OAU took little or no notice of gross violations of human rights. In fact, the OAU Charter does not specifically identify the promotion of human rights as one of its objectives. The OAU adopted the African Charter on Human and Peoples' Rights in 1981 and it adopted a protocol to the African Charter in 1998 that will create an African Court on Human and Peoples' Rights when it enters into force. The OAU also convened a Ministerial Conference on Human Rights in 1999, putting human rights on its agenda for the first time.

The African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights (Charter), also called the Banjul Charter, was adopted by the Assembly of Heads of States and Governments of the OAU in 1981 and entered into force five years later. The Charter covers a wider range of rights than either the European Convention on Human Rights (described in Pamphlet No. 7) or the American Convention on Human Rights (described in Pamphlet No. 5). As its title indicates, it includes both individual and collective rights.

The African Charter makes no reference to "minorities" as such, although it does refer to the principle of non-discrimination. In 1994, the OAU Assembly of Heads of State and Government also called for "the protection of the ethnic, cultural, linguistic and religious identity of all our people, including national minorities, and the creation of conditions conducive to the promotion of this identity" (Declaration on a Code of Conduct for Inter-African Relations). In 1999, the African Commission on Human and Peoples' Rights (Commission) appointed three of its members to undertake research on the situation of minorities in Africa. A resolution was recently adopted on the rights of the indigenous

peoples/communities of Africa was adopted, establishing a Working Group composed of two members of the Commission and several African experts in indigenous peoples' issues. Its mandate is to examine the concept of indigenous peoples and community and to study, among other issues, the implications for the African Charter regarding the promotion of cultural development and identity (Art. 22 of the Charter) and self-determination (Art. 20).

As with other human rights instruments, there are a number of provisions in the Charter that may be of particular significance to members of minority groups.

Article 2 is the basic non-discrimination provision, stating that rights under the Charter must be guaranteed "without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status." In the only case dealing specifically with minority rights to date, the African Commission explained the significance of Article 2: "Article 2 of the Charter lays down a principle that is essential to the spirit of this Convention, one of whose goals is the elimination of all forms of discrimination and to ensure equality among all human beings. The same objective underpins the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly of the United Nations...Consequently, for a country to subject its own indigenes to discriminatory treatment only because of the colour of their skin is an unacceptable discriminatory attitude and a violation of the very spirit of the African Charter and of the letter of its Article 2".

Article 3 provides that everyone is equal before the law and is entitled to the equal protection of the law.

Article 17 states that everyone "may freely take part in the cultural life of his community" and goes on to provide that "[t]he promotion and protection of morals and traditional values recognized by the community shall be the duty of the State." In interpreting this provision, the Commission has noted, "Language is an integral part of the structure of culture; it in fact constitutes its pillar and means of expression par excellence. Its usage enriches the individual and enables him to take an active part in the community and in its activities. To deprive an individual of such participation amounts to depriving him of his identity."

The next six articles in the Charter set forth the rights of peoples. The Charter does not define "peoples", and it cannot automatically be assumed that minorities and peoples are equivalent. The African Commission has stated, in the context of a communication concerning Katangese rights in Zaire, "There may however be controversy as to the definition of peoples and the content of the right [of self-determination]. The issue in the case is not self-determination for all Zaireans as a people but specifically for the Katangese. Whether the Katangese consist of one or more ethnic groups is, for this purpose, immaterial, and no evidence has been adduced to that effect."

Article 19 provides, "All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another." The Commission has not yet interpreted this article; instead, allegations of "domination" have been dealt with under the non-discrimination provision in Article 2.

Article 20 declares the right of all peoples to existence and proclaims their "unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely

chosen." The second paragraph states, "Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community."

The African Commission has considered the right to self-determination in only one case, that mentioned above brought on behalf of the people of Katanga, in what was then known as Zaire. The communication alleged no other human rights violations, and the Commission ruled that, at least in such circumstances, self-determination could not be equated with secession. "In the absence of concrete evidence of violations of human rights to the point that the territorial integrity of Zaire should be called into question, and in the absence of evidence that the people of Katanga are denied the right to participate in Government as guaranteed by Article 13(1) of the African Charter, the Commission holds the view that Katanga is obliged to exercise a variant of self-determination that is compatible with the sovereignty and territorial integrity of Zaire".

Article 22 sets forth the right of peoples to economic, social and cultural development "with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind."

Finally, the Charter includes three articles that set out the duties of individuals to their community.

Article 28 states that every individual "shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance."

Article 29 seems to attempt to balance the individual's duties to community and State, although the meaning is not always clear. It provides, among other things, that the individual has the duty "[t]o preserve and strengthen social and national solidarity, particularly when the latter is threatened... [t]o preserve and strengthen the national independence and the territorial integrity of his country... [and to] preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well-being of society."

Thus far, the African Commission has focused exclusively on the *rights* guaranteed by the Charter; it has not referred to the articles on duties as in any way diminishing the relevant rights.

The African Charter includes a number of "clawback clauses" that potentially restrict the scope of the rights set out in the Charter. These clauses provide that rights must be exercised "in accordance with provisions of the law", "within the law", "provided that [the individual] abides by the law", or "subject to law and order". The Commission has in fact, stated that "[t]he expression 'within the law' must be interpreted as reference to the international norms".

The African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights is composed of eleven members "chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality, and competence in matters of human and peoples' rights." Members of the Commission serve in their individual capacities and are, therefore, expected to

act independently while serving as Commissioners. They are nominated by their governments and elected for renewable six-year terms by the OAU Assembly of Heads of State and Government.

The Commission is the monitoring body for the implementation of the African Charter. It meets twice a year in ordinary sessions and may convene extraordinary sessions if necessary. The ordinary sessions are normally held in March/April and October/November and last for 15 days. They have been held in a number of different African States, including Benin, Algeria, Rwanda and Burundi as well as The Gambia.

The Commission's Secretariat is based in Banjul, The Gambia, and it depends on the OAU for funding and other resources. The Secretary to the African Commission, who is appointed by the Secretary-General of the OAU, is accountable to the General Secretariat of the OAU on financial and administrative matters. The African Commission presents an annual report on its activities to the OAU Assembly each year and depends on this body to implement its decisions and resolutions.

Mandate of the African Commission

Article 45 of the Charter grants the Commission relatively broad powers to promote and ensure the protection of human and peoples' rights. The Commission may collect documents; undertake studies and research; organize seminars and conferences; formulate principles on which domestic legislation may be based; cooperate with other African and international human rights institutions; interpret provisions of the Charter on the request of an OAU member State, the OAU itself, or an African organization recognized by the OAU; and perform any other task that may be entrusted to it by the OAU Assembly of Heads of State and Government. It also works to "[e]nsure the protection of human and peoples' rights" as set forth in the Charter.

Promotional Activities

Promotional activities are at the heart of the Commission's mandate, and individual members report at each session on the initiatives they have taken to promote human rights in various African countries assigned to them. To date, the Commission has also appointed Special Rapporteurs on extra-judicial, summary, or arbitrary executions; prisons and conditions of detention; and the rights of women. A proposal to create another thematic procedure on the condition of human rights defenders is currently under consideration. The rapporteur on prison conditions has visited several countries.

The Commission has organized a number of seminars, conferences, and workshops on human rights topics of interest in Africa, including contemporary forms of slavery, the right to education and development, women's rights, freedom of movement and asylum rights, the rights of persons with disabilities, and freedom of expression. These events are dependent upon the availability of outside funding.

Periodic Country Reports

Article 62 requires every State Party to the Charter to submit a report every two years on the measures it has taken to give effect to the rights recognized in the Charter. The Commission invites States to meet with the Commission in public to consider reports that have been

submitted, but the Commission does not publish detailed comments or observations on the reports. The Commission is trying to encourage States to participate in the process. NGOs may submit comments on State reports; indeed, the Commission formally recognized the value of such "shadow" reports in a 1998 resolution.

Individual and NGO Complaints

The African Charter does not explicitly speak of "individual and NGO complaints" but uses the term "other communications" to distinguish these communications from those submitted by States. Detailed provisions for the latter are set out in Articles 47-54.

An individual or organization may submit a communication. You need not be African, a resident of the State complained against, or even a victim. Indeed, communications have been filed by international organizations and individuals based outside Africa. Individual members of a minority group may complain on their own behalf or on behalf of the group to which they belong.

Complaints may be filed on behalf of specific individuals or groups that have been the victims of human rights violations, or they may draw attention to a widespread practice of such violations. While Article 58 of the Charter gives the Commission specific authority to refer to the OAU "special cases which reveal the existence of a series of serious or massive violations" of rights, the Commission has held that its competence is not limited to only these kinds of cases.

Complainants need not have the permission of the alleged victims in order to submit a communication, but common sense suggests that you should seek such permission if later cooperation will be necessary. This permits NGOs or others to file complaints even when all the victims may not be known. The Commission has stated that "where the author of a communication is a non-governmental organization and the situation is one of serious or massive violations, it may be simply impossible for the author to collect the name of each individual victim. Article 56(1) requires only that communications indicate their authors, not the name of all victims, and the more massive the violation, the greater the likelihood that the victims will be numerous".

Naturally, only States that have ratified the African Charter are subject to its provisions. All 53 member States of the OAU are parties to the Charter, and the only State on the African continent that is not an OAU member is Morocco.

Every communication should be as detailed and comprehensive as possible, given the limitations of the kind of information available to the applicant. Where possible, you should submit statements or affidavits from the author(s) of the complaint, witnesses, family members, or others who have relevant information about the specific issues raised. If the authorities are involved, include information such as the number and kind of police or security services, details of any arrests or searches, etc. You should include as annexes texts of relevant laws and directives, legal judgements, and copies of any publications or documents that may have been seized. If the situation does not obviously constitute a human rights violation, you should try to refer to relevant international opinions to support your claim that the act violates the norms of the African Charter.

Criteria for Admissibility

Seven criteria provided under Article 56 must be satisfied for a complaint to qualify for the attention of the Commission, although compliance with most of them should not be difficult.

The communication must not be anonymous, although you may request that your identity not be disclosed. For practical reasons, the Commission must be able to contact the author.

The communication must allege violations of rights that are protected by the Charter and must be compatible with the OAU Charter. This provision could conceivably prohibit any claim for secession, which would be counter to the OAU Charter's reaffirmation of respect for the territorial integrity of States.

The communication must not have manifestly political motivations or be written in "disparaging or insulting language".

The communication should not be based *exclusively* on media reports, but reliance to some degree on the media is permissible. According to the Commission, "The issue... should not be whether the information was obtained from the media, but whether the information is correct." The complainant should attempt to verify the truth of media reports independently, where possible.

The communication must be submitted "within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter." The Commission has not yet rejected a communication for being submitted too late, and it once declared a communication admissible that was initiated after more than sixteen years of fruitless domestic proceedings. Nonetheless, you should normally submit a communication as soon as it is practicable to do so.

The Commission will not admit cases that have been *settled* by the States involved in some other manner. However, this provision applies only if the settlement concerns the same parties and the same facts as those before the Commission.

Exhaustion of Domestic Remedies

As with other international communication procedures, domestic remedies must be exhausted before submitting a case to the Commission, "unless it is obvious that this procedure is unduly prolonged." The Commission has stressed that theoretically available remedies must, in fact, be available, effective and sufficient. "A remedy is considered available if the petitioner can pursue it without impediment, it is deemed effective if it offers a prospect of success, and it is found sufficient if it is capable of redressing the complaint."

The Commission also has distinguished between cases in which the complaint deals with violations against identified individual victims and those cases of serious and massive violations in which it may be impossible for the complainants to identify all the victims. In the latter case, there is no need to exhaust domestic remedies. "The Commission does not believe that the condition that internal remedies must have been exhausted can be applied literally to those cases in which it is 'neither practicable nor desirable' for the complainants or the victims to pursue such internal channels of remedy in every case of violation of human rights. Such is the case where there are many victims."

Procedures of Investigation

All communications received by the Secretariat are transmitted to the Commission, even if they may be obviously unfounded or beyond the Commission's jurisdiction. The Commission determines whether or not to consider a communication, based on the above criteria. While Article 55 empowers a simple majority of the Commission to make that determination, in practice the Commission usually acts by consensus. The Commission will inform the applicant if it does not take up a case. Individual communications are confidential documents and they are examined in closed sessions.

The Commission does not always distinguish clearly between admissibility and action on the merits, and a communication may be transmitted to the State concerned at any stage. The State is given the opportunity to respond to the allegations, and the complainant may reply in writing to the State's response. If the State does not respond or does not contest the allegations, the Commission may accept the allegations as true. If the applicant ceases to communicate with the Commission, the Commission may treat the author's silence as a wish to withdraw his/her communication. However, the Commission will try to establish whether the silence is indicative of a lack of interest or whether it reflects circumstances beyond the individual's control that prevent him/her from pursuing the application.

Article 46 of the Charter gives the Commission broad authority to "resort to any appropriate method of investigation" in the course of its work. The Commission normally invites all of the parties to attend or be represented at a hearing on the merits of those cases that have been declared admissible. An author, his/her legal representative, and the State are entitled to be represented at the hearing.

Since 1994, the Commission has undertaken a number of on-site investigations of communications, although these may only occur with the consent of the State concerned. The reports from such missions are adopted as part of the proceedings and may also be published by the Commission separately, prior to a final decision on the communications. The Commission also may take into account information provided by UN Special Rapporteurs in determining whether allegations contained in individual complaints are well founded.

After hearing the parties and completing any investigation, the Commission deliberates, reaches its decision, and adopts its report in the case. All of these actions are *in camera*. However, NGOs recognized as "Observers may be invited specially to be present at closed sessions dealing with issues of particular interest to them". The Commission's conclusions are not legally binding on States, but the Commission does reach direct conclusions that a State is (or is not) in violation of specific articles of the Charter. The Commission does not normally recommend that a State take specific actions, such as payment of compensation or releasing a person from detention, although it may do so in exceptional circumstances. In one decision for example, the Commission called on the State, *inter alia*, to create an independent enquiry to investigate disappearances, replace unjustly confiscated national identity documents, pay compensation to victims, and reinstate the rights of unjustly dismissed workers.

Article 58 of the Charter empowers the Commission to draw the attention of the Assembly of Heads of State and Governments to communications "when it appears, after deliberations of the Commission, that one or more communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples' rights." The Assembly may then request the Commission to conduct an in-depth study and report back.

At any time, a case may be closed if the parties reach an amicable settlement. Although the Commission is not specifically directed under the Charter to seek such a "friendly settlement", the Commission has made it clear that this is the preferred course: "It is the primary objective of the Commission in the communications procedure to initiate a dialogue between the parties which will result in an amicable settlement to the satisfaction of both and which remedies the prejudice complained of."

If the Commission finds that a complaint reveals an emergency situation, it can request the State concerned to submit interim reports on its respect for the rights that appear to have been breached.

Impact of the Commission's Work

Until relatively recently, little was known about the initiatives undertaken by the Commission to protect human rights in specific cases or countries. Under Article 29 of the Charter, all actions with respect to non-State complaints are to be confidential, unless the OAU Assembly of Heads of State and Government decides otherwise. During the early years of its activities, the Commission never disclosed any information concerning the individual complaints it had examined.

Since 1994, however, the Commission has published its decisions (on both admissibility and the merits) on individual complaints as an annex to the Annual Activity Reports that it submits to the OAU. This practice is perhaps based on Article 59(3) of the Charter, which stipulates that "the report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government." Unfortunately, the Commission's reports and decisions are neither published when they are adopted nor when the Commission issues a communiqué at the end of each session; only statistical information is included at that stage.

The Commission's reports and jurisprudence can be obtained from the Commission's secretariat. Other good sources for recent decisions are the: Africa Centre for Democracy and Human Rights Studies in Banjul, the African Institute for Human Rights and Development also based in Banjul, The Gambia, which offers a Compilation of the Decisions on Communications of the African Commission from 1994 to 1999 (web site: www.africaninstitute.org).

The Role of NGOs

The African Charter makes no express reference to the role of NGOs, but the Rules of Procedures of the Commission authorize it to grant observer status to NGOs. As of mid-2001, some 300 African and international NGOs had been granted observer status with the Commission.

Criteria for Granting and Enjoying Observer Status

In May 1999, the Commission adopted a Resolution "on the Criteria for Granting and Enjoying Observer Status to NGOs working in the Field of Human Rights with the African Commission on Human and Peoples' Rights". NGOs applying for observer status should have objectives and activities in consonance with the fundamental principles and objectives enunciated in the OAU Charter and in the African Charter, and, naturally, work in the area of human rights. The

applying NGO must send a written application to the Secretariat of the Commission at least three months prior to an ordinary session of the Commission. The NGO must provide in the application "its statutes, proof of its legal existence, a list of its members, its constituent organs, its sources of funding, its last financial statement, as well as a statement on its activities." The statement of activities should cover "the past and present activities of the organization, its plan of action and any other information that may help to determine the identity of the organization, its purpose and objectives, as well as its field of activities."

NGO Activities

The Commission has been generous in granting observer status to NGOs, and such status should be sought by any minority rights organization in Africa. Having observer status entitles an NGO to receive public documents and to participate in the public sessions of the Commission and its subsidiary bodies. The Commission may consult with NGOs either directly or through committees set up for this purpose. NGOs may distribute their documents, make oral interventions under agenda items considered in public session, and participate in working groups established by the Commission.

Under §6, Chapter II, of the Annex of the resolution on observer status, observers may request to have issues of particular interest to them included in the provisional agenda of the Commission. This might be a particularly useful tool for NGOs that would like to see more attention paid to issues of minority rights and non-discrimination.

The Rules of Procedure do not require that documentation, other than the provisional agenda, be distributed to NGOs in advance of the African Commission's sessions. However, all general distribution documents are available to all at the Commission's sessions. It is therefore important that NGOs take responsibility for following items of interest to them and for requesting relevant documentation so that they can prepare their contribution to the debate.

NGOs cannot take the floor when States report to the Commission on the implementation of the Charter. However, as noted above, they can and have provided alternative reports on countries under consideration by the Commission. Similarly, NGOs can take the floor during the general debate on the reports of Special Rapporteurs.

Under Article 45(3) of the Charter, the Commission is empowered to "interpret all the provisions of the Charter at the request of a State Party, an institution of the OAU or an *African organization recognized by the OAU*" (emphasis added). It is not clear whether this provision would include an NGO observer, but this could be an avenue worth pursuing in the future.

Since 1991 the Commission's sessions have been preceded by NGO meetings. These were previously organized jointly by the African Commission and the Geneva-based International Commission of Jurists. For information on such meetings, NGOs should now contact the African Centre for Democracy and Human Rights Studies in Banjul, The Gambia. These have been important meetings for both NGOs and the Commission, and are among the most significant and practical ways in which NGOs can help strengthen this mechanism. The conclusions of the meetings have been forwarded to the Commission for consideration.

The African Court on Human and Peoples' Rights

The OAU adopted a Protocol to the African Charter on the Establishment of the African Court on Human and Peoples' Rights in 1998. It will come into effect after fifteen ratifications or accessions have been received. As of mid-2001, only Senegal, Burkina Faso, The Gambia and Mali had ratified the Protocol. The establishment of an African Court that could issue legally binding judgements would represent an important step towards a comprehensive regional mechanism for protecting human rights in Africa.

Further Information and Contacts

All communications regarding the Commission should be sent to:
Secretariat of the African Commission on Human and Peoples' Rights
Kairaba Avenue, 90
P.O. Box 673
BANJUL, The Gambia
Tel. +220 39-29-62; Fax +220 39-07-64
e-mail: achpr@achpr.gm

Information and urgent appeals can be sent to the appropriate Special Rapporteur c/o the Secretariat of the African Commission, or directly to the Rapporteurs (as of mid-2001):

Special Rapporteur for Prisons and Conditions of Detention in Africa, Ms. Vera Mlangazuwa Chirwa (Malawi)

Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions, Mr. Mohammed Hatem Ben Salem (Tunisia)

Special Rapporteur on the Rights of Women in Africa, Ms. Julienne Ondziel-Gnelenga (Congo, Brazzaville)

Other useful contacts:

The African Centre for Democracy and Human Rights Studies, Banjul, The Gambia, Kairaba Ave. K.S.M.D., Banjul, The Gambia. Tel: + 220 394 525, 394961; Fax + 220 394 962

E-mail: acdhrs@acdhrs.gm ; Web address: <http://www.acdhrs.org>

The African Institute for Human Rights and Development (Institut Africain pour les Droits Humains et le Développement), P.O. Box 1896, Banjul, The Gambia; Tel. +220 496-421; Fax +220 494-178; e-mail: info@africaninstitute.org; web site: www.africaninstitute.org.

International Commission of Jurists, PO Box 216, 81A avenue de la Châtelaine (Geneva), Switzerland; Tel. +41 22 979 3800; Fax +41 22 979 3801; email: info@icj.org - especially for information concerning NGO meetings' organized in the 1990s prior to the African Commission's sessions.

For the present, secondary sources are also a good place to look for information about the Commission and its work. The web site of the Organization of African Unity (www.oau.org) contains the texts of the African Charter and the Commission's Rules of Procedure, listed under "Commissions". Press communiqués and the Commission's annual reports to the OAU, may be found at the University of Minnesota's Human Rights Library web site

(www.umn.edu/humanrts), and some bibliographic references on the web site of Interights (www.interights.org/search.asp). In addition, two recent books describe the Commission's work: E. Ankumah, *The African Commission on Human and Peoples' Rights: Practice and Procedure* (1996), and R. Murray, *African Commission on Human and Peoples' Rights and International Law* (2000).

MINORITY RIGHTS UNDER THE EUROPEAN CONVENTION ON HUMAN RIGHTS

Summary: The European Convention on Human Rights is an international treaty that sets out fundamental rights for the benefit of persons within the European region. Persons claiming to be the victim of a violation of these rights by a State Party to the treaty may apply to the European Court of Human Rights, in Strasbourg, for redress. The Convention does not include specific provisions on minorities, but rights to equal treatment and non-discrimination may reflect many minority concerns. Applications for redress under the Convention are heard by the Court and may result in a legally binding judgement.

Introduction

The European Convention on Human Rights and Fundamental Freedoms (ECHR) entered into force in 1953, inaugurating the first regional human rights system. The ECHR has been revised several times through a series of protocols. In 1998, the European Court of Human Rights became the first permanent human rights court in the world. All of the member States of the Council of Europe are parties to the Convention, with the exception of Armenia and Azerbaijan, which are expected to ratify the Convention in the near future. (A list of States Parties is provided at the end of the pamphlet.) The right of individual petition is inherent in the Convention system, and all of the Court's judgements are legally binding on States Parties.

The 41 judges of the Court are elected by the Parliamentary Assembly of the Council of Europe for renewable six-year terms. Cases are heard by Chambers of seven judges; important cases may be referred to a Grand Chamber of seventeen judges. The execution of the Court's judgements is overseen by the Committee of Ministers, which has the authority to suspend or expel a State from the Council of Europe if the State does not comply with a Court judgement.

In some circumstances, an applicant may be awarded legal aid by the Court and may also recover expenses incurred during the preparation of a case, but this assistance is only available after the respondent government gives its opinion on the admissibility of an application. Unlike in some domestic legal systems, you cannot be burdened with the legal costs incurred by the State against which you brought a claim.

The Strasbourg system (so called because the Court and other institutions are located in Strasbourg, France) has considered over 40,000 individual cases and approximately 20 interstate cases, and its jurisprudence is enormous. This summary outlines only the major issues that should be considered by those who wish to raise issues of particular concern to minorities before the Court. Although legal counsel is technically not required, you should seek professional legal advice if you decide to bring a case under the Convention.

Rights under the European Convention on Human Rights

The ECHR contains no minority rights provision akin to Article 27 of the International Covenant on Civil and Political Rights. Therefore, there is no direct way for members of minority groups to claim minority rights before the European Court of Human Rights. Nevertheless, a number of rights guaranteed by the ECHR are relevant to minorities. The European Court of Human Rights also has expertise on minority rights based on the application of the ECHR, which has been applied with respect to the 43 member States throughout the Council of Europe. (Although it contains no complaints mechanism for individuals or groups, the Council of Europe's 1995 Framework Convention for the Protection of National Minorities is discussed in Pamphlet No. 8.)

At present, the only specific reference to minorities is to be found in Article 14 of the ECHR:

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Although “national minority” is undefined, it is contrary to the ECHR to treat “any person, non-governmental organization or group of individuals” in a discriminatory fashion with respect to one of the listed grounds without reasonable and objective justification. Article 14 is not a free-standing right to non-discrimination, and it may be raised only in connection with the alleged violation of another Convention right. (A new Protocol to the ECHR, No. 12, was opened for ratification in November 2000. When it enters into force, it will create a general prohibition against discrimination in the application of any rights guaranteed by law or by any public authority.)

Discrimination is not limited only to those cases in which a person or group is treated worse than another similar group. It may also be discrimination to treat different groups alike: to treat a minority and a majority alike may amount to discrimination against the minority. Moreover, the European Court of Human Rights has held that if a State takes positive measures to enhance the status of a minority group (for example, with respect to their participation in the democratic process), the majority can not claim discrimination based on such measures. In general, “a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position”. (It is possible that future decisions might examine the practical effect and impact of a law, rather than only whether it appears non-discriminatory on its face, but there is no solid body of law on this point as yet.)

A great number of cases under the ECHR have dealt with **linguistic rights**, but the Strasbourg institutions have consistently held that there is no right to use a particular language in contacts with government authorities. In the context of judicial proceedings, however, everyone has the right to be informed promptly, in a language he/she understands, of the reasons for arrest (Article 5.2) and the nature of any criminal charges

(Article 6.3.a). There is also a right to a free interpreter if a defendant cannot speak or understand the language used in court (Article 6.3.e).

The use of a minority language in private or among members of a minority group is, however, protected by the right to **freedom of expression** guaranteed under Article 10. Thus, minorities have a right to publish their own newspapers or use other media, without interference by the State or others. The State must allow the minority group free expression, even if this calls into question the political structure of the State.

“[The] limits of permissible criticism are wider with regard to the government than in relation to a private citizen or even a politician. In a democratic system the actions or omissions of the government must be subject to the close scrutiny not only of the legislative and judicial authorities but also of public opinion. Moreover, the dominant position that the government occupies makes it necessary for it to display restraint in resorting to criminal proceedings, particularly where other means are available for replying to the unjustified attacks and criticisms of its adversaries.”

Another means of protecting the minority’s identity is through **education of children** (Article 2, Protocol 1) belonging to the group. However, there is no right to mother-tongue education under the ECHR, unless it previously existed and the State then tries to withdraw it. Refusing to approve schoolbooks written in the minority’s kin-State might be a breach of the right to freedom of expression. Even when the books might give the kin-State’s view of history and culture, the government must “show that the undisputed censorship or blocking of the books was done in accordance with law and pursued a legitimate aim, such as the prevention of disorder. It would then be for the respondent government to show that the censorship measures were necessary in a democratic society”.

The individual right to **freedom of religion** (Article 9) includes the right to manifest that religion, which allows a minority the necessary degree of control over community religious matters. The Court has held that the State must not interfere in the internal affairs of the church: “freedom of thought, conscience and religion is one of the foundations of a ‘democratic society’ within the meaning of the Convention. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it”.

The State may limit manifestation of a minority’s religion only for reasonable and objective reasons. Furthermore:

“where the organization of the religious community is at issue, Article 9 must be interpreted in the light of Article 11 of the Convention which safeguards associative life against unjustified State interference. Seen in this perspective, the believer’s right to freedom of religion encompasses the expectation that the community will be allowed to function peacefully, free from arbitrary State intervention. Indeed, the autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection, which Article 9 affords. It directly concerns not only the organization of the community as such but also the effective enjoyment of the right to freedom of religion by all its active members. Were the organizational life of the community not protected by Article 9 of the Convention, all other aspects of the individual’s freedom of religion would become vulnerable”.

Minority groups need to be able to **participate effectively in cultural, religious, social, economic and public life** (Article 11 and Protocol 1, Article 3). Formal or *de facto* exclusion from participation in the political processes of the State is contrary to the democratic principles that the Council of Europe espouses. It is the essence of democracy to allow diverse political projects to be proposed and debated, even those that call into question the way a State is organized, provided that they do not undermine democracy or human rights.

According to the Court, “a minority group is in principle entitled to claim the right to respect for the particular life-style it may lead as being 'private life', 'family life' or 'home’” under Article 8 of the Convention. Several cases involving the Roma and the indigenous peoples of northern Europe have sought to raise such a claim, although no such application has yet succeeded.

Filing an Application

To lodge a case successfully with the Court, an applicant has to fulfill certain admissibility criteria. Most complaints are dismissed at the admissibility stage. Since a complaint cannot be lodged twice on the same facts, it is imperative that the complaint meets the criteria on the first application.

The Court has its own application form (available from the Registrar of the Court in several languages) that must be completed and returned to the Court. Besides the personal details of the applicant and his or her legal representative, the Court requires:

- a detailed account of the facts
- detailed submissions on the Convention rights allegedly violated
- evidence of the remedies already sought at the national level, including dates and details of judgements
- the remedy sought from the Court

Copies of all supporting documents must be included with the application. The Court cannot accept anonymous complaints; the name of the applicant cannot be kept from the State. The proceedings of the Court are public, although confidentiality may be maintained in appropriate cases by referring to an applicant only by initials. States have an obligation not to obstruct the application and to cooperate with the Court in its investigation.

To initiate proceedings under the European Convention, you must allege a violation of one or more rights guaranteed under the Convention or one of its Protocols by a State Party. The Court may only receive complaints against a State. The States concerned are those listed at the end of this pamphlet. A complaint may involve action taken by the State itself or by one of the organs of the State, such as the armed forces, police forces, courts, or other public bodies. Only rarely has the Court allowed complaints where a private party has caused the harm. Those involved instances when the State had delegated a public function to the private body, and when it was the duty of the State to deter such actions by third parties.

The ECHR protects everyone within the jurisdiction of the State. The nationality of the applicant is not important; indeed, claims may even be made by stateless persons. An

application may be brought if action by one State may result in a violation of rights in another State, even if the latter is not a party to the ECHR. The most common example of this situation is when a person seeks to prevent deportation or extradition to a State in which there is a danger of torture or death.

The “Victim” Requirement

To file a case under the Convention, the complainant must have suffered personally from the alleged violation. This might be as a direct result of State action, for example, if the applicant personally suffered treatment amounting to torture or an interference with his/her right to religious freedom. Violations may also cause personal harm to the relatives of those whose rights have been directly violated. Here, the relatives would not be the direct victims of the abuse, but would qualify as indirect victims of a violation. For example, parents could claim if their child were tortured.

Potential victims also may file a case in some circumstances. The Court has accepted the argument that an applicant is a "victim" if there is a risk of being directly affected by a State action. However, the applicant must show that there is real personal risk of being a victim in the future, not just a theoretical possibility.

Individuals, groups of individuals and non-governmental organizations may file applications. If a group or NGO lodges a complaint, it must still fulfill the “victim” requirement. Clearly, when the organization is itself the victim of the breach, this is sufficient. Trade unions, companies, religious bodies, political parties, and the inhabitants of a town have been found to fulfill the “victim” requirement in cases brought to Strasbourg. When members of a group or association that are the victims, it may be advisable to lodge both an individual and a group complaint. Should the group complaint fail the admissibility test, the case may succeed on the individual complaint.

A group need not be formally registered or recognized by the State in order to bring a claim to Strasbourg. Moreover, when lack of recognition results in a denial of access to domestic courts and prevents a minority group acting to defend its rights, it may amount to a denial of fair trial or an effective remedy (Articles 6 and 13, respectively) that could be challenged under the Convention.

Other Admissibility Requirements

As is generally true for international human rights procedures, applicants must show that they have tried to seek a remedy for the alleged breach from the State concerned. In rare cases, there may be no suitable and effective remedy for a violation of a particular Convention right. However, if a remedy that should have been sought by the applicant has not been sought, the Court will declare the case inadmissible. Only “effective” remedies that can redress the violation completely must be exhausted. These normally include both judicial and administrative procedures. Discretionary remedies, such as seeking clemency after a conviction, do not generally have to be pursued.

Once a final judgement in the relevant domestic proceedings is received, the applicant must lodge a complaint with the European Court of Human Rights within six months. Where a law in force constitutes a continuing violation, the application may be made at any time. If the applicant is initially unaware of the violation, the six-month limit begins to run from when he/she becomes aware of the violation.

The application cannot have been previously submitted to another body of international investigation, such as the Human Rights Committee.

Investigation and Decision

There may be an exchange of written pleas on both admissibility issues and on the substantive merits of an application. Each party can comment on the submissions made by the other party. The process is usually conducted through written arguments only, although the Court may hold an oral hearing on admissibility or the merits or both. Again, each side is represented at any hearings, and the entire procedure is based on equality between the applicant and the government involved.

NGOs may be asked to provide expert evidence or to appear as witnesses, and minority-rights advocates should be aware of the possibility of submitting an *amicus curiae* brief to the Court if a case is of particular concern. This procedure is called a “third-party intervention” and may be sought once a case has been declared admissible. It offers the possibility of providing useful information to the Court on an issue that may have a direct impact on minority rights beyond the scope of the particular case at hand. An NGO interested in intervening should write to the President of the Court for permission to intervene in a case.

The Court examines the merits of the case through the written arguments and may hear witnesses or even travel to the country concerned if deemed necessary. The Court will seek to reach a friendly settlement, if that is possible, but this happens only if both sides agree.

The Court deliberates in private, but its judgement is public and is communicated immediately to both parties. The Court has limited its judgements to determining whether or not there has been a violation of the Convention and awarding monetary damages and costs when a violation is found. The Court does not issue orders to governments, e.g., to release a prisoner, change its laws, or institute criminal proceedings against those guilty of violating a person's rights. As noted above, the Court's judgement is legally binding on States. Ensuring compliance with a decision of the Court is a matter for the Committee of Ministers under Article 46.2 of the Convention, although the great majority of States readily comply with the Court's judgements.

There is no right of appeal after a judgement is handed down. However, a seven-judge Chamber may relinquish jurisdiction over a case in favour of a "Grand Chamber" of seventeen judges when the case involves a serious issue of general importance or a question affecting the interpretation or application of the Convention.

Urgent Cases

The Court may grant priority to urgent cases, but this is very rare. You should not request that an application be given priority unless there is a very good reason for doing so. The Court also may propose interim measures when there is an imminent, real, and serious risk to the life of the applicant. The Court can request that the State either refrain from the potentially harmful actions or undertake other actions to protect the applicant. States are not obliged to comply, but they generally do. The measures sought and the reasons for seeking them must be indicated on the application form.

The Impact of Strasbourg on Minority Rights

The above summary suggests ways in which the ECHR can protect minority rights, but you should bear in mind that this is not the primary task of the Convention. In many respects, the Convention addresses a fairly narrow range of rights. There is a risk that, if a minority group tries to assert “minority rights” *per se*, the claim might be dismissed as beyond the scope of the Convention and may therefore be considered “manifestly ill-founded”. Furthermore, even when a violation is found, it is still up to the State involved to provide remedies beyond damages, such as amending an offending piece of legislation. The Court does not act as an appellate court from domestic decisions. It will only consider whether or not a State has fulfilled its obligations under the Convention, not whether it might have adopted different or even better policies.

At the same time, however, the Strasbourg system is perhaps the most legally powerful mechanism for protecting human rights in the world. It resembles a domestic court proceeding in both its sophistication and in the equality it maintains between the parties involved. It is unlikely to be the first forum to which a minority group may turn, and it cannot consider the general situation of minority rights within a country. Nevertheless, it should be considered a potentially useful tool in the right circumstances.

States Parties to the European Convention on Human Rights

Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, The Federal Republic of Macedonia, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland.

Further Information and Contacts

All communication with the Court should be sent to:

The Registrar
European Court of Human Rights
Council of Europe
F-67075 Strasbourg Cedex
France
tel. +33 3-88-41-27-18; fax: +33 3-88-41-27-30

The primary publication containing the European Convention, Rules of Procedure of the Court and other information is *European Convention on Human Rights: Collected Texts*, published by the Council of Europe. Individual decisions and judgements of the Court are issued in soft-cover format when they appear and are collected in *Reports of Judgements and Decisions*, both of which are available from the Council of Europe. The Council of Europe also publishes an annual *Yearbook of the European Convention on Human Rights*, which contains a selection of the most important cases and information on the Convention's application in domestic law.

Texts of the Court's jurisprudence and additional information about the Court may be found on its website: <http://www.echr.coe.int>. "Notes for the guidance of persons wishing to apply to the European Court of Human Rights" may be found at <http://www.echr.coe.int/NoticesForApplicants/Noticeeng.htm>.

A great number of books have been written on the Strasbourg system concerning both specific rights and the system as a whole. Two authoritative analyses are D.J. Harris, M. O'Boyle, and C. Warbrick, *Law of the European Convention on Human Rights* (1995), and P. Van Dyke and G.J.H. Van Hoof, *Theory and Practice of the European Convention on Human Rights* (1998).

Pamphlet No. 8

THE COUNCIL OF EUROPE'S FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Summary: The European Framework Convention for the Protection of National Minorities is the most comprehensive multilateral treaty devoted to minority rights. Adopted under the auspices of the Council of Europe, it sets forth a number of principles according to which States are to develop specific policies to protect the rights of minorities.

The Council of Europe

The Council of Europe is an inter-governmental organization whose aims are to:

- protect human rights, pluralist democracy, and the rule of law
- promote awareness and encourage the development of Europe's cultural identity and diversity
- seek solutions to problems facing European society, including discrimination against minorities, xenophobia, intolerance, environmental protection, human cloning, HIV-AIDS, drugs, organized crime, etc.
- help consolidate democratic stability in Europe by backing political, legislative, and constitutional reform

Based in Strasbourg, France, the Council is composed of 43 states: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The Former Yugoslav Republic of Macedonia, Turkey, Ukraine, and the United Kingdom of Great Britain and Northern Ireland. The Council of Europe is governed by an inter-governmental *Committee of Ministers* and an indirectly elected *Parliamentary Assembly*. As of May 2001, Bosnia-Herzegovina and the Federal Republic of Yugoslavia are non-member states whose parliaments have special guest status with the Parliamentary Assembly.

The Council of Europe should not be confused with the European Union, although all of the 15 European Union States are also members of the Council of Europe.

The Framework Convention for the Protection of National Minorities

The Framework Convention for the Protection of National Minorities (Convention) was adopted by the Committee of Ministers of the Council of Europe in 1994 and entered

into force in 1998. It is the first legally binding multilateral instrument devoted to the protection of minorities and is regarded as the most comprehensive international standard in the field of minority rights so far. To a large extent, it transforms the political commitments of the 1990 Copenhagen Document of the Organization for Security and Cooperation in Europe (OSCE) into legal obligations.

The Framework Convention may be ratified by member States of the Council of Europe, and non-member States may join at the invitation of the Committee of Ministers. Accession to the Convention is obligatory, at least politically, for States that apply for membership in the Council of Europe. As of May 2001, the Convention had been ratified by 33 countries: Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina (non-member State), Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Italy, Liechtenstein, Lithuania, Malta, Moldova, Norway, Poland, Romania, Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine, and the United Kingdom of Great Britain and Northern Ireland.

Nature of the Convention

Minority situations differ greatly from country to country and consequently require different approaches. Therefore, the drafters of the Convention opted for “programmatic” provisions that establish principles and objectives that should guide States in protecting their minority populations. For this reason, the Convention is largely constructed as a series of States’ obligations rather than as a detailed list of rights of persons belonging to national minorities. Realization of these principles and objectives must take place at the national level, notably through the adoption of legislation and policies. States can, to some extent, use their discretion in designing legislation and policies that are appropriate to their own circumstances. This is why the Convention is called a “Framework” Convention.

The programmatic provisions are worded in general terms and often contain qualifying phrases such as “substantial numbers”, “a real need”, “where appropriate”, and “as far as possible”. While this level of generality might seem to weaken the rights guaranteed under the Convention, it gives States Parties the flexibility to translate the Convention’s objectives into national laws and policies that are most appropriate. However, this flexibility does not release States from their obligation to implement the Convention’s provisions in good faith and in a manner that results in the effective protection of national minorities.

Two of the key principles contained in the Convention are Article 1, which states that the protection of national minorities is an integral part of the protection of human rights, and Article 22, which specifies that the Convention may not be used to reduce existing standards of protection. Since the Convention was intended as an addition to existing human and minority rights protections, it must be read in relation to other human rights instruments, such as the European Convention on Human Rights (see Pamphlet No. 7).

Definition

The Convention does not define “national minority”, so you must first determine to whom the Convention applies. Several parties, including Austria, Denmark, Estonia, Germany, Poland, Slovenia, Sweden, Switzerland, and The Former Yugoslav Republic of Macedonia, set out their own definition of “national minority” when they ratified the Convention. Many of these declarations exclude non-citizens and migrants from protection under the Convention, and some identify the specific groups to whom the Convention will apply. Liechtenstein, Luxembourg, and Malta are parties to the Convention, but each declared that there are no national minorities within their respective territories.

Although States can exercise some discretion in deciding to whom the Convention applies, it is expected that this issue will also be assessed through the international monitoring process created for the Convention. But a first step for any non-governmental organization (NGO) that wishes to participate in the monitoring process should be to determine whether the State concerned has made a declaration concerning the groups to which it will apply the Convention. A current list of such declarations may be found on the web site devoted to the Convention (www.humanrights.coe.int/minorities).

However the term is defined, the Convention applies only to “national” minorities, in contrast to, for example, the 1992 UN Declaration on the Rights of Persons Belonging to Minorities, which applies both to “national” and to “ethnic, religious and linguistic” minorities. It is not yet clear how much difference this distinction will make, but it appears that the Convention’s scope is deliberately narrower than that of the UN Declaration.

The Substantive Provisions of the Convention

Article 4.1 of the Convention proclaims the fundamental principles of non-discrimination and equality. Article 4.2 makes it clear that a State’s obligations may also require affirmative action on the part of the government and not merely abstention from discrimination. States are to adopt, “where necessary”, measures to promote “full and effective equality between persons belonging to a national minority and those belonging to the majority” taking “due account of the specific conditions” of national minorities. Article 4.2 is a key provision, since it provides the basis for the succeeding provisions that spell out in greater detail the measures that States should take in specific areas. Article 4.3 clarifies that any measures taken to promote effective equality are not to be considered as discrimination themselves.

The remaining substantive provisions of the Convention cover a wide range of issues, many of which may require that States adopt special measures. Ratifying States agree to:

- promote the conditions necessary for minorities to maintain and develop their culture and identity (Article 5)

- encourage tolerance, mutual respect, and understanding among all persons living on their territory (Article 6)
- protect the rights to freedom of assembly, association, expression, thought, conscience, and religion (Articles 7, 8, and 9)
- facilitate access to mainstream media and promote the creation and use of minority media (Article 9)
- recognize the right to use a minority language in private and in public and display information in the minority language (Articles 10 and 11)
- recognize officially surnames and first names in the minority language (Article 11)
- “endeavour to ensure” the right to use the minority language before administrative authorities and to display bilingual topographical indications in the minority language in areas inhabited by national minorities “traditionally” or “in substantial numbers” (Articles 10 and 11)
- foster knowledge of the culture, history, language, and religion of both majority and minorities (Article 12)
- recognize the rights of minorities to set up and manage their own educational establishments and learn their own language (Articles 13 and 14)
- “endeavour to ensure” that there are adequate opportunities to be taught in the minority language, in areas traditionally inhabited by national minorities or where they live in “substantial numbers” (Article 14)
- “create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life, and in public affairs, in particular those affecting them” (Article 15)
- refrain from measures that alter the proportions of the population in areas inhabited by minorities (Article 16)
- not interfere with the rights to maintain contacts across frontiers and participate in the activities of national and international NGOs (Article 17)

Implementation and Monitoring

Articles 24-26 of the Convention set out the monitoring mechanism of the Convention. Essentially, States are obliged to submit periodic reports for examination. Ultimate responsibility for examining the reports rests with the Committee of Ministers of the Council of Europe, but an Advisory Committee of experts assists the Committee of Ministers. Unlike in the European Convention on Human Rights, there is no procedure that allows for individual complaints.

The specific monitoring arrangements are detailed in the Committee of Ministers Resolution 97(10) (the text of which is available on the Council of Europe's minorities web site: www.humanrights.coe.int/minorities). State reports are examined first by the Advisory Committee, which evaluates the adequacy of the measures taken by States and gives its “opinions” on the reports. The Committee of Ministers, in turn, considers the State reports and the opinions of the Advisory Committee before adopting its own conclusions on the Convention's implementation. Where appropriate, the Committee may also adopt recommendations. The Advisory Committee's opinions are confidential until the Committee of Ministers issues its conclusions, at which time both committees' observations are published.

Advisory Committee

The Advisory Committee is composed of up to 18 members elected by the Committee of Ministers from candidates proposed by States Parties. Not all countries can have one of their nominees serve on the Committee, so those candidates who are not elected are placed on a reserve list of additional members. On the basis of a rotation system, the composition of the Advisory Committee will change over time.

Advisory Committee members are recognized experts in the field of minority protection. They serve in their individual capacities and are independent and impartial. The fact that they do not represent their governments is important, since the Committee of Ministers is a political body of government representatives. The involvement of an impartial expert body in assessing minority issues may facilitate the task of the Committee of Ministers; indeed, the Committee of Ministers, the highest decision-making body in the Council of Europe, has many other duties, and so relies heavily on the work of the Advisory Committee.

Examination of State Reports

States that have ratified the Convention must file their first report within one year and every five years thereafter, or whenever requested to do so by the Committee of Ministers. The Advisory Committee may invite the Committee of Ministers to request ad hoc reports addressing situations that may arise in the interval between a State Party's periodic reports. Once received, the reports are made public by the Council of Europe and are available on the Council's web site (www.coe.int).

The initial reports should contain full information on legislative and other measures adopted by the State to realize the principles of the Convention. The Committee of Ministers adopted detailed guidelines for State reports in 1998, specifying the information to be provided by States related to each of the articles in the Convention. Interested NGOs and individuals should evaluate whether the State report provides all the information requested in the guidelines.

The Advisory Committee is authorized to receive information from sources other than State reports, for example, it may also organize meetings with government representatives and independent sources. The Advisory Committee conducts on-site visits to States when considering their reports, during which the Committee meets with the government, NGOs, minority communities, academics, and other interested parties.

These visits require an invitation from the State concerned, but they are quickly becoming standard procedure for the Committee. This practice enables the Committee to assess better the situation of minorities in the States Parties and provides an opportunity to publicize the Committee's work in the State. The Committee may request additional written information from the State. NGOs and minority communities are free to submit information on their own initiative.

Role of NGOs

NGOs are essential to the full realization of the principles of the Convention through their involvement in both the implementation and monitoring process.

At the Domestic Level

NGOs can encourage changes in domestic legislation and practice in accordance with the principles set forth in the Convention. They can present their own ideas concerning the interpretation of the Convention and raise public awareness about the government's obligations under the Convention. Public awareness can be increased, for example, by translating and disseminating the text of the Convention and related documents. The latter should include the official State report, any comments by NGOs, and, once they are available, the opinions of the Advisory Committee and the conclusions and recommendations of the Committee of Ministers. By raising public awareness, NGOs can help create a climate in which the State is expected to take steps to comply with its obligations.

It also may be possible for NGOs and minority communities to be directly involved in the preparation of the State report. You should find out which government body is responsible for preparing the report and contact it to see if you can submit information or comments while the report is still in draft form. States may even want to involve NGOs in drafting the report.

NGOs should consider the degree to which they want to cooperate in the official reporting process, as opposed to the possibility of submitting comments or alternative reports to the Advisory Committee. By participating in the preparation of State reports, NGOs can help interpret the Convention's provisions in the context of the country concerned. However, NGOs may fear that their involvement might be used to give unwarranted credibility to a State report, even if the report does not sufficiently reflect NGO views. Yet participating in the preparation of a report and commenting on it later are not mutually exclusive activities, and you may choose to do both.

If your State is not yet a party to the Convention, publicity and lobbying can focus on the need to ratify the Convention. Given the rapid pace of ratification thus far, it should be relatively easy to encourage States to join other Council of Europe members as parties, in the same way that all members of the Council are expected to ratify the European Convention on Human Rights.

International Monitoring

To be effective, the monitoring process must ensure that the Advisory Committee receives information and analysis from a variety of sources, including NGOs and minority communities. This will enable the Advisory Committee to obtain a more complete understanding of the situation in the countries about which they are to formulate an opinion.

NGOs can send information at any time to the Secretariat of the Framework Convention at the Council of Europe. The Secretariat will forward the information to members of the Advisory Committee. However, it is most effective to submit such information when the Advisory Committee is actively considering a State's report. Therefore, NGOs should study the report, which is made public as soon as the Committee receives it, if it is not made public earlier by the State itself, decide what information provided by the government should be supplemented or challenged, and submit their comments to the Advisory Committee in time for them to be considered when the Committee examines the State report. Information about when State reports are due and when they have been received can be obtained through the Council of Europe's web site (www.coe.int). The Secretariat will tell you the deadline for receipt of NGO comments so they can be considered by the Advisory Committee. If possible, NGOs should submit their information in either French or English, the working languages of the Committee.

If you have sufficient time and resources, you could also prepare a full alternative report that systematically addresses all of the issues discussed in the State report.

Whether you submit comments or a full alternative report, you should, whenever possible, refer to any specific information that might be missing or incorrect in the State report. The information you submit should be factual, complete, and detailed, and it should refer, whenever possible, to specific articles of the Convention. You also may include documents from other national or international NGOs, research institutes, and international organizations, such as the OSCE High Commissioner on National Minorities and, where they are directly relevant, the UN's treaty bodies or special rapporteurs. Information also may be obtained from other Council of Europe bodies, such as the European Commission against Racism and Intolerance (ECRI), the Committee of Experts of the European Charter for Regional or Minority Languages, and the Monitoring Committee of the Parliamentary Assembly. Demographic and statistical information is very valuable, especially if it is not included in the State report, and it may help the Committees to compare the situation of minorities at different times. NGOs may also present their own recommendations for actions the government should take to implement the Convention.

If you would like to submit a full alternative or "shadow" report, you should consider cooperating with other national or international NGOs. This will minimize duplication of work and may provide more representative and comprehensive information, which, in turn, may give your report greater credibility. At a minimum, it is important to be aware of what other NGOs are doing to avoid presenting conflicting information.

After the conclusions and recommendations of the Committee of Ministers are made public, NGOs can publicize them and generate a discussion on minority rights

throughout the country. NGOs should also monitor the response of the government to the conclusions and recommendations, including any follow-up information that the State is to submit at the request of the Committee of Ministers.

To date, no Advisory Committee opinions or conclusions by the Committee of Ministers had been published. It is thus too early to assess the comprehensiveness or usefulness of the reporting system established under the Convention. However, at the very least, the Advisory Committee appears to have created an atmosphere that encourages communication among governments, NGOs and minority communities.

Further Information and Contacts

All communications about the Framework Convention should be addressed to the Secretariat:

Secretariat of the Framework Convention for the Protection of National Minorities
Directorate General of Human Rights - DG II
Council of Europe
F-67075 Strasbourg Cedex
France
tel. +33 (0) 3-88-41-29-63; fax: +33 (0) 3-88-41-49-18
e-mail: nadia.khafaji@coe.int

The home page of the Council of Europe is <http://www.coe.int>. The home page for information on minorities, including the Framework Convention, is <http://www.humanrights.coe.int/minorities>. On this latter site you can find

- the text of the Framework Convention
- information on signatures, ratifications, declarations, and reservations to the Convention
- timetables setting out when State reports are due or have been received and the status of monitoring activities
- the composition of the Advisory Committee
- rules on the monitoring arrangements under Articles 24 to 26 and the Rules of Procedure of the Advisory Committee
- Activity Reports of the Advisory Committee
- full texts of State reports
- opinions, conclusions, and recommendations of the Advisory Committee and Committee of Ministers, once they are made public

Printed texts also may be obtained from the Council of Europe, including:

- Framework Convention for the Protection of National Minorities and Explanatory report, H(95)10
- Outline for the Reports to be submitted pursuant to Article 25 Paragraph 1 of the Framework Convention for the Protection of National Minorities, ACFC/INF(98)1

- Resolution (97)10, Rules adopted by the Committee of Ministers on the Monitoring Arrangements under Articles 24 to 26 the Framework Convention for the Protection of National Minorities
- Rules of Procedure of the Advisory Committee on the Framework Convention for the Protection of National Minorities, ACFC/INF (98)2

Finally, a useful practical guide is *The Framework Convention for the Protection of National Minorities: A Guide for Non-Governmental Organizations*, published in 1999 by the London-based Minority Rights Group International.

Pamphlet No. 9

HIGH COMMISSIONER ON NATIONAL MINORITIES OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Summary: The High Commissioner on National Minorities (HCNM) of the Organization for Security and Cooperation in Europe (OSCE) focuses on disputes involving national minorities that have an international character and that have the propensity to cause inter-State tension or to ignite international armed conflict. The HCNM provides early warning if, as a result of these disputes, imminent threats to peace and security between countries are perceived and engages in activities to de-escalate tensions. The HCNM's approach, firmly grounded in human rights law, is one of 'quiet diplomacy'. The High Commissioner's office is potentially available to any minority group within the 55 member States of the OSCE whose situation falls within the HCNM's mandate.

The Organization for Security and Cooperation in Europe

Prior to 1995, the Organization for Security and Cooperation in Europe (OSCE) was known as the Conference on Security and Cooperation in Europe (CSCE). The CSCE was an inter-governmental diplomatic conference, better known as the "Helsinki process", begun during the 1970s as a forum for East-West dialogue during the Cold War. As the descendent of this process, the post-Cold War OSCE is still primarily a "soft security" organization, that is, it is not a defence alliance and does not possess military assets. The main emphasis is on *security* and, as the name of the organization implies, on *cooperation* between and among States aimed at achieving security and stability for all its members. The 55 participating States, which span the northern hemisphere from Vancouver to Vladivostock, are committed to ongoing dialogue rooted in fundamental values within the framework of open, democratic societies with free market economies and based on the rule of law and respect for human rights.

OSCE members are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, United Kingdom, United States, Uzbekistan, Federal Republic of Yugoslavia.

The approach of the OSCE regarding human rights protection is embodied in the notion of "comprehensive security", which recognizes a fundamental link between security and respect for human rights. Recognition of the interdependence among issues of military and political security and human rights, as well as economic and environmental concerns, was set out in the 1975 Final Act of Helsinki. This established ten basic principles governing behaviour both

among the participating States and of governments towards those within their jurisdiction.

The principles, later known as the "decatalogue", are divided into three domains or "baskets". The first is the "security basket", which refers to traditional military issues. The second concerns cooperation in the economic and environmental spheres. The third is the "human dimension", which includes human rights and humanitarian affairs. From the perspective of comprehensive security, respect for human dimension commitments, including respect for the rights of persons belonging to national minorities, is fundamental to achieving and maintaining peace and security in the region.

The High Commissioner on National Minorities within the OSCE Framework

Almost all OSCE participating States have one or more national minority groups within their territories. In all those States, respect for the rights of minorities and the promotion of an integrated, multi-cultural society is not only desirable in itself but helps ensuring stability and peace both within and among States.

Within the framework of comprehensive security, the mechanism of the HCNM is placed firmly in the "security basket". The role of the HCNM is to focus on disputes involving national minorities that have an international character and that have the propensity to cause inter-State tension or to ignite international armed conflict. Indeed, in recognizing the need for an institution to address inter-ethnic conflict, OSCE participating States created the HCNM at the Helsinki Summit Meeting of 1992 "as an instrument of conflict prevention at the earliest possible stage". The HCNM is to provide early warning in cases where he believes that minority-orientated problems might escalate and threaten peace, security or stability between States and to take appropriate action to de-escalate tensions. Should tensions escalate, then his mandate requires him to warn the participating States in sufficient time to allow for further steps to avoid the eruption of violent conflict.

The HCNM is, above all, a political instrument and is *not* intended to supervise States' compliance with their OSCE commitments or international obligations. He does not function as an advocate or ombudsman for minorities or as recourse for individuals belonging to national minorities. He is a High Commissioner *on* (not *for*) National Minorities. Of course, the subject-matter addressed by the HCNM (i.e., minority issues) is strongly linked with the human dimension: adequate protection of the rights of persons belonging to national minorities contributes towards minimizing ethnic tensions that might otherwise threaten to create wider conflict. The High Commissioner therefore pays close attention to issues of human rights, especially freedom from discrimination, along with respect for minority rights.

The High Commissioner is actively involved in over a dozen OSCE participating States, in Central and Eastern Europe and in the former Soviet Union. He is supported in his work by an international staff of ten advisers based at his office in The Hague, The Netherlands. Mr. Max van der Stoep of The Netherlands served as HCNM since the mechanism became functional in January 1993 until July 2001. The current HCNM is Mr. Rolf Ekeus of Sweden.

Overview of Applicable Standards

OSCE Norms

Within the OSCE, respect for human rights is acknowledged as a fundamental element of security and has provided the context for the elaboration of new standards, especially concerning the rights of persons belonging to national minorities. The Helsinki Final Act stipulates in Principle VII:

The participating States on whose territory national minorities exist will respect the rights of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.

After little movement in the preceding fifteen years, progress on minority issues greatly accelerated after 1989. In June 1990, the **Copenhagen Document** on the Human Dimension of the (then) CSCE was adopted; it is still regarded as the basic OSCE standard-setting instrument concerning minority rights. The Copenhagen Document also includes a long list of provisions concerning democratic institution-building and the rule of law.

Taking individual human rights as its point of departure, paragraph 33 of the Copenhagen Document commits States to "protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory... in conformity with the principles of equality and non-discrimination." States also commit themselves, where necessary, to take special measures to ensure this equality. These special rights and measures do not constitute preferential treatment for persons belonging to national minorities. Rather, they aim to achieve equal and meaningful enjoyment of rights in fact as well as in law.

While the concept of minority rights grows out of the concept of individual human rights, it is only the joint exercise of these rights that enables persons belonging to a national minority to preserve their identity. The Copenhagen Document grants all persons belonging to national minorities a number of specific rights that may be exercised both individually and in community with other members of the group. These include, *inter alia*:

- the right to "express, preserve and develop" their identity and culture, free from any attempts at forced assimilation (para. 32)
- the right to use their mother tongue in private and public and to exchange information in their mother tongue (paras. 32.1, 32.5)
- the right to establish and maintain minority educational, cultural, and religious institutions and to seek funding for them, "in conformity with national legislation" (para. 32.2)
- the right to practice their religion, including using religious materials and conducting religious educational activities in the minority mother tongue (para. 32.3)
- the right to maintain "unimpeded contacts" with those with whom they share common origin, heritage, or religious beliefs, within and across frontiers (para. 32.4)
- the right to "effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities" (para. 35)

States are to "create conditions for the promotion of... [minority] identity" (para. 33) and "will endeavour to ensure" that members of minorities "have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities" (para. 34).

Although individuals may exercise their rights in community with others, there is no basis for "collective" rights *per se* within the OSCE framework. In particular, there is no connection with the right to self-determination (a fear sometimes expressed by government authorities or the majority population), as paragraph 37 of the Copenhagen Document makes clear:

None of these commitments [i.e. specified minority rights] may be interpreted as implying any right to engage in any activity or perform any action in contravention of the purposes and principles of the Charter of the United Nations, other obligations of international law or the provisions of the [Helsinki] Final Act, including the principle of territorial integrity of States.

Additional minority-specific provisions are set forth in the 1990 Charter of Paris for a New Europe, which notes the determination of States to "foster the rich contribution of national minorities to the life of our societies", and the 1991 Report of the Geneva Meeting of Experts on National Minorities, which represents the conclusions of three weeks of discussion among experts from CSCE States on the issues of national minorities and the rights of persons belonging to them.

International Standards

The HCNM's approach is firmly grounded in international human rights law. He relies upon the international standards to which States have already agreed to provide a framework for dialogue and for his eventual recommendations. Since all OSCE participating States are members of the United Nations (except Switzerland) and some three-quarters are members of the Council of Europe, they are legally bound by various treaties adopted under the UN and Council of Europe, as well by bilateral treaties, in addition to their politically-binding OSCE commitments. Reference to existing human rights standards that States have voluntarily undertaken protects the HCNM from accusations of arbitrariness or of creating his own yardsticks for monitoring progress. Reference to the standards also helps to ensure consistency in the HCNM's own assessments and positions, so that he may not be accused of applying double standards.

The HCNM frequently assesses and makes recommendations on whether domestic legislation that concerns the rights of persons belonging to national minorities conforms with international standards, most often in the areas of language, education, political participation or citizenship. In this way, the HCNM assists governments in meeting their international obligations and commitments by acting as a kind of "translator" of norms and standards in a variety of situations. Although the OSCE did not create the HCNM's position to monitor States' compliance with international standards, in some respects he has assumed a kind of "gate-keeper" role vis-à-vis those States that strive to meet entry criteria for other Euro-Atlantic institutions, such as the European Union.

International standards for the protection of minorities sometimes lack clarity, which leaves them open to interpretation and possible inconsistencies in application. In response to these gaps, and in order to assist policy- and lawmakers more generally, the HCNM has on three occasions sought the assistance of internationally recognized experts to clarify the content of

minority rights in specific areas and to offer generally applicable recommendations. These sets of recommendations provide States with guidance in formulating policies for minorities within their jurisdiction in the spheres of education, language, and participation in public life.

They are:

- the Hague Recommendations regarding the Education Rights of National Minorities (1996)
- the Oslo Recommendations regarding the Linguistic Rights of National Minorities (1998)
- the Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999)

States are expected to respect their minimum international commitments; but the broader values of the OSCE urges governments to go beyond the minimum in responding to the reasonable demands of minorities and others within their society. Accordingly, the HCNM frequently encourages governments to accommodate desires voiced by minorities, and he assists all the parties in finding reasonable compromises in this regard.

Who is Entitled to Minority Rights?

OSCE instruments speak of "persons belonging to national minorities". In the context of the Helsinki process, the term "national minority" is generally understood to mean a non-dominant population that is a numerical minority within a State but that shares the same nationality/ethnicity as the population constituting a numerical majority in another, often neighboring or "kin", State. In practice, there is considerable latitude left to each State to establish the definition that it will apply within its own jurisdiction and there are substantial differences among such definitions within the OSCE area. However, this does not mean that States are free to make any unilateral determination, no matter how unreasonable, as to the existence of a minority. The enjoyment of minority rights requires no formal legal recognition of a group by the State.

The OSCE approach to the problem of definition follows the principle that to belong to a national minority is a matter of individual choice and that no disadvantage may arise from the exercise of such a choice. In short, while individual States may define what a minority is, the question of who does or does not belong to a minority can be determined only by the subjective feelings of its members. The HCNM has followed this approach and has stated that "the existence of a minority is a question of fact and not definition." He has, in addition, identified some objective criteria for what constitutes a minority: that is, a group with linguistic, ethnic, or cultural characteristics distinct from the majority and that usually not only seeks to maintain its identity but also tries to give stronger expression to that identity.

In practice, the lack of definition may have serious implications in real situations. For example, the term "national" in "national minority" has been interpreted by some to imply that persons belonging to a minority must be citizens of the State in whose territorial jurisdiction they are found. This interpretation has caused problems and increased inter-ethnic tensions in some OSCE States.

The High Commissioner's Mandate

The OSCE monitors human rights through a number of different mechanisms, but by far the most important for minority issues is the office of the HCNM. The High Commissioner's basic mandate is to

provide "early warning" and, as appropriate, "early action" at the earliest possible stage in regard to tensions involving national minority issues that have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating states, requiring the attention of and action by the Council or the CSO [the Committee of Senior Officials, now the Senior Council].

The HCNM therefore has a twofold mission: first, to de-escalate tensions, and, second, to act as a "trip wire" to alert the OSCE when such tensions threaten to escalate to a level where they can not be contained by means at his disposal. In accomplishing this mission, the HCNM should work through quiet diplomacy and direct confidential contacts. He may receive and collect information from any source and maintain contacts with anyone (except those who practice or publicly condone terrorism). He may also receive specific reports from and seek to communicate with the parties directly concerned, including governments, associations, non-governmental organizations (NGOs), and other groups of persons, including representatives of national minorities. He may visit any OSCE participating State and communicate freely with anyone he chooses, including high-ranking government officials, to obtain first-hand information and, "where appropriate, promote dialogue, cooperation and confidence between" the parties. He is to be "an eminent international personality" who will act impartially and will "work in confidence and will act independently of all parties directly involved in the tensions."

Quiet Diplomacy: The Mandate in Practice

While the mandate offers general guidelines on how the High Commissioner should operate through quiet diplomacy, it does not prescribe precisely the approach or the means through which he is to implement his mandate. The actual working methods have been largely developed by the first High Commissioner, Mr. van der Stoep, during his term from 1993 to mid-2001.

In the mandate, the transition from early warning to early action is rigidly structured. However, the HCNM has avoided strict characterization of his actions, and most of his activities have concerned early action, e.g., multiple visits to the countries in which he is involved, thereby avoiding the need for formal early warning.

The mandate also contains an "exit strategy" under which the HCNM should defer to the Chairman-in-Office (i.e., the foreign minister presiding, on an annually rotating basis, over the OSCE Council of Ministers, the OSCE's central decision-making and governing body) and the OSCE's Senior Council, if he deems that his scope for action is exhausted because the conflict has escalated. However, this strategy has never been employed.

Contacts and Information-Gathering

With the assistance of his advisers, the HCNM collects and analyzes information from all relevant sources, including wire services, the Internet and other media, government representatives, independent experts, NGOs and secondary sources, such as journals and reports. He also maintains contacts with OSCE missions and receives information through internal OSCE channels. While he does not act as a complaint mechanism, he is open to direct approaches and submissions from concerned persons. There is no special format for reports or information to be transmitted to the HCNM, but any communication should be in writing and signed with full names and addresses. It should contain a factual account of the relevant developments, and only information that can be substantiated should be included. On the basis of such information, the HCNM's attention is drawn towards situations that may fall within his mandate.

Initiating Direct Contacts

The HCNM's mandate is unusual in terms of the authority granted to him to become directly involved in the affairs of a State. The HCNM enjoys a virtual right of entry into, and freedom of movement within, any participating State. He may decide to become involved purely on the basis of his own judgement in a particular situation, without the formal consent of the State. Although the HCNM does not need the approval of the State concerned, once the HCNM decides that he would like to visit a particular country, and in keeping with the OSCE principle of "cooperative security", he seeks the cooperation of the government involved in facilitating a visit. Such cooperation is almost always forthcoming and creates a positive working environment during visits and subsequent work.

The HCNM is often asked to explain the basis on which he has chosen to become involved in certain States and not others. Obviously, the degree to which issues concerning persons belonging to national minorities affect local or regional security is key. The HCNM therefore considers the available information in terms of indicators of potential conflict and makes a decision on this basis. Such calculations remain, to a certain extent, subjective and rely on the good judgement of the HCNM, based on his own experience and intuition. Two main factors influence his decision: the extent to which he considers that his involvement is needed and the potential for him to have a positive impact. The HCNM has said that he will engage in a situation if there is any chance that his involvement might influence the situation positively; and he has been willing to take on difficult situations even where the chances of success are low. When deciding whether to become involved, the HCNM also considers whether his involvement would bring some added value, particularly in cases where a number of international actors are already involved and efforts could be duplicated or even interfere with one another.

While the HCNM is aware that some States may regard his involvement as a stigmatization or implicit criticism of their treatment of minorities within their jurisdiction, the HCNM has always stressed that his involvement simply reflects the degree to which States face complex and often sensitive problems. His activities reflect the OSCE's commitment to assist States in addressing their problems, living up to their commitments and, ultimately, maintaining security and stability.

Independence and Accountability

Crucial to the HCNM's involvement is his independent status. His involvement does not require the specific approval of the Senior or Permanent Council (the forum of representatives of OSCE participating States that meets weekly in Vienna) or of the State(s) concerned. Not being dependent on decisions made by consensus-based negotiating bodies means that he can move quickly and independently.

The HCNM is ultimately accountable to the OSCE through the Chairman-in-Office, with whom he may consult prior to an on-site visit and to whom he reports confidentially on his findings. The mandate is carefully formulated to avoid any indication that the Permanent Council can give instructions to the HCNM or overrule him; but the High Commissioner cannot function properly without the political support of States. Close institutional links with the political bodies of the OSCE and the collective support of participating States provide the necessary backing to encourage implementation of his recommendations.

Confidentiality

While the HCNM enjoys wide access to information, his mandate prescribes that he work in a confidential manner. His discreet, low-key, and confidential approach is designed to gain trust and cooperation from all parties; it also helps avoid the inflammatory statements that public attention sometimes provokes. Parties are often more open to consider various options behind closed doors when they know that they will not be subject to external pressures or be seen to be climbing down from declared positions. The commitment to confidentiality is intended to keep matters within the internal governmental framework of the OSCE as a whole, but it does not preclude the HCNM from working in cooperation with other international bodies, such as the Council of Europe, as he often does.

The HCNM has developed the practice of making recommendations to States through a formal exchange of letters between him and the appropriate government ministers. These recommendations are regularly made public, after having been presented and discussed in the OSCE Permanent Council. In this way, quiet diplomacy is pursued for some time, but there is ultimately some public accountability. Circulation of this correspondence to OSCE delegations at the initiative of the Chairman-in-Office allows the OSCE community to become acquainted with the HCNM's concerns. A brief synopsis of his activities is included in the monthly OSCE Newsletter for other interested persons.

The HCNM generally avoids substantial contacts with the press, except in specific situations where he judges that public statements might be beneficial to his work.

Cooperation

The HCNM takes a non-confrontational and non-coercive approach to his engagement with the parties involved and seeks to work with them to find solutions to sources of tension. This reflects his conviction that meaningful and sustainable progress depends upon the good will and consent of all parties involved. Compromise solutions reluctantly conceded under external pressure are not likely to last. While the HCNM is an instrument of "short-term" conflict prevention, aimed at defusing tensions that are likely to spark imminent conflicts, he also aims to encourage ongoing dialogue and cooperation between the parties and to establish lines of communication that will endure in the long term. Through his recommendations, he encourages the parties to take concrete steps to address underlying issues of contention and so

lead to a sustainable de-escalation of tensions. His persistent engagement serves to ensure that appropriate follow-up is taken by the States directly concerned and by the OSCE as a whole.

Impartiality

In order not to compromise the High Commissioner's diplomatic efforts in engaging the continued cooperation of all parties, and in view of the sensitivity of the issues he is called upon to address, it is important that he should not be identified with any one party.

Impartiality should not, however, be regarded as synonymous with neutrality. The High Commissioner may identify himself with positions held by any of the parties that he considers to be credible and viable in advancing the conflict-prevention process. While he is an impartial actor without vested interests, in that he does not bring an OSCE "agenda" to the table, his assessment of competing claims and opposing positions is based on a commitment to international standards and fundamental OSCE values. His judgements, rather than exhibiting partiality to the political interests of one group, reflect a partiality to upholding these commitments.

Implementation of the Mandate

The Helsinki Final Act and the documents born of subsequent follow-up meetings are not legally binding instruments. Since OSCE commitments are political in nature, there exists within the OSCE framework no individual complaints mechanism comparable to that under, for example, the European Convention for the Protection of Human Rights and Fundamental Freedoms (see Pamphlet No. 7). However, that should not diminish the significance of the OSCE regime. The OSCE's "politically binding" instruments are designed to promote ongoing security through dialogue, rather than coercion, and States are engaged at a high political level to respect their commitments and to ongoing bilateral and multilateral discussion of their treatment of minorities.

Rather than promoting an ideal or "enforcing" rights, the HCNM seeks to find a solution that is workable and constructive within the specific context, that is, the best solution that is likely to be accepted by both or all parties. In short, he seeks pragmatic solutions based on what is politically possible. Behind this pragmatism, however, lies a coherent and consistent approach, grounded in fundamental OSCE values and international standards.

Addressing the Root Causes of Conflict

In the HCNM's experience, many of the problems involving national minorities involve a lack of respect for human rights, including specific minority rights, which over time gives rise to frustration, resentment, alienation, and a sense of injustice. Problems arise when persons belonging to national minorities feel they are being discriminated against, either in the protection and promotion of their own identity and culture, or by being excluded from certain processes or opportunities in the public sphere -- including access to an equitable share of the State's resources. In turn, such tension may be exploited for political purposes, whether by representatives of the majority or minorities. The consequent instability and insecurity damages the whole society and, if not addressed, may eventually give rise to violence.

Integrating Diversity

The HCNM generally promotes an inclusive, integrationist policy towards resolving tensions. This implies that minorities be given adequate opportunity to maintain and develop their distinct identities while still being a part of, and making a contribution to, the wider society. The HCNM frequently stresses to States the advantages of protecting and promoting the rights of minorities: if persons belonging to national minorities are content within the wider society, they are less likely to pursue policies or strategies against the interests of the majority. Similarly, "kin-States" are less likely to be attracted to irredentist policies if they perceive that "their" minorities in neighbouring States are treated well.

Integrating diversity is often a question of "good governance", which requires that governing institutions act in the interests of the whole population by creating comparable conditions and opportunities for all. This relies, first, on recognizing cultural diversity as an asset rather than a threat, and, second, on acknowledging the plurality of interests within the State.

The HCNM stresses the importance of the following elements in achieving good governance and promoting integration:

- recognizing, protecting, and promoting the identity of persons belonging to minorities
- allowing minorities the opportunity to participate effectively in public life, including the political decision-making processes
- providing minorities with access to a fair share of public goods, including economic opportunity
- sensitivity to the linguistic and educational needs of minorities, which are closely connected with the right of each individual to develop his/her identity

At the same time, the HCNM often reminds minorities that, while they have rights, they also have responsibilities to respect the integrity of the State and to contribute to the wider society of which they are also part.

The High Commissioner's Recommendations

The HCNM's recommendations to governments spell out his concerns regarding the issues that in his opinion are at the source of tensions. These are often sensitive issues that the government may want to avoid. The recommendations are designed to provide a framework within which governments and minorities can address legal, policy, institutional, and process issues. To this end, they typically refer to specific policies and administrative practices and are usually precise and detailed. They are not intended to apportion blame, but rather to make constructive contributions to both the analysis and resolution of sensitive issues.

Tension-reducing Projects

In addition to his diplomatic activities, facilitation of dialogue, and specific recommendations, the HCNM has increasingly undertaken, or encouraged others to undertake, projects on the ground that directly address the sources of disputes. These projects aim to reduce inter-ethnic tensions either by providing frameworks within which problems may be solved or by solving matters themselves. In the latter category, for example, have been educational projects,

ranging from producing new school textbooks or providing legal aid to establishing a new university. Most projects are small in financial terms, but they help close gaps that might otherwise gape. The number and size of such projects have increased in recent years.

Further Information and Contacts

The HCNM's office is in The Hague, and all correspondence should be addressed there:

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The principal documents of the CSCE/OSCE are available on the Internet at www.osce.org. The HCNM's recommendations, statements, press releases, speeches, etc., are available at www.osce.org/hcnm.

The Hague, Oslo, and Lund Recommendations are available in a number of different languages both on the Internet and in hard copy. The Hague Recommendations are reproduced and discussed in a special issue of the *International Journal on Minority and Group Rights* (vol. 4, no. 2, 1996/97); the Oslo Recommendations are available in vol. 6, no. 3, of the same journal (1999); and the Lund Recommendations and explanatory note are reproduced in J. Packer, "The Origin and Nature of the Lund Recommendations on the Effective Participation of National Minorities in Public Life, *Helsinki Monitor* (vol. 11, no. 4, 2000) pp. 29-61.

Hard copies of these and other HCNM publications can be obtained from the High Commissioner's office.

A great number of works have been written on the Helsinki/OSCE process generally and on the High Commissioner on National Minorities, in particular. The most recent and comprehensive work is Walter A. Kemp, ed., *Quiet Diplomacy in Action: The OSCE High Commissioner on National Minorities* (Kluwer, 2001).

Pamphlet No. 10

MINORITIES AND THE INTERNATIONAL LABOUR ORGANIZATION

Summary: The complaint procedures developed by the ILO for the protection of human rights may be used directly only by a government, a trade union or employers' association, or by a delegate to the International Labour Conference. However, many of the ILO's non-discrimination norms and its promotional, oversight, and technical assistance activities may be of interest to minorities. This pamphlet outlines some the relevant standards and ILO initiatives.

What is the ILO (International Labour Organization)?

The ILO was established in 1919 by the Treaty of Versailles. It was the only element of the League of Nations to survive the Second World War, and it became the first specialized agency of the United Nations system in 1945. The tripartite structure of the ILO (governments, employers, and workers) is unique among intergovernmental organizations, and the ILO is the only organization in which governments do not have all the votes.

The ILO is composed of three organs: the **General Conference** of representatives of member states (the "International Labour Conference"); the **Governing Body**; and the **International Labour Office**. The Conference and the Governing Body are composed half of government representatives and half of representatives of employers and workers of member States. The presence and voting power of these non-governmental elements give the ILO a unique perspective on the problems before it and offer possibilities for dealing with practical problems facing ILO members.

One of the ILO's principal activities is adopting and implementing international labour standards. The ILO adopts conventions and recommendations at the annual International Labour Conference, requires governments to examine whether conventions should be ratified, and closely supervises and criticizes how countries apply the conventions they choose to ratify. There are now approximately 7,000 ratifications of the nearly 200 conventions adopted under the auspices of the ILO.

Supervision of ILO standards is carried out mainly by two bodies, the Committee of Experts and the Conference Committee on the Application of Conventions and Recommendations.

The **Committee of Experts on the Application of Conventions and Recommendations** is composed of 20 independent experts on labour law and social problems, from all the major social and economic systems and all parts of the world. It meets annually to examine reports received from governments, which are obligated to report periodically on how they are applying the conventions they have ratified. Workers' and employers' organizations in countries that have ratified conventions may also submit comments on how conventions are applied in practice, thus offering a valuable supplement to governments' reports. The Committee normally

reports publicly on its comments and observations concerning specific conventions and specific countries.

The **Conference Committee on the Application of Conventions and Recommendations** is the next level of supervision. Established each year by the International Labour Conference, it reflects the ILO's tripartite structure of governments and of workers' and employers' representatives. On the basis of the report of the Committee of Experts, the Conference Committee selects a number of especially important or persistent cases and asks the governments concerned to appear before it and explain the situations on which the Committee of Experts has commented. At the end of each session, the Conference Committee reports to the full Conference on the problems governments are encountering in fulfilling their obligations under the ILO Constitution or in complying with conventions they have ratified. The Conference Committee's report is published in the *Proceedings of the International Labour Conference* each year, along with the Conference's discussion of the Committee's report.

ILO Standards

The ILO has a number of tools for the protection of minorities, even though there is no single minorities convention or programme in the Organization. The main tool is the use of ILO standards relevant to the protection of minorities, implemented by technical assistance and cooperation and through work with other international organizations. In most cases, the ILO focuses on the world of work and working conditions, but it also examines issues concerning migrant workers and indigenous and tribal peoples.

Non-discrimination

ILO action for the elimination of discrimination in employment and occupation is based on the ILO Constitution, which commits the ILO to fight against discrimination based on race, creed, or sex. Its principal convention in this area is the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which is supplemented by a number of other ILO standards. Convention No. 111 prohibits discrimination in employment and occupation on the grounds of race, color, religion, and national origin, among other statuses.

Convention No. 111 is one of the eight fundamental conventions of the ILO. As such, it is among the targets of a ratification campaign instituted by the Director-General in 1995. As of April 2001, it had been ratified by 147 countries.

As with all other Conventions for which it is responsible, the ILO carries out intense supervisory activities related to this Convention, and the ILO Committee of Experts on the Application of Conventions and Recommendations draws attention to problems in the implementation of the Convention in its annual report. Many of these comments concern discrimination on the basis of race, religion, and national origin. They highlight gaps in protection by member States, urge them to close these gaps, and recognize progress when it is achieved. Concerned members of minority groups should investigate the possibility of submitting information to the Committee either directly or through a trade union or employers' organization.

Indigenous and Tribal Peoples

Although they are distinct from national, religious, ethnic, or linguistic minorities, indigenous and tribal peoples have been of particular concern to the ILO for decades. The ILO is responsible for the only two international conventions relating directly to these peoples, the Indigenous and Tribal Peoples Convention, 1989 (No. 169), which essentially replaced the 1957 Convention No. 107. Going beyond the world of work as such, much of the ILO's supervisory work with respect to these two conventions relates to the effects of racial discrimination or exclusion from the same opportunities for development that are available to the rest of the national population. The ILO's goal is to ensure equality of opportunity and treatment in all spheres of life, while not sacrificing the ability of these peoples to retain their own ways of life, cultures, etc.

Migrant Workers

The ILO has a considerable programme of activities directed towards migrant workers and participates in UN deliberations on this subject. In this field as well, the ILO is responsible for the only two international treaties in force on the subject as of mid-2001: the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). These Conventions have been ratified by 41 and 18 countries, respectively. (The 1990 UN Convention on the Protection of All Migrant Workers and Their Families is not yet in force.)

In 1999, the International Labour Conference recommended that these Conventions be revised, given the low number of ratifications and the existence of a UN convention on the same subject. In the meantime, however, they offer the only international legal protection for these workers.

Supervisory activities are supplemented by research and information-gathering by the ILO. Thus, in addition to its regular supervisory work, the ILO has held a number of meetings related to the subject of racial discrimination. For instance, an inter-regional seminar on Achieving Equality for Migrant and Minority Workers, covering fourteen countries in Europe and North America, was convened in 2000.

Other Standards

A number of other ILO standards are relevant to the protection of minorities, largely because all ILO standards must be applied in a context of non-discrimination and equal protection for all. For example, the Committee of Experts considered that a convention on labour statistics could not be properly applied by apartheid South Africa as long as it did not provide for labour statistics on both white and other workers (a problem happily now behind us in that country).

Another convention that can have a direct impact on the situation of minorities is the Forced Labour Convention, 1930 (No. 29), which prohibits all forms of forced or compulsory labour. Minorities are more subject to the abuse of fundamental human rights than are others. The Abolition of Forced Labour Convention, 1957 (No. 105) is even more precise in providing that forced labour may not be used for the purposes of racial discrimination. In addition, minority children are specially protected under the Worst Forms of Child Labour Convention, 1999 (No. 182).

If minorities are particularly vulnerable to discrimination, the most vulnerable members of those populations may be subject to multiple discrimination. Women, children, disabled persons, and other groups within minorities are all covered by various ILO standards and activities, and both national and international action should take account of their heightened vulnerability.

Declaration of Fundamental Principles and Rights at Work

A new tool adopted in 1998, the ILO Declaration on Fundamental Principles and Rights at Work declares that "all Members [of the ILO], even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principle concerning the fundamental rights which are the subject of those Conventions, [including] the elimination of discrimination in respect of employment and occupation." Countries that have not ratified the relevant conventions nevertheless have to report to the ILO annually on how they are attempting to realize the principles in the Declaration.

Each year, the ILO issues a "global report" on one of the four rights covered in the Declaration. The first global report on discrimination will be in 2003, and will cover protection of minorities as well as discrimination on other bases. A programme of action on discrimination is being drawn up to focus ILO and other technical assistance on this problem.

Technical Assistance

The International Labour Office (the ILO Secretariat) provides technical assistance and advisory services to member States that wish to ratify Conventions or to apply them more fully. The ILO frequently provides advice in the form of convening national, regional, and sub-regional tripartite seminars on the ratification and application of all of the conventions referred to earlier. Technical cooperation projects to establish affirmative action policies and implementing mechanisms concerning race, among other criteria, have been carried out in some countries. Assistance is regularly given to countries in all regions of the world that wish to benefit from the ILO's experience in this issue.

The ILO also has a wide range of activities to promote and protect the rights of indigenous and tribal peoples around the world. In addition to the ILO's regular work of assisting countries that wish to ratify and apply conventions, externally-financed projects promote Convention No. 169 and help build cooperative associations to assist indigenous income-generating activities. Other ILO technical cooperation activities support the commercialization of traditional occupations and other fields.

Work with Other International Organizations

The ILO works closely with the UN treaty bodies (see Pamphlet No. 4) in examining national situations that affect the rights of minorities, lending its specialized knowledge and the results of its own detailed supervision to the work of these bodies. The ILO also works with the Commission on Human Rights, its Sub-Commission, and their working groups on subjects including minorities, indigenous populations, and contemporary forms of slavery (see Pamphlets Nos. 2 and 3).

The ILO also cooperates with the United Nations Development Programme, The World Bank, the regional development banks and other international organizations.

Complaints Procedures

Among other aspects of labour rights, the ILO's complaints procedures concern problems of discrimination on the basis of ethnicity that affect working life. Of the various mechanisms established by the ILO, the most relevant to discrimination against minorities is the possibility of filing **representations** against a State under Article 24 of the ILO Constitution. A representation will be considered if: it originates from "an industrial association of employers or workers"; it concerns a member State of the ILO; it refers to a convention ratified by the State against which it is made; and it alleges that the State "has failed to secure in some respect the effective observance within its jurisdiction of the said Convention."

After a representation has been received, the substance of the allegations is examined by a special tripartite committee appointed by the Governing Body from among its members. The committee communicates with the filing organization, asking for any additional information it may wish to submit, and with the government concerned. When all the information from both parties has been received, or if no reply is received within the set time limit, the committee makes its recommendations to the Governing Body.

If the Governing Body accepts the arguments made by the government, the procedure is closed and the allegations and replies may be published. If the Governing Body decides that the government's explanations are not satisfactory, it may decide to publish the representation and the government's reply, along with its own discussion of the case, to give the case wider publicity than simply filing it in its records. This was the case, for example, with a 1977 representation by the International Confederation of Free Trade Unions that alleged Czechoslovakia did not observe the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

The decision of the Governing Body that it is or is not satisfied with the government's explanations amounts to a finding of violation of or compliance with the Convention. Whether or not the Governing Body decides that it is satisfied with the government's explanations, the questions raised in the representation are normally followed up by the ILO's regular supervisory machinery, i.e., the Committee of Experts and the Conference Committee on the Application of Conventions and Recommendations.

A number of representations have been filed under Convention No. 111 in recent years related to the kind of ethnic discrimination that is often the basis of conflict, both within member States and among them. While peacekeeping, as such, is not part of the ILO's mandate, the ILO is founded on the recognition that "there can be no lasting peace without social justice", and the absence of discrimination is essential to social justice.

The Role of NGOs

Direct access to the ILO and its supervisory machinery occurs through trade unions, employers' organizations, or governments. Where minority workers are discriminated against or otherwise are subject to human rights violations in the context of employment, they should seek to interest either a national or international organization to take up their cause with the ILO.

Further Information and Contacts

All communications to the ILO should be addressed to:
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International Labour Standards and Human Rights Department
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e-mail: infleg@ilo.org

A detailed description of the ILO complaint procedures may be found in H. Hannum, *Guide to International Human Rights Practice* (1999), and on the ILO's web site (www.ilo.org), under "international labor standards". The ILOLEX database contains the complete texts of all of the ILO conventions, in English, French, and Spanish: <http://ilolex.ilo.ch:1567/public/english/50normes/infleg/iloeng/index.htm>. The human rights home page of the ILO is www.ilo.org/public/english/50normes/index.htm.

Pamphlet No. 11

**THE PROTECTION OF THE RIGHTS OF MINORITIES
AND THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC
AND CULTURAL ORGANIZATION
(UNESCO)**

Summary: UNESCO undertakes a wide range of studies, projects, technical assistance activities, and other initiatives that may be relevant to minorities in protecting their culture, religion, and education. Of particular significance is UNESCO's work in promoting education and protecting tangible and intangible cultural heritage. Members of minorities can also submit complaints under a confidential UNESCO procedure alleging that rights falling within UNESCO's mandate of education, science, culture, and communication have been violated.

What is UNESCO?

UNESCO is a specialized agency of the United Nations that was established in 1946 and now has 188 member States. The General Conference of member States is UNESCO's supreme governing body. It generally meets once every two years and, on the basis of one vote per country, approves the Organization's programme and budget. UNESCO's Executive Board is composed of 58 States and usually meets twice a year. Acting as a kind of administrative council, it prepares the work of the General Conference and is responsible for the effective execution of Conference decisions.

Much of UNESCO's work is accomplished in cooperation with various national institutions that assist in implementing UNESCO's programme. 188 member States created National Commissions composed of representatives of national educational, scientific, and cultural communities; 5,200 "associated schools" help young people form attitudes of tolerance and international understanding; and 4,800 UNESCO clubs, associations, and centres promote the organization's ideals and activities at the grassroots level. Nearly 600 non-governmental organizations (NGOs) maintain official relations with UNESCO, and about 1,200 NGOs cooperate on an occasional basis.

The main objective of UNESCO is to contribute to peace and security in the world by promoting collaboration among nations through education, science, culture, and communication. UNESCO's principal functions are:

- launching prospective studies, exploring what forms of education, science, culture, and communication will be needed in tomorrow's world
- advancing the transfer and sharing of knowledge, which relies primarily on research, training and teaching activities

- setting standards, by preparing and adopting international instruments and statutory recommendations in the fields of education, science, and culture
- providing expertise to member States, in the form of technical cooperation, for the development of policies and projects
- exchanging specialized information
- promoting human rights (through the communications procedure described below)

UNESCO and Minorities

UNESCO's major programmes focus on minorities and respect for their rights as set forth in the International Covenant on Economic, Social and Cultural Rights (1966), the UN Declaration of Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992) and other relevant international instruments. In addition, there are provisions regarding the rights of minorities in other major UNESCO standard-setting instruments, some of which are discussed below. The full texts of these instruments can be found on the UNESCO web site: [www.unesco.org/human rights](http://www.unesco.org/human%20rights). In addition, UNESCO has undertaken a number of activities that address minority issues in its programmes in the areas of education, science, culture, communication, and information.

Education and Minorities

Minority communities, among the world's most disadvantaged when it comes to education, are a special focus of UNESCO's education programme. The World Education Forum, which was held in Dakar, Senegal, in April 2000, adopted the Dakar Framework of Action including minorities. Its recommendations include:

- By 2015, all children, particularly girls, children in difficult circumstances, and those belonging to ethnic minorities, should have access to free and compulsory primary education of good quality.
- Using both formal and non-formal approaches, education should meet the needs of the poor and most disadvantaged, including working children, remote rural dwellers, nomads, ethnic and linguistic minorities; those affected by conflict, HIV/AIDS, hunger, and poor health; and those with special learning needs.
- Children with special needs, including those from disadvantaged ethnic minorities, migrant populations, remote and isolated communities, and urban slums, must be included in strategies to achieve universal primary education by 2015.

The Education for All 2000 Assessment suggested a wide range of ways in which schools can respond to the needs of their pupils, including through affirmative action programmes for girls that seek to remove the obstacles to their enrolment, bilingual education for the children of ethnic minorities, and a range of imaginative and diverse approaches to engage children who are not enrolled in school.

UNESCO also is participating in the United Nations Decade for Poverty Eradication (1997-2006) by initiating a programme of education that helps eradicate poverty and

promotes literacy. One such project is Alleviating Illiteracy among Tribal and Street Children in India, in which UNESCO cooperates with the Indian Federation of UNESCO Clubs and Associations (INFUCA) that were established, in 1985, to promote literacy. INFUCA's primary activities consist in adopting village schools (45 adopted to date) and founding learning centres (140 founded to date) for illiterate adults. INFUCA now wishes to create a centre in Bangalore, Karnataka, for street children who live near the railway station and have no shelter.) INFUCA also promotes literacy among children from tribal groups who live far from schools and so do not attend often.

The MOST Programme

MOST (Management of Social Transformation) is a research programme, designed and managed by the Sector of Social Science of UNESCO, that promotes international comparative social science research. Primarily, it supports large-scale, long-term autonomous research and transfers relevant findings and data to decision-makers.

Ethnic and cultural diversity is among MOST's priority research topics. MOST focuses on the nature of change in multicultural and multiethnic societies in which issues of education, culture and religion, identity and human needs, democratic governance, conflict, and cohesion interact in complex patterns. These issues require interdisciplinary, comparative, and culturally sensitive research that may furnish information useful for the peaceful and democratic management of multicultural and multiethnic societies. This research should help in designing policies that contribute to achieving equality of citizenship rights among ethnic groups and avoiding and resolving ethnic conflict. Numerous projects have been carried out or are ongoing in Asia, the Pacific, Africa, Central Asia, and Central and Eastern Europe dealing with, among other things, the social and political aspects of international migration and growing ethno-cultural diversity. A few examples of these projects are outlined below.

Democratic Governance in a Multicultural and Multiethnic Society

At the request of the Kyrgyz government, UNESCO established a democracy-training project to introduce selected individuals from Kyrgyzstan - among them, policy-makers, legislators, judicial officials, and representatives from public and non-governmental organizations - to the functioning of democratic governance in an ethnic, linguistic, and culturally diverse State. The democracy-training project envisions close cooperation between Switzerland and Kyrgyzstan. Short-term training activities begun in 1997 are designed to lead to long-term cooperation between the two countries, which is expected to further the process of democratization in Kyrgyzstan.

Ethno-Net Africa

This is a network for comparative studies on, and monitoring and evaluation of ethnic conflicts and social change in Africa. It attempts to address ethnic issues in a more

constructive, comparative, and regional perspective, identifying common denominators and drawing lessons from experiences in specific countries and regions. One of its main objectives is to fill the existing gaps in our knowledge and understanding of issues of ethnicity and culture in order to contribute to conflict resolution and prevention. It also aims to provide appropriate solutions to policy makers in need of advice on ethnic-orientated problems. The network's main objective is to provide a better understanding of ethnic conflicts in Africa by collecting, analyzing, and disseminating information in an effort to provide an early warning system and prevent such conflicts from erupting.

Monitoring of Ethnicity, Conflicts, and Cohesion in Central and Eastern Europe and Central Asia

This project, launched in cooperation with the Institute for Conflict Research in Vienna, is aimed at developing strategies to monitor cultural, ethnic, and religious diversity in Central European countries. In the midst of state-formation, political democratization, and economic transformation, Central European societies are confronted with the (re)emergence of collective identities constructed along cultural, ethnic, and religious lines that cross State boundaries and create the potential for violent conflicts. Given the history of the Central European region, it is imperative to create context-sensitive policy models and programmes to foster cultural and social pluralism. Instead of trying to implement Western models of conflict management, this project explores existing patterns for managing diversity in the region. After in-depth interviews with ethnic and religious community leaders, political representatives, and government administrators, and secondary analyses of public opinion polls, data will be discussed and evaluated with academic experts. The pilot study of this project focuses on Slovakia, whose culturally diverse society includes traditional ethnic minorities, such as Hungarians, as well as Roma and new immigrants from Eastern Europe. The project will be extended to other Central European countries, including the Czech Republic, Hungary, and Slovenia.

MOST Clearing Houses

Ø The MOST Clearing House on Linguistic Rights

The MOST Clearing House on Linguistic Rights is designed to provide tools for legislators, decision-makers, researchers, and other representatives of both governmental and non-governmental organizations to monitor the transition to democracy in multicultural and multiethnic societies. It provides an overview of the most important international legal instruments pertaining to linguistic rights as well as a collection of constitutional provisions.

Ø The MOST Clearing House on Religious Rights

The MOST Clearing House on Religious Rights is designed to strengthen social science research on religious diversity. As shown by the political impact of religious fundamentalism and ethno-religious movements, religious difference may be an important factor in contemporary social conflict at the local, national, and international levels. At the same time, however, some religious communities have become important actors in civil society, promoting democracy, tolerance and peace.

Given these two apparently inconsistent trends, contemporary social science must analyze the dynamics of multi-religious societies and help formulate policies based on international legal standards. Therefore, the MOST Clearing House on Religious Rights is designed to provide tools for researchers, legislators, decision-makers, and NGO and religious representatives to explore problems of multi-religious societies and develop solutions to manage them.

The MOST Clearing House on Religious Rights has established a database that contains information on international instruments pertaining to the principles of non-discrimination, freedom of religion or belief, and the rights of persons belonging to religious minorities.

Ø The MOST Clearing House on Best Practices

"Best practices" are model projects or policies aimed at improving the quality of life of individuals or groups suffering from poverty or social exclusion. They are typically founded on cooperation among national or local authorities, NGOs, local communities, the private sector, and academic communities. For example, included in the database is Viet Nam's Ethnic Minority Development Data System (EMDDS). EMDDS is being developed by the Committee for Ethnic Minorities and Mountainous Areas and the Institute of Ethnology of Viet Nam. The database collects and analyzes data of value to both the government and local communities. EMDDS encourages the people themselves to contribute to the database. Communities use the data, including maps, ideas and analyses, as a basis for decision-making and planning their own lives. The government uses the data to determine the content and implementation of development activities.

Many of the above projects involve governments, scholars, and policy-makers; involvement by the minority and ethnic communities affected also is crucial. Further information can be found from the contacts below or from the National Commission for UNESCO in your State.

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Cultural Heritage and Minorities

Cultural Heritage

According to the World Heritage Convention (1972), "cultural heritage" is a monument, group of buildings, or site of historical, aesthetic, archaeological, scientific, ethnological or anthropological value. "Natural heritage" designates outstanding physical, biological, and geological features, such as habitats of threatened plants or animal species and areas that have scientific or aesthetic value or that are important from the point of view of conservation. Each country that ratifies the Convention pledges to conserve the sites situated on its territory, some of which

may be recognized as World Heritage. Their preservation for future generations then becomes a responsibility shared by the international community as a whole.

The Convention is overseen by the World Heritage Committee, which meets annually, usually in December, to discuss all matters related to the implementation of the Convention. It also decides on the inscription of new sites on the World Heritage List.

Some of the natural or cultural sites included in the World Heritage List are located in regions where minority communities live, such as the Asian Rice Culture and Terraced Landscapes of the Ifugao in the Philippines and the Old Town of Lijiang of the Naxi in China. UNESCO encourages minority communities to participate in identifying natural or cultural sites that might be nominated by their government for inscription on the World Heritage List.

For further information, contact:
World Heritage Center
UNESCO
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75352 Paris 07SP
France
fax: +33 1 45-68-55-70
email: whc-info@unesco.org
web site: www.unesco.org/whc

Intangible Cultural Heritage

UNESCO has protected minorities and other forms of “intangible cultural heritage” since 1989, pursuant to the UNESCO Recommendation on the Safeguarding of Traditional Culture and Folklore. The International Round Table on Intangible Cultural Heritage - Working Definitions, organized by UNESCO in 2001, revised the working definition of intangible cultural heritage in order to develop a future international instrument. Intangible cultural heritage includes oral cultural heritage, languages, performing arts and festive events, social rituals and practices, knowledge systems, and beliefs and practices about nature. The transmission of intangible cultural heritage is modified with the passage of time by a process of collective re-creation. For many cultures, and for minority and indigenous populations in particular, intangible cultural heritage is an essential source of identity.

Since UNESCO launched the Safeguarding and Promotion of Intangible Heritage programme in 1993, a large number of activities covering different aspects of the intangible cultural heritage of minorities in Asia, Africa, and the Pacific has been undertaken; some are still in progress. Meanwhile, the Organization is conducting a feasibility study on the elaboration of a new standard-setting instrument to protect intangible cultural heritage.

For further information, contact:

Intangible Cultural Heritage Section
Sector for Culture
1, rue Miollis
75732 Paris Cedex 15, FRANCE
tel. + 33 1 45-68-42-52

Fax: + 33 1 45-68-57 52

web site: www.unesco.org/culture/heritage/intangible

UNESCO and Human Rights

Most of UNESCO's human rights work is promotional rather than protective; but in 1978 the Executive Board of UNESCO created a procedure for the examination of communications (complaints) received by UNESCO concerning alleged violations of human rights. The procedure is confidential and extends only to human rights violations within UNESCO's fields of competence, namely education, science, culture, and information. This procedure is set out in 104 EX/Decision 3.3 of the Executive Board and is available on UNESCO's website at www.unesco.org.

Who May Submit a Communication?

Individuals, groups of individuals, and NGOs may submit communications to UNESCO concerning violations of human rights, whether the authors of these communications are themselves victims or whether they only have "reliable knowledge" of such violations. In theory, a complaint may be filed against any country; in practice, communications will be considered against any country that is a member of UNESCO.

The communication should be sent to:

Director of the Office of International Standards and Legal Affairs
UNESCO
7 place de Fontenoy
75352 Paris 07
SP France

An initial letter should contain a concise statement of the allegations. It must be signed and drafted in one of the Organization's working languages (English or French). Following this, the UNESCO Secretariat will send the author of the letter a form to be completed, which constitutes the formal communication and will be transmitted to the government concerned. A copy of the form also may be completed and attached to the initial letter.

Which Rights Fall within UNESCO's Competence?

The rights that most clearly fall within UNESCO's competence are the following (each article mentioned below refers to the Universal Declaration of Human Rights):

- the right to education (Article 26)
- the right to share in scientific advancement (Article 27)
- the right to participate freely in cultural life (Article 27)
- the right to information, including freedom of opinion and expression (Article 19)

In addition, other rights naturally follow from these core rights:

- the right to freedom of thought, conscience and religion (Article 18)
- the right to seek, receive and impart information and ideas through any media and regardless of frontiers (Article 19)
- the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production (Article 27)
- the right to freedom of assembly and association (Article 20) when exercised in connection with education, science, culture, or information

Many of the concerns of minorities are directly related to issues of language, culture, and education, and it should be relatively easy to demonstrate that such issues fall within UNESCO's jurisdiction.

How are the Communications Examined?

Complaints are examined in private by the Committee on Conventions and Recommendations of the Executive Board, which is composed of government representatives and generally meets twice yearly, in spring and autumn, namely in May and November, during Executive Board sessions. A communication should be received by UNESCO at least two months in advance of the committee's sessions to ensure that there is sufficient time for it to be forwarded to the government concerned for a response and placed on the committee's agenda.

As with most other international human rights procedures, the committee first examines the admissibility of a complaint. There are ten conditions governing admissibility (set out in paragraph 14(a) of Decision 104 EX/3.3), and all must be fulfilled. Thus, for a communication to be admissible, it must meet the following conditions:

- it must not be anonymous
- it must not be manifestly ill-founded and must appear to contain relevant evidence
- it must be neither offensive nor an abuse of the right to submit communications
- it must not be based exclusively on information disseminated through the mass media (although it may be based in part on such information)
- the communication must be submitted within a reasonable time-limit following the facts on which it is based or within a reasonable time-limit after the facts have become known
- it must indicate whether an attempt has been made to exhaust available domestic remedies (Although a literal reading of this requirement would not seem to require that the complainant attempt to exhaust remedies, this is not the case, the communication must indicate whether an attempt has been made to exhaust available domestic remedies with regard to the facts which constitute the subject-matter of the communication and the result of such an attempt, if any, and you should indicate either how you have exhausted available domestic or why they are inadequate).

Once a communication has been declared admissible, the Committee normally examines the substance of the allegations at its next session. Sometimes issues of admissibility and the merits may be joined together. The author of the communication is normally sent a summary of any written response the government may make, and comments on that response will be included in the file.

When the Committee examines the communication, the government concerned is invited to provide information or answer questions asked by members of the Committee on either the admissibility or the merits of that communication. Paragraph 14(g) of the Decision allows the Committee "in exceptional circumstances" to request permission from the UNESCO Executive Board also to hear "other qualified persons", which presumably could include the author of the communication. However, to date the Committee has not made use of this provision.

Since the Committee is not an international tribunal, it tries to resolve the problem in a spirit of cooperation, dialogue, and mutual understanding. The goal is to achieve a mutually satisfactory settlement, not simply to decide whether or not a violation has occurred. The Committee submits a confidential report to the Executive Board on each communication considered, including any decisions or recommendations it may make; the author and the government concerned are also informed of the Committee's decisions. The Committee's decisions are not subject to appeal, but a communication may be re-examined if the Committee receives additional information or new relevant facts. The Committee's decisions are not published or publicly reported.

Urgent Cases

The Director General of UNESCO has long enjoyed a right of intercession vested in him by the General Conference, in particular in 19C/Resolution 12.1. It is thus possible for the Director General personally to make humanitarian representations on behalf of persons who have allegedly been victims of human rights violations in UNESCO's fields of competence and whose cases call for urgent consideration. Paragraphs 8 and 9 of 104 EX/Decision 3.3 recognize the role played by the Director-General in this regard.

"Cases" and "Questions"

Paragraph 10 of the Decision distinguishes between "cases" of individual violations of human rights and "questions of massive, systematic or flagrant violations", such as aggression, colonialism, genocide, or racism. While many communications have been submitted to UNESCO alleging the existence of such systematic violations, none has thus far been dealt with under the "question" mechanism. If, after a full examination of the merits, the Committee forwards a "question" to the Board, then the situation would be examined in public by the Board and the General Conference. To date, however, no such action has been taken by the Committee, and you are probably best advised to submit even serious or widespread violations of human rights to UNESCO as a series of individual "cases".

Impact of the Procedure

Fewer than 500 communications were considered under the UNESCO procedure in the first twenty years of its existence. While many human rights NGOs have criticized the secrecy and slowness of the procedure, the Committee's quiet diplomatic approach

has, in fact, resulted in satisfactory results for many applicants. Given the fact that at least some issues of particular concern to minorities may lend themselves to mediation and conciliation, minority rights advocates should not ignore UNESCO when they seek protection for their cultural, linguistic, and educational rights.

PROTECTION OF REFUGEES WHO BELONG TO MINORITIES: THE UN HIGH COMMISSIONER FOR REFUGEES

Summary: UNHCR's main function is to provide international protection to refugees and to find durable solutions for them. Many of the world's refugees are members of minority groups who can no longer rely on their own State for protection. UNHCR is also mandated to oversee the implementation of the 1951 Convention relating to the Status of Refugees. The Organization's work is conducted from some 130 field offices and from its headquarters in Geneva.

The High Commissioner's Mandate

Most people can look to their own governments to guarantee and protect their basic human rights and security. But when a State is unwilling or unable to provide basic protection to its citizens, people may flee to seek safety in another country. The 1951 Convention relating to the Status of Refugees defines a refugee as a person who is outside the country of his/her nationality and unable or unwilling to return to it, "*owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.*" The United Nations High Commissioner for Refugees (UNHCR), the UN agency mandated to oversee the application of the 1951 Convention, provides international protection and assistance for some 22 million people, including refugees, returnees (former refugees), internally displaced persons and stateless persons around the world.

The 1951 Convention was initially conceived to protect the hundreds of thousands of persons displaced during World War II and its immediate aftermath, and applied only to persons in Europe who became refugees prior to 1951. Yet in the decades that followed, the refugee crisis spread throughout the world, and it quickly became clear that an international legal framework was required to protect all refugees. A 1967 Protocol to the Convention removed the temporal and geographic limitations of the 1951 Convention, extending the Convention's provisions to all persons who fall within its definition. To date, 136 States are party to the Convention and/or its Protocol.

The Link between Minorities and Refugees

Today, inter-ethnic and inter-racial tensions and conflict are erupting in nearly every region of the world. These conflicts are often rooted in power struggles and are aggravated by socio-economic inequalities. National, ethnic, and religious minorities are often vulnerable in these conflicts; many of the persons who flee their countries for fear of persecution are members of minority groups. The 1951 Convention recognizes this link in its definition of a refugee, which includes persons who flee persecution not only because of their political opinion but also because of their race, religion, nationality, or membership in a particular social group.

The relationship between human rights abuses suffered by minorities and refugee flows and internal displacement has been demonstrated time and again. The link between minorities and

refugees was also recognized in a resolution of the Commission on Human Rights, adopted in 2001, concerning persons belonging to national or ethnic, religious, and linguistic minorities. The preamble to the resolution expresses the Commission's concern over "the growing frequency and severity of disputes and conflicts regarding minorities in many countries and their often tragic consequences, and that persons belonging to minorities are particularly vulnerable to displacement through, *inter alia*, population transfers, refugee flows and forced relocation..."

UNHCR's Protection Response

UNHCR's principal role is to provide international protection for persons who have been forced to flee their country of origin. The Organization ensures that the international standards of refugee protection guaranteed in the 1951 Convention, its 1967 Protocol, and in various regional instruments, including the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration, are respected. Among the refugee rights UNHCR tries to protect is the fundamental right not to be forcibly returned, or *refouled*, to a territory where the refugee's life, liberty or physical security may be threatened. The Convention also requires non-discrimination in the application of its provisions and guarantees a certain standard of treatment in relation to education, housing, and employment.

To ensure the widest possible application of the Convention and, therefore, the greatest protection for refugees, UNHCR also promotes accession to the 1951 Refugee Convention, its 1967 Protocol, and corresponding regional refugee treaties.

When UNHCR is active in the country of origin, whether to conduct voluntary repatriation operations or, on occasion, to protect internally displaced persons, UNHCR has often been engaged in specific protection and assistance activities for minority groups. For more details on such operations, please refer to the South-East Europe Operation, Kosovo Update on the UNHCR web site: www.unhcr.ch.

Minorities and the Problem of Statelessness

Minorities are often disproportionately affected by problems of statelessness, sometimes as a result of discriminatory nationality and citizenship legislation, sometimes because of differences in nationality laws among the various States to which a minority group may have ties, and frequently because of misconceptions concerning what constitutes legal status.

Under the 1954 Convention on the Status of Stateless Persons, a person is "stateless" when he/she is not automatically considered a national (or citizen) under the laws of any State. To be stateless is often to be unable to enjoy the array of rights that are granted without question to citizens, such as the rights to education, work, travel, and health care. UNHCR acts as an intermediary between States and stateless persons in securing the standards set forth in the 1954 Convention and in urging States to provide or maintain nationality for persons who would otherwise be stateless through the provisions of the 1961 Convention on the Reduction of Statelessness. Unfortunately, as of 2001, only 53 States were party to the 1954 Convention and only 23 were party to the 1961 Convention.

UNHCR's activities to prevent and reduce the incidence of statelessness include promoting accession to the two statelessness conventions and providing technical and advisory services to

States on their nationality legislation and practice. UNHCR assists stateless persons by verifying whether they are, indeed, stateless and working with national authorities to resolve their legal status.

Human Rights and Peace Education

Providing education to refugees is a way of reducing racial and ethnic tensions and thereby preventing future human rights abuses and refugee flows. UNHCR has launched a number of pilot education projects on peace, human rights, and conflict resolution in both schools for children and through adult education. A school programme in refugee camps in Kenya, for example, offers peace education classes each week to some 42,000 children; 9,000 youth and adults have graduated from a similar community workshop programme. Peace education schemes have also been implemented in Uganda, Liberia, and Guinea, and discussions are underway for starting similar programmes in Ethiopia and the Democratic Republic of the Congo. It is hoped that these kinds of programmes will foster respect for human rights of all persons, including minority groups, and so remove a primary cause of refugee flows.

Global Consultations Marking the 50th Anniversary of the 1951 Convention

A process of Global Consultations was launched in 2001 to mark the 50th anniversary of the 1951 Convention and to promote the full and effective application of the Refugee Convention and its Protocol. The Consultations provide an opportunity for open discussions among governments, NGOs, academics, refugee experts, and refugees on a number of key protection policy issues. Expected outcomes of the talks range from consensus on approaches to protection dilemmas, to standard-setting, to the development of practical actions. Ultimately, the Consultations aim to reinvigorate the international refugee protection regime.

Further Information and Contacts

The UN High Commissioner for Refugees is based in Geneva and UNHCR offices are found in most countries. Addresses of UNHCR country offices can be found on the UNHCR web site: www.unhcr.ch. The web site also contains an extensive database, called REFWORDL, which contains international and national legal texts related to refugees and other documentation.

The address of UNHCR Headquarters is:
UN High Commissioner for Refugees
Case Postale 2500
CH-1211 Geneva 2
Switzerland
Tel. +41 22 739-8111; Fax +41 22 739-7377
E-mail: webmaster@unhcr.ch

**THE ORGANISATION FOR ECONOMIC COOPERATION
AND DEVELOPMENT'S**

DEVELOPMENT ASSISTANCE COMMITTEE (DAC)

Summary: The Organisation for Economic Cooperation and Development's Development Assistance Committee (DAC) is a forum in which the major bilateral donors work together to support sustainable development in developing countries. While the DAC does not specifically address minority issues as such, it frequently consults with civil society, including minority populations, in the process of establishing its own policy guidelines.

The Organisation for Economic Cooperation and Development

The Organisation for Economic Cooperation and Development (OECD) is an international organization and is composed of some of the world's wealthiest States. Founded in 1961, one of the main aims of the OECD is the promotion of policies to stimulate and harmonize its Members' efforts in favour of developing countries.

Member States of OECD are: Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, New Zealand, the Netherlands, Norway, Poland, Portugal, Republic of Korea, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland and the United States of America.

The Development Assistance Committee

The OECD's Development Assistance Committee (DAC) is the principal body through which the OECD handles issues related to cooperation with developing countries. The DAC is one of the key forums in which the major bilateral donors work together to support sustainable development. Members of the DAC are expected to have certain common objectives governing their aid programmes.

The mission of the DAC is to foster coordinated, integrated, effective and adequately financed international efforts in support of sustainable economic and social development. In 1999, total net resource flows from DAC member countries and multilateral agencies to aid recipients amounted to US\$248 billion, including some US\$51.3 billion in Official Development Assistance.

Recognizing that developing countries are ultimately responsible for their own development, the DAC concentrates on helping developing countries to participate in the global economy and helping people to overcome poverty and participate fully in their societies.

DAC meetings are attended by Paris-based delegates of Member countries and by officials from Member-country capitals. Once a year, senior-level officials from aid agencies gather at the DAC to take stock of the overall aid effort and to review the DAC's work on current policy issues. The Committee also holds an annual High-Level Meeting for Ministers or heads of aid agencies. The High-Level Meeting provides an opportunity, at the political level, to adopt basic policy directions for the Committee's work and for the common efforts of its Members.

The DAC has also established working parties, expert groups, temporary task forces and informal networks, in which DAC Members are generally represented by specialists. Their respective mandates reflect the Committee's major interests: poverty reduction; financial aspects of development assistance; development assistance and the environment; statistics; aid evaluation; gender equality; good governance and capacity development; conflict, peace and development; and harmonization of donor practices.

Members of the DAC are: Australia, Austria, Belgium, Canada, Commission of the European Communities, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

The DAC'S Work

The DAC is increasingly involved in supporting developing countries' efforts to strengthen local capacities to pursue integrated development strategies.

A landmark report, "Shaping the 21st Century: The Contribution of Development Cooperation", was adopted by the DAC and endorsed by the OECD Ministerial Council in 1996. This report sets out a vision for a global partnership in favour of sustainable development. The report:

- frames the vision with a set of basic goals of measurable progress over the next 20 years in economic well-being, social development and environmental sustainability
- describes a strategy of development cooperation in pursuit of those goals through partnerships that respect the primary responsibility of the people, institutions and governments of developing countries for their own progress, and that offer international support for their efforts, based on shared interests
- expresses a commitment to work together to reinforce the self-help efforts of developing countries with adequate resources, improved coordination and consistent policies that support development and that are accompanied by continuous monitoring and evaluation

The 21st Century report built upon a foundation of two previous policy statements that had been adopted by the DAC in 1989 and in 1995. In the first of these, "Development Cooperation in the 1990s", DAC Members concluded that the

self-perpetuating cycle of underdevelopment, linking high population growth, poverty, malnutrition, illiteracy, and environmental degradation, could only be broken through integrated economic and developmental strategies and policies.

Primary Activities

Adopting authoritative policy guidelines

The DAC adopts authoritative policy guidelines to be used by Members in designing and implementing their development cooperation programmes. These guidelines reflect the views and experiences of the Members and benefit from input by multilateral institutions and individual experts, including experts from developing countries. Consultations with partner countries, including representatives from government and civil society, are also part of the process of adopting these guidelines. Guidelines adopted prior to 1992 were published that year in a compilation entitled *Development Assistance Manual: DAC Principles for Effective Aid*. Subsequently adopted guidelines have been published individually in a *Development Co-operation Guidelines Series*, inaugurated in 1995. While DAC guidelines are non-binding, Members who adopt them make a firm commitment to implement them to the extent possible. The themes addressed by DAC guidelines include:

Development Assistance Manual: DAC Principles for Effective Aid

- Guiding Principles for Aid Coordination with Developing Countries
- DAC Principles for Project Appraisal
- Principles for New Orientations in Technical Cooperation
- Principles for Programme Assistance
- Good Practices for Environmental Impact Assessment of Development Projects
- Good Procurement Practices for Official Development Assistance
- New Measures in the Field of Tied Aid
- Principles for the Evaluation of Development Assistance

Development Cooperation Guidelines Series

- Participatory Development and Good Governance
- Support of Private Sector Development
- Donor Assistance to Capacity Development in Environment
- Conflict, Peace and Development Cooperation
- Gender Equality and Empowerment of Women

New Guidelines Endorsed at the 2001 DAC High Level Meeting

- Poverty Reduction
- Strategies for Sustainable Development
- Helping Prevent Violent Conflict: Orientations for External Partners
- Capacity Development for Trade in the New Global Context

Conducting periodic critical reviews

The DAC conducts periodic critical reviews of its Members' development cooperation programmes. These peer reviews, occurring at three- to four-year intervals, examine how each individual Member programme applies DAC policy guidelines, how the programme is managed (including coordination with other donors), coherence of other policies with development objectives and trends in the volume and allocation of resources. Each review is based on investigations by the Secretariat and on reports by examiners appointed from two Member countries. Their investigations include broad consultations, including with non-governmental actors in development cooperation activities, in the capital of the donor country under review. Sometimes, those Members under review organize special events involving civil society organizations.

The reviews also include an average of two field missions to major partner countries of the Member under review. During those missions, the review team has consultations with NGOs and other civil society organizations in the partner country visited. The process culminates in a meeting of the full DAC at which the major issues identified in the examination are discussed. A summary of the findings and conclusions of the Committee and the detailed report of the Secretariat are published in the *Development Cooperation Review Series*. The OECD is the only international organization dealing with development issues that conducts such reviews.

Providing forums for dialogue

The DAC provides a forum for dialogue, exchange of experiences and the building of international consensus on policy and management issues of interest to Members. Particular themes, such as strategies for poverty eradication and expanding and integrating all sources of funding for development, emerge from the Senior Level and High-Level meetings and from the annual work programme and medium-term priorities. Since 1998, the DAC has organized Development Partnership Forums on key issues in partnership and local ownership. These are usually held back-to-back with the DAC Senior Level Meeting. Participants in these Forums include representatives from civil society in both DAC member and partner countries. The most recent Develop Partnership Forum, held in December 2000, addressed the role of civil society, in both the North and South, in poverty-reduction strategies (see box below).

Publishing statistics and reports

The DAC publishes statistics and reports on aid and other resource flows to developing countries and countries in transition, and on related matters, based principally on reporting by DAC Members. These authoritative statistics and reports are widely used and frequently cited in publications related to development.

Further Information and Contacts

For more information, the OECD Development Assistance Committee's web site (www.oecd.org/dac) provides access to some of the most important work of the DAC. Or you can contact:

Publications Unit
Development Cooperation Directorate
Organisation for Economic Cooperation and Development
2 rue André Pascal
75775 PARIS CEDEX 16
France

Telephone: +33 (0) 1-45-24-17-89; Fax: +33 (0) 1-44-30-61-40

Development Partnership Forum 2000

OWNERSHIP AND PARTNERSHIP: THE ROLE OF NORTHERN AND SOUTHERN CIVIL SOCIETY IN THE POVERTY REDUCTION STRATEGIES

11-12 December 2000

The Development Partnership Forum 2000 brought together over 150 participants from governments and civil society, including representatives of business associations, NGOs, churches, trade unions, media, and Parliamentarians, both from DAC Member countries and partner countries, together with DAC Member delegations and observers, including representatives from DAC Member country civil society.

The Forum proposed a large number of concrete measures to bolster participation of civil society. A detailed report by the DAC and the Development Centre will be made available in 2001. The following points provide a preliminary overview of the Forum.

1. The involvement of civil society, in addition to partner country governments and the private sector, is becoming an operational feature of poverty reduction strategies, for reasons which are both political (ownership) and practical (active participation in pro-poor growth policies, effective and accountable implementation and realism check). To establish and implement successful participatory poverty reduction strategies, country ownership must involve all stakeholders.
2. Civil society is not homogeneous. It comprises many and diverse actors, each with their own interests and responsibilities. While this may complicate the consultation process, narrowing the selection of actors involved could hinder the entire process.
3. Adequate consultation processes need time. The absence of adequate consultation of civil society may speed up the process, but it does not foster true ownership. . The sense of urgency in launching Poverty Reduction Strategy Papers (PRSPs) should not mean that consultations are forfeited.
4. Engaging citizens and civil society actors in the consultation process is a formidable challenge in terms of time and resources for partner countries. Fostering partnership and participation of all stakeholders in an effective manner will require investment in capacity building and further evolution in aid agencies' operations, in particular simplification and harmonisation of their procedures. It must be a joint endeavour.
5. Creating the enabling environment for civil society capacity building also calls for recognition of the importance and cost of international networking and South-South collaboration by civil society actors. Development co-operation may have a decisive role in this respect.
6. Civil society should be allocated resources in a way that is conducive to the choice of specific activities chosen by civil society actors, but clearly governed by standards for accountability (in particular with respect to the poor), transparency, efficiency and effectiveness. Bilateral and multilateral official aid agencies should share these standards.
7. Donors should increase efforts to inform and educate public opinion on the objectives, principles and implementation of the partnership strategy, setting whenever appropriate a target percentage for the financing of development information and education in their own countries.
8. Civil society actors in partner countries should be encouraged to play a more active role in advocating sound and effective poverty reduction strategies.
9. Opening up space for the advocacy role of civil society actors in partner countries will be of particular importance in situations where entering into a genuine partnership for poverty reduction has not yet been established as a policy priority, or when partnership is impeded by conflict situations.
10. Accountability and transparency can be enhanced through increased support for the media (traditional print and communication as well as modern IT applications). Moreover, the media is an important guardian against corruption. Media coverage of the whole partnership process at work, *e.g.* the elaboration of PRSPs should be facilitated through real dialogue and not restricted to briefings and press handouts. This is important in order to stimulate local participation and ownership, and should lead, in the North, to increased confidence in and understanding of policy making in the South.

Pamphlet No. 14

**THE EUROPEAN UNION:
HUMAN RIGHTS AND THE
FIGHT AGAINST DISCRIMINATION**

Summary: The European Union (EU) is committed to promoting human rights, democratization and development. The fight against racism and discrimination lies at the heart of that commitment. The European Union (which includes both the European Community and its 15 Member States) provides some 50 per cent of the total international Official Development Assistance. Some of the main instruments available to the European Community (EC) in promoting respect for human rights are the cooperation and partnership agreements with third countries, covering different regions. Practical information is given on the support being provided under EU and EC policies and funding programmes for promoting and protecting the rights of minorities, such as those of the Roma/Sinti, as well as the rights of indigenous peoples.

The European Union

The European Union (EU) believes that the promotion and protection of human rights around the world is a legitimate concern of the international community. The European Union is bound by its Treaty to promote human rights, democratization and development. The universality, interrelation and indivisibility of human rights, including civil, political, economic, social and cultural rights, as reaffirmed by the 1993 World Conference on Human Rights in Vienna, is the central principle guiding its actions.

The European Union's policy is based on internationally agreed frameworks and standards, reflecting the belief that human rights and democracy are not "Western" values but universal values to which all UN members subscribe. The EU is working towards the universal ratification and implementation of all major international human rights instruments. The European Commission, the executive body of the European Union, participates actively in international human rights fora, such as the UN Commission on Human Rights, the preparation of the World Conference against Racism and the Special Session of the UN General Assembly on Children.

The main instruments available to the European Community to promote respect for human rights are cooperation and partnership agreements with third countries. The new development policy of the European Community is firmly grounded in the principle of sustainable, equitable and participatory human and social development. The promotion of human rights, democracy, the rule of law and good governance are an integral part of the new policy.

The European Union, which includes the European Community and its 15 Member States, provides some 50 per cent of the total international Official Development Assistance. It is

also the largest donor of humanitarian aid, providing 58 per cent of total emergency aid for the Organization for Economic Cooperation and Development's Development Assistance Committee (DAC) in 1999. Cooperation and partnership agreements with third countries offer opportunities to conduct regular political dialogues and to provide financial support to human rights related policies and activities. The European Community's cooperative funding programme includes: the European Development Fund (EDF) for African, Caribbean and Pacific (ACP) countries; the ALA funds for Asian and Latin American countries; Tacis for the Russian Federation, the Newly Independent States and Mongolia; Phare for countries of Central and Eastern Europe (candidate countries to the EU); CARDS for the western Balkans; and MEDA, for Mediterranean countries. It also includes other thematic budget lines, such as the European Initiative for Democracy and Human Rights (EIDHR) and funds to co-finance projects with development NGOs, for combating HIV, promoting gender equality, and providing humanitarian aid, which is managed by the European Community Humanitarian Aid Office (ECHO). Other European Community policies, such as those on trade or immigration, can also have an effect on human rights and democratization.

Civil Society in the EU's Development Cooperation Policy

The participatory approach adopted in the new ACP-EC (African, Caribbean, Pacific - European Community) partnership is one of the main innovations of the Cotonou Agreement recently signed by the European Community and its Member States and by 77 States belonging to the ACP group. It marks a change in culture in EC development cooperation and in the ACP-EU relationship. The new approach involves encouraging a genuine dialogue both on development policies and on ACP-EU cooperation strategies. The implementation and success of this new approach will depend on the way in which each group works within this framework. The Agreement is based on the notion that public entities need not be the sole creators of development policy. Civil society and the private sector can and should organize themselves to take part in the debate and formulate their proposals.

Participation is a fundamental principle of the Cotonou Agreement. The Agreement states that: "...apart from central government as the main partner, the partnership shall be open to different kinds of other actors in order to encourage the integration of all sections of society, including the private sector and civil society organisations, into the mainstream of political, economic and social life." The involvement of non-State actors is to be developed in four main areas: information and consultation, access to financial resources, implementation, and capacity-building.

However, the Cotonou Agreement does not specify precise **modalities** for this new participatory approach. Civil society and economic and social actors are not organized in the same manner in all countries, therefore each situation should be appraised as to which modality would work best. Also, there are still few examples of effective participatory approaches, in the design and implementation of international cooperation, on which to base a general set of modalities. As such, work is continuing in the European Commission and the ACP Secretariat to involve civil society and other actors in the programming of Community assistance, particularly through discussions on Country Strategies for Development. Consultations with civil society and other actors are occurring in this context.

ACP-EC cooperation is now based on a system of rolling programming. Resource allocations are regularly adapted on the basis of an assessment of country needs and of policy

performance. Representatives of economic and social organizations and of civil society will be consulted in this process. Within the indicators on policy performance, account will be taken of the openness and quality of this dialogue.

The involvement of non-State actors in cooperation will build on **existing structures and experiences**. The idea is not to create artificial new mechanisms for economic and social dialogue, but rather to encourage a more systematic use of existing mechanisms. At the global level, existing structures must be used, including the ACP-EU Follow-up Committee, which was set up in 1997 within the Economic and Social Committee of the European Union, the ACP Business Forum, the Chambers of Commerce and Industry of the ACP States, the ACP Civil Society Forum and the Local Government Forum.

Capacity building is a major issue in many countries. Under the new cooperation framework, resources will be available to finance capacity-building programmes for civil society and economic and social actors. Such programmes should aim to strengthen communication networks at the national and regional level, develop the specific competencies of representative organizations in their field of activity, support mechanisms for economic and social dialogue, and promote dialogue between the private sector, civil society and governments within and among ACP countries.

European Community policy also has a **regional focus**, manifested in partnerships with similar organizations in the European Union, such as economic and social committees. Trade unions and non-governmental organizations can also play a positive role.

The policy dialogue that is taking place between individual governments and the European Commission **at the sectoral level** is crucial. When designing programmes, whether in the field of health or education, priority attention will be paid to the needs of the poorest persons in society.

Protecting and Promoting the Rights of Indigenous Peoples

The EU's policies towards indigenous peoples should be seen in the framework of the new ACP-EC partnership described above.

The development of European Union policy on Indigenous Peoples is relatively recent. Indigenous peoples were involved in the development of a European Commission Working Document 11 May 1998 on support for Indigenous peoples in the framework of the European Community's development cooperation. This Document was rapidly followed by the adoption of a Council Resolution. The **Council Resolution on Indigenous Peoples within the Framework of the Development Cooperation of the Community and Members States** of 30 November 1998 provides the main guidelines for support to indigenous peoples.

The Council of the European Union (which is the European Community's legislative body and exercises that power in co-decision with the European Parliament) has called for concern for indigenous peoples to be integrated into all levels of development cooperation, including policy dialogue with partner countries. The Resolution calls for "...the full participation of indigenous peoples in the democratic processes of their country" within an approach that "asserts they should participate fully and freely in the development process" recognizing "their own diverse concepts of development", and "the right to choose their own development paths", including "the right to object to projects, in particular in their traditional areas". The Resolution states that "Indigenous cultures constitute a heritage of diverse knowledge and

ideas, which is a potential resource to the entire planet". It thereby acknowledges the importance that indigenous peoples attach to their own "self-development", that is, the shaping of their own social, economic and cultural development and their own cultural identities.

The rights of indigenous peoples were included as a thematic priority in proposals launched under the European Initiative for Democracy and Human Rights (EIDHR) and in the EU funding programme to support NGOs and Cooperation with International Organizations (see below). The rights of indigenous peoples have also been identified as a thematic funding priority for the EIDHR in the recent Commission Communication on the EU's Role in Promoting Human Rights and Democratization in Third Countries (COM, 2001, 252 final of 8 May 2001).

Funding Possibilities for Indigenous Peoples under the EU Budget

- The budget line for **Actions in Favour of Tropical Forests (B7-6201)** has been an important instrument for supporting indigenous peoples. A wide range of projects have been financed, including demarcation of indigenous territories, community-based conservation and management of resources, capacity-building, workshops, studies and seminars.
- The budget line for **financial and technical cooperation with Latin America (B7-310)** finances a number of projects at national and regional levels that aim to empower and support indigenous peoples and strengthen their structures and organizations.
- The budget line on **global environment (B7-8110)** can finance, *inter alia*, projects promoting indigenous peoples' rights to their territories, their traditional practices of forest management and the inclusion of these issues within National Development Plans.
- The **European Initiative for Democracy and Human Rights (Chapter B7-70)** includes specific references to indigenous peoples and finances projects aimed at training and capacity-building (see below).
- The budget line on **Environmental Measures in Developing Countries (B7-6200)** helps integrate environmental considerations within the development process. The budget line finances innovative pilot projects, some of which involve indigenous peoples.
- A number of projects involving indigenous peoples are also financed through the budget line for **co-financing with European NGOs (B7-6000)**.

Examples of Projects Funded Under the European Initiative for Democracy and Human Rights (EIDHR) in 2000 to Promote the Rights of Indigenous Peoples

- **The Saami Council's** interregional project to train indigenous peoples on international human rights standards and policy-making received EUR 668,502. It will offer indigenous representatives an opportunity to learn about international human rights standards and mechanisms, and will include three training programmes, to be organized in indigenous areas.
- **The Institute of Commonwealth Studies** received a grant of EUR 290,792 for a three-year research and advocacy project on indigenous peoples' rights. Under the project, information will be collected, with the peoples concerned, about key issues affecting indigenous peoples in Commonwealth states. These findings will be presented to the Commonwealth Heads of Government Meeting and to the UN World Conference on Racism in 2001.

- The **Rainforest Foundation and International Alliance of Indigenous and Tribal Peoples of the Tropical Forests** was allocated EUR 350,014 for an interregional project concerning indigenous peoples' view of the development and implementation of the EU resolution on indigenous peoples. The project will focus on researching and describing case studies of EC development cooperation and its relationship to indigenous peoples.
- A comparative study on indigenous culture, customs and traditions, organized by the **Saami Council** and funded with an EIDHR contribution of EUR 353,868, highlights the positive contributions indigenous peoples have made and continue to make in protecting culture and customary law.

Protecting and Promoting the Rights of Minorities

The protection of persons belonging to minorities is an inherent part of the EU policy on human rights. Article 6 of the Treaty on European Union refers to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 14 of the Treaty states that the rights and freedoms set forth in the Convention, which has been ratified by all EU Member States and candidate countries, should *“be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”*.

Furthermore, the EU Charter on Fundamental Rights, which was officially proclaimed in December 2000, affirms equality before the law of all people (Article 20), prohibits discrimination on any ground (Article 21), and requests the Union to protect cultural, religious and linguistic diversity. The European Commission's actions in the field of external relations are guided by compliance with the rights and principles contained in this Charter.

Particular attention is paid to minorities within the context of the EU enlargement process. The Copenhagen criteria, designed in 1993 for countries wishing to join the EU, specifically highlight the protection of minorities. They state that *“membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and the respect for and protection of minorities”*. The European Parliament has made clear the EU's commitment to this vulnerable category, particularly with regard to the applicant countries for EU membership. In a resolution adopted in 2000, the Parliament called on the Council and the Commission to *“enhance the ability of these countries to pass and implement laws aimed at countering discrimination against minorities.”*

Candidate countries' records concerning treatment of minorities are assessed in annual reports presented by the European Commission to the European Parliament and to the Council. Based on those reports, the Commission recommends measures the candidate countries can take to improve their records. Particular attention is paid to the situation of **Roma/Sinti** communities, as these populations, which number around 6 million in candidate countries of central and eastern Europe, suffer from widespread prejudice and discrimination.

Combating racism and xenophobia, and discrimination against minorities has been identified as a thematic and funding priority for the European Initiative for Democracy and Human Rights (EIDHR), during the years 2002 to 2004. Most recently, this approach was endorsed in a European Commission's Communication adopted on 8 May 2001, concerning the EU's role in promoting Human Rights and Democratisation in Third Countries.

Finally, the Stability Pact for Europe, signed in Paris on 21 March 1995 and aimed at anchoring peace and democracy in southeast Europe, reaffirms the importance of respect for minorities.

Main Funding Possibilities for Minorities Issues under the EU Budget

- **The Phare programme: budget lines granting assistance to the countries of Central and Eastern Europe (B 7-030).** The Phare programme is designed to facilitate and accelerate preparation for the future accession of these countries to the EU. EU membership requires the respect and protection of minorities, which must be improved in several of the countries of Central and Eastern Europe. Each of the “national” Phare programmes for these countries includes funding for projects aimed at improving local protection of minorities (generally in collaboration with national governments).
- **The Access programme: budget line aimed at strengthening the civil society in candidate countries of Central and Eastern Europe (B 7-500).** Financial support is granted to local NGOs/NPOs in a number of sectors, including the social sector. In this respect, the programme targets the social reintegration and/or the promotion of sustainable health and social support for marginalized groups of the population, such as members of minority groups.
- **The European Initiative for Democracy and Human Rights (Chapter B 7-70)** includes specific references to minorities issues and finances a range of projects and initiatives aimed at increasing the protection of minorities and capacities of state officials, NGOs and minorities communities.

Examples of Projects in Support of Minorities

The Phare Programme for Candidate Countries of Central and Eastern Europe

- The high rate of school non-attendance and drop-out among Roma/Sinti children is a symptom of their community’s social exclusion. Improving the level of participation in education can promise substantial long-term benefits. Some EUR 9.6 million, co-financed by the Hungarian government, were allocated for this purpose under the 1999 programme for Hungary; an estimated EUR 7 million has provisionally been set aside for a similar project under the 2001 Phare programme for Roma/Sinti.
- A minority tolerance programme, co-financed by the Slovak government and totaling EUR 2.3 million, exists to train 450 local Slovak public administration representatives and opinion-makers on minority issues and conflict resolution.
- Under the Phare programme, projects in support of Roma/Sinti communities totaled EUR 10 million in 1999 and EUR 13 million in 2000.

The European Initiative for Democracy and Human Rights

- With a EUR 248,000 grant under the EIDHR 2000 budget, the Council of Europe is assisting the governments of Bosnia and Herzegovina, Croatia and the former Yugoslav Republic of Macedonia in designing and implementing policies aimed at improving the situation of Roma/Sinti in those countries. The project also aims to increase participation of Roma/Sinti themselves in designing those solutions and policies.
- OSCE-ODHIR is developing a project that aims to mainstream and empower Roma/Sinti as full participants in post-crisis management, good governance and the development of a sustainable civil society in southeastern Europe. The project is supported with a EUR 250,000 grant from EIDHR.
- Minorities Rights Group International is implementing a large project aimed at raising awareness of minorities and minority rights by enhancing local capacities to engage in dialogue with governments and bringing local problems to national and international attention. The project involves 11 countries of South, Central, and Eastern Europe and was granted EUR 500,000.

A New Office to Manage EU External Aid

As part of its efforts to reform the management of external aid, the Commission formally established the **EuropeAid Cooperation Office** on 1 January 2001. The Office's mission is to implement the external aid instruments of the European Commission, which are funded by the European Community budget and the European Development Fund. The Office is responsible for all phases of the project cycle, including identification and appraisal of projects and programmes, preparation of financing decisions, implementation and monitoring, and evaluation of projects and programmes.

The Office is also involved in initiatives to improve programming systems and their content, establish policy evaluation programmes and develop mechanisms for communicating evaluation results. However, the Office does not deal with pre-accession aid programmes, such as Phare, Ispa and Sapard, humanitarian activities, macro-financial assistance, the Common Foreign and Security Policy (CFSP) or the Rapid Reaction Facility.

The Fight Against Discrimination within the EU: A New Impetus

A package of new anti-discrimination measures was adopted by the EU in 2000. These directives implement the new Article 13 of the Amsterdam Treaty, which entered into force in 1999. Under Article 13, the Community acquired the power to take legislative action to combat racial discrimination. This legislation is applicable within the EU only, but forms part of the *acquis* that candidate countries of Central and Eastern Europe will have to integrate into their own laws.

The package of measures adopted includes a directive on equal treatment irrespective of racial or ethnic origin. This directive sets out a binding framework for prohibiting racial discrimination throughout the EU. Moreover, it states that the Community is a strong defender of women's human rights, recognizing that discrimination on the grounds of ethnic

origin may affect women and men differently. The directive must be implemented in the national laws of EU Member States by 19 July 2003.

The directive defines the concepts of direct and indirect discrimination and outlaws discrimination in the fields of employment, social protection, including health and social security, social advantages, education and access to the supply of goods and services, including housing. It gives persons who believe themselves to be victims of discrimination access to an administrative or judicial procedure so they can assert their rights and foresees mechanisms for applying appropriate sanctions against those who discriminate. In order to strengthen the position of victims, the directive shifts the burden of proof on to respondents and empowers victims to seek the help of associations.

The text also outlaws racial harassment in the fields covered by the directive and prohibits retaliation against persons who have made use of rights flowing from the directive. In addition, the directive requires that all EU Member States set up a body that may act independently to promote the principle of equal treatment irrespective of racial or ethnic origin. A separate directive provides similar protection against discrimination in the labour market on grounds of religion and belief, disability, age and sexual orientation. This directive must be translated into national law by 2 December 2003.

An Action Programme to combat discrimination runs from 2001 to 2006. With a budget of approximately EUR 100 million, it supports projects aimed at preventing and combating discrimination on a number of grounds, including racial or ethnic origin and religion and belief.

For further information and contacts, see the following web sites:

http://europa.eu.int/comm/external_relations

<http://europa.eu.int/comm/europeaid>

<http://europa.eu.int/comm/development>

<http://europa.eu.int/comm/enlargement>

http://europa.eu.int/comm/employment_social

ANNEX I:

Listing of web site addresses

Further information and contacts

Sources for further information and specific contact information for the bodies discussed are given in each of the pamphlets in this series. In addition, the following web-sites offer information from various sources and on international and regional bodies and mechanisms that might be of interest to persons belonging to minorities.

Disclaimer: The OHCHR does not endorse and cannot assume responsibility for the accuracy or reliability of the information contained in the web sites listed below. The views expressed in those web sites do not necessarily reflect the views of the United Nations nor of OHCHR. Any issues pertaining to the contents of the web sites listed below should be taken up directly with the organizations creating and maintaining those web sites.

WEB SITE DIRECTORY OF ORGANIZATIONS:	
UNITED NATIONS FAMILY MEMBERS	
Food and Agriculture Organization of the United Nations (FAO) - Rome, Italy www.fao.org/	-Right to Food www.fao.org/legal/rtf-e.htm
International Fund for Agricultural Development (IFAD) - Rome, Italy www.ifad.org/	-Indigenous Populations and/or Minorities www.ifad.org/evaluation/public_html/eksyst/doc/ile/themes/ipm.htm
International Labour Organization (ILO) - Geneva, Switzerland www.ilo.org/	-International Labour Standards and Human Rights www.ilo.org/public/english/standards/norm/index.htm -ILOLEX data base ilolex.ilo.ch:1567/public/english/50normes/infleg/iloeng/index.htm
Office for the Coordination of Humanitarian Affairs (OCHA) - Geneva, Switzerland www.reliefweb.int/ocha_ol/index.html	-Reliefweb: www.reliefweb.int/w/rwb.nsf <ul style="list-style-type: none">On-line archive of humanitarian, human rights and development reference documents www.reliefweb.int/library/
Office of the High Commissioner for Human Rights www.unhchr.ch	Minorities Indigenous Populations/Peoples Internally Displaced Persons Migrant Workers Racism and Racial Discrimination Religious Intolerance World Conference Against Racism

United Nations (UN) - New York, USA

www.un.org/

-Secretary-General:

- Annual Report of the Secretary-General On the Work of the Organization-1999 (A/54/1)

www.un.org/Docs/SG/Report99/toc.htm

www.un.org/News/ossg/sg/pages/statements.html

- Secretary-General's Millennium Report
www.un.org/millennium/sg/report/

- Prevention of Armed Conflict Report of the Secretary General A/55/985-S/2001/574

www.un.org/Docs/sc/reports/2001/sgrep01.htm

-UN News Service

www.un.org/News/

Main UN bodies:

- Economic and Social Council (ECOSOC)

www.un.org/documents/ecosoc.htm

NGOS and ECOSOC status

www.un.org/esa/coordination/ngo/

- General Assembly

www.un.org/ga

- Security Council

www.un.org/documents/scinfo.htm

International Law:

www.un.org/law/index.html

- International Court of Justice (ICJ) - The Hague, The Netherlands

www.icj-cij.org/

- International Criminal Tribunal for the Former Yugoslavia (ICTY) - The Hague, The Netherlands

www.un.org/icty/

	<ul style="list-style-type: none"> • International Criminal Tribunal for Rwanda (ICTR) - Arusha, Tanzania www.ictr.org/ • Rome Statute of the International Criminal Court www.un.org/law/icc/index.html
<p>United Nations Children's Fund (UNICEF) - New York, USA www.unicef.org/</p>	<p>-Child Rights www.unicef.org/crc/index.html</p> <p>-The State of the World's Children 2000 www.unicef.org/sowc00/uwar2.htm</p> <p>-World Education Forum: Dakar 2000 www.unicef.org/efa/results.htm</p> <p>-The Progress of Nations 2000 -LOST CHILDREN www.unicef.org/pon00/re.htm</p>
<p>United Nations Development Fund for Women (UNIFEM) - New York, USA www.unifem.undp.org/</p>	<p>-Integrating Gender into the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. www.unifem.undp.org/hr_racism.html</p>
<p>United Nations Development Programme (UNDP) - New York, USA www.undp.org/</p>	<p>-Civil Society Organizations and Participation Programme (CSOPP) www.undp.org/csopp/CSO/index.html</p> <p>-Democratic Governance magnet.undp.org</p> <p>-Human Development Report 2000: Human Rights and Human Development www.undp.org/hdro/HDR2000.html</p> <p>-Indigenous Peoples www.undp.org/csopp/CSO/NewFiles/ipindex.html</p>
<p>United Nations Educational, Scientific and Cultural Organization (UNESCO) - Paris, France www.unesco.org/</p>	<p>-Division of Human Rights, Democracy, Peace & Tolerance www.unesco.org/blue_human_rights/index.htm</p> <p>-Management of Social Transformations Programme (MOST): www.unesco.org/most/</p>

	<ul style="list-style-type: none"> • Multiculturalism www.unesco.org/most/most1.htm • Linguistic rights www.unesco.org/most/ln1.htm • Religious rights www.unesco.org/most/rr1.htm <p>-Cultural heritage www.unesco.org/culture/heritage/</p> <p>-Intercultural dialogue and pluralism www.unesco.org/culture/dial_eng.shtml</p>
United Nations High Commissioner for Refugees, Office of the (UNHCR) - Geneva, Switzerland www.unhcr.ch/	-Refworld www.unhcr.ch/refworld/
United Nations Institute for Disarmament Research (UNIDIR) www.unog.ch/unidir	- Recent Research Reports, including on small arms, peace-keeping, etc www.unog.ch/unidir/E-RAPP.HTM - Recent issues of Disarmament Forum , www.unog.ch/unidir/e-df.htm
United Nations Institute for Training and Research (UNITAR) - Geneva, Switzerland www.unitar.org/	-International Affairs Management Training www.unitar.org/diplomacy/ -Peacemaking and Preventive Diplomacy www.unitar.org/peacemaking/
United Nations Interregional Crime and Justice Research Institute (UNICRI) - Rome, Italy www.unicri.it/	-Rromani Youths www.unicri.it/html/rromani_youths.htm
United Nations Office at Geneva (UNOG) - Geneva, Switzerland www.unog.ch/	-UN news from Geneva www.unog.ch/unis/unis1.htm -Diplomatic archive www.unog.ch/archives/archive.htm - UN and the NGOs www.unog.ch/ESS_Mission_services/ngo/liaison.htm
UN Regional Commissions	Economic Commission for Africa (ECA) - Addis Ababa, Ethiopia www.uneca.org/

	<p>Economic Commission for Europe (ECE) - Geneva, Switzerland www.unece.org/</p> <p>Economic Commission for Latin America and the Caribbean (ECLAC) - Santiago, Chile www.eclac.org/</p> <p>Economic and Social Commission for Asia and the Pacific (ESCAP) - Bangkok, Thailand www.unescap.org/</p> <p>Economic and Social Commission for Western Asia (ESCWA) - Beirut, Lebanon www.escwa.org.lb</p>
<p>United Nations Research Institute for Social Development (UNRISD) - Geneva, Switzerland www.unrisd.org/</p>	<p>-Research documents:</p> <ul style="list-style-type: none"> • The Search For Identity Ethnicity Religion And Political Violence www.unrisd.org/engindex/publ/list/op/op6/op06-03.htm • Ethnic Violence Conflict Resolution and Cultural Pluralism www.unrisd.org/engindex/publ/list/conf/eth1/eth1-04.htm • Ethnic Diversity and Public Policy An Overview www.unrisd.org/engindex/publ/list/op/op8/op08-05.htm
<p>United Nations University (UNU) - Tokyo, Japan www.unu.edu/</p>	<p>-Publications:</p> <ul style="list-style-type: none"> • Ethnicity and power in the contemporary world www.unu.edu/unupress/unupbooks/uu12ee/uu12ee00.htm#Contents
<p>United Nations University/World Institute for Development Economics Research (UNU/WIDER) www.wider.unu.edu/</p>	<p>-Publications:</p> <ul style="list-style-type: none"> • PB No. 2: Social and Economic Policies to Prevent Complex Humanitarian Emergencies Lessons from Experience www.wider.unu.edu/publications/publications.htm

<p>United Nations Volunteers (UNV) - Bonn, Germany www.unv.org/</p>	<p>-UNV and Human Rights www.unv.org/hr/index.html</p> <p>-Highland Peoples Programme www.unv.org/projects/highland/index.html</p>
<p>WomenWatch - New York, USA www.un.org/womenwatch/</p>	<p>-Division for the Advancement of Women www.un.org/womenwatch/daw/</p> <p>-Documents and Databases www.un.org/womenwatch/resources/</p> <p>-The UN Working for Women www.un.org/womenwatch/un/</p> <p>-UN Conferences and Events www.un.org/womenwatch/confer/</p>
<p>World Bank Group - Washington, USA www.worldbank.org/</p>	<p>-Human Rights & Development www.worldbank.org/html/extdr/rights/</p> <p>-Indigenous peoples wbln0018.worldbank.org/essd/essd.nsf/28354584d9d97c29852567cc00780e2a/61b6299b68563321852567cc0077f418?OpenDocument</p> <p>-The Economics of Civil Wars, Crime and Violence www.worldbank.org/research/conflict/index.tm</p> <p>-Culture in Sustainable Development wbln0018.worldbank.org/essd/essd.nsf/Culture/CSD%2bhome</p>
<p>World Food Programme (WFP) - Rome, Italy www.wfp.org/</p>	<p>-Forum on Mainstreaming Human Rights www.wfp.org/oed/ed/forummainst.htm</p>
<p>World Health Organization (WHO) - Geneva, Switzerland www.who.int/home-page/</p>	<p>-Emergency and humanitarian action www.who.int/eha/disasters/</p> <p>-Health as a bridge for peace www.who.int/eha/trares/hbp/index.htm</p> <p>-Health as a human right www.who.int/archives/who50/en/human.htm</p>

World Intellectual Property Organization (WIPO) - Geneva, Switzerland www.wipo.int/	-Traditional Knowledge www.wipo.org/traditionalknowledge/introduction/index.html
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WEB SITE DIRECTORY OF REGIONAL ORGANIZATIONS OR MECHANISMS	
AFRICA	
<ul style="list-style-type: none"> • Organization of African Unity (OAU) 	<ul style="list-style-type: none"> • www.oau-oua.org/
AMERICAS and CARIBBEAN	
<ul style="list-style-type: none"> • Organization of American States (OAS) • Inter-American Court of Human Rights • Inter-American Commission on Human Rights (IACHR) • Inter-American Institute of Human Rights (IIHR) 	<ul style="list-style-type: none"> • www.oas.org/ • oea.nu.or.cr/ci/HOME_ING.HTM • www.cidh.oas.org/ • www.iidh.ed.cr/front.html
EUROPE	
<ul style="list-style-type: none"> • Central European Initiative (CEInet) • Commonwealth of Independent States (CIS) • Council of the Baltic Sea States (CBSS) • Council of Europe Directorate General of Human Rights • European Commission against Racism and Intolerance (ECRI) • European Court of Human Rights • OSCE High Commissioner on National Minorities 	<ul style="list-style-type: none"> • www.ceinet.org • www.cis.minsk.by • www.baltinfo.org • www.humanrights.coe.int/minorities/index.htm • www.ecri.coe.int • www.echr.coe.int • www.osce.org/hcnm/index.htm

<ul style="list-style-type: none"> • OSCE Office for Democratic Institutions and Human Rights (ODIHR) • The European Monitoring Centre on Racism and Xenophobia /observatoire_en.htm • European Union and Community 	<ul style="list-style-type: none"> • www.osce.org/odihr/cprsi/index • www.europa.eu.int/comm/employment_social/fundamri/eu_racism/english/observatory • http://europa.eu.int/comm/external_relations • http://europa.eu.int/comm/europeaid • http://europa.eu.int/comm/development • http://europa.eu.int/comm/enlargement • http://europa.eu.int/comm/employment_social
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LISTING OF REGIONAL RESOURCE WEB SITES

AFRICA	
<ul style="list-style-type: none"> • African Centre for the Constructive Resolution of Disputes (ACCORD) • African Institute for Human Rights and Development • Afronet • Southern African Human Rights NGO Network (SAHRINGON) 	<ul style="list-style-type: none"> • www.accord.org.za/ • www.africaninstitute.org • afronet.org.za/afronet.htm • www.afronet.org.za/sahringon
AMERICAS	
<ul style="list-style-type: none"> • Human Rights in Latin America - LANIC • Human Rights Resource Center 	<ul style="list-style-type: none"> • Lanic.utexas.edu/la/region/hrights • www.hrusa.org/
ASIA AND PACIFIC	
<ul style="list-style-type: none"> • Asian Human Rights Commission (AHRC) • Asia Pacific Centre for Human Rights and the Prevention of Ethnic Conflict 	<ul style="list-style-type: none"> • www.ahrchk.net/ • www.law.murdoch.edu.au/apchr/

<ul style="list-style-type: none"> • The Asia-Pacific Forum on National Human Rights Institutions • Directory of Organizations for Conflict Prevention in Asia and the Pacific • South Asia Human Rights Documentation Centre (SAHRDC) 	<ul style="list-style-type: none"> • www.apf.hreoc.gov.au/ • www.conflict-prevention.org • www.hri.ca/partners/sahrdc/
<p>EUROPE</p> <ul style="list-style-type: none"> • Center for Documentation and Information on Minorities in Europe – Southeast Europe (CEDIME-SE) • Consortium of Minority Resources (COMIR) • Constitutional and Legal Policy Institute (COLPI) • European Centre for Minority Issues (ECMI) • European Platform for Conflict Prevention and Transformation • European Roma Rights Center (ERRC) • Federal Union of European Nationalities (FUEN) • International Helsinki Federation for Human Rights (IHF) • Local Government and Public Service Reform Initiative (LGI) Managing Multiethnic Communities Project (LGI/MMCP) • Minority Electronic Resources (MINELRES) • Open Society Institute Budapest 	<ul style="list-style-type: none"> • www.greekhelsinki.gr • lgi.osi.hu/comir/ • www.osi.hu/colpi • www.ecmi.de • www.euconflict.org • www.errc.org • www.fuen.org • www.ihf-hr.org/ • lgi.osi.hu/ethnic • www.riga.lv/minelres/ • www.osi.hu

<ul style="list-style-type: none"> • Statewatch - monitoring the state and civil liberties in the European Union 	<ul style="list-style-type: none"> • www.statewatch.org/
LISTING OF INTERNATIONAL RESOURCE WEB SITES	
<ul style="list-style-type: none"> • Anti-Racism Information Service (ARIS) • Association for the Prevention of Torture (Guidelines for National NGOs on Alternative Reporting to UN Treaty Bodies, including the Committee against Torture) • Centre for Housing Rights and Eviction (Guidance to assist NGOs in using the Committee on Economic, Social and Cultural Rights) • Commonwealth Human Rights Initiative (CHRI) • Defence for Children International Guide for NGOs reporting to the Committee on the Rights of the Child • Derechos Human Rights • Diversity-onLine • Human Rights Internet (HRI) • Human Rights Watch • Human Rights Quarterly • Initiative on Conflict Resolution and Ethnicity (INCORE) • Internally Displaced Persons: Global IDP Project • International Alert • International Centre for the Legal Protection of Human Rights (INTERIGHTS) • International Commission of Jurists (ICJ) • International Committee of the Red Cross (ICRC) 	<ul style="list-style-type: none"> • www.antiracism-info.org • www.apr.ch/cat/guidelines.htm • www.cohre.org/unframe.htm • www.humanrightsinitiative.org/ • www.defence-for-children.org/ • www.derechos.org • www.diversity-onLine.org/ • www.hri.ca/ • www.hrw.org/ • muse.jhu.edu/journals/hrq/ • www.incore.ulst.ac.uk/ • www.idpproject.org/ • www.international-alert.org/ • www.interights.org/ • www.icrc.org

<ul style="list-style-type: none"> • International Crisis Group (ICG) • International Federation of Human Rights Leagues /Fédération internationale des ligues des droits de l'Homme (FIDH) • International Human Rights Law Group • International Movement Against All Forms of Discrimination and Racism (IMADR) • International Organization for Migration (IOM) • Minority Rights: A Guide to United Nations Procedures and Institutions (PDF file) • Minority Rights Group International (MRG) • Minorities at Risk Project • University of East London Minority Rights Database • University of Minnesota Human Rights Library <p>Mirror sites:</p> <p>Europe: The Graduate Institute of International Studies</p> <p>Africa: University of Witwatersrand, Johannesburg</p> <p>Australia: Castan Centre for Human Rights Law, Monash University</p> 	<ul style="list-style-type: none"> • www.icj.org/ • www.intl-crisis-group.org/ or www.crisisweb.org. • www.fidh.imagnet.fr/uindex.htm • www.hrlawgroup.org/ • www.bufete-emmanuelli.sjpr.com/~nazysant/_imadr/imadr.index.html • www.iom.int/ • www.greekhelsinki.gr/pdf/UN-NGO-Guide.pdf • www.minorityrights.org/ • www.bsos.umd.edu/cidcm/mar/ • www.uel.ac.uk/law/mr/min.html • www.umn.edu/humanrts • http://heiwwww.unige.ch/humanrts/index.html • www.server.law.wits.ac.za/humanrts/index.html • www.law.monash.edu.au/humanrts/
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