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Mr Chair, Mr President, Madam Deputy High Commissioner for Human Rights, Distinguished Delegates, Ladies and Gentlemen,

It is my great pleasure to be with you and to welcome you all to this eighth session of the Forum on Minority Issues. This year's session will address the issue of minorities and the criminal justice process. It is a very relevant topic: during the course of my mandate I have received numerous allegations of human rights violations committed against minorities in all stages of the criminal justice system as a result of their minority status, extending from police stops, through pre-trial detention to sentencing. These allegations have prompted me to devote particular attention to this issue not only by dedicating this session to the topic, but also my report to the UN General Assembly which I had the honour to present a few weeks ago.

International law protects persons in contact with the criminal justice system who belong to national or ethnic, religious and linguistic minorities. It prohibits discrimination in the administration of justice and creates positive obligations to ensure that justice systems are sensitive to, and facilitate effective participation of, minorities. However, other specific rights gain particular importance with respect to particular stages of criminal justice: for instance, the right to life, the right to liberty and security of person, the prohibition of torture and other forms of cruel, inhuman or degrading treatment, the right to a fair trial and the right to privacy are relevant to surveillance, stop and search, use of force, arrest, questioning, pre-trial detention and criminal trial and sentencing. For minority victims of crime, standards on the right to effective remedy and reparation, and to participation and protection in the criminal justice process, are relevant. Human rights standards also affirm that members of minorities must have equal access to training and service as law enforcement officials, including within the police, prosecution, judiciary and legal profession.

Let me highlight some specific concerns for minorities in the various stages of the criminal justice process. The exercise of police powers bears a special importance: should a disproportionate number of individuals from a minority group find themselves in contact with the police as a result of discrimination, then even if, formally, every other step of the process functions impartially, minorities will be disproportionately represented throughout that process. This underscores the importance of strict non-discrimination at the policing stage. The risk of discrimination further increases when police forces do not reflect the diversity within the population. Police often have wide-ranging discretionary powers. Some discretion may be necessary owing to the nature of their work. However, the broader the discretion, the greater the risk of its arbitrary or

discriminatory exercise, particularly in the absence of effective independent oversight mechanisms. Furthermore, police practices that impact a certain minority excessively tend to reinforce the sentiment among the members of the group that they are not an integral part of society. Such practices can also contribute to the creation of a vicious circle of tension between the police and minority communities.

I receive many reports regarding racial profiling, and the disproportionate targeting by police of individuals for identity checks, stop and search or other forms of coercive or privacy invasive police powers which are related purely to identity-based minority group characteristics. Moreover, a serious concern is the subjection of minorities to excessive and sometimes lethal use of force, torture or other ill treatment in detention, which in many cases results in the lack of prompt and impartial investigations and accountability of the responsible police officers.

A worrying trend is the overrepresentation of minorities in pre-trial detention. Minorities may also face more frequent or longer periods of pre-trial detention owing to a number of reasons, including: lack of access to a lawyer; lesser quality of the lawyers assigned to them; experience of discriminatory attitudes by police, prosecutors, and judges or even by the same lawyers assigned to defend them. Minorities may also be ill prepared with respect to responding to criminal procedures due to poverty, stigmatization or lack of knowledge; sometimes their disadvantaged socioeconomic situation prevent them from posting bail or otherwise meeting conditions for release.

In relation to judicial procedures and hearings, minorities may experience particular obstacles to realizing their rights to equality before the law, non-discrimination and a fair trial. These include unequal access to legal aid, which may not be readily available, or if so, often of low quality. Linguistic barriers may also pose problems for linguistic minorities accessing the justice system. Bias against minorities within judicial systems remains a real concern. The partiality of judicial personnel, including judges, members of juries and prosecutors may impact not only on the outcome of a trial itself, but also on sentencing. Indeed, research demonstrates that minorities often face a greater likelihood of a prison sentence rather than conditional release, greater likelihood of longer terms of imprisonment or a sentence of life imprisonment without possibility of parole, as well as greater likelihood of imposition of the death penalty.

Discrimination against minorities in pretrial detention and post-conviction imprisonment is of concern: minorities may experience poorer treatment or

worse conditions of detention than other groups. Authorities often fail to respect standards that are especially important for minorities relating to religious and cultural practices, customs as regards food, relations with family members and assistance of an interpreter.

I have received numerous reports which revealed that police may not investigate crimes committed against minorities with the diligence accorded to crimes against other victims, whether owing to deliberate discrimination or because more subtle prejudices negatively impact their assessment of the complainants' credibility. This problem can be exacerbated when police officers are accused. Moreover, minority victims may be reluctant to report the crime to police, owing to a history of negative experiences with the authorities, lack of faith in the justice system, lack of knowledge of their rights or lack of practical information such as on where and how to make a complaint. They may fear that bringing themselves to the attention of the authorities will generate more suspicion and result in persecution of themselves, their family or their community. Members of a minority may also view the justice system as a whole as "alien" and to be avoided, particularly if the State has failed to make efforts to guarantee effective participation of minorities. States must ensure that members of marginalized minority communities are made aware of their rights as victims, and that mechanisms are specifically designed to facilitate their access to justice. Targeted assistance programmes for minority victims, dealing with emotional trauma, participation in the criminal justice process, and receiving reparation and rehabilitation, should be developed in cooperation and consultation with the minority community, publicized through minority media and in minority neighbourhoods, and provided in minority languages.

Studies suggest that minorities are largely underrepresented in law enforcement agencies, judiciaries, prosecution services and legal professions around the world. Diversity not only reinforces the legitimacy of the criminal justice process, but also ensures that it can draw on the range of experiences of the society as a whole, and contributes to ensuring effective minority participation. Non-discrimination and promotion of cultural diversity should be part of the professional training of all staff within the criminal justice system.

The draft recommendations acknowledge that a fundamental barrier to progress in the area of combating discrimination in the criminal justice system is the failure of many States to collect and analyse disaggregated data in order to assess the scale and character of violations, and to measure progress in addressing them, including through accountability measures. States should collect comprehensive and disaggregated data on the involvement of persons belonging to minority groups in all aspects of the administration of justice.

This Forum will not only consider all of these complex challenges and discriminatory patterns against minority groups in the criminal justice system but will also reflect on practical recommendations to tackle this discrimination and seek to find ways to improve their participation in the administration of justice. The draft recommendations in front of us today contain recommendations in the following areas: data collection and studies; minorities and police operations; access to justice for minority victims; minorities in detention facilities; judicial proceedings and sentencing. Essential measures to prevent discrimination against minorities in the administration of justice, such as training, community engagement, ensuring diversity throughout the system, and independent oversight and accountability mechanisms are discussed. The recommendations also include specific recommendations for non-State actors, international and regional organizations.

It is important to recall that, in any measures aimed at implementing the recommendations, a gender-sensitive approach is required, given that, in the various stages of the criminal process and in the prison administration of virtually all countries, minority women may be exposed to multiple and intersecting forms of discrimination, irrespective of their status as victims or perpetrators of offences or as witnesses.

All measures taken with a view to implementing the recommendations should be, to the fullest extent possible, developed, designed, implemented, monitored and evaluated in consultation with, and with the effective participation of, minorities, including women.

Lastly, let me remind you that the Forum constitutes a unique opportunity to hear all of your voices for discussion of these issues and for the elaboration of important recommendations that can make a real contribution to eradicate discrimination against minorities. Therefore I would like to take this opportunity to invite you to play an active role in contributing to the discussion on the draft set of recommendations.

I once again thank you, welcome you all and wish all of us a fruitful and enriching Forum session over the coming two days.