

In the name of God, the Beneficent, the Merciful.

Mr. President,

Distinguished ladies and gentlemen,

Yesterday participants, expert ladies and gentlemen, representatives of states, minorities, and civil society organizations spoke in detail on the numerous issues, obstacles, and various forms of oppression numerous minorities are subjected to in the framework of the criminal justice system in numerous countries and their regions. We all concluded that discrimination, marginalization, exposure to violence and harm are some of the prevailing practices, which people belonging to minorities face when going through the criminal justice system. This was confirmed by the moving and painful testimonies of victims of these violations, presented by those who faced them with courage, and I salute them for it. Allow me to specifically mention here Nadia, the Yazidi girl, who stirred numerous questions about the international justice system and its competence to protect minorities not only facing the official institutions, but also terrorist groups.

In this regard, I thank the special rapporteur on Minorities issues for organizing this Forum that opened a space for representatives of minorities to draw the attention of the representatives of the states and the UN agencies to the violations, injustices, and transgressions, which did not receive attention nor enough concern within reform and development programs implemented for the advancement of the criminal justice system.

In response to these challenges, I begin by saying that it is not possible for us to talk about warding off these violations against minorities or preventing them without talking about the necessity for programs of strategic and comprehensive penal reform, which concerned states [should] adopt to improve the justice system as a whole, and which serve as a prerequisite for [the justice system's] success. [Further, the necessity of] an accountable political will at the highest level, and allocation human and material resources to guarantee the application of these programs in practice, whose effect can be measured on the rights of all members, which pass through the criminal justice system including minorities. [All of this] taking into account the international standards of human rights, and especially guarantees of non-discrimination, and fair and effective standards of justice administration.

There is no guarantee for the rights of a certain group, if the system is not inclusive of the rights of all, who deal with it.

It is on us to recognize the existence of the numerous problems and challenges most criminal justice systems in the world still face, which need effort and work by all the official and non-official institutions. I am presenting some of the problems and challenges based on the divisions mentioned in the report of the special rapporteur on minorities rights, which are classified under different items recommended to this forum:

**First level: On the availability of and providing an inclusive database,** from which to derive indicators reflecting the current situation, indicating any deficiency in the criminal justice system and its process. In numerous countries we find that the available databases, if found, are lacking numerous

information on and classification of people going through all levels of the justice system. We further find that the aim of entering [the information] is purely statistical for the purposes of the census, and not for analysis or reading the situation.

We find feeble coordination between the different law enforcement agencies and [their] databases, [are set] as separate entities from each other, making the inputs conflict. In numerous countries, we lack an acceptable level of coordination between the police agencies and the public prosecution, and the justice and penal institutions in regards to approved databases, which leads to obtaining inaccurate data and indicators, which do not reflect reality.

Flaws like these influence the prospect of devising accurate indicators in regards to minorities, [which would] help to understand and determine the nature of the problems they face passing through the justice system. Accordingly, it is impossible to take decisions and steps capable of eliminating the violations [faced by] the minorities and guarantee their rights.

The lack of sufficient analytical studies and research, which reflect the reality of the problem and help the agencies entrusted with it to implement the law and draw policies in a manner which would correct all imbalances, is worth mentioning.

Hence, let me extend an invitation to the representatives of governments and specifically of civil society organizations, urging them to pay adequate attention to these studies and the initiative commissioned [on the grounds] of their importance in guiding the penal policies.

### **Second level: The first line of contact in the justice system is the contact with the police**

At the outset let me say, that all studies have shown that the experience of a person with the police is what determines [their] attitude towards the justice system; the more positive it was, the more it reflected positively on the attitude towards and the engagement with the system as a whole, as well as on the extent of trust in it. Accordingly, the police force, entrusted with preliminary investigation, arrest, and detention, is the mirror of the justice system, whose reform we must not lose sight of.

Violations, such as discrimination, mistreatment and torture, which people belonging to minorities face in their contact with the police took up yesterday's conversation, as a big part of the work [programme] of the forum, reflecting the extent of the problem and leading us to scrutinize the reasons for its occurrence more [in depth]. Part of what can be mentioned in this context, is that in many countries of the world, we unfortunately find that the members of security and police [forces] lack enough training on human rights norms in general, and minority rights in particular, and their institutional training provided by law enforcement agencies focuses on the security aspect more than on the human aspect, and often the cultural and social aspects are omitted.

Often, while they are trained, prepared and their skills developed, they face being moved from their jobs, and being assigned new tasks far from the content of the courses and trainings they took (and here we have to take into account material cost and the efforts made). We also find that certified programs and curricula of study at police academies do not include custom programs on the issues of human rights.

The issue of the absence of a comprehensive representation of all segments of society in the institutional police framework is one of the most important problems contributing to the lack of trust in the police force and their inability to understand the particularity of all groups. Therefore, the likelihood of violations occurring against the non-represented minorities increases.

Yet, the biggest challenge the criminal justice system faces on police level in numerous countries of the world is the possibility of eluding punishment and the lack of accountability for perpetrators of violations, who are part of the police [forces]. In many criminal justice systems, we find members of the police committing an offense or violating human rights standards being held accountable by (if it happens at all) non-independent and not impartial special judicial bodies, guaranteeing their escape from punishment. This opens the door to easily abuse the use of power and exploit it in an illegal way by members of the security [forces], which reflects negatively on the extent of the general trust people have [in regards] to the police agencies, and opens the door to corruption and bullying towards some groups and not other.

The issue of only rarely or not being able to use modern criminological methods to collect evidence, survey and investigation during the police[-lead] phase, is one of the reasons, which lead to an increase of the prospect of them resorting to violence to get information.

### **Third level: Access to justice**

The main challenge in this matter is the presence of a legislative, regulatory and administrative environment, which guarantees all members of society and classes the opportunity to reach the justice system, the ability to persist and deal with the process of the justice system, as well as guaranteeing the lack of discrimination and the exposure to any kind of offense, abuse and violence, and ensuring the sensitivity of the justice system towards the needs of all groups, which pass through it.

[The issue] raised yesterday in many of the interventions in regards to the exposure of women in general, and women belonging to minorities in particular, to harassment, sexual, physical and verbal violence while passing through the justice system as victims, culprits, witnesses, or companions for someone in their family, clearly indicates that the problem is not only being able to reach the justice system, but that there is another responsibility that rests with the state and the law enforcement institutions, which is the need to empower these groups to deal with the criminal justice system in a form that respects the dignity and the particularity of these groups, so that the experience is not in itself a burden.

Often women are reluctant to go to police stations to file a complaint in connection to the numerous violations they face in order to avoid the experience of going through the justice system, something which extends to minorities.

### **Fourth level: stage of detention**

Most of the world's prisons suffer from the phenomenon of overcrowding. The average percentage of prison overcrowding in the region of the Middle East and North Africa for example is between 150-160%. The phenomenon of overcrowding directly affect the rights of the detained people, as overcrowding raises

the chances of a violation of the rights of detained people. It [further] poses a threat to the right to life, security and safety, and the right to health, education, contact with the outside world and other rights.

[In addition, it influences their] opportunity to benefit from rehabilitation and reintegration programs, and public services. Persons belonging to minorities have a greater chance to be exposed to violations of their rights in regards to health [issues].

At the level of pre-trial detention, we need to mention that the percentage of people arrested reaches 45%-60%. This means that they make up the largest percentage of prison inmates and a person's period of detention in the pre-trial phase reaches up to 3 years.

In the event that they are from minorities the chance that they get a good legal representative, are released on bail or on [other] precautionary measures, decreases.

The solution to this phenomenon needs to be a review of the criminal policies and adopting a reformist punitive approach based on rehabilitation and reintegration, reducing the use of detention and supporting the adoption of non-custodial measures.

I emphasize here that the solution is not to build new prisons, but rather for the administrative system to adopt the protection of minority rights and respond to their needs.

#### **Fifth level: Judicial measures and imposing punishment**

In many justice systems, we find that the pursued criminal policy and the enforcement policy on punishment adopted are insular in their nature and tend towards a philosophy of deterrence and of emphasizing punishment, more than a philosophy of reform, rehabilitation and reintegration.

We find, for example, that the principle of proportionality between the crime and the punishment is marred by numerous deficiency in many [justice] systems, so that we find that in many countries there is a tough policy in regards to the criminalization of drugs and other issues, which reflects on the justice system. Further, [we find that] the policy of criminalization affects the general political and security atmosphere. A fact which can be observed through the stricter imposition of punishment on a group and not others, because of political, racial grounds and so on.

The death penalty may be one of most important indicators of a malfunction, as studies have shown that the most susceptible groups to the death penalty are the poorest people, followed by politicians.

Further, resorting excessively to a punishment of detention in comparison to resorting to non-custodial measures, despite today's international trend to push to adopt non-custodial measures and to encourage resorting to them in greater extent for some groups, such as juveniles. [In this case] detention needs to be the last resort after exhausting all possible measures. The Bangkok rules for [the treatment of] women prisoners and non-custodial measures for women offenders encourage resorting to non-custodial measures for women.