

Speaking points on cooperation with international and regional mechanisms

Thank you for having a specific focus on minorities. It's vital to recognize the importance of minority rights protection in our global affairs. It is not only about enjoying a minority cultural festival or taking efforts to preserve one's language but it is also about preventing atrocity crimes as we know that minorities are the most frequent victims of genocide. And many of past and current conflicts in the world have the notion of superiority and inferiority between various population groups involved and sometimes a legislative amendment can be a trigger in the rapid and tragic evolvement of events. See for example the the Sinhala Only Act in Sri Lanka in 1956, which made Sinhala the sole official language and state sponsored settlement schemes that effectively changed the demographic balance in the Eastern Province (which led Tamils to be engaged in peaceful protests and Tamil parties participated in the political mainstream) or the steps in Ukraine in February 2014 to abolish the 2012 Law on the Principles of the State Language Policy, which although vetoed in practice, created anxiety as minorities were concerned that new amendments would weaken their linguistic rights. So it is important to take a look at the legislative and institutional framework of minority rights protection.

Examples

Examples of communications between between 1 June 2015 – 30 June 2016:

- Arbitrary detention and criminal charges against clergymen as well as undue restrictions of religious freedom of Christian communities.
- Imminent forced evictions (8).
- Excessive use of force by the police to disperse a peaceful protest and serious injuries sustained by several protestors.
- Denial of entry of a human rights and minority rights defender as well as two conference participants to attend an international roundtable on minority rights.
- Initiation of archaeological excavations in the vicinity of a mosque and planned conversion of the religious site into a museum.
- Persecution of religious minorities in the form of a raid and closure order against a Baptist Church, and a raid, arbitrary detention and torture of Jehovah's witnesses.
- Increasing number of cases of ethnically motivated incidents, including hate speech and intolerance.
- Trial against 22 Muslim men and three children for apostasy.
- Concerns about the bill "Strengthening the fight against organized crime, terrorism and their financing, and improving efficiency and the guarantees of the criminal proceedings."
- Killings of, and death threats received by, a number of minority human rights defenders and community leaders.

What can constitute a protection gap?

1. Legislative gap
2. Institutional gap
3. Comprehension gap

Legislative protection

Constitutions and other legislation should declare diversity as an asset and strength of the society and ensure a sense of belonging of various ethnic, religious, linguistic groups.

What are the pillars of minority rights protection?

1. Protecting a minority's existence, including protection of its physical integrity and prevention of violence and genocide;
2. Protecting and promoting the cultural and social identity of persons belonging to minorities, including the right of individuals to choose which ethnic, linguistic or religious groups they wish to be identified with, and the right of those groups to affirm and protect their collective identity and to reject forced assimilation;
3. Ensuring the rights to non-discrimination and equality, including ending structural or systemic discrimination and the promotion of affirmative action when required;
4. Ensuring effective participation of members of minorities in public life, especially with regard to decisions that affect them.

Institutional protection

Apart from efficient and independent judiciary and good and accountable law enforcement, there is a need for dedicated institutional attention to minority issues with a clear mandate, including:

- reviewing and proposing domestic standards and providing expertise and information to legislation drafting and policymaking processes;
- monitoring laws and policies with respect to minority rights and recommending amendments or implementation measures;
- encouraging and coordinating programming on minority issues and strategies devised to address problems relating to minorities;
- promotion and education activities;
- developing good practice guides, information resources and reports; developing campaigns and outreach relating to minority rights;
- forming a bridge between minority communities and public administration;
- Facilitation of arbitration, dialogue, national debate and activities to prevent and find solutions to ethnic or religion-based tensions etc.

They can be established in the format of: ministries, government departments and related bodies; NHRIs; autonomous arrangements and institutions; advisory and representative bodies; consultants and focal points etc.

(See also Committee on the Elimination of Racial Discrimination general recommendation No. XVII on the establishment of national institutions to facilitate implementation.)

Comprehension gap

1. Euro-centric label.
2. Need for awareness-raising on the term "minority" itself; NOT a second-class citizenship or inferiority but full citizenship and belonging with the entitlement of specific rights.

3. More discussion on what democracy and good governance means (not that the majority can force ideas on minorities because they are fewer in number!).
4. Increase awareness on available mechanisms.
5. Securitization of minorities.

Recommendations

- Awareness raising on minority rights and available protection mechanisms (national struggles, example from the US)
- Focal points at regional mechanisms (within the Working Group on Indigenous Populations/Communities in Africa? Rapporteur on the Rights of Afro-descendants and against Racial Discrimination in the Inter-American Commission?)
- Joint exchanges on current minority issues and challenges
- Handbook on the use of the Minority Declaration in the African context
- Follow-up on Roma in Latin-America
- Enhance attention to minority issues at the UPR
- Constant monitoring
- Better cooperation on follow-up

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UPR:

The analysis of the 1st cycle of the Universal Periodic Review revealed that 112 Member States (MSs) issued 895 recommendations about national, ethnic, religious or linguistic minorities to 138 MSs. Minorities were the 9th most discussed topic at the 1st cycle of the Human Rights Council's UPR process and constituted 4.2% of the total 21,353 recommendations¹. Recommendation on minorities centered on Europe, 43 European MSs received such recommendations, followed by 28 African MSs.

The top 5 MSs making minority recommendations were: Austria (38), Canada (35), United Kingdom (33), Russian Federation (30) and the United States (29). The top 5 MSs receiving minority-related recommendations were: Slovakia (54), Hungary (38), Italy (29), Croatia (29) and Bulgaria (29).

It was the Western European and Others Group (WEOG) which made most recommendations on minorities (361), followed by Asia (159) and the Eastern European Group (154) (see charter below).

¹ The first 10 most discussed issues were the following: international instruments (4317), women's rights (3698), rights of the child (3459), torture and other CID treatment (1722), justice (1556), detention conditions (1399), human rights education and training (929), death penalty (914), minorities (895) and special procedures (881)