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**PREVENTION OF DISCRIMINATION AND PROTECTION OF
INDIGENOUS PEOPLES AND MINORITIES**

Report of the Working Group on Minorities on its eighth session*

(Geneva, 27-31 May 2002)

Chairman-Rapporteur: Mr. Asbjørn Eide

* This document was submitted late to the Documents Management Section because of the dates of the eighth session of the Working Group.

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction	1 - 5	3
I. ORGANIZATION OF THE SESSION	6 - 10	3
A. Attendance	6 - 8	3
B. Documentation	9	4
C. Organization of work	10	4
II. REVIEWING THE PROMOTION AND PRACTICAL REALIZATION OF THE DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES.....	11 - 26	4
III. EXAMINING POSSIBLE SOLUTIONS TO PROBLEMS INVOLVING MINORITIES, INCLUDING THE PROMOTION OF MUTUAL UNDERSTANDING BETWEEN AND AMONG MINORITIES AND GOVERNMENTS	27 - 57	7
A. Discussion on autonomy and integration	27 - 48	7
B. Discussion on development issues and minorities	49 - 57	11
IV. RECOMMENDING FURTHER MEASURES, AS APPROPRIATE, FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES	58 - 67	12
V. FUTURE ROLE OF THE WORKING GROUP	68 - 72	14
VI. CONCLUSIONS AND RECOMMENDATIONS	73	15
<u>Annexes</u>		
I. List of participants		20
II. List of documents before the Working Group on minorities at its eighth session		23

Introduction

1. The Working Group on Minorities of the Sub-Commission on the Promotion and Protection of Human Rights held its eighth session at the Palais des Nations in Geneva from 27 to 31 May 2002.
2. At the first meeting, the Chief of the Research and Right to Development Branch of the Office of the High Commissioner for Human Rights, Stefanie Grant, made a statement urging Governments to make further contributions to the Office so that it could continue to organize activities on minority rights issues.
3. The Chairman-Rapporteur, Asbjørn Eide, recalled that the main purpose of the Working Group was to propose constructive solutions to various problems that minority peoples faced. He noted that the promotion and protection of minority rights would contribute to social stability and friendly relations among nations. He also stressed that actions undertaken by Governments to maintain law and order should be measured against international human rights standards.
4. Mr. Eide recalled the mandate of the Working Group. He further noted some substantive issues to be taken into account: (a) language and education policy in a multicultural and intercultural society; (b) protection of religious freedom; (c) effective participation of minority persons in economic and social life; and (d) the issue of minorities and development. He recalled work undertaken by the Working Group the previous year, including a seminar in connection with the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa, in August/September 2001, a successful country visit to Mauritius, and regional seminars held in Botswana, Honduras and Canada. He expressed his appreciation to the former member of the Working Group, Y.K.Y. Sik Yuen, for his contribution. He concluded by appealing to Governments to make voluntary contributions to enable the Working Group to carry out its mandate.
5. In view of the instruction of the Secretary-General to reduce reports to 16 pages, the Chairman-Rapporteur is regretfully not able to reflect fully all statements made at the session in the present document.

I. ORGANIZATION OF THE SESSION

A. Attendance

6. The Working Group held nine public meetings and one private meeting during its eighth session.
7. The session was attended by the following members or alternates: José Bengoa, Asbjørn Eide (Chairman-Rapporteur), Vladimir Kartashkin, Soli Sorabjee and Leila Zerrougui.
8. The eighth session of the Working Group was attended by observers for 52 States, 62 non-governmental organizations, 2 United Nations organizations and specialized agencies, 1 intergovernmental organization and 10 universities and other institutions. The list of participants is contained in annex 1.

B. Documentation

9. The documents before the Working Group are listed in annex II. All the working papers submitted are available from the secretariat or are to be found at <http://www.unhcr.ch>.

C. Organization of work

10. At its first meeting, on 27 May 2002, the Working Group, in accordance with its mandate, adopted the following agenda:

1. Adoption of the agenda.
2. Organization of the work.
3.
 - (a) Reviewing the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities;
 - (b) Examining possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;
 - (c) Recommending further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.
4. The future role of the Working Group.
5. Other matters.

At the same meeting, the Working Group adopted a programme of work.

II. REVIEWING THE PROMOTION AND PRACTICAL REALIZATION OF THE DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

11. The Chairperson-Rapporteur, introduced item 3 (a) recalling that the sub-item provided an opportunity to consider the present situation with respect to minority rights.

12. Mr. Bengoa recalled the work undertaken during the previous year. In the context of the follow-up to the Durban Conference, he stressed the importance of taking into account the various regional seminars already mentioned by the Chairperson and the representative of OHCHR. He further noted the emerging issue of the definition of indigenous peoples and minorities, which had come up in the Botswana workshop on multiculturalism in Africa. In that regard, it was important to utilize the information acquired and the past work achieved by the Working Group.

13. The Chairperson agreed on the need to discuss further the concepts of minority and indigenous peoples as they applied in Asia and Africa. He acknowledged the complexity of the subject and hoped that it would be possible to organize other regional seminars, including in Asia.

14. The lack of legal recognition of minorities was mentioned by the observer for the Centre for Minority Rights Development who said that no steps had been taken by the Government of Kenya to recognize the existence of minorities in the Constitution. The observer for Majlis (on behalf of the indigenous Metei people of Manipur) stated that the identity of the people of Manipur in India was ignored by the Government and by the majority of India and that they were often asked for proof of citizenship. The observer for Casa de la Cultura Indo-Afro-Americana stressed the need to recognize Afro-descendants as a minority in Argentina. She said that a human rights defender for Afro-descendants had been arrested in Argentina and the case had been found racially discriminatory by the Inter-American Court of Human Rights.

15. The absence of State measures to protect non-Arab minorities in Iraq was mentioned by the observer for the Kurdistan Bar Association and the observer for the Turcoman Movement in Iraq. The observers said that the Government of Iraq denied rights to the Kurdish minority who had been removed from their lands in oil-producing areas. The observer for Iraq said that article 5 of the Constitution ensured equal rights for all, including the Kurdish people. There was no discrimination on the basis of a religious belief, and autonomy and the Kurdish language were promoted. He further stated that Iraq was striving to solve the Kurdish issue and that there was no attempt to displace the Kurdish population from oil-producing regions.

16. A number of non-governmental organizations (Indian Muslim Federation (UK), Centre for Study of Society and Secularism, the World Muslim Congress) expressed concern regarding the current violence prevailing in Gujarat, India. They reported mass violations against the Muslim minority in the region. They said that the Government of India had failed to bring the perpetrators to justice. The observer for the World Council of Arya Samaj also expressed concern about the religious clashes in Gujarat and referred to investigations carried out by civil society organizations. The observer for India emphasized that the situation in Gujarat, where violence had been committed by both sides, had brought anguish to the entire Indian population. He mentioned India's long tradition of harmony between people of different religions and asserted that the current violence would not affect this tradition. The Government had made great efforts to normalize the situation; persons suspected of having participated in atrocities had been detained and rehabilitation programmes had been initiated for the victims.

17. The observer for Sudanese Women's Voice for Peace referred to the conflict in Sudan which exacerbated the atrocities committed against minority groups. The absence of State measures to protect minorities was also mentioned by the observer for the Centre for Inter-ethnic Cooperation, who expressed concern about the human rights violations by the Russian army in Chechnya. The observer for the Russian Federation said that government involvement in Chechnya was an act of counter-terrorism.

18. The observer for Sri Lanka recognized that the preservation of language, religion and culture could be protected only if the group identity were preserved. However, there was a

danger that the glorification of group identity might lead to the sacrifice of individual rights and only through the protection of individual rights could minority group identity be protected. The observer for the Baha'i International Community alleged persistent persecution of the Baha'i community in the Islamic Republic of Iran. She stated that the Baha'i were not recognized as a religious minority under the Iranian Constitution.

19. The observer for the World Forum of Fisher Peoples stated that multinational fishing corporations were threatening the livelihood of indigenous and minority small-scale fisher people, who numbered more than 100 million in Africa and Asia and who depended entirely on fish for their livelihoods. The observer for the Movimiento de Mujeres Dominicano-Haitianas underlined that the right to nationality of Haitian descendants in the Dominican Republic was being violated. Therefore, they were subject to expulsions and could not fully participate in the public life of the country.

20. The observer for the Balochistan Rights Movement referred to the situation of the Baluchi people in Pakistan whose rights of ownership were being denied. He stated that the national plans for exploiting Balochistan's petroleum reserves did not provide his people with adequate compensation. He alleged that military actions had been used by the Government of Pakistan to oppress minority provinces.

21. The observer for Cymuned stated that the Welsh-speaking minority of Wales in the United Kingdom was experiencing increasing difficulties in enjoying its right to continue as a distinct cultural and linguistic group. He argued that the Government of the United Kingdom should adopt appropriate legislative measures to nurture this minority language. In response, the observer for the United Kingdom stressed that his Government was taking steps to promote the Welsh language through the Welsh Assembly's Culture Committee which was expected to report at the end of June 2002.

22. The observer for the Bhutan Women and Children Organization referred to the situation of Bhutanese Nepali-speaking refugees in Nepal. She stated that children born in refugee camps were being denied the right to nationality and the right to return to Bhutan. Their right to education was also being denied. She said that Bhutan had enacted discriminatory legislation targeted at Nepali-speaking people in Bhutan, and that their rights were also being violated with respect to obtaining employment and travel documents.

23. The observer for the Western Thrace Minority Graduates Association reported on a Greek policy to discriminate against Greek members of the Turkish Muslim minority. He argued that the minority education system was not being maintained. This included the lack of trained minority teachers and lack of education in the mother tongue of the minority. The observer for Greece stated that the Turkish Muslim minority was free to practise their religion, culture and language. Freedom of association was guaranteed both in law and practice. He further stated that education for minorities was provided in the Greek and Turkish languages, and drew attention to the concluding observations of the Committee on the Elimination of Racial Discrimination, which welcomed measures taken by the Government to promote minority rights.

24. The observer for the Centre for Multiculturality stated that civil war and the economic crisis in the former Yugoslavia had resulted in the reduction of minority rights. Education in

minority languages had been significantly reduced due in part to the lack of qualified minority teachers. The observer for the Quaker Service in Laos said that there was growing concern that education was not being provided to Hmong minority children. The denial of minority education was also mentioned by the observer for the Turcoman Movement in Iraq regarding the Kurdish minority there, and the observer for the Observatory of Linguistic Rights regarding the Basque people whose right to have classes and examinations in the Basque language at the University of Navarre was denied.

25. The observer for the Union pour l'émancipation de la femme autochtone said that Pygmy people faced discrimination and marginalization in the Congo. She stressed the need for their effective participation in decision-making.

26. The observer for Yugoslavia drew attention to the recently adopted law on the protection of rights and freedoms of national minorities in Yugoslavia. The law envisaged the establishment of a Federal Council for National Minorities to address the question of how best to promote and protect national minority rights.

III. EXAMINING POSSIBLE SOLUTIONS TO PROBLEMS INVOLVING MINORITIES, INCLUDING THE PROMOTION OF MUTUAL UNDERSTANDING BETWEEN AND AMONG MINORITIES AND GOVERNMENTS

A. Discussion on autonomy and integration

27. The Chairman introduced item 3 (b) and noted that the Working Group had decided to continue its discussion on autonomy and integration begun at its previous session. The discussion began with the report of the International Seminar on Autonomist and Integrative Approaches to Minority Protection, held on 3 and 4 April 2002 in Copenhagen at the invitation of the Danish Centre for Human Rights (E/CN.4/Sub.2/AC.5/2002/WP.1), which was presented by Zelim Skurbaty and Tom Hadden. The seminar had examined Mr. Eide's report on measures for cultural protection, Prof. Heintze's discussion of the advantages of a flexible concept of autonomy and Mr. Simon's exploration of self-determinative and humanitarian autonomy. As it was acknowledged that the seminar might have been Euro-centric, the participants recommended that the Working Group on Minorities organize similar seminars in Latin America, Asia and Africa. The seminar had also concluded that the word "self-determination" was inappropriate as it raised political difficulties.

28. Mr. Kartashkin questioned references made during the seminar to humanitarian and self-determinative autonomy. He felt that these approaches were dangerous and emphasized that self-determination was not a minority right. He suggested that future studies and seminars be conducted in the Commonwealth of Independent States and Baltic countries in order to investigate different approaches to protecting minorities.

29. The observer for Partners in Participatory Development (on behalf of the Muslim community in Sri Lanka), referring to the ongoing efforts to achieve peace in that country, noted

that power-sharing arrangements were essential for effective participation in decision-making. The observer for Sri Lanka said in response that the Government sought to hear all voices in its plan to create a united Sri Lanka.

30. Numerous NGOs made general comments about autonomy and stressed the need for action owing to ongoing violations of minority rights. The Pastoralist Concern Association Ethiopia mentioned that minority participation in land use, drought management and conflict resolution was vital. Regarding the situation of the Roma and Albanian minorities in the former Yugoslav Republic of Macedonia, the Roma youth organization Anglunipe and the Association for Democratic Initiatives stressed that while both minorities had been nationally recognized in 1991, they did not enjoy full and effective participation in public life. The observer for the Kurdish Reconstruction Organization appealed to the Working Group to help the Kurdish people of Iraq gain self-determination. Several observers commented on the situation of Muslims in India who had been unable to participate in national decision-making.

31. Minority Rights Group International outlined its publication dealing with effective participation of minorities in decision-making processes. The report recommended that States review restrictive citizenship policies as citizenship often facilitated participation. It also suggested that power sharing should be based on parties and not on ethnicity, and that institutions such as a minority ombudsman should be established.

32. Mr. Sorabjee explained the concept of cultural autonomy, including the accompanying minority rights to freely practise their religion and to have their own media. Mr. Sorabjee also concluded that minorities should have a voice but not a veto concerning democratically adopted legislation.

33. Professor Fleiner from the Institute of Federalism in Fribourg emphasized that in places like the former Yugoslavia where minority problems were deeply entrenched, a strong human rights policy could only be effective if there was also democratic consensus.

34. Mr. Bengoa commented that autonomy was becoming the preferred approach as the demand for secession decreased. He therefore suggested the need for legal analysis and a code of conduct concerning autonomy.

Americas

35. Mr. Bengoa presented the report of the regional seminar on Afro-descendants (E/CN.4/Sub.2/AC.5/2002/5) organized by OHCHR in La Ceiba, Honduras, from 21 to 24 March 2002. He said that the World Conference had been a milestone for Afro-descendants as they were recognized as a minority group as a whole. The observer for All for Reparations and Emancipation said that the seminar showed that "minorities" was an evolving term; it could denote who had the minority of power and wealth, and clearly Afro-descendants were usually the minority in that respect.

36. Cecilia Thompson of the International Centre for Ethnic Studies presented the report of the Conference on the Rights of Minorities of African Descent in the Americas (E/CN.4/Sub.2/AC.5/2002/WP.2) (Montreal, 27-30 December 2001), whose main aim of the

seminar was to identify similar problems faced by Afro-descendants and to examine the outcomes of the World Conference. The participants had discussed participation in decision-making, discrimination, and the role of regional and international mechanisms in the protection of minority rights.

Africa

37. Julian Burger, on behalf of the Office of the High Commissioner for Human Rights, presented the report on the third regional workshop on multiculturalism in Africa held in Gaborone from 18 to 22 February 2002 (E/CN.4/Sub.2/AC.5/2002/4). He expressed appreciation for the participation of Working Group member Mr. Sik Yuen and summarized the activities undertaken during the five days. He drew attention to the innovative organization of the workshop, which included a two-day human rights training course, a two-day seminar, and one day facilitated by the United Nations Development Programme Resident Representative with the participation of UNAIDS, the International Labour Organization and the World Health Organization.

38. The observer for the International Federation of Human Rights Leagues said that a seminar on "Euro-Mediterranean Partnership, Cultural Diversity and the Universality of Human Rights" had been held in Rabat, Morocco, in May 2002. The participants were experts and human rights defenders from the Middle East and North Africa. Among other recommendations, the seminar called for a rethinking of the Euro-Mediterranean relationship. The observer for the "Tchad Agir ensemble pour l'environnement" recommended that the traditional methods used to tackle disputes that had been developed over generations in the various regions should be used and strengthened. Ms. Zerrougui stressed that the situation of underdevelopment and poverty that prevailed in Africa affected minorities in particular. She stressed the need for the Working Group to continue its work in Africa.

Europe

39. A discussion on policies by so-called kin-States regarding ethnic or linguistic minorities in neighbouring States dominated discussions concerning Europe under this item, using a law recently adopted in Hungary concerning ethnic Hungarian groups abroad as an example.

40. The observer for Romania noted that not only Romania, but also international bodies such as the Venice Commission and the High Commissioner for National Minorities of the Organization for Security and Cooperation in Europe were concerned about the Hungarian legislation. Her Government's main concern was that the law had extraterritorial effects and granted economic and social benefits, not simply cultural rights. The recent memorandum of understanding concluded between Hungary and Romania had significantly reduced the problem. It implied an undertaking to modify the law, and she hoped that this would be followed up. Romania encouraged regional or international development of more detailed guidelines on the issue.

41. The observer for Hungary stated that the Venice Commission showed that the Hungarian law was not new in Europe. He stressed that while that Commission found that the main

responsibility for minority protection lay with the home State, the home State could contribute to the protection of kin-minorities. Further, the memorandum of understanding had been mentioned in many bodies as a model of conflict resolution.

42. The observer for Slovakia was concerned that the law had been adopted without consultation with concerned countries. He further mentioned that there were 15 ethnic Hungarians in the Parliament of Slovakia, including the Deputy President.

43. Mr. Kartashkin stated that the question was relevant to many countries and that non-binding guidelines on the issue would be helpful because not all aspects of the issue were addressed by international law. Mr. Sorabjee agreed that guidelines could be helpful, particularly because special benefits provided by kin-States could cause instability in the home State. Ms. Zerrougui felt that while many countries failed to protect minorities, the interference of kin-States could be problematic. The Chairman-Rapporteur concluded that guidelines were necessary but the work should start in Europe, where the problem was most topical, and recommended that the OSCE High Commissioner for Minorities should take the initiative in drafting guidelines.

44. An observer representing the Hungarian minority living in Romania felt that the discussion should focus on the benefits of the law for the minority and not simply the Effects on State sovereignty. He suggested that the case be resolved by the International Court of Justice.

45. The Chairman-Rapporteur emphasized that the Hungarian law was important because it might serve as a precedent for other kin-States. That there was an urgent need for clear guidelines and the Working Group would follow the issue closely.

46. A representative of the administration of the Aland Government, speaking as part of the observer delegation of Finland, argued that autonomy might be hard to accept if it was imposed and not designed according to the wishes of the concerned minority. An example was the autonomy imposed on the Alander area. She suggested that possible future initiatives could include a legally binding document on autonomy and the establishment of a High Commissioner for Autonomy.

47. The observer for Latvia outlined his Government's policy regarding minorities. The goals were civil participation and integration in language, education and culture, but he admitted that the Government was aware that more work needed to be done. He also emphasized that Latvia provided secondary education in eight languages and that 20 per cent of the members of Parliament belonged to national minorities.

48. The observer for the Russian Federation praised Latvia's initiatives concerning minorities, but also said that Russia remained concerned about the Russian minority's situation in Latvia. In particular, he mentioned that the European Commission had said that it was crucial to keep the Russian language alive in Latvia.

B. Discussion on development issues and minorities

49. At its fifth meeting, the Working Group began its consideration of development issues and minorities. Two documents were available under this item: the report of the International Seminar on Cooperation for the Better Protection of the Rights of Minorities (E/CN.4/2002/92), held in Durban during the World Conference, and a working paper by Minority Rights Group (E/CN.4/Sub.2/AC.5/2002/WP.6) on minority rights and development: overcoming exclusion, discrimination and poverty.

50. A representative of Minority Rights Group summarized the report by describing three key challenges. Firstly, she maintained that the concept of development should be continually challenged. More creativity in defining the concept would lead to development that was better adapted to benefiting all concerned parties. Secondly, she focused on the need to mainstream minority rights into development. Education of the general public about the disadvantages faced by minorities could minimize any majority resentment at extra benefits for minorities. Finally, she argued that government recognition of minorities was vital as exclusion is often a major cause of poverty.

51. A number of non-governmental organizations mentioned the lack of implementation of the right to participate effectively in decisions at the national and regional levels. They also expressed concern regarding full participation of minorities in economic development in their country and stressed the fact that national programmes and policies should be planned and implemented with due regard to the legitimate interests of minorities. The observer for the National Federation of Indigenous Peoples Organisations in the Philippines stated that the Government's national development programme was planned without any genuine consultation with minorities. The importance of ratification and implementation of ILO Conventions Nos. 107 and 169 was further mentioned. Many NGO observers deplored the negative effects of globalization and economic development on minorities.

52. Mr. Bengoa discussed the link between development and the participation of minorities in society, in particular the need to increase the collective knowledge of minorities so that any participation was meaningful and fully informed. Regarding increased government cooperation with minorities, he suggested it would be helpful to consult minorities on whether they felt social investments by financial institutions benefited their communities. Guidelines should be developed for the United Nations specialized agencies and programmes dealing with development. A questionnaire to Governments, United Nations agencies and non-governmental organizations requesting proposals for guidelines could also be given further thought.

53. The Chairman said that the upcoming Social Forum in July and the Working Group's next session would provide more opportunity for discussion. He reminded the Working Group of the need to increase awareness that development can actually increase poverty if initiatives are implemented without meaningful consultations with concerned communities. He concluded that there was a need for further discussions to determine the best methodology to solve these problems.

54. The observer for the Philippines stated that the distinction between minorities and indigenous peoples was of little significance in the Philippines since indigenous peoples were

classified as cultural minorities and were accorded all rights. Collective and individual rights were protected through the protection of indigenous knowledge, the right to self-governance and the preservation of indigenous ancestral domains and other rights.

55. The observer for Pakistan argued that it was important to ensure a framework for equitable development at the international level, which would in turn facilitate national development. He suggested that Mr. Bengoa's recommendations should be channelled through international financial institutions including the World Bank and the IMF so that those institutions were made more aware of both minority and government expectations of their respective roles in development. He further highlighted efforts made by Pakistan in protecting minority rights, particularly via increased minority participation in the electoral system. Special funds for small-scale development projects had been established to help minorities gain education and to carry out cultural activities.

56. The observer for Iraq urged the Working Group to study the roles of minorities vis-à-vis Governments and other minorities so that responsibilities of minorities could be clarified. He emphasized that a concrete definition of "minorities" would aid in determining these duties. He also called for the Working Group to develop strict guidelines on which minorities were entitled to self-determination. He stressed the need for further coordination between the Working Group and the Committee on the Elimination of Racial Discrimination, particularly in terms of State party reports.

57. The observer for India said that minority rights were guaranteed and protected by the Indian Constitution. Customary laws and beliefs were also fully protected. Additionally, several practical measures had been taken to promote the development of minorities by means of affirmative action and inclusion of minorities in decision-making processes.

IV. RECOMMENDING FURTHER MEASURES, AS APPROPRIATE, FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

58. The observer for Austria referred to the most recent minority-related resolutions adopted by the Commission on Human Rights (resolution 2002/57), the Sub-Commission on the Promotion and Protection of Human Rights (resolution 2001/9) and the General Assembly (resolution 56/162). In relation to item 3 (c), he drew attention to the request made by the Commission to the High Commissioner for an analysis of existing special procedures, human rights treaty monitoring bodies and the Working Group on Minorities, in particular with regard to conflict prevention. He noted that reference was made in the resolutions to the United Nations Guide for Minorities.

59. Mr. Kartashkin noted the importance of measures taken by the Commission on Human Rights and the need for the Working Group to develop principles and guidelines for States and minorities. He also suggested that the Working Group should be able to visit countries to listen to the voices of minorities, and suggested that a special session be held in December to celebrate the tenth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic

Religious and Linguistic Minorities to further discuss measures to promote and protect minority rights. Finally, he said that 2003 or 2004 should be designated as international year for minorities.

60. Mr. Sorabjee stated that while the resolution of the Sub-Commission referred to State obligations in regard to minority rights, rights without remedies would be of no use. In this connection, it was important for States to take all necessary legal measures to promote the rights contained in the Declaration. It would be better to seek principles and guidelines at the international level, and it would be good to set up minority courts at the national level to provide better protection for minorities. The jurisprudence acquired in these courts over the years would contribute to the promotion of minority rights.

61. The observer for Switzerland said that his Government intended to make a contribution to the minority-related work of the Office of the High Commissioner. He further noted the importance of devising legally binding instruments in relation to minority rights.

62. Ms. Zerrougui stated that the rights of non-nationals should be dealt with since the rights of those people, including migrants, were being eroded, particularly in the context of globalization. She also stressed the need to consider carefully the issue of administration of justice both for national and non-national minorities.

63. A representative of the Minority Rights Group requested the Secretary-General to appoint a special representative on minority rights whose mandate would include the prevention of conflicts.

64. Mr. Hadden of Queen's University, Belfast introduced recommendations relating to the protection and promotion of minority rights. He stated that in the long run, it would be desirable to have a legally binding instrument, which would provide for better monitoring of violations of minority rights, and suggested that article 27 of the Declaration should be expanded to enable country visits to be carried out. He noted, however, that other measures that had been proposed, including the recommendation by the Minority Rights Group concerning the appointment of a special representative of the Secretary-General, would be more effective.

65. The observer for Finland noted that, with regard to the Commission resolution, it would be important to have a legally binding instrument to provide specific protection for minorities. However, she noted that it was necessary to analyse the existing standards to determine the usefulness of a specific convention on minority rights. She also suggested that reform of existing human rights treaty monitoring bodies to ensure better and more effective protection or enhancement of minority rights should be considered. She also stressed the need to establish a voluntary fund to allow minorities to attend the Working Group

66. A representative of the Danish Centre for Human Rights recommended that the agenda of the Working Group be expanded. He supported the proposal to appoint a special representative of the Secretary-General on minority issues and also suggested developing a code of conduct for States including principles and best practices, as proposed by Mr. Hadden. Ms. Thompson drew attention to lessons learned from the Guiding Principles on Internal Displacement. Marc Weller of the European Centre for Minority Issues suggested that consideration should be given to

drafting an optional protocol to article 27 of the International Covenant on Civil and Political Rights and establishing a monitoring body. He also encouraged the Working Group to enhance contacts with regions other than Europe and said that a guide on the minority/majority issues in the different regions of the world would be useful.

67. The observer for Mexico expressed interest in developing principles and guidelines and said that the draft United Nations Declaration on the rights of indigenous peoples would provide some basis for the resolution of crucial issues such as the right to self-determination, integration and autonomy.

V. FUTURE ROLE OF THE WORKING GROUP

68. Under this agenda item, the Chairperson-Rapporteur introduced the recommendations that had been drafted earlier by the Working Group in closed session. He said that the focus in 2003 would be on the drafting of a code of conduct and on a further discussion on development and minorities. He called for reactions to the recommendations, including as regards the future work of the Working Group.

69. Masataka Okamoto of Fukota Prefectural University pointed out that Asia was large and diverse and it would be more efficient to have several seminars in the region. The Minority Rights Group presented its recommendations on behalf of 23 non-governmental organizations (E/CN.4/Sub.2/AC.5/2002/WP.7). In particular, the representative requested clarification about the follow-up taken with respect to the recommendations of minorities. He also stressed the importance of inviting minority NGOs to collaborate with academic experts on working papers, and requested that regionally oriented studies be commissioned. The observer for the Centre for Minority Rights Development encouraged representatives of African States to participate in the Working Group. Ms. Thompson offered to cooperate with the OHCHR in organizing an Asian seminar. Other NGOs expressed the view that the issue of autonomy needed to be kept on the agenda. Additionally, calls were made to hold future seminars on Afro-descendants and to consider the situation of migrants and immigrants. It was further suggested that the special rapporteurs of the Commission be invited to comment on specific country or thematic situations.

70. The observer for Egypt emphasized the role of the Working Group in holding constructive dialogues and that country visits should not become monitoring activities. He further suggested that the Working Group should cooperate closely with the newly established Commission Working Group on Afro-descendants. He, as well as the observer for Iraq, argued that only official documents should be posted on the OHCHR web site. The observer for Switzerland pointed out the importance of translating the Declaration into as many languages as possible. The observer for Finland welcomed the recommendation to consider elaborating a code of conduct and a voluntary trust fund, and in that respect underlined the importance of facilitating the active participation of NGOs. The observer for Latvia argued that there was no basis for comparing the minority situations in the Baltic States and the CIS countries and therefore did not support the recommendation to hold seminars in those regions. The observer for Hungary pointed out that the lack of regional mechanisms outside Europe in relation to minority issues was not helpful for the establishment of a code of conduct or other mechanisms.

71. Mr. Bengoa suggested that the members of the Working Group should meet to develop a methodology for the work to be done both in relation to the drafting of a code of conduct and also for the discussion on the issue of development and minorities. He also responded to some of the concerns relating to the lack of sufficient reflection on issues raised during the present session in the conclusions and recommendations. In that respect, he noted that all issues that had been raised, not only at the present session but also at previous sessions, would be reflected during the drafting process. Mr. Kartashkin recommended that relevant general comments by the human rights treaty bodies be included in the United Nations Guide for Minorities.

72. The Chairman-Rapporteur thanked the NGO representatives for having expressed their concerns, views and expectations to the Working Group. He added that the Working Group wanted to strengthen its role in constructive and peaceful promotion and protection of the rights of persons belonging to minorities and would try to do so at its upcoming sessions or by recommending other mechanisms and procedures.

VI. CONCLUSIONS AND RECOMMENDATIONS

73. On the basis of the discussions held during the eighth session, the Working Group agreed on its conclusions and recommendations for future action. They are set out below.

A. Conclusions

Future work of the Working Group on Minorities

1. The Working Group decides that during the next sessions, the main tasks will be:

(a) Drafting of a code of conduct on the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

(b) To study in greater depth the development and minorities issue.

2. In regard to the discussion under item 3 (a), minority representatives are encouraged to submit their submissions to the secretariat by the end of February 2003, with a view to such submissions being forwarded to Governments in advance of the next session, thus making it possible for Governments, if they so wish, to prepare their comments or responses in advance of the session.

3. Under item 3 (b), regarding the policy on the web site, pending further detailed discussion, the Working Group recommended the following:

(a) The working papers prepared by the members of the Working Group or authorized by the Working Group would be posted on the web site;

(b) Conference room papers should be posted on the web site for only two weeks prior to the session and during the session itself, to facilitate availability for participants, but should be removed thereafter.

4. The Working Group will seek to further develop its contacts with the national institutions for the promotion and protection of human rights to encourage them to broaden the scope of their work to include minority rights issues.

5. The Working Group will seek to continue and increase its cooperation with regional mechanisms and institutions, including joint initiatives.

6. The Working Group will continue to encourage the holding of training programmes for minority communities and groups on utilizing global, regional and national human rights mechanisms for the better protection of the rights of minorities.

7. Concerning the situation of the Roma, while appreciating the ongoing work being done by the Council of Europe and the Organization for the Security and Cooperation in Europe, the Working Group will continue its own consideration of ways to prevent discrimination against and protect the minority rights of the Roma.

Country visits

8. The Working Group will continue to be available for country visits to countries where minority situations exist, based on general or specific invitations from Governments.

Preparation of a code of conduct

9. In preparing the drafting of a code of conduct, the Working Group will call upon appropriate research or documentation institutes to cooperate in preparing a list of components which may be included.

B. Recommendations

International mechanism

1. The Working Group recommends that the Sub-Commission recommend to the Commission on Human Rights that it explore in due time the possibilities of establishing a special procedure mechanism on the rights of persons belonging to minorities, such as a special rapporteur or special representative. The mandate could include monitoring the implementation of the Declaration, facilitating the provision of technical cooperation on issues relating to conflict prevention, and assisting the Working Group in drawing up a code of conduct.

State obligations and remedies

2. The Working Group welcomes the reaffirmation by the Commission on Human Rights of the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise, fully and effectively, all human rights and fundamental freedoms without any discrimination and in full equality before the law, in accordance with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

3. Special efforts should be taken by Governments to ensure that minorities that are subjected to manifestations of hatred or xenophobia by majority groups are given the full protection of the police and other security forces, and to this end the Working Group emphasizes the importance of effective and fair administration of justice, effective implementation of legislation, and the need to develop effective national remedies.

Treaty bodies

4. The Working Group welcomes the Commission's invitation to the human rights treaty monitoring bodies, when considering reports submitted by States parties, as well as special representatives, special rapporteurs, working groups of the Commission and relevant United Nations agencies and programmes, to continue to give attention, within their respective mandates, to the situations and rights of persons belonging to national or ethnic, religious and linguistic minorities (2002/57, para. 10).

High Commissioner for Human Rights

5. The Working Group further welcomes the Commission's request to the High Commissioner to submit to the Commission at its fifty-ninth session a report containing an analysis of the information already provided in the reports of existing special procedures, human rights treaty monitoring bodies and the Working Group on Minorities on situations involving national or ethnic, religious and linguistic minorities, in particular with regard to conflict prevention (2002/57, para. 16).

6. The Working Group strongly supports the request by the Commission to the High Commissioner to invite Governments and relevant intergovernmental and non-governmental organizations to submit their views on how best to protect the rights of persons belonging to minorities (2002/57, para. 15).

7. The Working Group recommends that the Office of the High Commissioner for Human Rights organize a seminar on minority approaches in the Asian context and, in connection with the seminar, consider holding a special meeting of the Working Group to celebrate the tenth anniversary of the adoption of the Declaration. The theme of the seminar could be "Recognition of minorities in law and in practice".

8. The Working Group further recommends that the Office of the High Commissioner facilitate the organization of seminars in the Baltic and CIS countries on the protection of minorities, follow-up seminars on Afro-descendants in the Americas, and seminars on multiculturalism in Africa, with particular attention to the concept of minorities and indigenous people in that continent.

Intergovernmental and non-governmental organizations

9. The Working Group invites intergovernmental and non-governmental organizations to inform the Working Group about their activities and reports on human rights problems and situations involving minorities (2002/57, para. 11).

10. The Working Group welcomes the Commission's call upon States, intergovernmental organizations, United Nations bodies and non-governmental organizations to participate actively in the work of the Working Group, including through written contributions (2002/57, para. 12).

11. The Working Group also welcomes the Commission's call upon States to facilitate the effective participation of representatives of non-governmental organizations and persons belonging to minorities in the work of the Working Group, and its invitation to the High Commissioner to seek voluntary contributions in this regard (2002/57, para. 13).

Afro-descendants

12. The Working Group recommends that States take all necessary steps to remedy the consequences of the past exclusion of Afro-descendant people from political and developmental processes, including by the adoption of appropriate affirmative action.

13. The Working Group further recommends that international organizations, bodies and agencies, within their respective mandates, adopt measures to facilitate the enjoyment by Afro-descendants in the Americas of all human rights and the development of their communities.

14. The Working Group recalls that for the above purpose, the recommendations contained in the reports from the seminars held in Durban (1, 2 and 5 September 2001), Montreal (27-30-September 2001) and La Ceiba (21-24 March 2002) should be taken fully into account.

Africa

15. The Working Group, having taken note of the report of the third workshop on multiculturalism in Africa (E/CN.4/Sub.2/AC.5/2002/4) calls on the High Commissioner on Human Rights to consider the recommendations made therein addressed to her Office and to draw to the attention of other relevant agencies the recommendations made under the heading "UN system".

Voluntary trust fund

16. The Working Group recommends the establishment of a voluntary trust fund to facilitate the participation of minority representatives and experts from developing countries in the Working Group and other activities relating to the protection of minorities.

Recommendations of international human rights mechanisms

17. The Working Group recommends that States parties to the human rights conventions respect the recommendations emanating from international human rights complaints mechanisms.

Recommendations adopted at the seventh session

18. The Working Group reiterates the recommendations adopted at its seventh session (see E/CN.4/Sub.2/2001/22, chap. VI), which have not yet been fully implemented, including:

(a) That Governments “consider providing the Working Group with information about constitutional, legislative, judicial, administrative and financial developments of relevance to the implementation of the Declaration” (recommendation 3);

(b) That Governments “consider providing the Working Group with names of experts in minorities in their country, with a view to facilitating their participation in regional and international meetings and in advisory services” (recommendation 4);

(c) That “regional organizations explore the possibility of establishing similar institutions [to that of the Office of the High Commissioner for National Minorities of the Organization for Security and Cooperation in Europe]” (recommendation 5);

(d) That “regional organizations explore the possibility of similar standard-setting and institutional development [to the European Framework Convention on the Protection of National Minorities] taking into account the specificities of the region concerned” (recommendation 6);

(e) That the treaty bodies give adequate attention to the situation of minorities and their cultural rights, including the Roma (recommendation 10); in this regard the Working Group requests the High Commissioner to draw these recommendations to the attention of the relevant treaty bodies.

Information sharing and cooperation

19. The Working Group recommends that OHCHR ensure wider dissemination of information on the activities undertaken by the Working Group.

20. The Working Group recommends that further consideration be given to how wider cooperation between the treaty bodies and the Sub-Commission on the Promotion and Protection of Human Rights, as well as its subsidiary bodies, in particular the Working Group on Minorities, could be strengthened.

Annex I

LIST OF PARTICIPANTS

I. MEMBERS

Mr. Asbjørn Eide (Chairperson-Rapporteur)
Mr. José Bengoa
Mr. Vladimir Kartashkin
Mr. Soli Sorabjee
Ms. Leïla Zerrougui

II. STATES MEMBERS OF THE UNITED NATIONS REPRESENTED BY OBSERVERS

Argentina, Armenia, Austria, Azerbaijan, Bahrain, Bangladesh, Bosnia and Herzegovina, Bulgaria, Chile, China, Colombia, Costa Rica, Croatia, Cyprus, Denmark, Dominican Republic, Egypt, Estonia, Finland, Germany, Greece, Hungary, India, Iran (Islamic Republic of), Iraq, Japan, Latvia, Lithuania, Malaysia, Mauritius, Mexico, Netherlands, Norway, Pakistan, Philippines, Portugal, Romania, Russian Federation, Slovakia, South Africa, Spain, Sri Lanka, Thailand, Turkey, Tuvalu, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Viet Nam, Yugoslavia.

III. NON-MEMBER STATES REPRESENTED BY OBSERVERS

Holy See, Switzerland.

IV. UNITED NATIONS BODIES AND SPECIALIZED AGENCIES AND OTHER INTERGOVERNMENTAL ORGANIZATIONS

United Nations Development Programme, Office of the United Nations High Commissioner for Refugees, European Commission.

V. NON-GOVERNMENTAL ORGANIZATIONS IN CONSULTATIVE STATUS WITH THE ECONOMIC AND SOCIAL COUNCIL (GENERAL CONSULTATIVE STATUS, SPECIAL CONSULTATIVE STATUS AND ROSTER)

All for Reparations and Emancipation, Baha'i International Community, Federal Union of European Nationalities, Indian Council of Education, Indian Movement "Tupaj Amaru", Indian Muslim Federation (UK), Interfaith International, International Federation of Human Rights Leagues, International Movement against all Forms of Discrimination and Racism, International Service for Human Rights, Minority Rights Group International, Pax Romania, World Muslim Congress.

VI. NON-GOVERNMENTAL ORGANIZATIONS NOT IN CONSULTATIVE STATUS

African Canadian Legal Clinic, Anglunipe Youth Organization, Association des Assyro-Chaldéens de France, Association for Democratic Initiatives – Macedonia, Balochistan Rights Movement, Bangladesh: Hindu-Buddhist-Christian Communities in Switzerland, Bangladesh Indigenous Peoples Forum, Basque Observatory of Linguistic Rights, Bhutan Women and Children Organization, Casa de la Cultura Indo-Afro-Americana, Centre for Inter-ethnic Cooperation, Centre for Minority Rights Development, Centre for Multiculturalism, Centre for Study of Society and Secularism, Child Reach International, Coordinadora Regional de los Altos de Chiapas, México, Cultura de Solidaridad Afroindígena, Cymuned, Human Rights Association – Diyarbakir, Indo-American Kashmir Forum, Indo-Canadian Kashmir Forum, Indo-European Kashmir Forum, Justice and Peace Commission of Pakistan, KAMP-Nal Fed of Indigenous, Kurdish Hewar Association, Kurdish Reconstruction Organization, Kurdistan Bar Association, Majlis, Mécs László Association, Muttahida Quami Movement, Movimiento de Mujeres Dominico-Haitianas, National Federation of Indigenous Peoples Organization in the Philippines, Observatory of Linguistic Rights, Partners in Participatory Development, Pastoralist Concern Association Ethiopia, Quaker Service in Laos, Sikh Human Rights Group, Space Afro-American, Sudanese Women’s Voice for Peace, Tchad Agir ensemble pour l’environnement, Union chrétienne pour l’éducation et le développement des déshérités, Union pour l’émancipation de la femme autochtone, Turcoman Movement in Iraq, Western Thrace Minority Graduates Association, World Council of Arya Samaj, World Forum of Fisher Peoples.

VII. ACADEMICS AND OTHERS

Yonas Birmeta Adinew (Norwegian Institute for Human Rights), Estheiman Amaya (Norwegian Institute for Human Rights), Siw Bay-Hansen (Norwegian Institute for Human Rights), Christina Binder (Raoul Wallenberg Institute), Gyula Csurgai (International Centre for Geopolitical Studies), Siri Damman (University of Oslo), Fredrik Danelius (Norwegian Institute for Human Rights), Lionel Diss (Norwegian Institute for Human Rights), Maria Stefanova Dzanova (Norwegian Institute for Human Rights), Ida-Eline Engh (University of Oslo), Lidija Basta Fleiner (Institute of Federalism, Fribourg, Switzerland), Donna Galway (Norwegian Institute for Human Rights), Zsolt Gorog (International Centre for Geopolitical Studies), Yves Goudineau (Institut de recherche pour le développement, France), Anette Haug Gro (Norwegian Institute for Human Rights), Rachel Hadden (Queen’s University, Belfast, United Kingdom), Tom Hadden (Queen’s University, Belfast), Hofseth Hermansen (Norwegian Institute for Human Rights), Monique Hox (Norwegian Institute for Human Rights), Jinxia Huang (Norwegian Institute for Human Rights), Arturs Kučs (Raul Wallenberg Institute), Priscila Lavery (Queen’s University, Belfast), Rianne Letschert (Tilburg University, Netherlands School of Human Rights Research), Yue Liu (Norwegian Institute for Human Rights), Maria Lundberg (Norwegian Institute for Human Rights), Richard Thomas Hustad Miller (Norwegian Institute for Human Rights), Are Mjanger (Norwegian Institute for Human Rights),

Chris Moffat (Queen's University, Belfast), Lucy Mukuria (University of Oslo), Irina Nysten (Raoul Wallenberg Institute), Masataka Okamoto (Fukuota Prefectural University, Japan), Anita Inder Singh (St. Antony's College, Oxford University), Zelim Skurbaty (Danish Centre for Human Rights), Charlene Sumnall (Queen's University, Belfast), Zewditu Kebede Tessema (University of Oslo), Cecilia Thompson (International Centre for Ethnic Studies), Bjørn Tore Vagle (Norwegian Institute for Human Rights), Marc Weller (European Centre for Minority Issues), Khema Kumudini Wickremasinghe (Norwegian Institute for Human Rights), Ninglan Xue (Norwegian Institute for Human Rights), Yong Zhou (Chinese Academy of Social Sciences)

and several students from the University of London.

Annex II

**LIST OF DOCUMENTS BEFORE THE WORKING GROUP
ON MINORITIES AT ITS EIGHTH SESSION**

Title	Symbol
E/CN.4/Sub.2/AC.5/2002/1	Provisional agenda
E/CN.4/Sub.2/AC.5/2002/1/Add.1	Annotations to the provisional agenda
E/CN.4/Sub.2/AC.5/2002/2	Report on the visit by the Working Group to Mauritius
E/CN.4/Sub.2/AC.5/2002/3	[Symbol not used.]
E/CN.4/Sub.2/AC.5/2002/4	Report of the third workshop on multiculturalism in Africa: peaceful and constructive group accommodation in situations involving minorities and indigenous peoples (Gaborone, 18-22 February 2002)
E/CN.4/Sub.2/AC.5/2002/5	Report of La Ceiba seminar on Afro-descendants
E/CN.4/Sub.2/AC.5/2002/WP.1	Report of an International Seminar on Autonomist and Integrative Approaches to Minority Protection: Danish Center for Human Rights (Copenhagen, 3-4 April 2002)
E/CN.4/Sub.2/AC.5/2002/WP.2	Jurisprudence of the European Court and Commission on Human Rights in 2001 and minority groups by Prof. Geoff Gilbert, Department of Law and Human Rights Centre, University of Essex
E/CN.4/Sub.2/AC.5/2002/WP.3	Report of Montreal seminar on Afro-descendants
E/CN.4/Sub.2/AC.5/2002/WP.4	Information provided by the Romanian Government
E/CN.4/Sub.2/AC.5/2002/WP.5	Information provided by the Hungarian Government
E/CN.4/Sub.2/AC.5/2002/WP.6	Minority rights and development: overcoming exclusion, discrimination and poverty by Minority Rights International
E/CN.4/Sub.2/AC.5/2002/WP.7	The future role of the Working Group on Minorities by Minority Rights Group International

Title	Symbol
E/CN.4/2002/91 and Add.1 and Add.2	Rights of persons belonging to national or ethnic, religious and linguistic minorities: report of the Secretary-General
E/CN.4/2002/92	Report of the International Seminar on Cooperation for the Better Protection of the Rights of Minorities (Durban, South Africa, 1, 2 and 5 September 2001)
E/CN.4/Sub.2/2001/22	Report of the Working Group on Minorities on its seventh session
