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SPECIFIC GROUPS AND INDIVIDUALS:

MINORITIES

**Report of the independent expert on minority issues,
Gay McDougall**

Summary

This is the first report submitted by the independent expert on minority issues, Gay McDougall, as required by Commission on Human Rights resolution 2005/79. The initial report of the independent expert requires more than a narrative of activities undertaken by the mandate-holder. This report will provide a short background on developments within the United Nations system with regard to minority issues, the independent expert's analysis of her mandate, her planned methods of work, areas of priority concern, and a summary of her activities taken to date.

The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted by the General Assembly in its Resolution 47/135 (hereinafter the Declaration on the Rights of Minorities) informs the scope of the independent expert's mandate. As do article 27 of the International Covenant on Civil and Political Rights, article 30 of the Convention on the Rights of the Child and other international and regional conventions, declarations and standards.

The independent expert will consistently highlight the significant benefits that accrue to States in recognizing and actively promoting minority group contributions. The independent expert notes that no other United Nations special procedures mandate provides an opportunity to look holistically at the positive value of minority inclusion. In addition, while other mechanisms address categories of violations that may be directed against minorities, the minority rights component of such violations is often neglected. The independent expert considers her mandate as essential to filling this gap.

The independent expert believes that normative frameworks relating to minority issues continue to be poorly implemented. In particular, the effect minority rights have in the fields of poverty reduction and the promotion of political and social stability require greater understanding and acknowledgement. Minorities in all regions of the world continue to face serious threats, discrimination and racism, and are frequently excluded from taking part fully in the economic, political and social life of their country. Today, minority communities face new challenges, including counter-terrorism legislation, policies and practices that may unjustly impede or even violate minority rights.

The independent expert's methods of work are modelled on those of other thematic mechanisms, with due regard for the particular features of her mandate. Among other activities, she will develop her pages on the Office of the United Nations High Commissioner for Human Rights (OHCHR) website as a resource on minority issues and participate in relevant expert seminars and conferences. She will engage in constructive consultation with Governments, including by communications and country visits, and facilitate technical cooperation. She will also meet with non-governmental organizations (NGOs); minority groups; United Nations agencies, bodies and mechanisms; regional and other inter-governmental organizations; and academic, legal, research and policy development centres.

To date, the independent expert has met with the High Commissioner for Human Rights, members of the High Commissioner's staff, and country mission representatives in Geneva. In conjunction with other mandate-holders, she has submitted two communications to Governments. She has met with NGOs, including representatives of minority communities. And she has participated in a United Nations-sponsored Regional Workshop for the Americas, entitled "Strategies for the inclusion of people of African descent in programmes to reduce poverty, especially to achieve Millennium Development Goal 1", in Chincha, Peru. Finally, she attended a meeting at the Organization of American States in Washington D.C., where she delivered a paper supporting a proposed inter-American convention against racial discrimination.

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Introduction

1. The outcome document of the 2005 World Summit of Heads of State and Government, approved by the General Assembly, notes that “the promotion and protection of the rights of persons belonging to national or ethnic, religious, and linguistic minorities contributes to political and social stability and peace and enriches the cultural diversity and heritage of society” (para. 130). The independent expert welcomes this high-level consensual acknowledgement by Heads of State and Government of the important role of minority rights in achieving key global, regional and national objectives.
2. In his report, *In larger freedom*, towards security, development and human rights for all (A/59/2005), the Secretary-General highlights the importance and interconnectedness of human rights, development and security. The independent expert believes that respect for minority rights is critical to achieving stable and prosperous societies, in which human rights, development and security are achieved by all, and shared by all.
3. The dynamics of majority/minority relationships lead to the emergence of a range of minority issues which provide opportunities and challenges for States and societies as a whole. Such issues, in all spheres of life, are identified and articulated both by minorities and by States seeking to manage diverse societies. Within this wider context of minority issues, the normative framework provided by minority rights should be understood as a necessary element to ensure integrated societies and to promote social inclusion and cohesion. In such societies, various national, ethnic, religious and linguistic groups are able to live confidently together, communicate effectively, and recognize value in their differences and in their society’s cultural diversity.
4. Many violations of civil, political, economic, social and cultural rights have a basis in discrimination, racism and exclusion on the grounds of the ethnic, religious, national, or racial characteristics of the victim group. At the same time, emerging best practices in the field of human rights promotion, particularly in promoting economic, social and cultural rights, stress the value of diversity and social inclusion.
5. The independent expert welcomes the Plan of Action of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in accordance with the Secretary-General’s reform agenda, and its dual goals of protection and empowerment. She believes that work carried out within her mandate must adhere to, and constructively advance, the objectives of the Plan of Action, and its strategy to address key challenges to human rights. In drafting this report, the independent expert has consulted closely regarding key elements of the Plan of Action. She hopes to reflect its recommendations in her methods of work, activities and partnerships. In particular she welcomes the focus on implementation at the national level as key to addressing the “protection gap” that exists with regard to minority rights. She also notes the positive aspects of the OHCHR’s Plan of Action with respect to the empowerment of minority communities and the enrichment of cultural diversity.
6. The current report consists of five parts. In chapter I, the independent expert will provide a brief overview of the bodies, activities and instruments of the United Nations system she believes are most relevant to minority issues. In chapter II, she will share her initial

considerations as to how she perceives her mandate. In chapter III, she will elaborate on how she intends to conduct her mandate and the activities foreseen under it. In chapter IV, the independent expert will offer some initial comments on issues of particular relevance to her mandate and identify priority areas of concern. In chapter V of the report, the independent expert will outline her activities to date.

7. The independent expert looks forward to the opportunity to elaborate on some of the points not satisfactorily covered in this report, on the occasion of her oral presentation to the Commission on Human Rights.

I. BACKGROUND

8. The Charter of the United Nations, which came into force in 1945, sets out to promote universal “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”. The Universal Declaration of Human Rights, adopted in 1948, proclaims that all human beings are born free and equal in dignity and rights. It sets out the human rights that are due to all, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

9. In 1965, the General Assembly adopted the International Convention on the Elimination of All Forms of Racial Discrimination, whose article 1 defines discrimination as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”.

10. In 1966, the General Assembly adopted the International Covenant on Civil and Political Rights, which in article 27 provides that “in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language”. In 1994, the Human Rights Committee (HRC) adopted its general comment No. 23, providing an authoritative interpretation of this article.

11. In 1989, the General Assembly adopted the Convention on the Rights of the Child. In article 30, this convention similarly provides that “in those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language”.

12. In 1992, the General Assembly built on these provisions and adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (hereafter the Declaration on the Rights of Minorities), the only United Nations instrument wholly devoted to the rights of minorities. The Declaration of the Rights of Minorities will be available on the independent expert’s page at the OHCHR website.

13. In 1995, Economic and Social Council resolution 1995/31 established the Working Group on Minorities of the Sub-Commission on the Promotion and Protection of Human Rights.

14. Between 1995 and 2005 the Working Group on Minorities met in Geneva for five working days each year. At this annual meeting, the Working Group on Minorities served as a forum for dialogue, increasing understanding of minority issues and helping to find solutions to problems involving minorities. In recent years, the Working Group on Minorities proposed, and the Sub-Commission endorsed, the idea of holding subregional seminars on issues facing minorities; the Office of the High Commissioner for Human Rights has organized three such meetings in Asia: in Chiang Mai, Thailand, in 2002, in Bishkek, Kyrgyzstan, in 2004, and in Kandy, Sri Lanka, in 2004; three in Africa: in Arusha, Tanzania, in 2000, in Kidal, Mali, in 2001 and in Gaborone, Botswana, in 2002; and two in Latin America and the Caribbean: in La Ceiba, Honduras, in 2002 and in Chinchá, Peru, in 2005. The Working Group on Minorities itself proposed a new mandate on minority issues to complement its work.

15. In 2005, the Commission on Human Rights adopted resolution 2005/79, which requested the High Commissioner for Human Rights to appoint, for a period of two years, an independent expert on minority issues. The resolution also amended the mandate of the Working Group on Minorities so that it would meet for three days per year during the session of the Sub-Commission, rather than five, and would focus its work “on interactive dialogue with relevant non-governmental organizations and on conceptual support of, and dialogue with, the independent expert, who shall participate as an observer”.

16. On 29 July 2005, the High Commissioner for Human Rights announced the appointment of Gay McDougall (United States of America) as independent expert on minority issues.

II. THE MANDATE OF THE INDEPENDENT EXPERT

17. Commission resolution 2005/79, which establishes the independent expert’s mandate, in paragraph 6 requests the United Nations High Commissioner for Human Rights to appoint an independent expert on minority issues for a period of two years, with the mandate:

(a) To promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including through consultations with Governments, taking into account existing international standards and national legislation concerning minorities;

(b) To identify best practices and possibilities for technical cooperation by the Office of the United Nations High Commissioner for Human Rights at the request of Governments;

(c) To apply a gender perspective in his or her work;

(d) To cooperate closely, while avoiding duplication, with existing relevant United Nations bodies, mandates, mechanisms as well as regional organizations; and

(e) To take into account the views of non-governmental organizations on matters pertaining to his or her mandate.

18. The resolution also “requests the independent expert to submit annual reports on his/her activities to the Commission, including recommendations for effective strategies for the better implementation of the rights of persons belonging to minorities” and “requests the High Commissioner to provide all the necessary resources, from within existing budgetary resources, for the effective fulfilment of the mandate of the independent expert”.

Scope of the mandate

19. The independent expert looks to the Declaration on the Rights of Minorities to inform the scope of her mandate. The commentary to the Declaration on the Rights of Minorities, adopted by the Working Group on Minorities at its tenth session (see E/CN.4/Sub.2/AC.5/2005/2), provides a useful tool for interpreting the provisions of the Declaration and its application. The independent expert will also rely on article 27 of the International Covenant on Civil and Political Rights and article 30 of the Convention on the Rights of the Child, which specifically relate to minority rights.

20. It is also important to recognize that the rights guaranteed in all other leading human rights conventions apply equally to members of minority groups. For example, the principle of non-discrimination in the enjoyment of human rights is expressed in the Charter of the United Nations and provided by customary international law as well as stipulated in the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Convention on Economic, Social, and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Universal Declaration of Human Rights. Also of particular importance to minorities is the principle of participation, without discrimination, in the public sphere, as guaranteed by both the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

21. The independent expert will refer to, and take guidance from, other existing regional human rights instruments, as appropriate. Regional standards, including the African Charter on Human and Peoples' Rights, the European Convention on Human Rights and the Inter-American Convention on Human Rights, as well as the jurisprudence developed under these instruments, will provide valuable regional perspectives on the treatment of minority issues. Standards relating specifically to minority rights and non-discrimination, including the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM) and the Copenhagen Document of the Organization for Security and Cooperation in Europe, provide further valuable understanding and perspectives on minority issues.

22. The independent expert identifies four broad areas of concern relating to minorities around the world, based on the Declaration on the Rights of Minorities and other relevant international standards relating to minority rights:

(a) Protecting a minority's existence, including through protection of their physical integrity and the prevention of genocide;

(b) Protecting and promoting cultural and social identity, including the right of individuals to choose which ethnic, linguistic or religious groups they wish to be identified with, and the right of those groups to affirm and protect their collective identity and to reject forced assimilation;

(c) Ensuring effective non-discrimination and equality, including ending structural or systemic discrimination; and

(d) Ensuring effective participation of members of minorities in public life, especially with regard to decisions that affect them.

Parameters

23. The independent expert will be guided by a number of parameters when determining the issues and situations that fall within her mandate. The independent expert supports the view that determination of which groups constitute minorities does not lie with the State, but is dependent on a range of both objective and subjective criteria, in accordance with the principles of international law. The Human Rights Committee, in its general comment No. 23, makes clear that “the existence of an ethnic, religious or linguistic minority in a given State party does not depend on a decision by that State party but [needs] to be established by objective criteria”. At the same time, minority status is closely tied to how a group defines itself. The principle that belonging to a minority is a matter of a person’s choice includes the right to not be treated as a minority and the notion that no disadvantage may arise from the exercise of such a choice. The Committee on the Elimination of Racial Discrimination (CERD) notes in its general recommendation VIII that “the ways in which individuals are identified as being members of a particular racial or ethnic group or groups ... shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned”. As such, groups falling within the scope of the mandate of the independent expert will include those that self-identify as minority communities.

24. The independent expert notes that she will not be guided by an exacting assessment of the relative numerical size of a population group compared to that of the larger society. Each situation will be different, and she will consider the specifics of the situation on a case-by-case basis. The independent expert will focus her work only on non-dominant minority groups. At the same time, she recognizes that some minority groups may be dominant in certain spheres, such as the economic sphere, while suffering discrimination in others. She will take such situations fully into account.

25. The duration of residence or domicile within a State does not limit protections under international standards relating to minorities, including the Declaration on the Rights of Minorities. As the Human Rights Committee made clear in general comment No. 23, newly resident minority groups and non-citizens are entitled to the minority rights protections laid out in article 27 of the International Covenant on Civil and Political Rights, provided they belong to a group that can be distinguished on ethnic, religious or linguistic grounds.

26. Claims made by minorities may involve calls for equality and non-discrimination, respect for their identity, language, religion and cultural practices, and protection and promotion of their identity in law and in practice. They may involve territorial issues or assertions that they have

the right to establish and maintain free and peaceful contacts across national frontiers with citizens of, and those resident within, other States who have similar ethnic, religious or linguistic affiliations. It is important to note that the Declaration on the Rights of Minorities focuses on the duties of States to protect the identity of minorities and ensure their effective participation in public life. This may at times be accomplished most effectively by extending territorial or non-territorial autonomy to minority groups, or by the decentralization of some authority through self-governing arrangements. However, the Declaration does not require the establishment of such autonomy, and such arrangements may not always provide the most effective means of ensuring rights within minority communities.

27. The independent expert also takes note of the collective nature of minority rights. This holds importance for the promotion and protection of minority identity and visibility, for the informed collective participation of these groups in decisions that affect their rights and resources, and for securing collective claims to linguistically and culturally appropriate education, land and other shared assets. While the Declaration on the Rights of Minorities examines rights that may be claimed by individual members of minority communities, those claims will often require the State to ensure the existence or identity of the group as a whole.

28. Finally, the independent expert recognizes that some individuals within ethnic, religious, linguistic or national minority groups may experience multiple forms of discrimination because of other factors including gender, gender expression, gender identity, sexual orientation, disability, age or health status. This means that, within minority communities, some individuals who are already struggling against intolerable levels of generalized exclusion also face compounded forms of discrimination or violence based on their gender, personal identity or expression. As a result, the independent expert intends to consider the compounded and often negatively reinforcing nature of multiple forms of exclusion as she undertakes her work, while also highlighting the importance of protecting diverse forms of personal expression.

29. Taking these various considerations into account, the independent expert will focus her work on national, ethnic, religious, linguistic and cultural groups whose generally non-dominant positions within their societies demand protection to allow them to exercise their rights to the fullest.

III. METHODS OF WORK

30. In carrying out her mandate, the independent expert will undertake various methods of work in order to achieve the most efficacious results. In the section that follows, the independent expert will describe the activities she plans to pursue under the terms of her mandate, as provided in Commission resolution 2005/79.

(a) To promote the implementation of the Declaration on the Rights of Minorities, including through consultations with Governments, taking into account existing international standards and national legislation concerning minorities

31. The independent expert believes that there is a lack of knowledge and understanding regarding minority rights as set out in the Declaration on the Rights of Minorities, as well as regarding the value of diversity in general. This hinders the full and effective implementation of minority rights. The role of minority rights in promoting equitable development and peace and

stability, has not been fully appreciated. As such, the independent expert believes that it is important to publicize widely the content of the Declaration on the Rights of Minorities and her mandate to States, the public at large and within the United Nations itself.

32. To promote an understanding of minority issues, the independent expert plans to develop her existing page at the OHCHR website (www.ohchr.org/english/issues/minorities/expert/index.htm) as a resource. This will include information about the independent expert's mandate and activities. Documents and further information relating to minority issues and the Declaration on the Rights of Minorities will be provided. The website will link to and complement other Web-based information sources on minority issues including those of States, academic and research institutions and civil society. Much of this information will also be provided in a pamphlet about the independent expert's mandate, which will be published in collaboration with OHCHR, translated into the six official languages, and reproduced for use within the United Nations Guide for Minorities.

33. The independent expert will participate in relevant expert seminars and conferences to promote the Declaration on the Rights of Minorities, including the annual sessions of the Working Group on Minorities. She will encourage public attention to the issues and her work, and will promote policy-oriented research and dialogue including with regard to specific matters.

34. In carrying out her mandate, the independent expert will receive information from diverse sources including States, expert bodies, United Nations agencies, regional and other inter-governmental organizations, NGOs and other civil society organizations. Based on such information, she will communicate with States concerning implementation of the Declaration on the Rights of Minorities, where appropriate. Communications will include requests for further consultation and information relating to good practices on minority issues.

35. At the invitation of Governments, the independent expert may also undertake country visits to further constructive consultation, observe relevant programmes and policies, register concerns, and identify areas for cooperation. She will study national legislation, policy, regulatory frameworks and institutions and practices, in seeking to promote the effective implementation of the Declaration on the Rights of Minorities.

(b) To identify best practices and possibilities for technical cooperation by the Office of the United Nations High Commissioner for Human Rights at the request of Governments

36. The independent expert will seek to identify and disseminate best practices with regard to minority issues, as well as possibilities for technical cooperation. To this end, she will collaborate with sources of technical expertise, including OHCHR branches and units relating to technical cooperation and capacity-building, anti-discrimination, rule of law and democracy, national human rights institutions and treaty bodies. The independent expert notes that early work is required to identify and collect resources relating to technical cooperation relevant to minority issues.

37. The independent expert recognizes the need for greater implementation of the Declaration on the Rights of Minorities at the national level and notes that respect for minority rights entails positive obligations on the part of the State. In general comment No. 23, the

Human Rights Committee made clear that, in fulfilling article 27 of the ICCPR, “positive measures of protection are ... required not only against the acts of the State party itself, whether through its legislative, judicial, or administrative authorities, but also against the acts of other persons within the State party”. The independent expert will identify and disseminate best practices of States in this area as well, in addition to possible areas of technical cooperation.

38. The independent expert notes that, in situations where deeply entrenched societal inequalities have taken root, States may have the legal obligation to take affirmative measures to secure the adequate advancement of minority groups. With this in mind, the independent expert will also collect and disseminate information about affirmative-action policies and practices and identify areas for possible technical cooperation in this area.

39. To this end, she will work to develop a questionnaire regarding the measures that have been taken to implement the Declaration on the Rights of Minorities in national contexts. The independent expert will evaluate the questionnaire responses when identifying best practices for implementing the Declaration on the Rights of Minorities and areas of possible technical cooperation.

(c) To apply a gender perspective in her work

40. The independent expert will consider in detail the different ways that denials of rights are manifested in the experiences of both men and women, and girls and boys. In this regard, she takes note of CERD’s general recommendation XXV, which makes clear that:

There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life.

41. CERD notes that “women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life”. Multiple or intersectional discrimination raises particular concern, for example, in situations of armed conflict and civil unrest, where women may be subjected to violence including crimes against humanity on the grounds of their ethnicity, religion, language, or identification with other minority groups.

42. The independent expert will also devote attention to the situations of those members of minority groups who experience multiple forms of discrimination, based on aspects of their identities and personal realities such as sexual orientation or gender expression that challenge social or cultural norms.

43. The independent expert will consider best practices for addressing these differing experiences of women and men. She will encourage and seek to facilitate effective collaboration, and sharing of information and lessons learned, between actors engaged on gender

issues and those working on minority issues. She will consult closely, and seek to collaborate with, the Committee on the Elimination of Discrimination against Women (CEDAW) regarding its experience in gender discrimination, and welcomes an exchange of expertise with that body.

(d) To cooperate closely, while avoiding duplication, with existing relevant United Nations bodies, mandates, mechanisms as well as regional organizations

44. The Declaration on the Rights of Minorities states in article 9 that “the specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their relevant fields of competence”.

45. The independent expert welcomes the opportunity to collaborate with these existing bodies, mandates, mechanisms and organizations in the fulfilment of her mandate. While many existing structures will have a great deal to contribute to the independent expert’s work, she realizes that her mandate will play a unique function among these groups and will not duplicate their work. Mainstreaming initiatives throughout the United Nations will be important in this regard and are elaborated on later in this report.

46. As was noted in the report of the High Commissioner for Human Rights on the rights of persons belonging to minorities, submitted to the sixtieth session of the Commission (E/CN.4/2004/75), before the establishment of the independent expert’s mandate:

Numerous observers representing Governments, non-governmental organizations or minorities and wider civil society, including independent experts, are of the opinion that some challenges facing minorities have not been appropriately covered by existing mandates, for structural or functional reasons. As minority issues do not constitute the main focus of the existing mandates, inevitably the mandates are unable to reflect the full range of concerns relevant to minorities.

47. The independent expert is concerned by the number of communications regarding violations of human rights that display discrimination, racism or xenophobia against a minority group and its members as a root cause. Often, the minority rights component of such communications is hidden and therefore the wider context of issues arising out of the minority status of the victims is neglected and remains unaddressed in subsequent attempts to achieve solutions for individuals or communities. The independent expert believes that greater attention given to the root causes of grievances may reveal issues of concern relating to minorities.

48. The independent expert aims to collaborate closely with OHCHR and its existing field offices to promote mainstreaming of minority issues, and to develop a greater awareness of minority issues and the Declaration on the Rights of Minorities within these offices. Awareness-raising, training and capacity-building initiatives to this end will be encouraged under the auspices of OHCHR, taking into account ongoing training and staff development priorities. Information on minority issues relevant to field offices and staff will be provided in a systematic manner to assist them in their treatment of minority issues.

49. The independent expert intends to work collaboratively with the Working Group on Minorities of the Sub-Commission with a view to avoiding duplication, taking advantage of the differences in their mandates and identifying the best methods of creating synergies. She holds the work of the Working Group in high regard and values its work and practices, which provide for unique dialogue with minorities themselves and foster constructive dialogue between Governments and minority groups. Her work will be informed by the conceptual framework on issues involving minorities, which has been so ably developed by the Working Group. The independent expert actively supports and encourages the continuation of the Working Group's mandate.

50. In carrying out her mandate, the independent expert will also work in close cooperation with United Nations treaty bodies, as appropriate. In her consultation with Governments, she will work to strengthen State reporting to treaty bodies on minority rights, and develop guidelines to that end in consultation with such bodies. In particular, she envisages a close working collaboration with the Committee on the Elimination of Racial Discrimination. She welcomes CERD initiatives in the field of genocide prevention and the development of indicators for that purpose.

51. The independent expert will consult closely with the Human Rights Committee relating in particular to its work on, and treatment of, minority rights under article 27 of the International Covenant on Civil and Political Rights and application of the principles of non-discrimination and equality. Equally, the Committee on the Rights of the Child will be consulted regarding its consideration of minority rights under article 30 relating to children belonging to minority groups. The Committee on the Elimination of Discrimination against Women has a valuable role to play in regard to emerging work on intersectional and multiple forms of discrimination against minority women.

52. The independent expert will also collaborate with other special procedures of the OHCHR and the Secretary-General and share information with relevant mandate-holders whenever appropriate. With these individuals and bodies, she will highlight the central role that issues relating to minorities play in emerging best practices, and in a variety of other effective human rights promotion activities. The independent expert also encourages other mandate-holders to identify, and bring to her attention cases involving minority rights violations for further investigation. The independent expert will consult closely with other mandate-holders on matters pertaining to joint initiatives, communications and visits.

53. The independent expert will also explore possible means of collaboration with other United Nations bodies and specialized agencies including United Nations Development Programme, United Nations Educational, Scientific and Cultural Organization, United Nations Children's Fund, International Labour Organization and United Nations High Commissioner for Refugees, whenever their work bears on her mandate. She will consult with these bodies to share information and strengthen understanding and capacity in regard to minority issues, as appropriate to their specialist fields of activity and programmes of work.

54. The independent expert also plans to work together with regional intergovernmental human rights and other mechanisms when possible. In September 2005, she sent letters to the Organization for Security and Cooperation in Europe (OSCE) High Commissioner on National Minorities and to the President of the Advisory Committee under the Framework Convention for

the Protection of National Minorities at the Council of Europe, expressing her desire for future collaboration and sharing of information and expertise. She will also consult with other mechanisms including those of the African Union (AU), and those of the Organization of American States (OAS). The independent expert remains available in an advisory capacity to all regional and other bodies pursuing work on minority and related issues.

(e) To take into account the views of non-governmental organizations on matters pertaining to his or her mandate

55. The independent expert recognizes that NGOs have been instrumental in establishing her mandate. She realizes that NGOs are often uniquely positioned to provide timely information on situations involving minorities. As such, she will seek regularly to meet and consult with NGO representatives, particularly those directly representing minority communities, and she will solicit their views. She will establish specific guidelines about how NGOs should submit information to her. These will be published and made available through online sources, including her page at the OHCHR website, and within the pamphlet noted above. In all appropriate activities relevant to her mandate she will consult with and seek the participation of representatives of minority groups.

56. The independent expert considers that NGOs have a vital role to play in the fulfilment of her mandate in the provision and dissemination of information relating to minorities, to civil society networks and directly to minority communities. She will work closely with NGOs to encourage the dissemination of information to rights holders. A counterflow of information relating to minority issues and the situations of minorities, including legislation relating to minorities, will be encouraged to her office and other relevant bodies.

57. The independent expert also acknowledges the work of numerous academic, legal, research and independent policy development organizations regarding minority issues. She will consult with these organizations in all aspects of their work relevant to her mandate. She will also aim to develop linkages between these institutions, United Nations bodies and agencies, States and minorities.

IV. AREAS OF CONCERN AND PRIORITIES FOR THE INDEPENDENT EXPERT'S INITIAL TWO-YEAR MANDATE

58. At this early stage of her mandate, it is not possible for the independent expert to provide a comprehensive picture of the human rights situation of minorities around the world. However, drawing on information received by bodies, including the Working Group on Minorities, and from numerous communications by NGOs, it is possible to identify and group together some of the concerns that are being raised consistently within minority communities in all regions.

59. The independent expert encourages States to recognize that attaching appropriate value to ethnic and cultural diversity is conducive to fostering inclusive national identities and the rewards of stability and development. This is especially true within States that have become increasingly heterogeneous within a relatively short period of time. In some States, important debates about language, religion, social inclusion, political participation, citizenship, poverty and identity often assume a negative tone that is not conducive to social cohesion or harmony.

60. Serious concerns also arise in States emerging from communal violence and conflicts. There is an urgent need in such societies that minorities feel reassured that their new post-war societies fully embrace multi-ethnic identities and provide effective participation to previously warring ethnic or religious factions. Within that context, the independent expert will seek to highlight best practices and effective mechanisms for valuing diversity as an organizing principle within democratic systems.

61. The independent expert is deeply concerned by the proliferation of counter-terrorism measures that violate the rights of minority communities and create a climate that emboldens abusive individuals. Some communities, including ethnic and religious minorities, are disproportionately affected by counter-terrorism measures, including the use of emergency powers in relation to normal judicial processes. These communities are under more stress, their livelihoods are more threatened and the value of their integration is more brazenly questioned in the post-September 11 security environment. The independent expert stresses that counter-terrorism measures should be implemented only in full consideration of minority rights, and that, in times of public emergency, measures restricting other rights must not be discriminatory on the grounds of race, colour, sex, language, religion or social origin. In this regard, the independent expert will seek to work with the new Special Rapporteur on the promotion and protection of human rights while countering terrorism.

62. Given the breadth of work that demands attention with respect to minority issues, the independent expert believes it is important to focus her upcoming work on three broad strategic objectives that will promote the broader goals of minority inclusion in society and minority protection within the United Nations system. These three objectives are (a) to increase the focus on minority communities in the context of poverty alleviation and development; (b) to increase the understanding of minority issues in the context of ensuring stable societies; and (c) to mainstream the consideration of minority issues within the work of the United Nations and other important multilateral forums. The identification of these three objectives in no way precludes the independent expert from addressing other issues or emergency concerns as the need arises. Rather, it is intended to shape the contours of her work under the mandate, and to respond in a concrete way to some of the most important global concerns in the areas of minority inclusion and protection.

63. In furtherance of these three strategic objectives, the independent expert will apply the provisions and principles of the Declaration on the Rights of Minorities. By working within such a framework, she will provide a unique and otherwise overlooked consideration of minority issues, ensuring that her work brings added value separate and distinct from the work of other United Nations mandate-holders and bodies.

Poverty and minority communities

64. Minority groups that face widespread discrimination or exclusion are much more likely than other groups to be impoverished. The facts are both obvious and overwhelming. The poorest communities in almost any region tend to be minority communities that have been targets of longstanding discrimination, violence or exclusion. As such, poverty within minority

communities must be viewed as both a cause and a manifestation of the diminished rights, opportunities, and social advancement available to the members of that community as a whole. And efforts to reduce poverty are essential to larger efforts to promote the full range of civil, political, social and economic rights for minority communities.

65. Poverty in this context involves more than just a lack of income or a daily struggle for basic sustenance. Poor communities are generally less able to participate effectively in political decision-making or to access mechanisms of justice when their rights are violated. They suffer from unequal access to education, health care, employment and land. Without a targeted focus on their needs and rights, they will remain disproportionately impoverished. And without a more coherent effort to reduce poverty through targeted strategies that specifically reach out to minority communities, the international community will fail to achieve, or sustain, the important targets set within the Millennium Development Goals (the Goals).

66. The independent expert is concerned that the most marginalized communities, including minorities, are failing to benefit from international efforts to achieve the Goals. She welcomes work done by States, development agencies, international financial institutions, United Nations bodies and agencies and NGOs to ensure that the Goals are achieved for all disadvantaged communities. However, she will seek to elevate her concerns about the need for development programmes, policies and activities to take fully into account the needs and rights of minorities with States and among all development actors. She will consult with bodies, including UNDP, to ensure that work in this regard benefits from their experience, country offices and wider country engagement strategies.

67. The independent expert also believes that poverty reduction strategies developed by States and international financial institutions to address poverty and social exclusion are valuable in achieving the Goals. In consultation with States, international financial institutions and civil society, she will identify best practices and effective implementation strategies. She will consult with States that have Poverty Reduction Strategy Papers (PRSPs), to assist them in their consideration of minority issues. She will promote the participation of minorities in policy development, implementation, monitoring and evaluation of PRSPs.

68. Within this context, the independent expert has identified the use of disaggregated social, economic and development data as a tool that is of significant importance in the development field and to minority communities more generally. Disaggregated data, and especially statistical information on poverty, income and economic participation that can be broken down and analysed across specific groups, reveals inequalities between communities and allows for policy decisions and programmes that address those inequalities. Such data is essential in the promotion and protection of minority rights. The collection, analysis and dissemination of disaggregated data is also essential in building a common national identity based on equality and non-discrimination. As such, in those countries with existing capacity, the independent expert will emphasize in her consultations with Governments the importance of disaggregating data. She will also identify good practice in regard to data collection and statistical methodologies and develop strategies for the implementation of these efforts. In those countries lacking resources and capacity, she will consult closely with Governments to ensure the delivery of technical assistance.

Promoting inclusion and stability

69. Minority rights, inclusion and equality play an important role in promoting political and social stability and peace, as stated in the 2005 World Summit outcome document. The independent expert considers the development of methodologies for the implementation of law and policy relevant to inclusion and equality as inherent to her mandate.

70. The independent expert recognizes that exclusion, discrimination and racism directed at minority groups may result in social unrest based on inequality. To reduce this risk, she will engage with and support initiatives to identify and understand the causes and prevalence of discrimination against minorities that may lead to conflict and instability. Technical assistance in the area of legislative and policy reform will seek to promote effective strategies of social cohesion, equality and non-discrimination to assist in addressing such situations.

71. In April 2004, in a speech commemorating the tenth anniversary of the 1994 genocide in Rwanda, Secretary-General Kofi Annan stated that, "We must protect the rights of minorities, since they are genocide's most frequent targets." The independent expert intends to collaborate closely with the Special Adviser to the Secretary-General on the Prevention of Genocide and with United Nations bodies such as CERD, to discuss strategies for effective early warning and conflict prevention, including through the development and implementation of social indicators that could highlight patterns of extreme violence or social exclusion aimed at or affecting minority communities. These indicators may be useful tools for identifying concerns in the earliest stages of a deteriorating situation, perhaps many years or even decades before grievances develop into violence within a particular region or State. The independent expert looks forward to initiating a dialogue with the Special Adviser to help identify the earliest structural warnings, including those that may be apparent with respect to minority communities, before other early warnings and other procedures are ever triggered.

72. The independent expert considers that peacebuilding initiatives will also benefit from more reliable information and systematic attention to minority issues. The full and effective participation of minority communities and their representative associations or NGOs is especially critical to the success of peacebuilding efforts after communal violence and conflict. In this context, the independent expert welcomes the establishment of a Peacebuilding Commission and will seek to support its work.

Mainstreaming minority issues at the United Nations

73. The independent expert will promote the effective mainstreaming of minority issues across the United Nations system, recognizing that situations involving minorities often lie at the nexus of efforts to promote human rights, development and security. She recognizes the many important efforts that have already been taken in this regard, and supports the elaboration of a policy on minorities for OHCHR and other United Nations bodies and the establishment of an inter-agency dialogue on minority issues. The independent expert will encourage these dialogues among representatives of regional bodies, international financial institutions, and other development agencies as well.

74. A particular need exists for mainstreaming minority issues in areas of United Nations work relating to poverty reduction and the promotion of political and social stability. Existing best practices in regard to the mainstreaming of gender perspectives should be considered and replicated as appropriate. Existing “focal point” methodologies may be used to assist in mainstreaming initiatives, especially in regard to staff training and capacity-building needs on minority issues across the United Nations system.

75. Training and information initiatives should benefit all United Nations field staff, to ensure they are able to identify and monitor minority issues within their specific area of responsibility. This will increase their capacity to provide expert technical assistance to Governments when required.

V. ACTIVITIES

Consultations

76. From 19 to 21 September 2005, the independent expert visited Geneva and met with the High Commissioner for Human Rights and members of the High Commissioner’s staff, to discuss the independent expert’s mandate. She also held consultations in Geneva with representatives of the diplomatic missions of Austria (sponsor of the resolution establishing the independent expert’s mandate), Ethiopia (for the Group of African States), Armenia (for the Group of Eastern European States), Mexico (for the Group of Latin American and Caribbean States), and Ireland (for the Group of Western States). She also met with members of the diplomatic missions of Hungary and Switzerland. Finally, the independent expert held a joint consultation in Geneva with several NGOs.

77. On 22 September 2005, the independent expert visited London and held consultations with the NGOs Minority Rights Group International and Amnesty International. During these meetings, the independent expert solicited the views of NGO representatives on possible areas of focus for her mandate and discussed the prospect of future cooperation.

78. On 28 September 2005, in Washington D.C., the independent expert was consulted by representatives of minority communities in Bangladesh and, on 20 October 2005, by representatives of Haitian communities living in the Dominican Republic.

Communications

79. On 7 September 2005, the independent expert joined the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the human rights of migrants in sending a letter to the Government of the Dominican Republic concerning the situation of Haitians residing there. The independent expert and Special Rapporteurs provided the Dominican Republic with six questions about the situation there and asked the Government of the Dominican Republic to respond within 60 days. As of 5 January 2006, the independent expert had received no response.

80. In addition, on 2 November 2005, the independent expert joined the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the situation of human rights in Myanmar, the Special Rapporteur on the promotion and protection of the

right of freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the sale of children, child prostitution, and child pornography, and the Special Rapporteur on trafficking in persons, especially women and children, in submitting a communication to the Government of Myanmar. The independent expert and Special Rapporteurs provided Myanmar with 15 questions on these issues, including 1 on minority issues, and asked the Government to respond within 60 days. As of 5 January 2006, the independent expert had received no response.

Conferences

81. From 2 to 4 November 2005, the independent expert participated in an expert seminar hosted by the Working Group on Minorities and OHCHR in Chincha, Peru, which focused on people of African descent in the Americas region, entitled “Strategies for the inclusion of people of African descent in programmes to reduce poverty, especially to achieve Millennium Development Goal 1”. The text of the report which the independent expert presented at this expert seminar will be available on the independent expert’s web page.

82. On 29 November 2005, the independent expert testified before the drafting committee for the proposed inter-American convention against racism and all forms of discrimination and intolerance of the Organization of American States. In her testimony, she urged that the proposed convention reaffirm the Declaration on the Rights of Minorities and guarantee the rights of minority groups. The complete text of the independent expert’s testimony will be available on the independent expert’s web page.

VI. CONCLUSIONS

83. Respect for minority rights benefits States and societies in terms of securing the richness of cultural diversity, reflecting their full heritage and contributing to social cohesion. It also advances the conditions for political and social stability and peace. Rather than promoting segregation and separation, minority rights are based on the principle of an integrated society, where each can use one’s own language, enjoy one’s culture and practise one’s religion but still feel part of a broader, inclusive national identity. However, to fully exploit this positive potential of minority rights to benefit societies as a whole, advances must be made in promoting minority rights and, most importantly, in highlighting best practices for effective implementation of minority rights in contemporary situations.

84. Anti-discrimination, while a key element, is not sufficient in itself to guarantee fully minority rights. Minority rights go beyond anti-discrimination to address the issues of those who may seek to promote and preserve their distinct identity. The opportunity to participate fully and effectively in all aspects of society, while preserving group identity, is essential to true equality and may require positive steps on the part of Governments. Minority rights are not about giving some communities more than others. Rather, they are about recognizing that, owing to their minority status and distinct identity, some groups are disadvantaged and are at times targeted, and that these communities need special protection and empowerment. All States should seek to realize the goal of equality in diversity, in law and in fact.

85. The independent expert recognizes that insufficient resources and capacity affect the activities of minorities in promoting and protecting their rights, and limit the work of other bodies, including United Nations mechanisms, in regard to minority issues. In the light of such restrictions, she welcomes Economic and Social Council decision 2004/278 of 22 July 2004 to recommend to the General Assembly that it give favourable consideration to the establishment of a voluntary fund on minority-related activities. She encourages the adoption of such a decision as a means of supporting the implementation of the goals of protection and empowerment as set out in the OHCHR Plan of Action.

86. The independent expert reiterates the principle provided in the commentary to the Declaration on the Rights of Minorities that States have positive obligations not only [to] tolerance “but a positive attitude towards cultural pluralism on the part of State and the larger society. Not only acceptance but also respect for the distinctive characteristics and contribution of minorities to the life of national society as a whole are required”. The independent expert will draw from the wealth and variety of existing positive experiences and practices to assist her in fulfilling the requirements of her mandate.
