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Forum on Minority Issues

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NOTE BY THE INDEPENDENT EXPERT ON MINORITY ISSUES, GAY McDOUGALL, ON MINORITIES AND EFFECTIVE POLITICAL PARTICIPATION

Introduction

1. Many situations around the world demonstrate that an adequate representation of minority groups in policy- and decision-making by society is instrumental in breaking the cycle of discrimination and exclusion suffered by members of these groups, and their ensuing disproportionate levels of poverty and related impediments to the full enjoyment of many civil, cultural, economic, political and social rights.

2. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states that ensuring that persons belonging to such minorities are “an integral part of the development of society as a whole and within a democratic framework based on the rule of law” is necessary to maintain or build harmonious and respectful relations among a society’s various components.¹ The effective participation of members of minority groups in the political life of the society they belong to is an essential component of a peaceful and democratic society.

I. LEGAL FRAMEWORK

3. The Universal Declaration of Human Rights protects the right of everyone “to take part in the government of his country” and to “equal access to public service in his country”.² The International Covenant on Civil and Political Rights also recognizes the rights of every citizen, without distinction of any kind, to take part in

¹ Sixth preambular paragraph.

² Article 21.

the conduct of public affairs, to vote, to be elected and to have access to public service.³

4. Article 2 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states that:

“...2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.

3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

4. Persons belonging to minorities have the right to establish and maintain their own associations...”

5. In its commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the Working Group on Minorities stated that “the right to participate in all aspects of the life of the larger national society is essential, both in order for persons belonging to minorities to promote their interests and values and to create an integrated but pluralist society based on tolerance and dialogue”.⁴

6. While noting that “the number of persons belonging to minorities is by definition too small for them to determine the outcome of decisions in majoritarian democracy”, the Working Group expressed the view that “effective participation requires representation in legislative, administrative and advisory bodies and more generally in public life”.⁵

7. It is important to note that the Forum will not consider the rights of peoples to self-determination expressed through claims of secession or dismemberment of a State. Those claims are not encompassed under the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.⁶

II. ISSUES FOR CONSIDERATION

8. The focus of discussion will be around three core elements:

- Identification of challenges and problems facing minorities and States;
- Identification of good practices in relation to minorities and political participation;
- Consideration of opportunities, initiatives and solutions.

³ Article 25.

⁴ E/CN.4/Sub.2/AC.5/2005/2, para. 35.

⁵ Ibid., paras. 42 and 44.

⁶ Ibid., paras. 15 and 84.

9. In the framework of the themes listed below, the Forum will consider current practices and ways to increase the effective participation of minorities in policy- and decision-making processes and institutions:

- National and local parliaments;
- “Minority” parliaments, advisory or consultative bodies;
- Central and local governments/executive bodies at the national and local levels.

Participation and discrimination: the impact of discrimination on the political participation of minorities; to what extent is the effective participation of minorities in political processes and institutions facilitated by the acceptance by society of minority inclusion?

Meaningful representation/representation and empowerment: how is it possible to ensure an effective role by minorities in policy- and decision-making?

Obstacles to the political participation of minorities: discriminatory denial of citizenship; right to vote, language requirements to register to vote, run for elections or hold public offices; location of polling places; availability of voter education in minority languages; possible reluctance of minority communities to participate in public affairs.

Impact of different electoral systems: what is the impact of electoral laws and electoral systems? Is there an ideal or, at least, more effective electoral system: proportional representation (with or without a threshold, with the possibility of open lists or not)/majority or first-past-the-post electoral systems? Should the geographical concentration (or lack of it) of the minorities in the country be considered? Should the delimitation of electoral districts or precincts impact the representation of minorities?

Possible institutions/bodies which could address obstacles to the participation of minorities in political life: a minorities ombudsperson or dedicated branch on minorities in the national human rights institution; a dedicated ministry; a dedicated parliamentary committee; parliamentary outreach to minority communities; the media.

Role of political parties: How to ensure adequate representation in mainstream political parties? Party outreach to minority communities? Minority-based political parties: promoted/authorized/forbidden? Effective or divisive?

Role of minority groups: minority political parties/associations/lobby organizations; perceptions of the impact of participation in national institutions; relations between minority representatives and their constituents.

Veto rights on policies and decisions on issues affecting minorities: in the affirmative, which mechanism/institution should receive the right of veto?

Quotas, reserved seats or other mechanisms ensuring representation of minorities: reserved seats in parliament; minority parliaments/tribunals/councils or other advisory bodies.

Cultural autonomy and self-governance: applied in certain countries with respect to linguistic rights, education, religion, cultural identity, etc.

Related issues include:

- Freedom of expression, assembly and association;
- Freedom of the press and minority access to the media;
- Open, participatory and transparent law-making process;
- Freedom to engage in political activity individually or through political parties or other organizations;
- Freedom to debate public affairs, to hold peaceful demonstrations and meetings.

III. AIMS AND OBJECTIVES OF THE UNITED NATIONS FORUM ON MINORITY ISSUES

10. The aims and objectives of the Forum on Minority Issues were established in Human Rights Council resolution 6/15 which requires that under the guidance and preparation of the independent expert on minority issues, the Forum shall:

- Meet annually to provide a platform for dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities;
- Provide thematic contributions and expertise to the work of the independent expert on minority issues;
- Identify and analyse best practices, challenges, opportunities and initiatives for the further implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;
- Produce thematic recommendations to be reported to the Human Rights Council by the independent expert;
- Contribute to efforts to improve cooperation among United Nations mechanisms, bodies and specialized agencies, funds and programmes on activities related to the promotion and protection of the rights of persons belonging to minorities, including at the regional level.

11. The Forum offers a unique opportunity for engagement and dialogue on minority issues with a wide range of stakeholders including United Nations Member States and bodies, specialized agencies, intergovernmental and regional organizations, and minority representatives and civil society. The Forum is open to the active participation of all stakeholders and will pursue creative forms of collaboration and modalities of engagement.

IV. FORMAT AND AGENDA

12. The views of experts and participants from minority communities will be given a high priority within the proceedings of the Forum.

13. The chosen thematic focus on minorities and political participation will be the sole substantive issue on the agenda for the second session of the Forum. An annotated agenda will be provided in advance of the session.

V. PARTICIPATION IN THE FORUM

14. Pursuant to resolution 6/15, the Forum will be open to participants of States, United Nations mechanisms, treaty bodies and specialized agencies, funds and programmes, intergovernmental organizations, regional organizations and mechanisms in the field of human rights, national human rights institutions and other relevant national bodies, academics and experts on minority issues and non-governmental organizations (NGOs) in consultative status with the Economic and Social Council. The Forum shall also be open to other NGOs and organizations representing minorities whose aims and purposes are in conformity with the spirit, purposes and principles of the Charter of the United Nations.

VI. OUTCOMES

- The Chairperson of the Forum is responsible for the preparation of a summary of the discussions of the Forum, to be made available to all participants;
- The Forum will seek to provide concrete and tangible outcomes in the form of thematic recommendations of practical value to all stakeholders;
- In conformity with resolution 6/15, the outcome of the Forum will be thematic recommendations that will be included in the report by the independent expert on the Forum session to be presented to the Human Rights Council at its thirteenth regular session in March 2010.
