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FORUM ON MINORITY ISSUES
15 and 16 December 2008
Palais des Nations, Geneva

SUMMARY BY THE CHAIRPERSON OF THE FORUM

Ms. Viktória Mohácsi, Member of the European Parliament

In its resolution 6/15 of 28 September 2007, the Human Rights Council established a forum on minority issues, to provide a platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious and linguistic minorities, as well as thematic contributions and expertise to the work of the independent expert on minority issues. The Forum is to identify and analyze best practices, challenges, opportunities and initiatives for the further implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

The Forum is open to the participation of States, United Nations mechanisms, 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.

The inaugural session of the Forum took place on 15 and 16 December 2008 at the United Nations, Palais des Nations in Geneva, Switzerland.

Pursuant to resolution 6/15, the President of the Human Rights Council appointed Ms. Viktória Mohácsi as the Chairperson of the first session of the Forum. The Chairperson is to prepare “a summary of the discussion of the Forum, to be made available to all participants of the Forum”.

This summary is to be complemented by the report of the independent Expert on Minority Issues on the Forum, which will be submitted to the Human Rights Council at its next session in March 2009 (documents A/HRC/10/011 and Add.1).

This summary does not provide the details of all the presentations made during the session of the Forum. The list of speakers at the Forum, and when available the full text of their presentations, can be found on the Forum's web site at:

<http://www2.ohchr.org/english/bodies/hrcouncil/minority/forum.htm>

Item I – Introduction ¹

Opening statement by the President of the Human Rights Council, H.E. Mr. Martin Ihoeghian Uhomoibhi

The President of the Human Rights Council opened the inaugural session of the Human Rights Council Forum on Minority Issues. He highlighted the participation of many representatives of minority groups from all regions of the world, bringing a wealth of personal knowledge and experience to the meeting, and underlined the Human Rights Council willingness to provide a platform for promoting dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities.

The President of the Council stressed that education is an issue which engages us all as we strive to promote and protect the rights of children from all communities, especially the most disadvantaged.

He indicated that the Council looks forward to study the thematic recommendations which will be submitted by the Independent Expert in her forthcoming Report to its next session in March 2009.

Welcome and opening remarks by the Independent Expert on Minority Issues, Ms. Gay McDougall

The Independent Expert welcomed all the participants to the inaugural session of the Forum on Minority Issues, highlighting that its aims and objectives shall be to:

1. provide a platform for dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities;
2. provide thematic contributions and expertise to the work of the Independent Expert on minority issues;
3. identify and analyse best practices, challenges, opportunities and initiatives for the further implementation of the U.N. Declaration on the Rights of Minorities;
4. produce thematic recommendations to be reported to the Human Rights Council ; and
5. contribute to efforts to improve cooperation among UN 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.

The Independent Expert underlined that the focus of this first session of the Forum has been put on an issue of utmost importance to minorities in all countries around the world: "Minorities and the right to education". She stressed that although education is a fundamental human right, in all

¹ The full text of the opening statements is available on the forum's web site at:

http://www2.ohchr.org/english/bodies/hrcouncil/minority/oral_statements_forum_minority_2008.htm

regions of the world minority children suffer disproportionately from unequal access to quality education – which in turns provides a gateway to the full enjoyment of a wide array of other rights, without which individuals and societies remain economically, socially and culturally impoverished.

The Independent Expert emphasized that ensuring equal access to education is one of the most serious challenges for minorities and States alike. She also explained that equal access to education must be understood in the holistic sense of the rights to non-discrimination and equality. Disproportionate educational outcomes along racial, ethnic or religious lines must be considered evidence of discrimination that implicates state responsibility for the promotion and protection of these rights.

The Independent Expert indicated that the Forum will seek to provide concrete and tangible outcomes in the form of thematic recommendations of practical value to all stakeholders.

Remarks by the Chairperson of the Forum on Minority Issues, Ms Viktória Mohácsi, Member of European Parliament

The Chairperson of the Forum stated that history has shown that acceptance of legitimate expectations of minorities have strengthened legitimacy of states. While the existence of the Forum on Minority Issues is a great achievement - as a platform for minorities at the highest level, with all stakeholders being able to discuss relevant issues, the task ahead is challenging. She stressed that the work of Forum will successfully complement the mandate of the Independent Expert.

As to the thematic focus of the forum “Minorities and the Right to Education”, the Chairperson highlighted the necessity for States to implement the principle of equality and non-discrimination. She put specific emphasis on the following issues: resources for admission of minority pupils into schools, training of teachers from minority communities, access to education, education in the mother tongue. The Chairperson also pointed out that it is not only the issue of minority language education and issues related to this area that are of importance for the Forum, but also the issue of the violation of the right to education that emerges in segregated education, as in many European states and elsewhere this causes the emergence of disadvantaged situations in education. The launch of desegregation processes is crucial in all countries where the phenomenon of the violation of the right to education has been identified. As a pre-condition, the Chairperson emphasized the importance of the legal recognition of minorities at the national level.

She underlined that the task for all participants in this Forum was to identify best practices and action-oriented recommendations.

Remarks by the High Commissioner for Human Rights, Ms. Navanethem Pillay

In her statement, the High Commissioner for Human Rights underlined that these two days offered a unique opportunity to discuss recommendations on minorities and the right to education, and she expressed the hope that the contents of the final recommendations will serve as a practical and useful tool which will be used by all relevant human rights mechanisms including the treaty bodies, member states and minority groups.

The High Commissioner gave a history of the protection of minorities in the United Nations' human rights programme. She expressed her satisfaction that the Human Rights Council has a dedicated Special Procedures mechanism to address minority issues, as well as from now on, a Forum where all concerned can meet and discuss recommendations to improve the situation of minorities worldwide.

The High Commissioner stressed that the implementation of international human rights instruments requires that appropriate channels for the protection and promotion of human rights at national and local levels be established. Whatever is done at the international level has to be accompanied by the development of strong capacities at the national level.

Video message from the Assistant-Director General for Education, UNESCO, Mr. Nicholas Burnett

The Assistant Director General for Education started by recalling that as this forum opens, millions of children and adults remain deprived of their right to education. He noted that there has been notable progress towards access to universal education since 2000: there are 40 million more children in primary school than in 1999; some of the poorest countries in the world have introduced ambitious policies to ensure the right to education. But he also highlighted that progress is uneven: the foremost challenge is to make education more inclusive.

The Assistant Director General for Education underlined that the right to education is at the heart of UNESCO's mission of ensuring "full and equal opportunities for education for all." It is crucial to monitor this right and to work together to intensify normative action at the national level to ensure that minorities have access to, and complete a good quality primary education.

He expressed his confidence that the Forum will indicate ways forward for promoting and protecting the right to education of minorities, shed light on key areas for action, and make a significant contribution to advancing the Education for All agenda to which the majority of countries committed themselves in 2000.

**Item II - International and Regional Human Rights Frameworks
and Core Principles²**

Vernor Munoz Villalobos, Special Rapporteur on the Right to Education

The Special Rapporteur on the Right to Education began his opening address by recalling that states have specific obligations, including with respect to the right to education. He referred to the many situations of exclusion and discrimination in this respect. He underlined the necessity for the implementation of the right to education and reminded participants of the "4 As" formulation, as delineated by his predecessor: Availability, Accessibility, Acceptability and Adaptability.

² The full text of the Experts' presentations is available on the forum's web site at:
http://www2.ohchr.org/english/bodies/hrcouncil/minority/oral_statements_forum_minority_2008.htm

The Special Rapporteur called for models of education which would respond to the diversity of the human society, while underlining that education cannot resolve problems if there is no political will.

Patrick Thornberry, Rapporteur of the Forum on Minority Issues and Member of the Committee on the Elimination of Racial Discrimination

In his address, Professor Thornberry highlighted that education has always been and continues to be one of the most strongly contested issues in the field of minority rights. He recalled that the general principles in the field of education and human rights have been advanced at the global level through a number of instruments including, *inter alia*, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child.

Professor Thornberry recalled that in the specific field of minorities, there has been an expansion of the essential principles of equality and non-discrimination in the enjoyment of human rights to embrace a distinctive *corpus* of minority rights. The UN Declaration on Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities includes the crucial components of education and language. The dominant themes in the texts on minorities are rights to existence and identity, and participation in securing lives and futures. These themes are reflected in the “Draft recommendations on Minorities and the Right to Education”³, which are an attempt to elaborate and structure the relevant norms, build on good practice and suggest modalities of implementation in a clarifying manner: a practical programme.

Professor Thornberry, introducing the Draft Recommendations, highlighted key points therein:

1. Education is a human right and must be implemented in a human rights-friendly manner. The point is made that education can also be employed with negative impact upon minorities, and such impacts must be avoided.
2. Education is of systemic importance for the enjoyment of other human rights.
3. Equality and non-discrimination are governing principles in the context of minorities and indigenous peoples.
4. Participation rights are underscored with repetitive emphasis.
5. The need for data on minorities is highlighted. Formulae are difficult in view of widespread sensitivities about data collection in the ethnic field.
6. The recommendations are not far off in substance from the “4As” formulation (Availability, Accessibility, Acceptability and Adaptability) employed by the Special Rapporteur on Education and the Committee on Economic, Social and Cultural Rights. They do not reproduce that formula mechanically, bearing in mind the specific range of texts quarried for the draft.
7. Particular points are made on special classes and special schools, in light of the D.H. case before the European Court of Human Rights, and analogous examples.
8. A point is also made on levels of education: minorities need their intellectuals as much as other groups.
9. Access to education is a more complex issue than may appear at first sight and this is reflected in the text. The key question is whether education is a genuine possibility for minorities.

³ The text of the “Draft Recommendations on Minorities and the Right to Education” is available on the Forum’s web site at: <http://www2.ohchr.org/english/bodies/hrcouncil/minority/forum.htm>

10. The sections are not set in stone, and it is clear for example that elements relating to language education could be transposed to another section. This may also apply to other areas of the recommendations.

11. Difficult issues such as public and private education are touched upon in the text but are susceptible to further elaboration.

12. Language is not the only substantive question covered in the text but it remains key for many groups and deserves adequate representation.

Item III - Essential Requirements for an Effective Education Strategy

Several Experts addressed the Recommendations under Item III⁴. Issues for presentation and discussion included the following: budgetary allocations for education services to minorities; legislation to implement education rights and to eliminate discrimination; the recruitment of teachers to work in minority schools and unlawful policies and practices of segregation. The floor was then opened to all participants.

Mr. Renato Ferreira, Coordinator, Program on Policies of Color in Brazilian Education, Center for Public Policies at the University of Rio de Janeiro, Brazil, spoke about the principles of non-discrimination, equality and the participation of civil society in policy development and on the basic conditions enabling public policies.

Mr. Yusuf Sayed Senior Researcher, University of Sussex, UK and Human Sciences Research Council, South Africa, proffered suggestions for the improvement of several of the draft recommendations and spoke on the topics of the legislative framework, international assistance and cooperation, financing, and the recruitment, training and incentivization of teachers to work in areas inhabited predominantly by members of minorities. In particular, Mr. Sayed's called for an explicit recommendation regarding the collection and reporting on education data and indicators relating to the position of minorities. Otherwise it will be difficult to hold state parties and other role players such as international agencies accountable for progress. He highlighted the need for greater alignment and coherence between the recommendations on minorities discussed during these two days and existing instruments and processes. Such a list (which is by no means exhaustive) could include instruments such as CEDAW, UDHR, CRC, ICESCR, OCHCR and processes such as the EFA Working Group and the Education High Level Group (HLG). He also underlined that it is important in a document of this kind to clarify what the definition of minority is. Such a definition will enable a much sharper and focused discussion about whose rights are being discussed.

Mr. Mark Lattimer, Director, Minority Rights Group, UK, addressed the issues of meaningful participation, access to education, states' legislative measures, tertiary education and the principle of non-discrimination. In particular, he suggested that the recommendations could include a clearer language concerning state or local policies of educational segregation, which in the current draft are only 'strongly discouraged'. In the leading case of *D.H. and others v. the Czech Republic*, the European Court of Human Rights made it clear that segregation was itself a form of unlawful discrimination.

⁴ The full text of the Experts' presentations is available on the forum's web site at:

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Ms. Marselha Goncalves-Margerin, Advocacy Director, Centre for Human Rights, Robert F. Kennedy Memorial, USA, focussed her intervention on discrimination against migrant workers, the issue of identity and documentation, segregation policies, tertiary education, the core principles, and displaced persons. Her particular comment with respect to Item III was that the Draft Recommendations are an important opportunity to strengthen the framework and indicators being used within the UN human rights system. Such methodologies are not only important, they are really necessary to measure state responsiveness and compliance with treaty obligations. The “4 As” formulation developed by former UN Special Rapporteur on the Right to Education, Katarina Tomasevski provides a methodology to articulate states’ obligations in regards to the right to education. It is used in some examples, but should be articulated as the framework to be used.

Mr. Daniel Losen, Senior Education Law and Policy Associate, Civil Rights Project, University of California, Los Angeles (ACLU), USA, made a presentation about the importance of data, including disaggregated data (gender, race, disability), and about accountability. He commended the Draft Recommendations where they highlight the need for quantitative data. He would seek to go further by encouraging the public reporting of accurate data, disaggregated by race and ethnicity. He would also specify the need for data on gender and disability status along with race. Data on poverty status, and on language minorities, are also critically important. Such public reporting must always contain privacy protections for individual students and clear safeguards against misuse.

Mr. Kishore Singh, Senior Programme Specialist for the Right to Education, UNESCO, spoke about equal access to quality education, highlighting the UNESCO Convention, “Education For All”, inclusion, state obligations, justiciability of enforcement, and disaggregated data.

Ms. Diane Abbott, Member of Parliament of the United Kingdom of Great Britain, talked about the core principles of equality and minority participation in the life of the State and in decisions affecting them. She also addressed disciplinary measures, and the recruitment and training of teachers from minority communities.

Mr. Lothar Krappman, UN Expert and member of the Committee on the Rights of the Child, discussed cooperation with the Treaty Bodies, the Convention on the Rights of the Child, the Concluding Observations of the Committee on the Rights of the Child, drop-out and attendance, minority education costs, minority languages at all levels of education.

*The Chairperson opened the discussion to the floor*⁵.

During the discussion on item III, participants raised the following issues:

- the principles of equality and non-discrimination, including towards non-nationals
- the use of the term “minority” and its definition
- national legislations and affirmative action measures
- the meaningful participation of minorities in the decision making process and in school management
- adequate resources and budgetary allocations

⁵ The list of speakers, and when available the full text of their presentations, can be found on the Forum’s web site at: http://www2.ohchr.org/english/bodies/hrcouncil/minority/oral_statements_forum_minority_2008.htm

- the right to education of non-nationals and migrant workers
- the work of different UN agencies on issues of minority rights and the right to education; in particular international assistance and cooperation in the framework of the UN agencies and UNDP's focus on working with national and local authorities and civil society
- national and regional jurisprudence regarding linguistic minorities
- the availability of educational services throughout a national territory
- the availability of quality education at all levels for minorities, from preschool to tertiary education
- the issue of mother tongue instruction in schools and bi/multi-lingual instruction
- adequate recruitment, and training of teachers
- disaggregated data
- the gender perspective
- the need to discourage special classes or special schools for minority pupils

Item IV - Equal Access to Quality Education for Minorities

Several Experts took the floor under item IV⁶. Issues for presentation and discussion included the following: the principle of non-discrimination; school locations; dropout rates; school enrolment for displaced persons or members of nomadic or semi-nomadic groups; and access to education for women and girls.

Mr. John Payton, President and Director-Counsel, National Association for the Advancement of Coloured People – Legal Defense Fund (NAACP - LDF), USA addressed the issues of the exclusion of minorities from schools and their dropout rates, and national government responsibilities with respect to the principle of equal access to quality education for minorities. Specifically, Mr. Payton suggested that the Draft Recommendation should make it clear that it is the responsibility of government to see that every student obtains the education necessary to meaningfully participate in the economic and political life of the country. To facilitate this, the Draft Recommendation should make it clear that governments need to articulate standards by which their actions can be judged.

Ms. Eliane Cavalleiro, Former head of racial inclusion policies for the Ministry of Education, Brazil, discussed several issues including barriers to educational access, such as social, financial and pedagogical barriers. She highlighted the principle of non-discrimination on the basis of race and gender. In particular, Ms. Cavalleiro recommended the encouragement and support to all State organs to implement the Plan of Action of the Third World Conference to Combat Racism (Durban 2001).

Mr. Nadir Redzeqi of the Roma Education Fund in Macedonia addressed the issues of exclusion of members of minorities from schools and their dropout rates, desegregation of the education system, barriers for poor and marginalized groups including linguistic barriers. Mr. Redzeqi made recommendations for the official recognition of minority languages and introduction into the curriculum suggesting that a voluntary fund could comprise an effective tool to remove barriers and discrimination.

⁶ The full text of the Experts' presentations is available on the forum's web site at:
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Ms. Anastasia Crickley, Personal Representative of the OSCE Chairman-in-Office on Combating Racism, Xenophobia and Discrimination, spoke about the importance of gender and disaggregated data, an intercultural approach to education, and the need to monitor participation and educational outcomes at all levels. Ms. Crickley highlighted that it is essential to go beyond focusing only on access, to consider and monitor access, participation and educational outcomes for minorities including ethnic minorities.

Mr. Biram Dah Abeid, Lawyer and researcher, Save Slave Organisation, Mauritania, talked about impediments to effective access to education for members of minority communities resulting from forced labour. He made several recommendations including the establishment of a system of school canteens and dormitories to accommodate groups suffering from extreme poverty.

Ms. Sawsan Zaher, Attorney, Adalah – the Legal Centre for Arab Minority Rights in Israel, made her intervention with respect to Draft Recommendations 24, 25, 27, 28, 32 and 33 highlighting in particular the situation of women and girls. Ms. Zaher suggested that the language of the recommendation with respect to the “costing of educational policies” is insufficient in that the “costing” of education policies should not be calculated according to needs only, but also on the basis of the principle of equal treatment, and in a manner that will ensure that education is readily accessible for all. Equal treatment could entail the allocation of resources for advancing the right to education among minority groups that have been victims of historical injustices committed against them or discrimination in realizing the right to education. This critique should be seen within the context of the obligation stipulated by the International Covenant on Economic, Social and Cultural Rights (ICESCR) for State Parties to take *immediate* steps to provide primary education (and General Comment 14 of the Committee on Economic, Social and Cultural Rights) on a non-discriminatory basis.

Mr. Peter Hyll-Larsen, Coordinator, Right to Education Project, Action Aid International, UK, made reference to the “4 As” formulation and highlighted the complaint mechanisms and legal instruments available through the various human rights mechanisms including the Treaty Bodies. He encouraged, if possible, to go further and to frame even more systematically and rigorously the issue in the language of these “4 As”, as done in for example General Comment 13 from the CESCR. This should go both for these recommendations themselves, and for what action these recommendations recommend: i.e new laws and policies at the national level.

Mr. Charles Masabo, Member of the Senate, Burundi, discussed the location of schools and the impact of residential patterns as well as the exclusion of members of minorities from schools and their dropout rates. He also discussed recommendation 30 with respect to adequate resources. Mr. Masabo’s recommendations for addressing equal access to quality education for minorities include awareness-raising, implementation of education infrastructure in villages and support for revenue generating activities.

Ms. Helen Pinnock of Save the Children, UK, spoke about the principle of non-discrimination in securing equal access to education, barriers to access to education that are compounded, and impediments resulting from poverty. Specifically, Ms. Pinnock recommended that the Forum should promote monitoring mechanisms which hold decision makers accountable to providing flexible approaches to education delivery, which respond to and value the diverse cultures, identities and contexts present in the population.

Ms. Doris Angst, Director, Federal Commission Against Racism (FCR) – Switzerland spoke about national minorities, migrant workers and refugees, the discrimination they face on the basis of ethnic origin and the positive results that can emanate from positive actions by third parties. She recommended the inclusion of a paragraph in the recommendations that States should promote and finance such positive actions by third parties which aim at granting equal access to education.

Ms. Barbara Wilson, UN Expert and Member of the Committee on Economic, Social and Cultural Rights, highlighted the recent adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural rights by the General Assembly and the potential use of the individual complaint mechanism to address discrimination in education. Ms. Wilson also discussed the forthcoming likely adoption of General Comment 20 on non-discrimination, which is a potential tool for addressing discrimination in education.

Mr. Prasad Kariyawasam, UN Expert and Member of the Committee on Migrant Workers underlined the issue of equal access to quality education for migrant workers and members of their family.

Discussion under item IV was grouped together with discussion under Item V.

Item V - The Learning Environment and School Governance

A number of Experts took the floor under item V⁷. Issues for presentation and discussion included the following: hostile environments and bias in disciplinary measures; anti-discrimination and inter-cultural training; the recruitment and training of teachers from minority communities; and the active involvement of representatives from minority communities in school management and administration. The floor was then opened to all participants.

Mr. Carlos de la Torre, Chair, Political Studies and Director of the Ph.D. Programme in Social Sciences, Latin American Faculty for Social Sciences FLACSO, Ecuador, addressed the issues of disciplinary actions and bilingual education. He recommended in particular that the issue of affirmative action should be more emphasized in the Draft Recommendations, for example with respect to recommendation 7, include language to the effect that “such measures are mandatory in racially and ethnically segregated systems.”

Ms. Maisie Chin, Director, Community Asset Development Redefining Education (CADRE), USA, discussed disciplinary action, cooperation between parents of children of minorities and the school authorities, the elimination of prejudices, and state obligations. She commended the construct and definition of “the learning environment” in the Draft Recommendations, and suggested that it be expanded to specifically indicate governmental accountability for the resolution of claims made by minority students and/or their parents/caregivers when the learning environment fails to respect minorities’ rights, and specifically when the violations pertain to racial bias, the dehumanization of children, adolescents, and parents, and the exclusion of

⁷ The full text of the Experts’ presentations is available on the forum’s web site at:
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minority parents' right to monitor, participate, and hold publicly-funded educational institutions accountable.

Ms. Meghna Guhathakurta, Executive Director, Research Initiatives, Bangladesh, made suggestions for the improvement of the language in Draft Recommendations 34, 35 and 38. For example, she highlighted that it is particularly relevant to mention caste-specific discrimination in relation to vocational training, since the discrimination based on work and descent often leads to prejudices against certain vocational training. For example many refuse to take up training as a barber since in some areas it is considered to be a "lower caste" job notwithstanding the fact that in modern day market economics it can be quite a lucrative one.

Mr. Dennis Parker Director, Racial Justice Programme, American Civil Liberties Union (ACLU) - USA spoke about the issue of disciplinary actions. He made several recommendations including that abusive school disciplinary practices, including corporal punishment, should be banned, and that the use of police officers or school security personnel should be limited and made proportional to legitimate security concerns and that adequate training and strict guidelines be provided substitute positive discipline systems for repressive and ineffective negative ones.

Dr. Bamo Ayi, Professor, Central University of Nationalities, Beijing, China, made several suggestions with respect to the core principles, national responsibilities, and the role of local government. On the latter point, Dr. Ayi suggested that relevant provisions make clear principled rules for local bodies to provide educational service, proffering language in particular: "States should promote local governments to, in accordance with features and needs of minorities, provide effective educational service in a manner different in different areas, ethnic groups or kinds of education".

Professor Tahir on behalf of Mr. Ahmed Moddibo Mohammed of Nigeria addressed the topics of minority language instruction and materials, and difficulties for nomadic or semi-nomadic groups.

Ms. Anna Frangoudaki, University of Athens, Center of Intercultural Research and Pedagogic Intervention, Greece, and Ms. Thalia Dragonas, Member of the Parliament, Coordinator of the Project on Muslim Minority in Thrace – Greece made a presentation regarding a successful project in Greece which aimed at reform of the education of the Muslim minority in Western Thrace, the development of new educational materials, teacher training and revision of the national policy.

The Chairperson opened the Floor to the Speakers' List ⁸.

During the discussion on items IV and V, participants raised the following issues:

- elimination of prejudices on the basis of religion
- the training of teachers from minority communities

⁸ The list of speakers, and when available the full text of their presentations, can be found on the Forum's web site at: http://www2.ohchr.org/english/bodies/hrcouncil/minority/oral_statements_forum_minority_2008.htm

- barriers to education access, and in particular the school enrolments for members of nomadic or semi-nomadic groups and for children from rural areas; a special situation of internally displaced minority children and those who have been subjected to rape and other forms of violence was raised by participants
- the learning environment, including mother tongue education and minority language textbooks; a special mention was made of regional languages
- adult education
- the location of schools
- equal access to quality education for minorities
- the availability of adequate resources
- the implementation of a monitoring system
- the meaningful participation of minority groups
- cultural, religious and linguistic barriers
- the inclusion of sign language users as linguistic minorities.

Item VI - The Relationship between De-Segregation Strategies, Cultural Autonomy and Integration in the Quest for Social Cohesion

Several Experts made presentations regarding Item VI⁹. Issues for presentation and discussion included the following: contacts and exchanges between minorities and the general population; relations between religious minorities and secular schools; and opportunities for persons belonging to minorities to learn their mother tongue or learn through the medium of the mother tongue. The floor was then opened to all participants.

Ms. Anurima Bhargava, National Association for the Advancement of Coloured People – Legal Defense Fund, USA discussed de-segregation strategies in the field of education. She made several recommendations:

1. The Draft Recommendations must acknowledge the extent to which educational institutions are segregated by race, class, language, immigration status, disability, caste, religion, and other related factors, and recognize the harms that can be associated with attending schools where students are isolated along these lines.
2. The Draft Recommendations should note that in a racially and ethnically diverse nation such as the United States, the schools should also be racially and ethnically diverse.
3. The Draft Recommendations should indicate that efforts to promote integration and social cohesion should be conscious of and properly take account of race, language, immigration status, religion, caste and other factors that have underlied segregation.

Mr. Claude Cahn of the Centre on Housing Rights and Evictions (COHRE) in Switzerland made recommendations for the improvement of language in Draft Recommendations 21 and 27. On the latter, Mr. Cahn noted that the draft recommendation provides an important basis from which to recognize that the denial of rights outside the field of education can have a devastating impact on the ability of minorities to realize effectively the right to education. The current draft text would be strengthened via explicit links to the developing international law *acquis*, including but not necessarily limited to the following:

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- The right to adequate housing – including a prevalence of forced evictions, and other systemic frustrations of secure tenure;
- Land rights, including the land rights of minorities and indigenous peoples;
- The right to water and sanitation;
- The right to a healthy environment.

Mr. Tahir Alam, Education Policy and Community Engagement Advisor for the Muslim Council of Britain, UK, made his intervention regarding Draft Recommendations 45 and 48, namely desegregation strategies in the field of education and specific instruments of dialogue between minorities and local authorities. On desegregation strategies, he would caution against advocating that desegregation should be “actively pursued”. In certain circumstances, this may be neither possible nor desirable by minority communities or by indigenous majority communities. Segregation in schools results from segregational residential housing rather than schooling choices. Such advocacy would therefore not be relevant in too many cases where it is impossible to relocate and or compel tens of thousands of people to move or be bussed to different schools.

Dr. Charles Russo, Joseph Panzer Chair in Education, School of Education and Allied Professions, and Adjunct Professor in the School of Law, University of Dayton, USA, discussed national case law and addressed the issues of desegregation strategies in the field of education, social cohesion and content and delivery of the curriculum. In particular, Dr. Russo suggested that treatment of education as an integrative, rather than a segregative, factor. If tolerance and acceptance of diversity of religious beliefs and world views are not encouraged in schools and not imbued throughout curricula, both by majority and minority population groups, then we cannot expect to find them present throughout the rest of societies in which social cohesion is the goal.

Ms. Libia Grueso, Centre of Social Investigations, Universidad de los Andes, Colombia spoke about indigenous peoples and their right to establish and control their educational systems and institutions, their right to access to education in the context of Colombia and made reference to internally displaced persons and the ILO Convention 169.

Dr. Fernand de Varennes, Associate Professor, Murdoch University, Australia made his intervention with respect to international and national level case law, mother tongue instruction, indigenous peoples, and made suggestions with respect to the style and language of the recommendations. As to the latter, he reiterated that, stylistically, the recommendations need to be written in clearer, simpler but also more direct form. If we are talking about the right to education, and especially the application of equality and non-discrimination, then states have obligations, and individuals have a right. When you use the word should, governments have no obligation – it is essentially at their discretion. The recommendations must not go backward: we must have recommendations that clearly sets out obligations, that in certain conditions states must or shall provide as far as is possible an appropriate level of education in the language of a minority where they are in substantial numbers.

Ms. Aleksandra Vujic, Voivodina Centre for Human Rights, Serbia addressed the issue of minority language education suggesting that distinction should be made between opportunities of education in mother tongue for persons belonging to «homogenous» minorities and «dispersed» minorities. Homogenous minorities have more opportunities to preserve their

language and culture in education through the medium of mother tongue while dispersed minorities whose only opportunity is more than often, just to learn their language are strongly faced with assimilation process and lost of their language and culture. It is for this reason that, in creating educational minority policy, the state should take into account these two distinctions. For persons belonging to «homogeneous» national minorities, education in mother tongue could be organised *in* their mother tongue, for more or less all subjects. For «dispersed » national minority groups, learning of mother tongue should be taught with elements of national culture.

Mr. Mathura Tripura of Save the Children, Bangladesh discussed mother tongue instruction and the drop out rate. Specifically, Mr. Tripura suggested the transfer of authority and resources for education delivery to the local government bodies.

Mr. Aleksejs Dimitrovs, Legal Advisor on Fundamental Rights, Justice and Home Affairs, European Parliament, Latvia made his intervention with respect to recommendations 46 and 51, namely the religious and moral education of children and school language regimes. Mr. Dimitrovs noted the mention of the liberty of parents or guardians to choose educational institutions for their children other than those established by the authorities of the State. Here, he suggested adding that public financial support should be provided to such institutions without any discrimination. In other words, if the State decides to provide any financial support to private educational institutions, such support is to be provided regardless of the language of instruction or religious affiliation of the institution. Such approach is developed also by the UN Human Rights Committee in the case *Waldman v. Canada*.

The Chairperson opened the floor to the Speakers' List for discussion ¹⁰.

During the discussion on item VI, participants raised the following issues:

- mother tongue education and multilingual education- education measures for indigenous peoples
- integration in the quest for social cohesion and integration strategies
- impediments to access to education resulting from poverty
- the challenges of sustainability of measures
- special classes or special schools for minority pupils
- adequate resources for education
- equal opportunities for equal access to education
- data collection strategies
- content and delivery of the curriculum and the contribution that national human rights institutions and education ministries can make regarding the implementation of education policies
- international legal frameworks, national legislative frameworks and complaints procedures, and affirmative action measures
- the right of minority groups and indigenous peoples to establish and control their educational systems
- the question of religious symbols

¹⁰ The list of speakers, and when available the full text of their presentations, can be found on the Forum's web site at: http://www2.ohchr.org/english/bodies/hrcouncil/minority/oral_statements_forum_minority_2008.htm

Item VII - The Content and Delivery of the Curriculum

A number of Experts made presentations regarding Item VII¹¹. Issues for presentation and discussion included the following: the development of curricula relating to minorities; inclusion of the histories, cultures and traditions of minorities in the general compulsory curriculum; and opportunities for members of the general population to learn minority languages. The floor was then opened to all participants.

Dr. Bernard Gifford, Professor and Distinguished Resident Fellow, Southern Education Foundation, USA made suggestions with respect to Draft Recommendations 53-60 on the Content and Delivery of the Curriculum. In particular, Dr. Gifford suggested that the use of easy navigable digital video, distributable over the Internet, would make education available to everyone. Moreover, the availability of education in this format would reduce the importance of textual accounts, while also giving those creating and using these tools to retrieve and re-interpret their significance continuously.

Ms. Mucha Shim Quiling Arquiza, Secretary General, Qalam, Asian Muslim Action Muslim Network in the Philippines (AMANPHIL), Philippines addressed the content and delivery of the curriculum. She recommended that the Draft Recommendations emphasize in stronger, more succinct terms, demanding the political will of the State to implement to the fullest its commitment to the right to education of minorities as linked to the right to self determination.

Mr. Marius Taba of the Roma Education Fund, Hungary made suggestions with respect to Draft Recommendations 19, 25, 26, 31, 46, 16, 17, 20, 36, 37, 39 and 51. For example, Mr. Taba suggested that the recommendations should include clear mechanisms for recourse and information dissemination.

Mr. Lal Perera, Director-General, National Institute of Education, Sri Lanka addressed the issues of mother tongue education and made suggestions with respect to section 7 of the Draft Recommendations. He proposed several additional recommendations:

- Implementation of second national language programmes, as appropriate,
- Establishment of open education opportunities to provide for vulnerable groups including minorities,
- Educational exchange programmes among children who belong to all communities in order to promote understanding and ethnic and cultural harmony in multi-ethnic and multi-religious societies.

Mr. Leonardo Reales, Coordinator of the International Human Rights Committee, Afro-Colombian National Movement CIMARRON, Colombia / USA addressed the issues of quality access to education, the content and delivery of the curriculum and affirmative action measures. He noted that the expertise and knowledge of leaders and civil society must be utilized when designing the curriculum in question. The curriculum should include and promote respect for the languages and traditions of minorities, in parallel to seeking the elimination of all forms of racial discrimination and intolerance against them.

¹¹ The full text of the Experts' presentations is available on the forum's web site at: http://www2.ohchr.org/english/bodies/hrcouncil/minority/oral_statements_forum_minority_2008.htm

Ms. Pamela MacKenzie, Education Consultant, International Network for Development, India and Bangladesh, UK spoke about the issues of curriculum content, design and delivery, drop out rates, mother tongue instruction and sustainability.

*The Chairperson opened the discussion to the Speakers' List*¹².

During the discussion on item VII, participants raised the following issues:

- content and delivery of the curriculum, including minority language instruction and national legislation with respect to use of minority languages
- about the importance of constitutional provisions
- relevance of curriculum and opportunities to learn languages
- content and delivery of the curriculum with respect to nomadic communities
- drop out rates and minority language protection
- access to quality education
- participation of minority groups
- the best interests of the child
- education in emergencies, conflict and post conflict situations
- disaggregated data and data collection
- inclusion of a gender perspective
- affirmative action and positive discrimination
- prejudices, segregated education
- detainee education
- migrant issues
- the role of the family in the elimination of discrimination
- that the problem caused by the fact that indigenous peoples and minorities have separate United Nations human rights protection mechanisms
- training of teachers
- the context of textbooks
- special schools and assimilation
- poverty and other barriers.

Item VIII - Concluding remarks

The Independent Expert invited several Experts to share their closing remarks.

Dr. Bernard Gifford, Professor and Distinguished Resident Fellow, Southern Education Foundation, USA emphasized the use of language that does not put minorities on the defensive, the language of equality.

Ms. Anna Frangoudaki, University of Athens, Center of Intercultural Research and Pedagogic Intervention, Greece stressed the need for optimism, underlining that it is possible to change discriminatory policies within a short time but cautioning that bilingualism is not a panacea.

Ms. Sawsan Zaher, Attorney, Adalah – the Legal Centre for Arab Minority Rights in Israel highlighted the principle of the best interests of the child and underscored that the language of

¹² The list of speakers, and when available the full text of their presentations, can be found on the Forum's web site at: http://www2.ohchr.org/english/bodies/hrcouncil/minority/oral_statements_forum_minority_2008.htm

the recommendations should be strengthened consistent with the International Covenant Economic, Social and Cultural Rights.

Mr. Yusuf Sayed Senior Researcher, University of Sussex, UK and Human Sciences Research Council, South Africa suggested that the recommendations be recast as “characteristics” with a sharper focus and fewer points, underlining that responsibilities need to be clearer, time should be attached to targets and recommending the inclusion of a monitoring mechanism.

Dr. Bamo Ayi, Professor, Central University of Nationalities, Beijing, China highlighted linguistic issues, segregation and affirmative action measures.

Mr. Biram Dah Abeid, Lawyer and researcher, Save Slave Organisation, Mauritania, emphasized forced labour issues.

Mr. Leonardo Reales, Coordinator of the International Human Rights Committee, Afro-Colombian National Movement CIMARRON, Colombia / USA emphasized difficulties associated with implementation.

Mr. Tahir Alam, Education Policy and Community Engagement Advisor for the Muslim Council of Britain, UK highlighted the need to make the wording of the recommendations more relevant and therefore to have greater impact.

Ms. Erica Ayan Dayas, International Federation Protection of Rights of National, Linguistic Minorities made reference to the UN Declaration on the Rights of Minorities and underlined that the Forum on Minority Issues should not be a political forum.

Closing remarks by the Rapporteur of the Forum on Minority Issues and Member of the Committee on the Elimination of Racial Discrimination, Professor Patrick Thornberry

In his address Professor Thornberry expressed his gratification by so much interest in the question of minorities and education and the many useful proposals, which have been made.

He proffered that it would be an interesting intellectual discipline to see if participants could suggest a deletion for every additional paragraph proposed.

Professor Thornberry recalled that the draft needs revision, without losing coherence: it needs to be more than an unstructured accumulation of disparate experiences. It should also, we may argue, not be unduly lengthened – running the risk of becoming another addition to the great library of unread and the impractical recommendations. The draft should eventuate in an array of suggestions achievable in a variety of situations.

This does not rule out sharper language or more direct comment on obligations: on the contrary.

It was suggested that the basis and intention of the recommendations should be clearer. A new introductory paragraph to this effect would be of great assistance, serving, *inter alia*, to allay any fears that the Forum was devising new standards.

There is work to be done on the removal of ambiguities, including the ambiguity referred to by the representative of EBLUL concerning the use of the terms ‘special schools’ and ‘special classes’.

Professor Thornberry noted in particular the emphasis in many interventions on ‘outcomes’: the further orientation of the recommendations towards ‘outcomes’ in education will improve the draft.

Many points were made on data, and sensitivities in this respect were evident over the two days. Language in this area requires a certain delicacy.

The draft needs greater specificity on budgets and resources – valuable interventions were made here under the overall rubric of resources necessary for minority education.

On participation, Professor Thornberry highlighted that, when the term is used, it carries the conceptual baggage elaborated through international instruments and is understood as being more than ‘mere’ consultation.

The term ‘interculturalism’ was not used in the draft and perhaps could be, where appropriate.

The draft needs more on monitoring and evaluation of results, and on mechanisms, for example, to challenge school exclusions.

Further points have been made on ‘intersectionality’ and this deserves greater attention.

Another issue arising is that of co-ordination with the work of the new indigenous mechanism, in order to avoid overlaps and inconsistencies. Professor Thornberry assured that this will be looked at very seriously as the drafting revision proceeds.

On the forms and varieties of ‘discrimination’, he suggested that it may be helpful to distinguish further the meanings of this term, but usage is already complex in international law and we should not, it is suggested, be over-elaborate. Particular paragraphs may be looked at to see if extra specificity would assist.

The Special Rapporteur emphasized that more could be said on nomadism in view of interventions. This prompts one to ask: what is ‘the school’? Is it a building, a place, or a concept or institution? Must it have a fixed location or can it move as a community moves?

Interesting points were made on secularism and on religious ‘symbols’ which should certainly be accounted for in the revision.

Other important questions were raised on language revitalization, notably by Professor de Varennes. The language provisions could use an additional paragraph or two, proportionately to other concerns.

Professor Thornberry expressed his gratitude for the emphasis by Professor Gifford on ‘change agents’ in education, and hope that the recommendations could themselves be viewed in this light.

He underscored that the useful observations on behalf of UNESCO should also guide the revision, especially in relation to refreshing the terminology to incorporate references to 'inclusive education' and 'quality education'. The recommendations could naturally develop their own terminology to guide other drafts in due course. 'Outcomes' is one such concept, fitting well with the general distinction in international law between obligations of means and obligations of result: this could be useful elsewhere.

The balance between general rights and specific rights remains a difficult one in the context of these or analogous recommendations. Fine lines need to be drawn between integration and assimilation, between segregation and the demand for minority schools. 'Desegregation' was not a clear term to some, or suggested an aggressive approach. General terms may not always help. For many indigenous peoples, for example, 'integration' has had often a negative meaning, though it may be perceived as a good elsewhere. The reiteration of such terms is not sufficient. The precise meaning to be attributed to them must emerge in the draft: the devil is in the details. The abstractions need to be made as concrete as possible.

Much of the focus in discussion has been on the 'official', child-centred school. Professor Thornberry expressed his hope that, in our enthusiasm for fairness and equality in the 'formal' system, we are not neglecting the area of in-community education, education in tradition as well as language, the informal sector of education, or the way education is transmitted through the media. Education is about the 'drawing out' of human potential. It is a lifelong process, implicating all of us. Perhaps we should have spent as much time in discussing 'what is education?' as we allocated to discussing our understanding of 'minority'.

The Special Rapporteur underlined that the recommendations will work if they can make useful if generic connections to the widest spectrum of minority groups. They will not work if they are perceived as only a 'wilderness of single instances'. The eventual text should be read as a whole.

Closing remarks by the Special Rapporteur on the Right to Education, Mr. Vernor Munoz Villalobos

The Special Rapporteur on the Right to Education recalled that in 2010 he will be submitting report to the Human Rights Council on right to education and migrant and refugee populations. He underlined that many members of minority groups would prefer to remain anonymous rather than to be subjected to discriminatory actions. The Special Rapporteur emphasized the state obligation to protect the human rights of minority populations by the adoption of national instruments, the ratification of international human rights conventions and the interpretation of such standards into local languages.

Closing remarks by the Chairperson, Ms. Viktória Mohácsi

The Chairperson underlined the centrality of the quality of education. She spoke of issues of desegregation and minority education, the similarity of concerns in various countries and for different vulnerable groups including persons with disabilities.

Closing remarks by the Independent Expert on Minority Issues, Ms. Gay McDougall

The Independent Expert expressed her gratitude to all participants for having enlarged and enriched the understanding of the challenges facing minority children and for the success of the inaugural UN Forum on Minority Issues.

She underlined that challenges remain ahead including the distillation of the suggestions gathered during the previous two days into a revised draft of the recommendations in time for her Annual Report to the Human Rights Council, which will be presented in March.

The Independent Expert recalled that the Working Group on Minorities did so much in shaping legal framework for promotion and protection of minorities. She emphasized that all the Treaty Bodies have been critical through their jurisprudence in moving forward the protection of the rights of minorities within the context of their mandates.

Professor McDougall highlighted the World Conference in Durban in 2001 and reminded participants that the Forum on Minority Issues sets the stage for input into the Durban review process and the final meeting in 2009. She recalled that the Durban Programme of Action urged states to ensure equal access to education for all in law and in practice and to refrain from measures leading to impose segregation in access to school.
