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Forum on Minority Issues

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Note by the independent expert on minority issues, Gay McDougall, on minorities and effective participation in economic life

I. Introduction

1. The third session of the Forum on Minority Issues will focus on the topic of minorities and effective participation in economic life.

2. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states that persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life (art. 2, para. 2). In addition, it states that ensuring that persons belonging to minorities are “an integral part of the development of society as a whole” is necessary to maintain or build harmonious and respectful relations among a society’s various components (preambular para. 6). Furthermore, the Declaration highlights that States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country (art. 4, para. 5).

3. Economic exclusion is a cause, a manifestation and a consequence of discrimination against persons belonging to minorities. Many minorities have historically been excluded from full and effective participation in economic life, both in the developed and in the developing world. Minorities are often discriminated against when they seek employment, for example, on the basis of their colour, religion, language, names or even addresses. Minorities are often poorly represented even in public sector employment, despite legislation that bans discrimination in both public and private sectors. They may face barriers in accessing credit or loans to begin small businesses and may live in the poorest or remote regions that offer limited prospects for their economic development. Equally, large-scale economic development projects or commercial activities carried out on the lands and territories where minorities live without prior consultation of these minorities has had negative impacts, including displacement, the perpetuation of poverty and, in some cases, violence.

4. Several factors and challenges can exacerbate this exclusion of minorities, including deteriorating economic conditions, ethnic tensions and rising discrimination. In some countries, unequal regional distribution of resources and services and a lack of basic infrastructure in regions where minorities live often have the effect of preventing them from fully exercising their economic and social rights. The numerical disadvantage of minority status can also translate into lack of political power and exclusion from effective participation in decision-making processes to protect rights or access to mechanisms of justice when rights are violated. The past decade has also brought into the picture new and unanticipated challenges, including the global food and economic crises that have been proven to have a greater impact on particular vulnerable groups and minorities.

5. Consequently, the rights of minorities to participate effectively in economic life must be fully taken into account by Governments seeking to promote equality at every level. From implementing non-discrimination in employment, and enforcing corporate responsibility principles to developing national economic development and international development assistance schemes, Governments face the constant challenge of ensuring that the rights of minorities are protected and that they benefit as equal stakeholders in society. In this regard, in their response to the current global crisis, development agencies, financial institutions and other actors involved in international cooperation are also faced with this challenge of ensuring that measures taken and cooperation envisaged in order to alleviate the effects of the crisis do not negatively impact minority rights.

II. Aims and objectives of the Forum on Minority Issues

6. The aims and objectives of the Forum on Minority Issues are established in Human Rights Council resolution 6/15 which requires that, under the guidance and preparation of the independent expert on minority issues, the Forum shall:

- Meet annually to provide a platform for dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities;
- Provide thematic contributions and expertise to the work of the independent expert on minority issues;
- Identify and analyse best practices, challenges, opportunities and initiatives for the further implementation of the 1992 Declaration on Minorities;
- Produce thematic recommendations to be reported to the Human Rights Council by the independent expert;
- Contribute to efforts to improve cooperation among United Nations mechanisms, bodies and specialized agencies, funds and programmes on activities related to the promotion and protection of the rights of persons belonging to minorities, including at the regional level.

7. The Forum offers a unique opportunity for engagement and dialogue with a wide range of stakeholders including United Nations Member States and bodies, specialized agencies, intergovernmental and regional organizations and minority representatives and civil society on minority issues and represents an opportunity for them to exchange experiences with regard to good practices and issues management in the field of minority relations.

III. Framework

8. On the basis of the provisions of resolution 6/15 and in the wider context of promoting implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in all regions, the focus of discussions during the Forum will revolve around three core elements:

- Identification of challenges and problems facing minorities and States;
- Identification of good practices in relation to minorities and effective participation in economic life;
- Consideration of opportunities, initiatives and solutions.

9. The Forum will consider current practices and ways to increase the effective participation of minorities in economic life. It will take account of the fact that a great variety of country and minority situations exist and there are no one-size-fits all solutions to improving the participation of minorities in economic life, which is deeply affected by the context in which they live. National ownership of economic development strategies is fundamental, including in circumstances where national strategies are supported by global partnerships, development cooperation and assistance.

10. Three key pillars of human rights and minority legal protection are fundamental to addressing the exclusion of minorities from full and effective participation in economic life: the right to non-discrimination and the obligation to combat both direct and indirect discrimination to ensure the enjoyment of a range of economic and social rights; the right to effective participation in decision-making; and the need for implementation of special

measures or affirmative action to address the effects of long-standing and entrenched discrimination on certain minority groups.

11. The principle of non-discrimination, which is complemented by the principle of equality, is crucial and forms the basis of all core human rights treaties. It applies to everyone in relation to all human rights and freedoms and it prohibits discrimination on the basis of a list of non-exhaustive categories such as sex, race, colour, religion, language, nationality and ethnicity. Many violations of civil, political, economic, social and cultural rights have a basis in discrimination, racism and exclusion on the grounds of the ethnic, religious, national, or racial characteristics of a group. The full realization of the freedom from discrimination in the enjoyment of human rights is essential if minorities are to fully and meaningfully participate in society.

12. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states that: “persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life ... 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” (art. 2). Minorities should exercise their right to participate in all stages of the amendment, design and implementation of existing and future laws, policies and initiatives with a view to ensuring that these indeed lead to their effective and equal economic participation.

IV. Issues for consideration

13. As mentioned above, the effective participation of minorities in economic life means the full enjoyment of all economic and social rights as stipulated in international human rights instruments, including relevant international instruments relating to labour rights. While acknowledging the importance of the right to education, the right to health and to an adequate standard of living as key components to ensure the right of minorities to effective economic participation, this Forum will specifically focus on such issues as those listed below, including the right to work and social security, and meaningful consultation/participation.

A. Work and social security

14. The right to work is a fundamental right, recognized in several international legal instruments. It contributes to the survival of the individual and to that of his/her family, and insofar as work is freely chosen or accepted, to his/her development and recognition within the community.¹ In addition to providing income, employment paves the way for personal development and broader social and economic inclusion for persons belonging to minorities. It is the main route out of poverty, is central to any efforts and programmes aimed at reducing poverty in any society and gives minorities a stake in lasting prosperity and progress within society.

¹ See Committee on Economic, Social and Cultural Rights, general comment No. 18 (E/C.12/GC/18), referring to the preamble to ILO Convention No. 168, 1988: “the importance of work and productive employment in any society not only because of the resources which they create for the community, but also because of the income which they bring to workers, the social role which they confer and the feeling of self-esteem which workers derive from them”.

15. An important step towards ensuring minorities' full realization of their right to work is the development and implementation of technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment, under conditions safeguarding fundamental political and economic freedoms to the individual.²

16. Minorities are often discriminated against when they seek employment, for example, on the basis of their colour, religion, language, name or even address. They are often poorly represented in public and private-sector employment, despite legislation that bans discrimination, and frequently lack representation in trade unions. Moreover, persons belonging to minorities can be the target of professional segregation and might even suffer multiple forms of discrimination, including in the informal sector and subsistence economy. While clearly violating the principle of non-discrimination, this also has wider social and economic consequences. Combating discrimination in ensuring the right to work is an essential part of promoting the rights of minorities well beyond the workplace.

17. The right to social security has been strongly affirmed in international human rights instruments and is central to guaranteeing human dignity, while also playing a key role in poverty reduction and alleviation, further promoting social inclusion and preventing social exclusion, including through innovative tools, e.g. micro-insurance schemes. The denial or lack of access to adequate social security undermines the realization of several other economic, social and cultural rights. Ensuring a level of protection that would allow minorities to realize their human right to social security is hence another challenge that must be addressed in efforts to enhance minorities' effective participation in economic life and their full enjoyment of all other economic, social and cultural rights. Since persons belonging to minorities are often among those individuals and groups that might face greater difficulties in exercising their right to social security, particular attention should be given to minority issues and respect for the principles of non-discrimination, equality, transparency and accountability in designing, reviewing and implementing sustainable national social security strategies and plans of action.³

18. For minority communities, the land and territories on which they live are often a source of food security and income generation. However, some minorities find that their rights to own, occupy and use their land are limited or violated and they may find themselves displaced or evicted, in some cases to make way for national economic development schemes, the activities of multinational corporations or for natural resources development.

B. Meaningful consultation/participation

19. Lack of full and effective consultation and participation has a damaging impact on the ability of minorities to fully participate in economic life and perpetuates their exclusion. Commonly, minorities lack a voice in Government bodies responsible for policy, including in relation to economic life, national development and budgeting, and consequently the issues and situations of minorities are neglected. Many situations around the world show that an adequate representation of minority groups in the society's policy and decision-making, including with regard to the national budget and economic development plans, is instrumental in breaking the cycle of discrimination, exclusion and poverty suffered by members of these groups.

² See article 6, para. 2, of the International Covenant on Economic, Social and Cultural Rights.

³ See Committee on Economic, Social and Cultural Rights, general comment No.19 on the right to social security (art. 9) (E/C.12/GC/19).

C. Minorities and the Millennium Development Goals

20. Studies, including by the independent expert on minority issues, have demonstrated that minorities are frequently failing to benefit from national strategies to achieve the Millennium Development Goals (MDGs), which do not take into account their unique situations and the impact of discrimination. The realization of the right of minorities to effective participation in economic life is central to the achievement of the MDGs. In developing programmes aimed at achieving the MDGs, all stakeholders must therefore face the additional challenge of ensuring that those programmes take minority issues into account and are developed and implemented in close collaboration with members of minority groups. The norms and values embedded in the United Nations Millennium Declaration and international human rights instruments form a key foundation in this endeavour, in particular, the key human rights principles of non-discrimination, meaningful participation and accountability. In adopting the Millennium Declaration, heads of State and Government have recognized their “collective responsibility to uphold the principles of human dignity, equality and equity at the global level” (para. 2) and resolved to strengthen their capacity “to implement the principles and practices of democracy and respect for human rights, including minority rights” (para. 25).

D. Poverty reduction and development strategies

21. Minority groups in all regions of the world commonly experience higher than average and disproportionate levels of poverty. Poverty is part and parcel of the cycle of marginalization, social exclusion and discrimination affecting minority populations and a cause, manifestation and consequence of a wide range of economic, social and cultural rights violations. The poorest communities in almost any region tend to be minority communities that have been targets of long-standing discrimination, violence or exclusion. Equally, poor communities are generally less able to participate effectively in political decision-making or to access mechanisms of justice when their rights are violated. Greater effort is needed to ensure that minorities who are living in extreme poverty benefit fairly from national and international obligations to reduce poverty. A key component of such efforts is to ensure the economic rights of minority communities, including their effective participation in their realization.

E. Positive measures/affirmative action⁴

22. As stipulated in several legal instruments, affirmative measures – time-bound, monitored and specifically designed to address systematic, historic and institutionalized discrimination – are often required to address historic inequality and enable minorities to participate effectively in economic life. The use of special measures is a fundamental component of the realization of the right to equality. The first step preceding such positive measures must however be a review of current systems and immediate cessation of any discriminatory selection criteria. Such measures may then include training and recruitment initiatives or quotas in public or private sector employment to promote access to labour markets for minorities.

⁴ See Committee on the Elimination of Racial Discrimination, general recommendation No. 32, para. 15, referring as examples to para. 19 of Committee on the Elimination of Discrimination against Women, general recommendation No. 25, and para. 12 of the recommendations of the Forum on Minority Issues on the right to education (A/HRC/10/11/Add.1).

V. Format and agenda

23. The views of participants from minority communities are consistently given a high priority within the Forum's proceedings.

24. The Forum has developed a unique format where participants comment on a set of draft recommendations prepared and circulated prior to the Forum. The draft recommendations will be developed on the basis of information, surveys and studies received by the independent expert. The Forum will be devoted to brief, targeted oral interventions which comment on specific provisions of the draft recommendations, limited to three to five minutes each. Participants will be invited to devise their contributions to help develop the draft as the subsequent outcome document. In addition to the draft recommendations, an annotated agenda will be provided in advance of the session.

VI. Participation in the Forum

25. Pursuant to resolution 6/15, the Forum will be open to the participation of States, United Nations mechanisms, treaty bodies and specialized agencies, funds and programmes, intergovernmental organizations, regional organizations and mechanisms in the field of human rights, national human rights institutions and other relevant national bodies, academics and experts on minority issues and non-governmental organizations in consultative status with the Economic and Social Council. The Forum shall also be open to other NGOs and organizations representing minorities whose aims and purposes are in conformity with the spirit, purposes and principles of the Charter of the United Nations.

26. Given the thematic focus of this session of the Forum, persons belonging to minorities who may have some of the following experiences will be particularly welcome as participants:

- Actively engaged in developing programs to encourage greater participation of minorities in economic life;
- Engaged in policy issues relating to economic development or budget processes;
- Elected officials at national or local levels or engaged in political parties and responsible for economic issues;
- Members of trade unions and other forms of associations of workers;
- Members of business associations;
- Representing workers in the informal sector economy;
- Development specialists and economists focusing on issues of minority participation and non-discrimination;
- Actively engaged in issues related to access to land and/or land rights;
- Working on gender issues, women empowerment and equal participation of minority women in economic life.

27. Requests to be accredited to participate in the Forum should be sent to: minorityforum@ohchr.org.

VII. Outcomes

28. The Chairperson of the Forum is responsible for the preparation of a summary of the discussion of the Forum, to be made available to all participants.

29. In conformity with resolution 6/15, the outcome of the Forum will be a set of action-oriented thematic recommendations that will subsequently be presented by the independent expert on minority issues to the Human Rights Council.
