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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

The right to identity of persons belonging to minorities

Report of the Special Rapporteur on minority issues, Nicolas Levrat*

Summary

In addition to providing a summary of his activities in 2024, in the present report the Special Rapporteur on minority issues unpacks and examines the meaning of article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities as a way to explore whether the right to identity belongs to minorities directly, or only to persons belonging to minorities – or both. He does this by examining the issue of the legal personality of minorities. In addition, the Special Rapporteur examines the functions of three levels of identities, namely, “national identity”, “minority (collective) identity” and “individual identity”, and three types of identities, namely “assigned identity”, “self-identification” and “relational identity”, in order to illustrate the complexity of multilayered identities. He then explores references to identity and the right to identity in international law. He underscores that minority identity results from the combined exercise of the specific right to identity by persons belonging to minorities and the recognition and protection from the State as spelled out in article 1 of the Declaration. The Special Rapporteur asserts that by fully respecting the identity of persons belonging to minority groups, tensions between minority groups and dominant groups can be averted, while enabling society to flourish in its diversity. The Special Rapporteur concludes the report by offering recommendations to States and other stakeholders for recognizing and respecting the specific identity of persons belonging to a minority groups.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter’s control.



I. Introduction

1. The mandate of the Special Rapporteur on minority issues was established by the Commission on Human Rights in its resolution 2005/79. It was subsequently extended by the Human Rights Council in successive resolutions, the most recent being resolution 52/5, by which the mandate of the Special Rapporteur was extended under the same terms as provided for in resolution 25/5.
2. The Special Rapporteur, Nicolas Levrat of Switzerland, was appointed by the Human Rights Council on 13 October 2023 and assumed his functions on 1 November 2023. Section II of the present thematic report provides a summary of his activities during 2024.
3. For the preparation of the thematic report, the Special Rapporteur carried out extensive desk research and issued a call for inputs that generated 10 written submissions from States, 1 from an international organization and 17 from non-State actors, including civil society organizations, academics and other stakeholders. In addition, interviews with persons belonging to minorities were conducted to explore some issues in more depth. The Special Rapporteur wishes to thank the Office of the United Nations High Commissioner for Human Rights (OHCHR) for its support in the implementation of the mandate,¹ as well as interns from the Global Studies Institute of the University of Geneva, who provide precious background research for the discharge of his mandate.²
4. The Special Rapporteur wishes to draw the attention of the Human Rights Council to the web page devoted to the mandate on minority issues, where general information is provided on the activities associated with the mandate, including communications, press statements, public appearances, country visits and thematic reports.³

II. Activities of the Special Rapporteur

5. The Special Rapporteur, following up on his commitment to highlight and contribute to the sharing of best practices towards pluralistic and diverse societies worldwide, worked on the launching of a global network on minority issues designed to encourage student-led projects addressing minority issues at universities worldwide.⁴ This initiative aims to empower students from diverse backgrounds to collaboratively develop practical solutions to the specific challenges faced by minority groups. It also seeks to promote students as active participants in advancing inclusive and diverse societies globally by engaging youth as key agents of change. The Special Rapporteur thanks the European Academy of Bolzano and the Autonomous Province of South Tyrol for their support to this project.

A. Country visits

6. Despite his best efforts and numerous interactions with Permanent Missions in Geneva, the Special Rapporteur was, unfortunately, unable to conduct an official country visit in 2024. He will continue the constructive dialogue with the Permanent Missions of Bangladesh, China, Colombia, India, Iraq, Japan, Malaysia, Nepal, New Zealand, Pakistan, Senegal, Saudi Arabia, South Africa, Zambia and the European Union in 2025.

B. Communications

7. In 2024, a total of 37 communications were sent by the Special Rapporteur on minority issues. Of those, 30 were letters of allegations and 7 were urgent appeals. All of the

¹ Special thanks for their contribution to this report to Fatuma Abdillahi Ali (OHCHR senior minority fellow), Manon Beury and Shafferan Sonneveld.

² The Special Rapporteur thanks Laure Bera Rutagengwa, Elie Chirat and Abba Zidani, students in the master's degree programme at the Global Studies Institute of the University of Geneva, for their contributions to the present report.

³ See www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx.

⁴ A/HRC/55/51, para. 72.

communications were sent jointly with other special procedures mandate holders. Four communications concerned the Africa region, twenty-eight concerned the Asia-Pacific region and five concerned the Western European and other States region.

C. Conferences and awareness-raising activities

8. The Special Rapporteur has engaged in several activities to promote and raise awareness of minority issues, as well as the rights of persons belonging to national, ethnic, religious and linguistic minorities, by attending and participating in person or online in conferences and workshops. He also contributed to various other awareness-raising activities, such as consultations and discussions, with, among others, OHCHR minority fellows, and participated in side events of the Human Rights Council and media interviews.

9. From 15 to 18 February 2024, the Special Rapporteur was in Istanbul, Türkiye, for an event on preserving and reinforcing mother tongues in the country, hosted by Minority Rights Group Europe.

10. On 20 March, he delivered a video message at a side event of the Commission on the Status of Women, hosted by the Coptic Solidarity network and the Jubilee Campaign, focused on filling the gaps in social protection systems for minority women.

11. On 13 May, he co-organized an event with the Organization for Security and Cooperation in Europe High Commissioner on National Minorities and the Permanent Mission of Malta to the United Nations Office at Geneva on the theme of “Building peace: minority youth in conflict prevention efforts and inclusive socioeconomic policies”. The event aimed at bridging the existing gaps in conflict prevention approaches by addressing the potential of young people from minority groups to contribute to conflict prevention and socioeconomic development.

12. The Special Rapporteur delivered lectures at an event at the Minority Rights Academy hosted by the Hrant Dink Foundation in Istanbul, from 7 to 9 June.

13. In June, he travelled to New York to promote the integration of minorities and minority issues in the Summit of the Future agenda and within the Pact for the Future. During the mission, he engaged with representatives from various Member States, civil society members and United Nations officials to advocate for the inclusion of minorities in the final document.

14. On 12 June, he delivered a keynote address to a workshop focusing on assessing the obstacles for ethnic, religious, linguistic, national and other minority groups in participating at the United Nations, organized at the City Law School in London.

15. He gave a presentation at a conference on the theme of “Protecting education in minoritized languages and strengthening language rights: how to progress?”, hosted by the European Language Equality Network in Barcelona, Spain, on 15 June.

16. He delivered a keynote address to participants in the Minority Protection in Europe summer university hosted by the Institute for the Protection of Minority Rights in Budapest, on 8 July.

17. On 9 July, he delivered a presentation at the 2024 Global Minority Rights summer school hosted by the Tom Lantos Institute in Budapest.

18. He delivered a presentation at the summer school of the European Academy of Bolzano Institute for Minority Rights in Bolzano/Bozen, Italy, on 12 July.

19. He gave a keynote address providing an overview of his work and the mandate of the Special Rapporteur on minority issues at an event organized by Global Human Rights Defence in The Hague, Kingdom of the Netherlands, on 14 August.

20. On 7 September, he delivered a laudatory speech to the nationality and ethnicity category winners at the Swiss Diversity Awards Night in Bern, Switzerland.

21. He made opening remarks at the side event on the theme “Let’s talk about caste”, highlighting the need to address caste discrimination as a root cause of human rights

violations, organized by the International Dalit Solidarity Network at the United Nations Office at Geneva on 18 September.

22. On 18 September, he also participated in the global expert consultation co-organized by the Committee on the Elimination of Racial Discrimination and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on a joint general recommendation/comment on public policies for addressing xenophobia and its impact on human rights, in partnership with the Graduate Institute's Global Migration Centre, the Geneva Human Rights Platform of the Geneva Academy and OHCHR.

23. He delivered concluding remarks at a side event on the theme "Fighting antisemitism through peer-to-peer learning", organized by the World Jewish Congress on 24 September.

24. On 30 September, he gave a keynote speech at the European Centre for Minority Issues workshop on the theme "The law of diversity: new theoretical and practical perspectives on diversity accommodation for minority groups" in Flensburg, Germany.

25. He intervened as a panelist in a side event of the fifty-seventh session of the Human Rights Council on the theme "Human rights, a cultural heritage", organized by the Asian Buddhist Conference for Peace and the Dharma Alliance at the United Nations Office at Geneva on 4 October.

26. He took part in a United Nations workshop on intersectionality dialogues focused on gender and anti-racism aimed at strengthening the integration of those issues within the human rights system and enhancing their analysis among United Nations human rights experts, organized by OHCHR on 10 and 11 October.

27. He participated in the launch event of the revised first thematic commentary on education of the Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe, in Strasbourg on 17 October. He also had working meetings with the newly elected Secretary-General of the Council of Europe, Alain Berset, and the Council of Europe Commissioner for Human Rights, Michael O'Flaherty, as well as members of the European Court of Human Rights.

28. On 31 October and 1 November, he was invited by the United Nations Educational, Scientific and Cultural Organization (UNESCO) to the 2024 Global Education Meeting, held in Fortaleza, Brazil, where he intervened in a panel on empowering indigenous peoples and linguistic and cultural minorities through education, as an implementation mechanism of Sustainable Development Goal 4.5, which aims to eliminate gender disparities and ensure equitable access to education for vulnerable groups. In addition, he intervened in a side event related to the future of education and contributed to a panel on equity and inclusion.

29. He presented his annual thematic report to the Third Committee of the General Assembly on 4 November in New York.

30. He delivered a keynote speech at the vernissage of the 2024 edition of the International Art Contest for Minority Artists, organized in Geneva by OHCHR, Freemuse, Minority Rights Group International, the City of Geneva and the Centre des Arts of the International School of Geneva on 6 November.

31. On 5 December, he delivered a keynote address to the National Assembly of Hungary at the Interparliamentary Conference on Cultural Heritage and the Identity of Traditional Minorities organized within the framework of the Hungarian Presidency of the Council of the European Union.

32. He participated in the thirtieth annual meeting of special rapporteurs, independent experts and chairs of working groups, held at the United Nations Office at Geneva from 9 to 13 December.

D. Forum on Minority Issues

33. The seventeenth session of the Forum on Minority Issues was held on 28 and 29 November 2024 in Geneva, with measures in place to accommodate prerecorded interventions. The theme was "The representation and self-representation of minorities in

public spaces and discourses”. The event gathered more than 790 participants from 96 countries, including representatives of States, United Nations mechanisms, bodies, specialized agencies, funds and programmes, intergovernmental organizations, regional organizations, and entities in the field of human rights, national human rights institutions and other relevant national bodies, minority groups, non-governmental organizations and academic experts on minority issues.

34. The seventeenth session of the Forum aimed at empowering minorities in their representation in society, which impacts their effective participation in decision-making and cultural, religious, social, economic and public life, as laid out in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The related recommendations of the Special Rapporteur will be presented to the Human Rights Council at its fifty-eighth session.

III. The right to identity of persons belonging to minorities

A. Introduction

35. Article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities reads: “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.” The present thematic report will be devoted to analysing and better understanding the meaning of article 1.

36. A systematic analysis of the Declaration leads to the easy conclusion that the most defining element of minorities is their identity, an element linked to their very existence. The Special Rapporteur would like to emphasize this point, as the United Nations unfortunately and systematically ignores minorities in its programmatic documents. The word minority does not even appear in the 2030 Agenda for Sustainable Development or its Sustainable Development Goals,⁵ nor does it appear in the Pact for the Future, despite my best effort to underscore the importance of reflecting minority issues therein.⁶ The dominant discourse in the United Nations is that minorities are covered by the pledge that “no one will be left behind”,⁷ the commitment to endeavour to reach “the furthest behind first”⁸ and the emphasis on “people in vulnerable situations”.⁹ However, as much as addressing socioeconomic needs and avoiding discrimination against persons belonging to minorities is necessary, it is not sufficient.

37. Persons belonging to a minority group should not only have their socioeconomic situation improved and have the opportunity to fully enjoy their human rights without discrimination, they also need to have their identity recognized. This is important both as regards their full enjoyment of human rights, including their right to a minority identity, and as a pacifying and stabilizing factor of society within a State.¹⁰ Failing to properly recognize such identity may (and unfortunately does) lead to tensions within national societies and at the international level. This is why minorities should be treated as such by the United Nations, and not just included in other larger groups of discriminated peoples, which actually constitutes a denial of their identity at the international level. The Special Rapporteur is fully aware that the wording of article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities concerns the existence and identity

⁵ General Assembly resolution 70/1.

⁶ See <https://www.ohchr.org/sites/default/files/documents/issues/minorities/sr/Position-Paper-Integrating-Minority-Issues-Pact-Future.pdf>.

⁷ General Assembly resolution 70/1, preamble and paras. 4, 26, 48 and 72.

⁸ *Ibid.*, paras. 4 and 74 (e).

⁹ General Assembly resolution 79/1, para. 25.

¹⁰ The fifth preambular paragraph of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities reads: “considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live”. On this point, see also my report to the General Assembly in 2024 (A/79/169), especially paragraphs 19 and 20 thereof.

of minorities within each State, and not internationally. Nevertheless, failing to recognize the specificity of the identity issue of minorities at the United Nations level is a collective failure of the United Nations system and Member States, at odds with the affirmation that “the United Nations cannot remain indifferent to the fate of minorities”¹¹ and the commitment collectively made in the adoption of the Declaration.

B. Is there a right to identity belonging to minorities?

38. In 2006, in her first report on minority issues¹² presented to the Commission on Human Rights, the independent expert on minority issues stated:

“The independent expert also takes note of the collective nature of minority rights. This holds importance for the promotion and protection of minority identity and visibility, for the informed collective participation of these groups in decisions that affect their rights and resources, and for securing collective claims to linguistically and culturally appropriate education, land and other shared assets. While the Declaration on the Rights of Minorities examines rights that may be claimed by individual members of minority communities, those claims will often require the State to ensure the existence or identity of the group as a whole.”¹³

39. The legal complexity of minority rights in international law is fully encompassed in that paragraph. In 2006, the independent expert “takes note of the collective nature of minority rights”, while acknowledging that “the Declaration on the Rights of Minorities examines rights that may be claimed by individual members of minority communities”, with the consequence that “those claims will often require the State to ensure the existence or identity of the group as a whole”. Revisiting the issue in 2025, the Special Rapporteur will aim at disentangling this legal conundrum of respective rights and duties of persons belonging to minorities, minority groups themselves and Member States – the latter having universally endorsed the Declaration. Is it then possible, from the wording of article 1 of the Declaration, to infer that a right to identity belongs to minorities? Or does such right belong to persons belonging to minorities? Or both?

40. The idea of minority groups (minorities themselves) as collective rights holders – including a right to identity – is not accepted generally in the legal doctrine, nor is it accepted by States themselves. Such reluctance relates to the wording of the Declaration, but even more fundamentally to the “concept of rights” as it exists in contemporary positive law. As regards the wording of the Declaration, one cannot ignore that the Declaration is not about minority rights, but, as its title indicates, about the rights of persons belonging to national or ethnic, religious and linguistic minorities. In the wording of its articles, the Declaration does not recognize the rights of minorities themselves, but rather the rights of persons belonging to minorities,¹⁴ while also imposing duties on States.¹⁵

41. Actually, the current “concept of law”,¹⁶ or, even more precisely, the “concept of rights”, is based on an understanding of “subjective rights”,¹⁷ meaning that a right exists only if it can be claimed by a legal person (subject or holder of rights). Currently, collective legal persons do not exist in positive international law.¹⁸ This mechanism limiting subjective rights to single persons is well illustrated by the first words of the Constitution of the United States

¹¹ See General Assembly resolution 217 C (III).

¹² By its resolution 2005/79, the Commission on Human Rights created the special procedure on minority issues, with a mandate given for two years to an independent expert.

¹³ [E/CN.4/2006/74](#), para. 27.

¹⁴ Arts. 2 and 3.

¹⁵ Arts. 1 and 4.

¹⁶ See H.L.A. Hart, *The Concept of Law* (Oxford, Oxford University Press, 1961).

¹⁷ Thomas Mautner, “How rights became ‘subjective’”, *Ratio Juris*, vol. 26, No. 1 (March 2013), pp. 111–132.

¹⁸ Some authors consider “peoples” (as referred to in Article 1 of the Charter of the United Nations) as collective subjects of international law; see Iryna Kresina and Oleksii Kresin, “The people as subject of international law”, *Jus Gentium: Journal of International Legal History*, vol. 3, No. 2 (July 2018), pp. 573–598.

of America, which read “we the people”. “We” being collective, “the people” being in the singular. Similarly, in international law, the collective of a people will be embodied in the single person of a State. Thus, whether a right to identity belongs to a minority is determined by whether the minority exists as a legal person, who may then be a holder of rights, or not.

42. As regards legal personality, there is a major difference between natural and legal persons. Natural persons exist outside of the law, as living beings, but must be recognized by law to have rights. Thus, article 6 of the Universal Declaration of Human Rights states: “Everyone has the right to recognition everywhere as a person before the law.”¹⁹ Legal persons do not, as such, exist outside the law and may only come to existence according to law – either national or international law – with the astounding exception of States (see para. 51 below). Law defines the conditions according to which a legal person may come to existence and the legal capacity of that person. General international law does not contain criteria or processes to materialize minorities as legal persons, while it does, for example, for international organizations.²⁰ Even though several legal instruments deal with minority issues, such as the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities or the Council of Europe Framework Convention for the Protection of National Minorities, those legal texts do not define minorities themselves as the bearer of rights. Does that lead to the conclusion that there is no right to identity for minority groups?

43. The answer is fortunately negative; there is a right to identity for minorities, but its structure is a bit complex. Considering that minorities are not the subject of international law,²¹ they cannot themselves be the bearers of rights, including a right to identity. However, as article 3 of the Framework Convention for the Protection of National Minorities specifies: “Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.”²² This would imply that persons belonging to minorities, by exercising in community with other members of the minority their individual right to identity, would define and shape the identity of the minority that the State is then bound to protect. As article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities clearly expresses, States accept the duty to protect the identity of minorities. However, such protection does not imply giving content to such identities; quite the contrary.

44. The duty to protect implies that the protected item, *in casu* the identity of minorities, exists outside of the will of the legal person bearing the responsibility to protect. In the Special Rapporteur’s view, this is further confirmed by the additional commitment undertaken by States in article 1 of the Declaration “to encourage conditions for the promotion of that identity”. Thus, the State protects and encourages the conditions, but does not itself develop or promote the identity. Logically then, the identity of a minority group must stem from the aggregated exercise by “persons belonging to minorities” of their individual right to identity. This then raises two questions. First, do the persons belonging to a minority have a specific right to identity, in addition to a right to identity belonging to the persons who are part of the dominant group,²³ which can define and promote the identity of the minority to which they belong? And second, how do these three levels of identity (individual, minority and State identities) articulate with each other?

¹⁹ The adoption of the article 6 of the Universal Declaration of Human Rights was, among other reasons, considered important to guarantee the abolition of slavery. Article 16 of the International Covenant on Civil and Political Rights has almost the same wording.

²⁰ See *Reparation for injuries suffered in the service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 174.

²¹ See Nicolas Levrat, “Pourquoi les minorités ne sont pas des sujets de droit”, in *Le Droit Saisi par le Collectif*, Thomas Berns, ed. (Brussels, Bruylant, 2004), pp. 59–93.

²² Framework Convention for the Protection of National Minorities, art. 3 (2).

²³ In 1994, the Human Rights Committee, in its general comment No. 23 (1994) observed that article 27 of the International Covenant on Civil and Political Rights “establishes and recognizes a right which is conferred on individuals belonging to minority groups and which is distinct from, and additional to, all the other rights which, as individuals in common with everyone else, they are already entitled to enjoy under the Covenant”.

C. Understanding multilayered identities

45. Identity is not a legal issue per se, even though it is sometimes found in international legal documents (quite rarely though), with references to “national identity”,²⁴ collective identity²⁵ or individual identity.²⁶ It thus appears that all three levels of identity about which this report is concerned represent relevant identity issues in international law (see sect. III.D below). However, if individual identity clearly refers to an individual right, collective identities may be more complex to define, as collectivities are composed of individuals and should, in the logic of an international order based on respect for human rights, exert such right – provided that they can have rights (see para. 41 above) – for the benefit of human beings, the only natural holders of rights.²⁷ In order to better understand these different multilayered identities, we shall briefly investigate the identities’ functions, as well as their emergence and evolution.

46. The functions of identity are both to singularize the bearer and to allow this person to articulate a dynamic of change with the permanence of remaining the same being.²⁸ Identity therefore does not mainly refer to some innate quality of beings, but more to a constructed perception – by the bearer of identity and by others – built through processes of identification and differentiation. This dual function is relevant for both individual and collective identities. Therefore, references to collective identity as a set of values and elements immutably linked to past characteristics of a social group (such as the nation, as pictured in nationalist discourse) or as displayed today in what is called “identity politics”²⁹ constitute gross attempts at instrumentalizing identity to build closed and exclusive social groups – a construct at odds with both the concept of identity itself and the current reality of a globalized and interlinked world.

47. In addition to the recognition of three levels of identity (see para. 44 above), the present report will also investigate three types of identities: assigned identity, self-identification and relational identity. Assigned identity refers, for example, to the elements of an individual’s identity which appear in identity documents or on a birth certificate; it is assigned by an external authority. It may also be the result of social assignation of an individual to a given social group, either through social practices contrary to human rights principles, as is the case for Dalits in South Asia, or through legal or institutional provisions assigning individuals to an ethnic, linguistic or religious community as regards the exercise of some specific rights. Self-identification refers to “each person’s deeply felt internal and individual experience”.³⁰ Self-identification is more apparent when the chosen or perceived identity is at odds with the assigned identity,³¹ but each and every

²⁴ Treaty on European Union (after 2007 revision), art. 4 (2).

²⁵ Article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. See also articles 1 and 5 of the UNESCO Universal Declaration on Cultural Diversity and article 4 of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

²⁶ Article 8 of the Convention on the Rights of the Child.

²⁷ From the wording of article 1 of the Universal Declaration of Human Rights, a majority of legal doctrine considers human rights not to be conferred by any legal system, but to be “natural rights” inherent to human nature. See Tom Angier, Iain T. Benson and Mark D. Retter, eds., *The Cambridge Handbook of Natural Law and Human Rights* (Cambridge, United Kingdom of Great Britain and Northern Ireland, Cambridge University Press, 2022).

²⁸ See Charles Taylor, *Sources of the Self: The Making of the Modern Identity* (Cambridge, Massachusetts, Harvard University Press, 1989). To illustrate this second function, which may seem cryptic, it is what allows me to consider I was myself when 6 years old and still am myself at past 60. Even though I am obviously not the same (physically, intellectually, etc.), I am still the same person.

²⁹ See Francis Fukuyama, *Identity: Contemporary Identity Politics and the Struggle for Recognition* (London, Profile Books, 2018); or Abdul Noury and Gerard Roland, “Identity politics and populism in Europe”, *Annual Review of Political Science*, vol. 23, No. 1 (May 2020), pp. 421–439.

³⁰ [A/73/152](#), para. 2.

³¹ [A/73/152](#), para. 2. This is sometimes dramatically true as regards gender identity, leading to discrimination and violence against persons whose self-determined gender identity does not correspond to the identity assigned at birth. As the Independent Expert on protection against violence

individual has the right and the capacity to self-identify.³² Relational identity is the identity displayed and perceived by individuals in social interactions;³³ it naturally plays an important role in the interactions between persons belonging to a minority group and other persons living in the same State. These three types of identities and their interactions are relevant for the present thematic report.

48. Individual identity has been a major topic of research for psychology and psychiatry. Identity is understood by these disciplines as a constituent element, but not as an invariant component, of a subject's personality. Identity is to be understood as a permanently negotiated process between subjective elements built on inner processes of emotional identification and attachment on the one side (self-identification), and interactions with the social environment on the other (relational identity). Individual identity is entangled with the social environment of the individual and built through processes of identification and differentiation.³⁴ This double dynamic may lead to exclusive identities, characterized by strong identification with the group and strong differentiation with those outside the group, or open identities, where identification and differentiation remain present and active, but do not place the dominant group and the minority group in antagonistic situations, allowing for fluidity and flexibility in the acceptance of a variable intensity of affiliation. This aspect of identity-building is important for the theme of the present report, as this interaction between the individual and the social environment is a two-way process; as a result, collective identities are the outcome of interactions between individuals, inside or between social groups.³⁵

49. Collective identities have been the subject of study of social psychology, sociology, and political philosophy. The relationship between minority and dominant groups has an important place in these fields of study,³⁶ with prominent authors focusing, since the turn of the twenty-first century, on ways to articulate constructively minority and national identity, either through inclusive citizenship policies³⁷ or through the promotion of diversity in societies.³⁸ The main issue is whether a minority group identity is distinct from (and potentially antagonistic towards) the collective national identity, or whether minority identities contribute to an inclusive collective identity at the State level. In other words, we either have exclusive identities on both sides (national and minority identities) or open identities on both sides. The Special Rapporteur explored this issue in his thematic report to the Human Rights Council in 2024³⁹ and clearly underlined how and why minority issues need to be apprehended through the second paradigm, to avoid potential tensions between

and discrimination based on sexual orientation and gender identity expressed in his report to the General Assembly in 2018:

Self-determined gender is a fundamental part of a person's free and autonomous choice in relation to roles, feelings, forms of expression and behaviours, and a cornerstone of the person's identity. The resulting obligation of States is to provide access to gender recognition in a manner consistent with the rights to freedom from discrimination, equal protection of the law, privacy, identity and freedom of expression. (A/73/152, para. 21).

³² As the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity notes, "nothing in the body of international law suggests that only trans or gender-diverse persons have a gender identity" (A/HRC/47/27, para. 15).

³³ See Isabelle Taboada-Leonetti, "Stratégies identitaires et minorités: le point de vue du sociologue", in *Stratégies Identitaires* (Paris, Presses universitaires de France, 1998), pp. 43–83.

³⁴ Ibid.

³⁵ The seminal work and the link between individual and collective identities was laid out in the late nineteenth century by Georg Simmel in his book *Über Sociale Differenzierung: Sociologische und Psychologische Untersuchungen* (Berlin, Duncker & Humblot, 1890).

³⁶ See, beyond the work of Simmel already mentioned, the research of George Herbert Mead, Leon Festinger, Erving Goffman or Erik Erikson.

³⁷ Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford, Oxford University Press, 1996).

³⁸ Charles Taylor, "The politics of recognition", in *Multiculturalism: Examining the Politics of Recognition*, Amy Gutmann, ed. (Princeton, New Jersey, Princeton University Press, 1994). See also Christian Reus-Smit, *On Cultural Diversity: International Theory in a World of Difference* (Cambridge, United Kingdom, Cambridge University Press, 2018).

³⁹ A/HRC/55/51.

the minority group and the dominant group.⁴⁰ The present thematic report demonstrates that such an end can be achieved through the full respect of the identity of persons belonging to minority groups.

D. The right to identity in international law

50. For the three levels of identity that were identified as relevant for minority issues (see para. 44 above), there is quite a differentiated situation as regards references to identity in international law. There is a clear disposition of positive law as regards individual identity in article 8 of the Convention on the Rights of the Child. Gender identity is also a recognized concept of international law (even though it has not yet been translated into a positive law provision), at least since the Human Rights Council appointed an independent expert on protection against violence and discrimination based on sexual orientation and gender identity.⁴¹ With regard to collective identities, references can be found in non-binding legal instruments (such as the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities or the UNESCO Universal Declaration on Cultural Diversity). There is, however, no reference to national identity in international law.⁴² Nevertheless, national identity is an important feature for most States in the world, also to be taken into account in international relations. The present section will therefore examine the right of States to identity and the right to individual identity. As we have seen, as they are not legal persons in international law, minorities cannot be rights-holders; however, minority identity results from the combined exercise of the specific right to identity by persons belonging to minorities, on the one hand, and the recognition and protection of that identity by the State in accordance with article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, on the other.

1. The right of States to a national identity

51. States sovereignly define their identity in founding documents, most commonly taking the form of a constitution. States are problematic legal objects. States are legal persons, meaning they do not exist as natural persons, but only exist according to law (see para. 40 above). The difficulty with States is that they are at the foundation of both a specific national legal order (and therefore cannot be defined by this national legal order before it exists) and of international law. Further, a State cannot be created within an existing legal order, as it would then not be a sovereign entity (a defining characteristic of statehood) since its existence would find its root in another State's legal order. Nor can a State be created according to international law, since international law is the product of States' interactions. Therefore, States precede the international legal order, which is why States, despite being legal persons, are not defined, but only recognized, by other international law subjects. The only option is for States to define themselves, including by adopting and promoting an identity, which then singularizes and defines them, both domestically and internationally. In other words, a State's identity directly arises from the right to self-determination.⁴³

⁴⁰ Ibid., paras. 37–41.

⁴¹ See Human Rights Council resolution 32/2.

⁴² With the exception of the Treaty on European Union, article 4 (2) of which reads in part: "The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government." However, most European law academics consider European Union law to be of a different nature than international law, since the publication of the seminal work of Pierre Pescatore, *Le droit de l'intégration : émergence d'un phénomène nouveau dans les relations internationales selon l'expérience des Communautés européennes* (Leiden, Kingdom of the Netherlands, Sijthoff, 1972).

⁴³ As the General Assembly asserted in 1970 in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV)): "The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people."

52. Therefore, the right of States to identity stems from the combination of the exercise of the right to self-determination and the principle of sovereignty.⁴⁴ The right to self-determination is recognized and guaranteed by the Charter of the United Nations (Article 1 (2)) and by article 1 (1) of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which reads: “All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” The right to determine freely the form and goals of the State is the bedrock of States’ specificities, or in other terms, their national identity.⁴⁵ The principle of sovereignty, embedded in Article 2 (1) of the Charter of the United Nations, allows a State to maintain its national identity as a structural component of its status as a State under international law, without any possible interference from other subjects of international law, as guaranteed by the principle of non-intervention embedded in Article 2 (7) of the Charter. Therefore, the right to identity as it concerns States is not recognized or even guaranteed as such by international law, but is consubstantial with the very nature of the State as an emanation of self-determination of a people, materialized and protected by the sovereign nature of the State.

53. As the existence of a State’s right to identity is a sovereign right of the State, each State may voluntarily limit such right by international commitments. As the Permanent Court of International Justice underlined in a 1923 ruling: “The abandonment of the rights in question cannot be regarded as inadmissible for reasons connected with Germany’s sovereignty; [...] on the contrary, the right of entering into international engagements is an attribute of State sovereignty.”⁴⁶ The right to identity being a sovereign right of each State, by adopting the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and agreeing to “protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories” (art. 1), States sovereignly accepted that their own national identity was not a matter of exclusive sovereignty, but should be constructed in such a way as to protect the existence and identity of minority groups within their respective territories (see para. 64 below).

2. The right to individual identity

54. All human beings do have an identity, even though a specific right to individual identity is not recognized in human rights law in general, with the noticeable exception of article 8 of the Convention on the Rights of the Child. Article 8 of the Convention reads: “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.” Interestingly, this right to identity is distinct from the right to have a legal personality, which is embedded in article 7 of the Convention.⁴⁷ Let us underline that this right to identity in article 8 is worded in negative terms: it has to be respected by the State, it is not assigned by the State. The right thus exists without State intervention, implying that child identity derives from self-identification or relational identity (the latter being most likely for young children, through the family or the community, as a newborn child may not be able to immediately materialize and formulate his or her self-identity), not from assigned

⁴⁴ James J. Summers, “The right of self-determination and nationalism in international law”, *International Journal on Minority and Group Rights*, vol. 12, No. 4 (December 2005), pp. 325–354.

⁴⁵ On this consequence of the right to self-determination, see Martti Koskenniemi, “National self-determination today: problems of legal theory and practice”, *International and Comparative Law Quarterly*, vol. 43, No. 2 (1994), pp. 241–269.

⁴⁶ Permanent Court of International Justice, *S.S. Wimbledon*, Judgment, 17 August 1923 (Series A, No. 1), in *Annual Report of the Permanent Court of International Justice* (1 January 1922–15 June 1925), Series E, No. 1, p. 165.

⁴⁷ Article 7 (1) of the Convention on the Rights of the Child reads: “The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.” See Stefanie Schmahl, ed., *The United Nations Convention on the Rights of the Child: Article-by-Article Commentary* (London, Nomos/Hart, 2021).

identity, as this is only relevant for the legal personality, which is conferred through a State act (registration).

55. Naturally, the scope of application of the Convention is limited to persons under the age of 18 (art. 1). Despite this age limit, and considering the fact that this Convention has been ratified by 196 States, the recognition of the duty of States to respect individual identity may be considered universally accepted. It would be difficult to argue *bona fide* that the States recognize such an obligation towards human beings before they are 18 and disregard such right for adults. So the idea that a right to an individual identity that is not conferred by the State exists and that this identity has to be respected by the State appears to be consensual in the international community.

56. Further, and of direct concern to the present report, the Convention recognizes that: “In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language” (art. 30). Even if article 30 does not specifically mention the word “identity”, it is clear that beyond the rights to a nationality, a name and family relations – as expressed in the wording of article 8 – children belonging to a minority also have, as part of their identity, the right to enjoy their own culture, religion and language in community with other members of their group. To strengthen this right to identity, article 8 (2) of the Convention requires that “where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity”. Beyond an obligation to respect, there is an obligation to protect, and failing to do so generates an obligation for the State to act. Therefore, this right to identity is not defined by the State (which is bound to respect it) but by the child’s membership in a group, a family at the narrowest and the minority group when the child belongs to a minority (as spelled out in article 30 of the Convention). This provides us with interesting information about the relationship between the identities of the person belonging to a minority and the minority group.

57. As we have seen, unfortunately, beyond the age of 18, positive international law does not explicitly recognize a right to individual identity.⁴⁸ It is a fact that neither the Universal Declaration of Human Rights nor the International Covenant on Civil and Political Rights has a provision recognizing a right to identity. In contrast with the right to a legal personality, which is inherent to the logic of human rights, you cannot individually benefit from the right enunciated in the Universal Declaration of Human Rights or any human rights treaty if you do not have the possibility to claim your right, for your own benefit, in front of public authorities or a judicial body; therefore, you need to be recognized as a person before the law. This is what is explicitly recognized in article 6 of the Universal Declaration of Human Rights and article 16 of the International Covenant on Civil and Political Rights. Legal recognition as a person is, however, not equivalent to a genuine right to identity.

58. Several regional human rights bodies have, however, recognized a right to an individual identity as a human right belonging to all. For example, in 2003, the European Court of Human Rights recognized “the applicant’s right to respect for her sexual self-determination as one of the aspects of her right to respect for her private life”,⁴⁹ referring to “the applicant’s freedom to define herself as a female person, [as] one of the most basic essentials of self-determination”.⁵⁰ In different circumstances, the Inter-American Juridical

⁴⁸ Article 5 (1) of the Framework Convention for the Protection of National Minorities reads: “The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.” Even though there is a specific reference to persons belonging to national minorities, the way this provision is worded, which is close to article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, does not allow it to be equated with the right to identity for persons belonging to a minority.

⁴⁹ European Court of Human Rights, *Van Kück v. Germany*, Application No. 35968/97, Judgment, 12 June 2003, para. 78.

⁵⁰ *Ibid.*, para. 73.

Committee of the Organization of American States, was requested to provide an opinion on the scope of the right to identity. This led to the adoption, in August 2007, of an opinion on the right to identity⁵¹ in which the Committee considered that “the right to identity is indissolubly linked to the individual as such and consequently to the recognition of its jurisdictional personality”.⁵² Referring to article 8 of the Convention on the Rights of the Child, the Committee specifies that “name, nationality, family relations and registration do not give rise to the right to identity, a right that pre-exists as an indissoluble part of the original dignity of people”.⁵³ It explains that: “The right to identity cannot be mistaken for only one of its elements. In this matter, such a right cannot be reduced to any other right included in it...Nor can the right to identity be reduced to the mere sum of certain rights included in the Convention on the Right of the Child.”⁵⁴

59. The Committee therefore concludes that the right to identity “is an autonomous right, whose existence is not subordinate to any other right, but is a right in itself”.⁵⁵ As a consequence, “depriving the right to identity or legal deficiencies in domestic legislation for its effective practice puts people in situations that hinder or prevent the enjoyment or access to basic rights, thus creating different treatments and opportunities that affect the principles of equality before the law and of non-discrimination”.⁵⁶ Thus, despite the absence of a specific provision recognizing a human right to identity in human rights law, the very concept of equality in dignity and right, as enshrined in article 1 of the Universal Declaration of Human Rights, necessarily implies the existence of an individual right to identity in the human rights architecture.

3. The complex legal nature of minority identity

60. Minority identity results from the combined exercise of the specific right to identity by persons belonging to minorities and the recognition and protection from the State. It therefore seems indisputable that an individual right to identity derives from the very core of the conception of human rights, as a result of the equality in dignity and rights of all human beings, as enshrined in article 1 of the Universal Declaration of Human Rights. As the existence of such an individual right to identity is indisputable, it remains to be seen how persons belonging to minorities may exert their right to identity in order to protect and even promote the identity of the minority group they belong to. First, it has to be acknowledged that this right to identity is largely based on self-identification, and not assigned identity, as the wording of article 8 of the Convention on the Rights of the Child shows. This view is shared by the Advisory Committee on the Framework Convention for the Protection of National Minorities, which pointed out that: “The right to free self-identification is central to minority protection, including multiple and situational affiliations. It must not be disregarded through imposed categorization based on predetermined characteristics. Individuals self-identify and form communities through a variety of evolving shared practices and through the common exercise of rights.”⁵⁷ Self-identification as regards persons belonging to minorities, as is the case for gender identity, trumps assigned identity.

61. However, in contrast to gender identity, which is mostly a personal and individual matter,⁵⁸ self-identification of persons belonging to a minority is based on a relational

⁵¹ See Organization of American States, Inter-American Juridical Committee, document CJI/doc.276/07 rev.1.

⁵² *Ibid.*, para. 9.

⁵³ *Ibid.*, para. 13.

⁵⁴ *Ibid.*, paras. 14.1 and 14.2.

⁵⁵ *Ibid.*, para. 18.3.1.

⁵⁶ *Ibid.*, para. 17.

⁵⁷ Council of Europe, The Framework Convention: a key tool to managing diversity through minority rights – thematic commentary No. 4 on the scope of application of the Convention, document ACFC/56DOC(2016)001, p. 3.

⁵⁸ The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence of 11 May 2011 (also known as the Istanbul Convention) defines gender as “the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men” (art. 3 (c)). There is interestingly the reference to social construction, but with the boolean assignment to only two categories, women or men. In the

identification (with the minority group and with society as a whole) rather than on a process of self-identification linked to inner developments (see paras. 47 and 48 above for this distinction). This is why, despite being a right for persons belonging to a minority, self-identification does, by virtue of this relational dimension, have a collective dimension; the collective dimension is the result of the combined exercise, in community, of the individual right to identity of persons belonging to minorities. The individual right to identity of persons belonging to minorities, as an additional right to the general right to identity, is itself shaped by the collective identity of the minority group to which a person belongs. This is how the legal conundrum pointed out in paragraph 39 above can be solved. However, article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities does not explicitly confer a right to self-identification to persons belonging to minorities. It actually only imposes on States the obligation to respect the existence and identity of minorities, and to “encourage conditions for the promotion of that identity”. This stipulation is needed because of a paradox as regards minority identity.

62. Minority identities, beyond the elements examined above (such as language, religion, culture, art, etc.), are almost always linked to a sense of marginalization and discrimination felt by persons belonging to minorities.⁵⁹ There is, in that respect, a paradox regarding minority identities as seen through the lens of article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Discrimination in State legislation or policies towards a minority tends to strengthen the identification of the persons belonging to a minority with the minority group, as we shall examine in the coming paragraphs.

63. This can be explained by the type of identity-building that takes place among persons belonging to oppressed minorities – who, in the worst cases, fear for the very existence of the minority they belong to – which will develop a strong but antagonistic and exclusive identity, an identity constructed as resilience or resistance to the State’s treatment of the minority. The difference between resilient and resistant identity depends on the means used to defend the endangered identity. According to the information gathered from long qualitative interviews with a dozen persons belonging to minorities, resistance identity is not the result of a conscious choice by persons belonging to the minority, but a consequence of discrimination and oppression. By contrast, minorities whose rights are respected, protected and promoted will build an identity that will be less exclusive. In this latter case, minority identity for persons belonging to a minority group can be positively articulated with the national identity, especially through art and education, which should be conceived as spaces for sharing minority identity, both with members of the minority group and with society as a whole. Naturally, this implies that the national (State) identity also has an open perspective, leaving room to accommodate minority identities as part of the national identity (see para. 48 above).

64. In the view of the Special Rapporteur, by adopting the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, United Nations Member States have accepted that the definition of their own right to identity should be constrained to allow the positive articulation of multilayered identities for persons belonging to minorities to identify both as persons belonging to a minority and as citizens of the State.⁶⁰

Convention, the self-identification dimension of gender identity is therefore deliberately disregarded and strongly at odds with the United Nations concept of gender identity.

⁵⁹ These developments on minority identities are the result of inputs received following the call for inputs launched in preparation for the present report, as well as from interviews with persons belonging to minorities conducted during the seventeenth session of the Forum on Minority Issues, held in Geneva on 28 and 29 November 2024. The Special Rapporteur thanks Laure Bera Rutagengwa for her work on both information-gathering processes.

⁶⁰ In the same sense, the Advisory Committee on the Framework Convention for the Protection of National Minorities, in its thematic commentary No. 4 on the scope of application of the Framework Convention for the Protection of National Minorities, indicates that: “The right to free self-identification also extends to multiple affiliations. In fact, the Framework Convention implicitly acknowledges multiple affiliations by promoting the preservation of minority identities in parallel to successful and effective integration in broader public life. Persons belonging to national minorities should never be obliged to choose between preserving their minority identity or claiming the majority

In that context, such minority identity may be weaker than an antagonistic identity shared by persons belonging to oppressed minorities. In the best-case scenario, we will observe symbiotic identity-building between the dominant and the minority groups.

65. It is in such cases that the secondary commitment undertaken by States through article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, that is, to “encourage conditions for the promotion of that identity”, comes into play, as it is unfortunately evident that States that do not recognize and protect the existence of minorities will not encourage the promotion of their identity. Thus, States engaged in inclusive national identity-building will make sure, as minority existence is an added value to society,⁶¹ that the process will not lead to the dissolution or disappearance of the minority identity, by encouraging, in addition to symbiotic identity-building, conditions for the promotion of the minority identity.

IV. Conclusion and recommendations

66. It is important that States undertaking to respect a specific right to identity of persons belonging to minorities as a fundamental right consubstantial to their enjoyment of human rights⁶² accept that defining the elements of the minorities’ identities will be the outcome of a process of self-identification by persons belonging to minorities. As a consequence, the assigned identity (through identification documents) of persons belonging to minorities should reflect who they really are. In this connection, their rights should include:

- (a) The right to have a traditional name linked to the minority identity (including, when appropriate, a patronym) registered as their legal name;
- (b) The right not to be assigned a religion which does not correspond to their own belief, and the right to have their religion properly acknowledged and recognized;
- (c) The right to choose, when relevant,⁶³ which nationality or ethnicity they are officially assigned to.

67. As the right to identity of persons belonging to a minority is linked to the existence of the minority identity, it is not only an individual right exercised individually, but also a right exercised as a member of a minority group whose existence and identity should be secured across generations. Accordingly, the transmission of traditional names from generation to generation, the practice of religion, the preservation and development of the minority language, and the expression and diffusion of minority culture are all elements that contribute to the strengthening of the identity-building of persons belonging to minorities and to the existence and identity of the minorities themselves. As such, any legislation or administrative practices that limit the expression of the minority identity through individual identities of persons belonging to minority groups are contrary to the commitment of States under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

culture, as both options must be fully available to them. This implies that practices by which an individual affiliates with a particular minority should not be seen as exclusive, as he or she may simultaneously identify with other minorities or with the majority.” (Council of Europe, document ACFC/56DOC(2016)001, para. 13).

⁶¹ [A/HRC/55/51](#), paras. 37 and 38. See also the fifth preambular paragraph of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, quoted above in footnote 10.

⁶² The Inter-American Juridical Committee, in its opinion on the scope of the right to identity, goes as far as to affirm that: “The right to identity can be classified as a human right of such a fundamental and basic character and content that it can be enforced erga omnes and does not admit derogation or suspension.” (para 18.1).

⁶³ Many countries do not have such information in identity documents.

68. A person belonging to a minority has the right to access information and knowledge about the history, customs, practices and contribution to society as a whole by the minority he or she belongs to. This implies that State authorities do not prevent the production and diffusion of information and knowledge about the role of a given minority in national storytelling, so that persons belonging to a minority group understand and embrace their minority identity, and those not belonging to a minority group understand the minority identity and its contribution to society as a whole and respect it.

69. Persons belonging to a minority have the right to express their identity in private and in public spaces. This includes:

- (a) The right to use their own language;
- (b) The right to exert freely their religion and to express their religious affiliation through their appearance or the wearing of other distinctive signs;
- (c) The right to promote their minority identity through traditional practices, art and other cultural manifestations, including by preserving the environmental and patrimonial dimension, whether natural or urban, through which their minority identity is present in the public space.

70. Persons belonging to a minority have the right to have their specific identity recognized, preserved and protected wherever they live in the State territory, be it in the territory traditionally occupied by the minority to which they belong, or in other parts of the country (cities). Minority identity may neither be used as a pretext to restrict the movement of persons within the State, nor as a justification for forced displacements within or across State borders.

V. Recommendations

71. States should urgently implement the commitments made in article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. They should aim at a symbiotic relationship between minority and dominant group identities and encourage conditions for the promotion of the minority group's identity, without discrimination, as follows:

- (a) In their relationship with persons belonging to a minority, States should recognize the specific identity of persons belonging to a minority, including in official documents concerning the use of a given name, which should preferably be in the minority language or transliterated;
- (b) States should take no measures (or eliminate those that exist) that preclude the free and genuine expression of the identity of persons belonging to a minority, including signs of religious affiliation or the use of a minority language in public space. Any imposition or restrictions as regards dress codes should not lead to discrimination against persons belonging to a minority;
- (c) States should take no measures (or eliminate those that exist) that restrict the right of persons belonging to a minority to perpetuate their minority identity from one generation to the next, including through the transmission of traditional names, cultural practices or other signs of minority identity, within the limit of respect for individual human rights;
- (d) States should protect buildings or natural spaces that constitute part of the minority identity;
- (e) States should communicate and consult with the Special Rapporteur and/or OHCHR when taking measures related to paragraph 71.

72. The Special Rapporteur requests the Human Rights Council to regularly assess, during the universal periodic review, respect for the right of persons belonging to a minority to their specific identity.

73. The Special Rapporteur also encourages States to increase their level of constructive participation in the Forum on Minority Issues.

74. Finally, the Special Rapporteur encourages States to respond positively to requests for country visits on minority issues and consider them a constructive exercise in the materialization of the right to identity of persons belonging to minorities.
