



International Service for Human Rights

The Reports in Short

ISHR's summaries of documents for the UN Commission on Human Rights
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The independent expert on minority issues¹

Mandate Holder

Gay McDougall

Mandate

Minority rights have been increasingly recognised as an integral part of the United Nations work for the promotion and protection of human rights, sustainable human development, peace and security, as ethnic, racial and religious tensions have escalated, threatening the economic, social and political fabric of States. The special procedure was established in 2005² to promote the implementation of the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* (Declaration on the Rights of Minorities), taking into account existing international standards and national legislation concerning minorities. The independent expert is mandated to elaborate a working definition of the term minority; identify best practices and possibilities for technical cooperation by the Office of the High Commissioner on Human Rights (OHCHR) at the request of Governments; and address the protection gap for minorities in the existing international legal framework. The mandate focuses on issues such as the right to non-discrimination and the special rights of minorities that allow them to preserve their identity, characteristics and traditions.

Activities

- Meetings with staff members of OHCHR; representatives of the diplomatic missions of Austria, Ethiopia, Armenia, Mexico, Ireland, Hungary and Switzerland; NGOs; representatives of minority communities in Bangladesh and in the Dominican Republic; participation in conferences;
- Communications to the Government of the Dominican Republic concerning the situation of Haitians residing there and the Government of Myanmar. As of 5 January 2006, there had been no reply.

Annual Report³

Scope

The report provides a short background on developments within the United Nations (UN) system with regard to minority issues, an analysis of the expert's mandate, planned methods of work, areas of priority, and a summary of activities undertaken.

Summary and key conclusions

- **Mandate:** the report recalls the mandate of the independent expert as set out by the Commission on Human Rights⁴, noting that no other UN special procedures mandate provides an opportunity to look **holistically** at the **positive value of minority inclusion**, and stresses the need to adhere to OHCHR's Plan of Action and its goals of **protection** and **empowerment**;

¹ Summaries prepared by Cléa Thouin, Intern, ISHR, supervised and edited by Meghna Abraham, Information Program, ISHR.

² Commission Resolution 2005/79.

³ E/CN.4/2006/74, 6 January 2006.

⁴ Commission Resolution 2005/79.

- The **scope** of the mandate is informed by the Declaration on the Rights of Minorities, but the rights guaranteed in all other leading human rights conventions apply equally to members of minority groups. The independent expert will also take guidance from other existing regional human rights instruments;
- **Areas of concern:** protecting a minority's existence; protecting and promoting cultural and social identity; ensuring effective non-discrimination and equality; and ensuring effective participation of members of minorities in public life;
- **Parameters** to determine minority status: self-definition; and the need to consider situations on a case-by-case basis beyond numerical assessment of the size of a population group. The independent expert will focus only on non-dominant minority groups. She also notes that the duration of residence or domicile within a State does not limit protection duties. The collective nature of minority rights, as well as the possibility of multiple forms of discrimination needs to be taken into account. The independent expert will therefore focus her work on national, ethnic, religious, linguistic and cultural groups who generally have non-dominant positions within their societies;
- **Normative frameworks** relating to minority issues continue to be **poorly implemented**, and minorities continue to face threats and discrimination, as well as new challenges, such as counter-terrorism legislation;
- **Claims** may involve calls for non-discrimination, respect for identity or language, or territorial issues. Protection may therefore, but not necessarily, involve extending territorial or non-territorial autonomy.

Methods of work:

- **Promotion of the Declaration on the Rights of Minorities:** dissemination of the content of the Declaration on the Rights of Minorities and the independent expert's mandate to States, the public and within the United Nations; development of a website and pamphlet on the mandate; participation in seminars and conferences; communications with States; country visits;
- **Identification of best practices and possibilities for technical cooperation:** collaboration with agencies with technical expertise such as the OHCHR; dissemination of best practices and information about affirmative-action policies, development of a questionnaire;
- **Inclusion of a gender perspective:** focus on multiple discrimination, cooperation with actors engaged on gender issues;
- **Cooperation** with relevant United Nations bodies, mandates, mechanisms as well as regional organisations, especially the OHCHR, the Working Group on Minorities, and the Committee on the Elimination of Racial Discrimination;
- Consultation with **NGOs** and representatives of minority groups;
- **Areas of concern:** The link between States attaching appropriate value to ethnic and cultural diversity and stability and development; the impact of counter-terrorism measures on minority communities; minority communities in the context of poverty alleviation and development; inclusion and stability of societies; mainstreaming minority issues at the United Nations.

Other Conclusions:

- Respect for minority rights benefits States and societies in terms of securing the richness of cultural diversity, contributes to **social cohesion**, and advances the conditions for **political and social stability**; a fact that was acknowledged at the 2005 World Summit;
- Anti-discrimination is not sufficient in itself to guarantee fully minority rights;
- **Insufficient resources and capacity** affect the activities of minorities in promoting and protecting their rights, and limit the work of other bodies in regard to minority issues;
- States have a **positive obligation** to respect, protect and promote a **positive attitude** toward the rights of minorities.