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**Draft recommendations on implementing the Declaration on
the Rights of Persons Belonging to National or Ethnic,
Religious and Linguistic Minorities: identifying positive
practices and opportunities**

Note by the Secretariat

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I. Introduction

1. The year 2012 will mark the twentieth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Declaration provides authoritative guidance and key standards on minority rights ranging from protection of existence and identity to non-discrimination and effective participation in cultural, religious, social, economic and public life.
2. The twentieth anniversary offers an important opportunity to raise awareness at different levels of the provisions of the Declaration and its principles, to examine the diverse ways that the Declaration has been used and implemented in practice by different stakeholders and the impact that it has had on national legislation, institutional mechanisms and their activities and programmes to advance the rights of persons belonging to minorities.
3. Previous sessions of the Forum have demonstrated that there are different approaches to the protection of the rights of minorities, according to the circumstances and factors, such as historical, cultural and religious background and political systems. The present session of the Forum is an opportunity for all stakeholders to share their views on existing practices, approaches and mechanisms that could perhaps be replicated in other countries, and also on potential different and creative ways to further the implementation of the Declaration.
4. Information provided by States and other actors demonstrates that a national institutional framework facilitates legislative and policy development and the design, implementation, monitoring and evaluation of minority-related programmes. While non-discrimination measures are essential, the rights of minorities frequently require States to take special measures that address long-standing discrimination and inequality, and thus make specific institutional attention necessary. Improving the mainstreaming of minority issues, and the representation of minorities and their effective participation in institutions, such as human rights bodies and ministries working on central concerns of minorities, are components vital to improving institutional attention to the rights of minorities.
5. The preamble to the Declaration emphasizes that the constant promotion and realization of the rights of persons belonging to minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, contributes to the strengthening of friendship and cooperation among peoples and States. Ensuring meaningful and informed participation and the management by minorities of matters directly affecting them is a means to promote stability and integration in the societies in which minorities live.
6. The Declaration requires positive measures to be taken in the area of legislation, policy and programming. Article 1.1 requires States to “protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories” and “encourage conditions for the promotion of that identity”. Article 1.2 requires States to “adopt appropriate legislative and other measures to achieve those ends”. Article 4.1 requires States to “take measures when 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”. Furthermore, Article 4.2 calls upon them to “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”. Article 5 of the Declaration establishes that national policies and programmes should be planned and

implemented “with due regard for the legitimate interests of persons belonging to minorities.”

7. In accordance with Human Rights Council resolutions 6/15 and 19/23, the present document contains the draft recommendations that will form the basis for discussions at the Forum. At its fifth session, the Forum will seek to provide concrete and tangible outcomes in the form of thematic recommendations of practical value to all stakeholders. The outcome document containing the final version of the recommendations will be presented by the Independent Expert on minority issues to the Human Rights Council at its twenty-second session.

8. The Declaration aims to promote the realization of the principles contained in the Charter of the United Nations, 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 and the International Covenant on Economic, Social and Cultural Rights, as well as other relevant international and regional instruments.

9. As at previous sessions of the Forum, the range of issues included in the recommendations is not exhaustive. It is hoped that the recommendations will be interpreted in a constructive manner, in cooperation and dialogue with minority communities in the light of the obligations of States to implement human rights standards effectively in practice.

10. The recommendations are phrased in broad terms and may be implemented in countries with diverse historical, cultural and religious backgrounds, with full respect for universal human rights. The Forum takes into account the fact that a great variety of country and minority situations exist and that, consequently, different measures may be required to promote and protect the rights of persons belonging to minorities within a given State. The Forum also reiterates the fact that such measures ought to be monitored and reviewed on a regular basis to ensure that they achieve the required objectives. The Forum has consistently emphasized that standard solutions are generally neither possible nor desirable, and that the recommendations should therefore be used with that in mind.

11. In its preamble, the Declaration highlights the important role to be played by the United Nations in the protection of minorities, referring also to the work that has been done in this regard by different actors within the system. Reference is further made to the important role played by intergovernmental and non-governmental organizations in protecting minorities and in promoting their rights. The need to ensure more effective implementation of international human rights instruments relevant to the rights of persons belonging to minorities is further highlighted.

12. The recommendations contained in the present document are therefore tailored for and addressed to the wide range of stakeholders responsible for the promotion and protection of minority rights, including States Members of the United Nations and United Nations agencies, funds and programmes, but also national human rights institutions and civil society organizations, as well as, importantly, persons belonging to national or ethnic, religious and linguistic minorities themselves as the bearers of these rights.

13. In their efforts to ensure the full implementation of the Declaration, all stakeholders are encouraged to refer to the concrete and action-oriented recommendations made at the four previous sessions of the Forum, focusing on the key thematic areas of minorities and

the right to education, effective political participation, effective participation in economic life and ways to guarantee the rights of minority women and girls.¹

II. Recommendations

14. All countries should reaffirm their commitment to the principles contained in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and publicize it widely.

15. Governments, national human rights institutions, minority groups, civil society organizations and regional and international human rights mechanisms should take initiatives to ensure that minorities are aware of their rights as enshrined in the Declaration and in other human rights standards and instruments, and collaborate to that end.

16. All actors should take initiatives in the area of awareness-raising, including campaigns on minority rights with activities aimed at the promotion of the Declaration, as well as information on existing specialized minority rights and equality bodies, departments or relevant agencies and their services. They should also ensure that the Declaration is translated into all minority languages and disseminated widely. Outreach should be targeted at minority communities, including via minority media and in minority localities and languages.

17. Information on minority rights and minority communities should also be targeted at society at large by means of, for example, a media campaign on minority rights, equality and non-discrimination and resource materials on the Declaration and the history, culture, traditions and contributions to society of minority groups present in the State.

18. Special efforts should be made to tackle any challenges that increase the physical and social isolation of certain minority communities and individuals. In accordance with the context, creative means of community outreach to promote the Declaration can be used, such as theatre and dance, radio productions or the distribution of leaflets with simplified versions of the Declaration, as well as other minority rights material, for example, where language or literacy barriers exist.

19. All measures taken with a view to implementing the recommendations made at the Forum session should be, to the fullest extent possible, developed, designed, implemented and reviewed with the full and effective participation of minorities. The conditions allowing for such collaboration and mechanisms to facilitate consultation should be put in place by all actors involved. The diverse views within minority groups, including those of minority women, should also be taken fully into account in this process.

A. National, regional and local governments

20. Governments have the primary responsibility for implementing the Declaration and other minority rights standards and instruments. States should recognize explicitly the diversity within their respective societies, including with respect to race, ethnicity, religion and language. States should demonstrate their commitment to the protection of minority rights by ensuring that minority issues are consistently integrated into and reflected in governmental policies and practice.

¹ See A/HRC/10/11/Add.1, A/HRC/13/25, A/HRC/16/46 and A/HRC/19/71.

21. The Declaration and other relevant international and regional minority rights standards should be incorporated into domestic law, providing a strong legal basis for the protection of minority rights. Stand-alone anti-discrimination legislation incorporating minority rights is recommended. Governments should also review and reform as appropriate any legislation, policy or practice that has a discriminatory or disproportionately negative effect on certain minority groups, with a view to bring them into line with the Declaration.
22. In addition to the adoption of domestic anti-discrimination legislation prohibiting direct and indirect discrimination against persons belonging to minorities, Governments should ensure the implementation of such legislation, including at the local levels, and that existing remedies are easily accessible and adequate penalties are applied in the event of violation.
23. States that have not already adopted laws protecting against acts or incitement to acts that physically threaten the existence of minorities or threaten their identity should do so.
24. Measures to ensure access to justice for members of minority groups should be taken, such as the training of public and law enforcement officials on the rights contained in the Declaration and relevant national legislation relevant to minority rights. Training initiatives on minority rights, non-discrimination and equality, good practices and methodologies should be considered within relevant public institutions. Public and law enforcement officials should be provided with such training.
25. In accordance with the positive obligations contained in the Declaration, Governments should consider the need for special measures, policies and programmes addressing entrenched situations of discrimination and exclusion experienced by persons belonging to national or ethnic, religious and linguistic minorities. Such measures should be taken to achieve specific goals, and be time-bound and monitored to assess their impact on the situation of disadvantaged minorities and to ensure that they do not become discriminatory.
26. Governments should ensure that sufficient funding is dedicated to improving the situation of disadvantaged minority communities and that there is adequate allocation of resources to implement fully domestic and international standards on the rights of minorities. Where necessary, funds should be set aside and/or reallocated to support activities connected to the promotion and protection of minority rights.
27. Governments should conduct research in consultation with minority groups to assess the situation of minorities nationally, understand their experiences, needs and challenges, and seek their input on measures to ensure their rights. On the basis of the provisions of the Declaration, research should assess the situation of minorities and the challenges faced in such areas as freedom and opportunities to practice their culture, religion and language, and should consider key areas of minority concern, including access to quality education, employment, health and housing, and their ability to participate effectively in public life.
28. National statistics institutions should be mandated to collect disaggregated data and to develop internal expertise on minority issues and methodologies relevant to the collection and analysis of data on ethnicity, religion and language. Governments should conduct data-gathering exercises that are designed and implemented in full consultation with minorities. Data collection should be conducted in an ethnically sensitive manner and on a voluntary basis, consistent with the right of minorities to self-identification, with full respect for the privacy and anonymity of the individuals concerned and in accordance with international standards of personal data protection.

29. Minority issues and the rights articulated in the Declaration should be mainstreamed throughout public and private institutions and bodies. The composition of such institutions should be reviewed periodically to ensure that they are representative of the diverse minority groups present in society, while good practices aimed at increasing the representation and participation of minorities should be identified to fill existing gaps. Where appropriate, specialist minority-related roles and appointments should be considered; minorities should not, however, be confined to such roles.

30. Taking into account national circumstances, Governments should consider establishing, in consultation with minorities, specialized national institutions or agencies mandated to address minority issues or dedicated departments, sections or focal points within existing institutions to promote the Declaration and national laws relevant to minorities. Such institutional attention should provide a focus for governmental activities and help in devising proactive policy and programme initiatives and targeted approaches to challenges involving minorities.

31. States should establish advisory or consultative bodies with the full participation of minorities in order to ensure that their issues and views are reflected in decision-making bodies. Such bodies, ideally at the national and regional or local levels, should be attributed political weight, adequately resourced and effectively consulted on issues affecting the minority population.

32. Measures to improve the representation and participation of minorities in all fields of life, including targeted recruitment and training initiatives, should be taken and promoted in the public and private sectors. Minorities should be represented in oversight and regulatory bodies relating, for example, to law enforcement services.

33. Governments should develop and implement inclusive and targeted education policies that provide access to high-quality learning environments for all persons belonging to minorities, and the opportunity, where appropriate for them, to learn and be taught in their language as required by the Declaration. Intercultural education approaches that are minority-sensitive should be adopted, with particular attention paid to reflecting the plurality and contribution of minorities to society and to countering negative stereotypes and myths.

34. Human rights education for all should be made an integral part of the national educational experience and integrate a minority rights component. Governments should collaborate with minority rights organizations in the development of materials relevant to minority rights and the minority communities living in the State, and ensure that minorities are fully reflected in and mainstreamed into school curricula.

35. States should support and consider providing funding to minority organizations, which can sometimes have a deeper knowledge of the issues faced by their groups and be best placed to deal with the communities and provide specific services and information. Collaboration with such organizations should be sought in order to provide or strengthen the links among all relevant Government bodies and minorities and so that they may act as mediators or facilitators in consultations organized by the Government between the different minority groups and society at large.

36. States should promote equitable access for minorities to new information and communications technologies, including the Internet and online social media channels, as a vital aspect of the democratization of information and a vehicle for the dissemination of information and for encouraging the effective participation of minorities, including young people, in all spheres of life. Information relevant to minorities should, wherever possible, be made available in minority languages, including through the establishment of minority media outlets.

37. States should collaborate fully with the different international and regional human rights mechanisms, including by implementing the recommendations issued by them and in seeking technical assistance to that end, if required. Where relevant, country reports submitted to human rights treaty bodies should contain information on the situation of minorities in the State and on measures taken to implement the Declaration and other minority rights standards.

38. In the current difficult global economic situation, Governments should ensure that austerity measures and other actions taken to address the situation do not disproportionately affect minorities that might be more vulnerable. They should develop monitoring mechanisms to prevent difficulties for minorities that might be compounded in the context of economic crisis.

B. National human rights institutions

39. National human rights institutions should consider establishing specific mechanisms within their secretariats to address minority issues, for instance, a department, section or focal point on minority issues. Minority rights and minority issues should be fully reflected in their activities and programmes. The institutions should indeed develop programmes, activities and projects based on the provisions of the Declaration, such as those relating to minority participation, education, language rights, civic education and other key minority issues. A part of their website should be devoted to minority issues and available in minority languages. They should also use the principles contained in the Declaration as benchmarks in drafting and reviewing legislation relevant to minority issues.

40. National human rights institutions should ensure that they have internal expertise on minority rights and that minorities are represented in their governing bodies and the composition of their staff, including at senior levels. Minority candidates, including women, should be sought for employment in specialist roles or sections; minorities should not, however, be confined to such roles.

41. The establishment of regional or local sub-offices should be considered where appropriate by national human rights institutions, including in areas with concentrated minority communities and in localities where communities may face particular challenges, such as poverty, conflict or displacement. The offices should be provided with sufficient resources both in terms of staffing and logistics, namely, adequate means of transport and communication so that outreach programmes are facilitated. Local offices or sub-offices should strive to develop their knowledge of local minority rights issues, monitor evolving situations, build relationships with communities and authorities and respond effectively to minority issues. They should also ensure that local issues are reflected in regional- or national-level decisions and policymaking, and that national policy and programmes in turn reach and benefit minorities in remote regions.

42. Complaint handling services within national human rights institutions should be made easily accessible to minorities. Information or resources to enable them to make or to pursue complaints or to seek alternative solutions outside the courts, including mediation where possible, should also be readily available in the head office, as well as in regional and local sub-offices. National human rights institutions should provide legal assistance to minorities in cases related to minority issues brought at the national level, as well as to regional and international human rights mechanisms.

43. National human rights institutions should extend their collaboration to United Nations and regional special procedures and mechanisms by providing them with updated information on cases of violations of minority rights and the situation of minorities in their

States, and by lobbying Governments to extend invitations and welcome visits by relevant mandate holders.

44. National human rights institutions should engage the United Nations and regional intergovernmental human rights systems, such as by providing reports on minority issues to relevant bodies in the context of State reporting requirements, or informing the universal periodic review process of the Human Rights Council.

45. National human rights institutions should play a central role in ensuring the provision of human rights education for all majority and minority communities in accordance with the plan of action of the World Programme for Human Rights Education, and ensure that the Declaration features in human rights education initiatives.

46. National human rights institutions should mainstream a minority rights focus in the design of promotional and educational human rights material and programmes, effectively using the Declaration and the commentary thereto² and ensuring that human rights materials are available in minority languages. They should collaborate with sister institutions in their region and abroad to share knowledge and good practices in the design of such material.

47. National human rights institutions should complement Government actors in such areas as the training of public and law enforcement officials, the design and implementation of equality projects, and ensuring equal access to justice for all persons belonging to minorities. They should conduct social surveys, hold consultations and workshops on minority issues, and provide targeted training to key actors, such as journalists and human rights defenders.

C. Minority groups and civil society organizations

48. Minority groups and civil society organizations should promote awareness of the Declaration and review the extent to which they integrate minority issues and use the Declaration in their work. They should use the Declaration to engage Governments on issues affecting minorities in their States.

49. Minority groups and civil society organizations should establish specific programmes to inform minorities of their rights and remedies available to them in the event of violation. They should assist minorities by providing legal counselling, advice and representation in legal proceedings to help to secure their rights at the national level.

50. Assistance should also be provided so that cases involving discrimination and other violations of minority rights may be brought to regional and international human rights mechanisms. For example, minority groups should consider providing information to the Independent Expert on minority issues, where appropriate, as well as other relevant special procedures, and consider sending reports to treaty bodies in the context of States reports. They should also follow closely the universal periodic review process of the Human Rights Council, work towards the implementation of the recommendations relevant to minority issues made thereat, and prepare and send reports to contribute to the next review of the State.

51. Minority groups should establish their own organizations and associations to promote minority rights and the cultural, religious and linguistic identity of minorities at the local and national levels. They should seek collaboration with relevant stakeholders to build their capacity, including through training on minority rights and existing standards and

² E/CN.4/Sub.2/AC.5/2005/2.

mechanisms, advocacy and report-writing skills, awareness-raising workshops and seminars, as well as through the establishment of mentoring programmes.

52. Minority groups and civil society organizations should consider forming or supporting local advocacy groups to address minority problems as they arise, and form or join coalitions and networks to strengthen national, regional and international advocacy on the protection of minority rights to be used to, *inter alia*, share experiences on using the Declaration effectively.

53. Minority groups should make sure that they are represented in meetings of existing mechanisms relevant to minority issues, such as by participating actively in the sessions of the Forum on Minority Issues and engaging with the Independent Expert on minority issues. In addition to raising awareness of the situation of minorities in their countries, they should use such opportunities to build partnerships with other organizations.

D. United Nations agencies, funds and programmes

54. Minority rights should be mainstreamed throughout the United Nations system. All United Nations human rights bodies should address minority issues specifically and systematically within their respective mandates. In accordance with their fields of responsibility, they should consider adopting a specific policy on minority issues. They should develop internal expertise on minority rights, including by appointing a specialist to focus on minority issues and by ensuring that minorities are represented in their staff.

55. United Nations training initiatives should incorporate issues concerning national or ethnic, religious and linguistic minorities. Minority rights should be included in human rights training material and other educational tools and resources that are produced.

56. United Nations departments, agencies, programmes and funds that are part of the newly established United Nations network on racial discrimination and protection of minorities are urged to participate actively in the work of the network, coordinated by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in preparing guidance for the United Nations system on addressing racial discrimination and the protection of minorities in accordance with the Universal Declaration of Human Rights and other key standards, drawing from effective practices, as well as in implementing any other tasks for the network. Relevant United Nations entities not yet members of the network are encouraged to appoint focal points for racial discrimination and the protection of national or ethnic, linguistic and religious minorities.

57. The United Nations should consider proclaiming an international day for minority rights, to celebrate diversity within all societies and the rich culture and traditions of the minority groups present in each State. While promoting intercultural dialogue between the various groups in a country, such a day could also be used to raise awareness of the Declaration and to highlight the different approaches that can be taken to ensure its practical implementation. States should be encouraged to mark this day nationally and to conduct activities to raise awareness of national minority communities, issues and the Declaration.

58. Individual mandate holders and working groups of the Human Rights Council and special representatives of the Secretary-General should continue to examine, where appropriate and in accordance with their mandates, the situation of minorities, and to help to raise awareness of the Declaration and use it in their work.

59. Treaty bodies should require States to provide information in their periodic reports on the situation of minorities and on existing policies and programmes of the State to ensure the full enjoyment of their rights. Treaty bodies should consider making general

comments or recommendations relevant to minority rights and based upon the Declaration to strengthen their attention to minority issues.

60. A United Nations voluntary fund for minorities should be created to enable minority representatives to participate in, assist and use the human rights mechanisms of the United Nations system. The fund should provide funding for projects, including those managed by minority groups, that are aimed at promoting and protecting the rights of minorities. The fund could also assist in supporting projects by minority groups and organizations aimed at the promotion of the Declaration and at ensuring its practical implementation.

61. Development agencies should ensure the full and effective participation of minorities in the design, implementation, monitoring and evaluation of all programmes or projects affecting minorities or the regions in which they live. They should ensure the active participation of persons belonging to the different minority groups in civil society consultations relating to development processes. To that end, they may consider making information on their activities accessible to minorities by means of proactive outreach to minority groups, communities and minority media outlets, holding meetings in regions where minorities predominantly live, offering language translation services and facilitating their attendance in such gatherings.

62. Projects of technical cooperation and assistance should take the standards contained in the Declaration into account, including by using guidance as provided in such documents as *Minority Rights: International Standards and Guidance for Implementation*³ developed by OHCHR, and *Marginalised Minorities in Development Programming*, published by the United Nations Development Programme.⁴

63. The Office of the United Nations High Commissioner for Human Rights should:

- (a) Sponsor training workshops to support the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including reference to recommendations made by the Forum on Minority Issues;
- (b) Encourage States to develop and/or enhance minority youth professional training initiatives, such as minority fellowships and internships in national, regional and international Government agencies, such as those of the United Nations.

64. United Nations practitioners should continue to use the United Nations Human Rights Policy Network (HuriTALK) with a view to share experiences of good practices on legislation and policies on equality and non-discrimination, and seek guidance on implementing the Declaration in practice.

65. Within the context of the universal periodic review, all stakeholders, including Member States, non-governmental organizations and OHCHR, should require specific information relating to the situation of minorities in States under review, and make recommendations aimed at guaranteeing the implementation of the Declaration.

66. United Nations bodies and specialized agencies with national presences should consider institutional strengthening to ensure the necessary expertise and attention to minority issues, and should employ staff members from minorities, where appropriate. They should also support national human rights institutions in their establishment of regional offices with a view to facilitate their outreach and accessibility on the entire

³ Available from www.ohchr.org/Documents/Publications/MinorityRights_en.pdf.

⁴ Available from www.ohchr.org/Documents/Issues/Minorities/UNDPMarginalisedMinorities.pdf.

territory of the State, including in remote and more isolated areas where minority groups might be living.

E. Regional intergovernmental bodies

67. Regional intergovernmental bodies should promote greater attention to minority issues within their respective regions, including by actively raising awareness of and promoting the Declaration in their work and encouraging its implementation at the national level. The Declaration should be used to help to shape regional human rights standards, support legal cases relating to minority issues in regional courts and monitoring bodies, and in efforts to monitor the minority rights performance of the State.

68. Regional bodies are also encouraged to work on developing standards and principles, including through the adoption of instruments on non-discrimination, equality and minority rights. The inclusion of firm minority rights provisions in regional standards could help to promote and enhance the attention paid to minority rights at the regional and national levels.

69. Regional human rights mechanisms should assess the extent to which minority issues feature in their work and address any shortfalls identified by mainstreaming minority issues into their activities and programmes. In their efforts to pay greater attention to minority issues, they should consider the creation of thematic and/or special mechanisms, such as a regional working group on minorities, commissioner for minorities or other relevant alternatives.
