

6th session of the Forum on Minority Issues

II. Legal framework and key concepts

Mr Mohamed Eltayeb, presenting on “Towards a framework for guaranteeing the rights of religious minorities: a quest for combating religious hatred”.

Madame Chair Person, distinguished delegates and representatives of civil society organisations, ladies and gentlemen, good morning, I would really like to extend my great thanks and appreciation for Ms. Rita Izsák-Ndiaye expert on minority issues for her kind invitation to take part in this 6th Forum. I indeed feel honoured and privileged to join you. My short presentation, which is entitled ‘Towards a Framework for Granting Rights for Religious Minorities: A Quest for Combating Religious Hatred’ consist on the following themes: I will start by outlining a framework for granting rights of minorities, and secondly, I will briefly discuss the quest for combating religious hatred, and will conclude by some concluding remarks.

There is an outlining framework for granting the rights of religious minorities. I think that the origin of the idea of human rights may be traced back to the long history of protecting religious minorities. And I think also seems most of the countries in a world today are characterised by an increasing national racial and religious diversity as well as increasing multicultural societies. I think it is almost important for having an effective framework for granting and protecting the rights of religious minorities. Such an effective framework requires two aspects: first, the normative and institutional resources for granting rights for religious minorities; and secondly, the legal, political, social, and cultural framework in which the normative content is supposed to be applied. However, before analysing these aspects three situations should be distinguished: a first situation is where we have both strong normative and institutional basis for granting rights of religious minorities but without excess; here is the explanation of this failure in this case lies in the broaden context of the political, social, and cultural frameworks who are normative contents are to be applied. A second situation is where we have both weak normative and institutional assistance for granting rights for religious minorities, the broaden context of the political, social and cultural context is what explains the weakness. The third situation is where there are strong normative and institutional resources that lead to effectively granting and protecting the rights of religious minorities again the widen system of political, social and cultural frameworks explain the results.

I will move quickly to (...) the normative and institutional resources. I think the normative and institutional resources for granting rights for religious minorities can be found in international and regional human rights instruments and I think that the traditional approach for protecting the rights of religious minorities, as many speakers have already mentioned, has been based on originally on the framework of international standards of freedom of religion. However, the most remarkable international instrument that can be tracked in this respect is the Declaration on the Rights of Persons (...) to International or Ethnic Religious and Linguistic Minorities which complements and goes beyond the traditional approach in terms of its list of rights granted and protected. The declaration is inspired by article 27 of the International Covenant on Civil and Political Rights explicitly established the responsibilities of the state

to ensure the protection of minority, religious identity, and to encourage conditions for the promotion of that identity.

Furthermore, the Declaration recognises a wide approach for the protection of the rights of minorities that (...) of equality, non-discrimination, and all the spheres of life, participation in public life, and protection of existence. Moreover, in order to achieve this wider approach, the Declaration requires positive measures to be taken in the area of legislation policy and programming.

Having said that, I would like to have just a short note on the traditional approach for the protection and promotion of the rights of minorities, which has been based on international standards, relating to freedom of religion and belief. The international law on freedom of religious includes three aspects: freedom of religion, pluralism within the religion, and equality and tolerance for non-adherents. This universal approach of international law, freedom on religion, requires universal applicability of religious human rights, which is used here to refer to those rights which (...) the freedom of belief and conscious, including religious dissent. Confirmative or (...) their tolerance as human rights. And regardless of the claim of specify of religious foundations of these rights, this is inevitable intention of exclusive nature of religious creeds. However, by protecting rights to dissent the religious human rights, norms, and mechanisms, the international human rights law, safe, and securing the rights of both adherents of orthodoxy and dissent and to formulate and articulate their own religious interpretation. The religious human rights norms reject the claim of the monopoly of religious authenticity and exclusivity of giving the only valuable formulation, articulation, and interpretation of religious texts. This is also of an almost importance as far as the harassment, intimidation, and persecution of religious minorities are consented. I will just say a few ways of the legal, political and social frameworks. The protection and implementation of both (...) and treaty human rights norms is dependent in the action of the state through its own legislative, judicial and executive organs. Although the (...) modern concept of the human rights is to restrict the executive power or the state to treat those who are subject to executive jurisdiction as it pleases paradoxically, it is the state which controls the means by which it is (...) is to be achieved. Although there are best practices, the existence of normative and institutional resources as it must be (...) in many countries have not effectively succeeded in securing and protecting the rights of religious minorities. And I thank you.