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Promoting pluralism and human rights around the world
irrespective of race, ethnicity, religion or political opinion.

SHRG Statement

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Thank you Mr. Chairperson,

As minorities' economic, political and social marginalisation continues coupled with abuse and discrimination, fuelling interstate tensions and conflicts worldwide, the need to acknowledge and act upon the link between protection of minority rights, cultural diversity on the basis of universal human rights principles and conflict prevention becomes crucial. Indeed, in the light of the increasing migration flows of the last few years and the changing demographic composition of states, the issue of minority rights protection arises as one of the biggest challenges of the new millennium, for it can only be effectively addressed if approached as a way to conflict prevention through the promotion of cultural diversity that requires the protection of the rights of all minorities, including those of migrant minority groups. It is this inclusion of minority migrant communities to minority protection that I wish to bring to your attention. Embracing cultural diversity means effective minority rights protection without any distinctions amongst minority groups.

The discourse on minorities has to a considerable degree underplayed the crucial connection between migration and the creation of minorities that makes the study of one impossible without the consideration of the other. Whatever the causes or processes, minorities migrate and migrants become minorities across borders.

Furthermore, the lack of a universally accepted legal definition of the term 'minority' in the current discourse, places the conceptual minority issue in the sphere of politics and the language of distinction between citizen and non-citizen rights. This way the term 'minority' is interpreted in the strictest possible sense while minority rights are approached as citizens and not human rights. This is reflected and further reinforced by the importance attributed to the nationality or else citizenship requirement that together with the subsequent prerequisite of long-term residence characterise most efforts to define the subjects of minority protection.

Nevertheless, a closer look to the reality of the minority phenomenon and the spirit and letter of international human rights law and the Minorities Declaration point towards the possibility of people belonging to migrant communities to enjoy the benefits of minority protection that have been so far reserved for the 'old' and well-established minority groups. In this our attention should be directed to the essence of international human rights law and minority protection; equality and non-discrimination. In other words, protection of the rights of all persons belonging to minorities, without any distinctions on grounds such as nationality, citizenship or time of residence.

Conflict; human rights abuses; discrimination on grounds of sex, race, ethnicity, religion, political opinion, national origin or social status; poverty and weak political, economic and social systems are all reasons that people flee their country to seek asylum. In the 1960s and 1970s, such people entered the asylum countries as 'immigrants' establishing the today's acknowledged minority communities that fall under the minority protection regime. Since then, millions of people like them that flee their countries for the very same reasons are faced with increasingly restrictive and discriminatory immigration policies, contempt, hostility and discrimination, physical and mental abuse, denial of their rights and minority protection because according to the new public and political discourse they do not comply with the current understanding of what it means to be a member of a minority group; they do not fit into the nationality/citizenship requirement. Yet most migrants are and always have been members of minorities in the country of residence. They are treated as such both by the state authorities and the public. In fact, many of them belong to minority groups in their country of origin. Often this is the very reason that they were discriminated against and prosecuted, the very reason that forced them to migrate (UN Working Group on Minorities 1995).

In the UK for instance, Sikhs are protected by the Race Relations Act and are recognized as an ethnic group with a distinct identity that is most visibly expressed with the wearing of the turban. The Sikh community is established in the UK as a minority community. Nevertheless, what is often overlooked is that the first Sikhs that arrived in the country in the 1960s were migrants. Since then, more Sikhs have been arriving in the UK either as immigrants or asylum seekers and refugees. One therefore begs the question, would it not be slightly awkward to deny minority protection to these 'newcomers' that are Sikhs just like the ones that belong to the established and recognized Sikh minority and therefore face the same type of discrimination? Is it not just a question of semantics rather than essence? Does the fact that these people are refugees refute their ethnic, cultural and religious aspects of their Sikh identity that are exactly the same as the ones that characterise the long established Sikh minority community?

Any attempt to approach the issue of minorities cannot possibly be sustainable unless it also includes non-citizens and migrants. In this sense, considering the current trend of defining minorities with reference to a set of 'objective' and 'subjective' criteria, one could follow Eide's suggestion to replace the citizenship criterion with the simple standard of place of residence (Eide 1993: 9, paras. 41-42). Alternatively one could follow an altogether different route by adopting a more flexible relational perspective that does not approach minorities as transcendental entities with clear 'objective' and subjective aspects, but concentrates on the analysis of the ways different historical, social, economic, political and other factors inform the minority phenomenon through a series of dynamic patterns of relationships of power and knowledge. This could lead to a more inclusive and dynamic minority definition that would incorporate some of the common aspects of minority communities and at the same time, provisions that could be tailored to each specific minority situation, always with the main human rights principles of minority protection in mind; equality and non-discrimination.

This new approach would contribute to the improvement of minority protection through its flexibility that would allow for the approach of each minority situation within the socio-economic and political environment it occurs, making it less likely to overlook important aspects of a given minority situation, that could happen in the case of approaching it with pre-constructed minority characteristics in mind that are seen to always describe minority situations.

Of course such a flexible approach would require the full commitment, on the part of the states to the effective protection of the existence and rights of all people belonging to minorities, without distinctions in relation to their status or identity stemming from a logic that territorialises national identities and cultures through a process that is rooted in the assumption of a natural and fixed relationship between people and place. In this, 'out of place' or 'dis-placed' migrants and non-citizens are treated as a threat to the perceived homogeneity of the 'nation-state'.

Against this view, it is important for states to realise and acknowledge the faults of such an approach and effectively embrace cultural diversity in a world where identities and cultures are part of a dynamic process whereby a wide range of different actors, bearing their own history and discourses, come together in a complex struggle over power and resources that reflects their past experiences and hopes for the future. In this dynamic and continuous process, the interplay of different identities allows for one to be a migrant and at the same time a member of a minority without necessarily having the citizenship of the state she resides in, yet adhering to the system of common values that the mosaic of the society dictates preserving at the same time her essential ethnic, religious, linguistic or cultural characteristics associated with her membership in a particular minority group.

The issue therefore is how we can formulate and establish a system of protection of all people belonging to minorities, regardless of their citizenship, in a manner that embraces the cultural diversity of the society, contributing to its multifaceted synthesis in which everybody can identify themselves and trust the others. This approach should be placed at the centre of the minority discourse for it is the only way towards long-lasting peace and stability.

I'm aware that the Working Group has analysed and discussed the issue of non-citizens and minority protection in precious sessions. Given its importance however, the Sikh Human Rights Group would suggest that the issue be discussed further in the next meeting of the Working Group as part of an analysis that concerns the development and implementation of a conflict-prevention mechanism regarding minorities in the UN and the ways that cultural diversity can be reflected in public policy and legislation in a manner that protects all persons belonging to minorities, whether they are citizens or not, long-term residence or not. In this, the appointment of a Special Representative of the Secretary General on Minorities should also be considered.

I thank you for your attention.