

FORUM ON MINORITY ISSUES

**Sixth session: “Beyond freedom of religion or belief: guaranteeing the rights of religious minorities”
26 November 2013**

Morning Session II. Legal framework and key concepts

Ms Nazila Ghanea, presenting on “Religious minorities and the question of responsibilities” – SPEAKING NOTES

Excellencies, distinguished guests, ladies and gentlemen

1. When I started my research nearly 20 years ago under the mentorship of Professor Patrick Thornberry, I took freedom of religion or belief and minority rights to be inseparable. My doctoral research was on the UN and the human rights situation of the Baha'is in Iran.
2. But were freedom of religion or belief and minority rights separate historically? Religious minorities predated concern with modern human rights by centuries. The rights of religious minorities were primarily upheld through multilateral and bilateral treaties and it was only centuries later in 1945 that the UN was formed and the UN Charter adopted international human rights as one of its very objectives.
3. International human rights law then moved away from minority rights for some decades and focused on human rights standards - mistakenly believing that an emphasis on equality would be sufficient in creating a level playing field for minorities and majorities.
4. Rights standards such as article 27 of the ICCPR and its general comment 23, the 1992 Minorities Declaration and then the mandate of the Independent Expert on minority issues. These recognized minorities as those who are numerically in minority and have characteristics that they wish to maintain.
5. Somehow, though religious minorities found specific mention in article 27 and the 1992 Minorities Declaration, the rights of religious minorities were never fully incorporated within the minority rights mechanisms - that is, until now.
6. The rights of religious minorities had found themselves only dealt with under freedom of religions or belief standards and mechanisms. Freedom of religion or belief standards uphold the absolute rights of individuals to have, adopt or change religion or belief; and to manifest that religion in teaching, observance, practice and teaching either alone or along with others and in private or public.
7. Manifesting with others and in public is one thing, but we have well over two decades on minority standards and mechanisms regarding minority rights that are also highly relevant to religious minorities. Religious minorities are

persons with religion or belief characteristics that they wish to continue. Sometimes these characteristics also overlap with linguistic and ethnic characteristics. States have the obligation to provide the environment for the respect of the continuity of these characteristics. Religious minorities should be consulted in matters that concern them and they should also be allowed to also participate fully in wider society. States also have other obligations that are outlined in the report of the Independent Expert to the General Assembly's report and to which the keynote speakers have drawn attention.

8. Persons belonging to religious minorities should therefore fully enjoy freedom of religion or belief (including change of religion or belief) and have full access to all human rights and additionally to minority rights. And this has found support in reports of the Special Rapporteur on freedom of religion or belief and the Independent Expert on minority issues in recent months, which constitutes an excellent development in the United Nations.
9. But religious minorities are not only victims. They are not only subjects of human rights violations. They are also active agents in society. They are guided by ethical or moral religion or belief codes and uphold belief systems. And this can help them be even more deeply guided to go beyond victimhood and contribute to wider society.
10. International human rights law recognizes states as being key to the promotion, protection and fulfillment of human rights. However article 29 of the Universal Declaration of Human Rights and article 18 of the Human Rights Defenders Declaration also recognize an important role to others. Article 18.2 states that "Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting and advancement of democratic societies, institutions and processes."
11. I in no way wish to detract attention from the key role of states in enabling, advancing and ensuring the fulfillment of the full rights of religious minorities. Sadly they themselves are very often spearheading violations against religion or belief minorities. Nevertheless, I hope in this Forum we will also find time to go beyond the 'victimhood' of religious minorities and recognize their power to stand up for their own rights and the rights of others but also to use all their means, their spiritual and ethical resources, to contribute to wider society along with their neighbours and along with majorities and other minorities. Religious minorities do not want to only maintain their characteristics. They also want to be full and equal participants in wider society and for the good of all.