



General Assembly

Distr.: General
14 February 2013

English only

Human Rights Council

Twenty-second session

Agenda items 3 and 5

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

Human rights bodies and mechanisms

Written statement* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2013]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Special measures to ensure minority political participation in post-conflict scenarios

Introduction

Although some states emerging from conflict have applied special measures to promote minority political participation, these actions are sometimes inadequate in affording minority communities an effective voice within the government. Furthermore, situations of voter fraud, coercion and intimidation, particularly in minority-heavy regions, can prevent such voices from affecting the decision-making process. Lastly, failed attempts to address displacement from conflict among members of minority communities threaten to exacerbate already existing concerns of minority disenfranchisement. Without addressing such challenges, post-conflict states fail to satisfy their obligation to guarantee equality in the political process.

Legal foundation

Article 21(3) of the Universal Declaration of Human Rights establishes the right to political participation, stating “[e]veryone has the right to take part in the government of his country” and that “[t]he will of the people shall be . . . expressed in periodic and genuine elections which shall be by universal and equal suffrage.” Similar guarantees are found in the International Covenant on Civil and Political Rights (ICCPR) (Article 25), the European Convention on Human Rights (Article 3 of Protocol I), the American Convention on Human Rights (Article 23), the African Charter on Human and People’s Rights (Article 13), and the Arab Charter on Human Rights (Article 24).

Additionally, the International Convention on the Elimination of Racial Discrimination (ICERD) holds that states not only have a duty to end discriminatory laws and practices that disenfranchise minority populations or members of minority communities, but maintain an affirmative obligation to ensure their full and equal enjoyment of the right to political participation, (Article 5). The Committee on the Elimination of Racial Discrimination has emphasized that “the adoption of special measures by States parties when the circumstances so warrant, such as in the case of persistent disparities, is an obligation.” Such state obligations are also established in the ICCPR (Article 2), the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (Article 4), and the Council of Europe’s Framework Convention for the Protection of National Minorities (Article 15).

The need for special measures

Situations of conflict create unique challenges in addressing human rights concerns. The mandate of the United Nation’s Independent Expert on Minority Issues addresses these challenges as they apply to minorities, stating, “persons belonging to minorities often suffer disproportionately from the effects of conflict, resulting in the violation of their human rights.”¹ The right of minorities to meaningfully participate in their state’s political process is foundational to addressing such human rights violations. Laws guaranteeing universal suffrage alone are usually insufficient to address longstanding and entrenched disenfranchisement resulting from sustained conflicts or a history of minority rights abuse.

¹ Mandate of the Independent Expert on Minority Issues, A/HRC/RES/16/6, adopted 8 April 2011.

Decision-making process

States have employed various special measures to ensure minority communities enjoy the right to partake in their government's decision-making process. These measures include reserved seats for minorities in the national and subnational legislatures. In allocating reserved seats, post-conflict states often rely on pre-conflict census data, which tends to underrepresent minority populations. In Bosnia and Herzegovina (BiH), communities not belonging to the defined "constituent groups" (i.e. Bosniaks, Croats and Serbs), including the 17 recognized national minorities, are granted seats in municipal governments if they represent at least 3 per cent of the municipal population. The apportionment of reserved seats is determined by the 1991 census conducted just prior to the Bosnian War. The Independent Expert on Minority Issues' report following her recent country visit to BiH recognizes that the, "census significantly undercounted the Roma, many of whom are thought to have identified as Yugoslavs. Only 8,864 self-identified as Roma despite estimates that their actual number may now be as high as 100,000."² Similarly, in states like Rwanda where inter-ethnic tensions escalated into genocide, political sensitivities can prevent officials from collecting current data on minorities. The lack of accurate demographic information in Rwanda prevents an objective assessment of whether parliamentary quotas and other positive measures aimed at supporting the country's recognized "historically marginalized peoples," like the Batwa minority, are sufficient to ensure their ability to influence laws and policies affecting them.³ As a result, accurate statistics are crucial in analyzing the efficacy of special measures aimed at ensuring equality in the political process.

Other special measures include the creation of minority councils that advise lawmakers on issues affecting minority communities. In BiH, the state and federal-level Council of National Minorities was established as a consultative body but lacks the necessary resources, defined powers and direct access to lawmakers to be effective. While constituent groups in BiH enjoy the ability to veto legislation adverse to their ethnic group's interests, the Council of National Minorities lacks standing to challenge discriminatory laws in BiH courts.⁴ Localized councils can also function to incorporate minority viewpoints on issues pertaining to minority concerns. In Pakistan, the Federal Minister of Minority Affairs Shahbaz Bhatti utilized his position to establish District Interfaith Harmony Committees in every district of the country.⁵ Such committees have incorporated Pakistan's religious minorities in efforts aimed at fostering tolerance and defusing conflicts rooted in extremism.⁶ Expanding the role and authority of such councils and allocating sufficient resources is necessary to assure that these measures are more than token gestures to promote equality.

² Report of the independent expert on minority issues. Addendum – Mission to Bosnia and Herzegovina. A/HRC/22/49/Add.1, ¶ 4, available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/AHRC2249Add.1_English.pdf.

³ Report of the independent expert on minority issues Addendum – Mission to Rwanda. A/HRC/19/56/Add.1, ¶ 52, available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-56-Add1_en.pdf.

⁴ Supra note 2 at ¶ 15.

⁵ 2012 Annual Report. US Commission on International Religious Freedom. March 2012, at p. 122, available at: [http://www.uscifr.gov/images/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscifr.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf).

⁶ Hidayat Khan. Minority Rights: To promote interfaith harmony, Peshawar gets a peace committee. The Express Tribune. January 8, 2013, available at: <http://tribune.com.pk/story/490692/minority-rights-to-promote-interfaith-harmony-peshawar-gets-a-peace-committee/>.

Fraud, coercion and intimidation

Instances of conflict give way to security challenges and political power grabbing, creating an atmosphere conducive to election fraud, coercion and intimidation. Such an environment often leaves minorities largely disenfranchised. In Iraq's first post-conflict parliamentary elections in 2005, minority communities were subject to widespread voting irregularities. Reports identify how lack of adequate policing and administrative safeguards in towns in territorial dispute between Iraqi Kurdistan and the federal government allowed Kurdish security forces to prevent ballot boxes from passing to predominantly Assyrian Christian villages.⁷ Targeted campaigns of violence and intimidation in and around districts with large minority populations along with the culture of impunity deterred Assyrians and other non-Muslim communities from turning out to vote in subsequent elections.⁸ In contexts where ethnic, linguistic or religious affiliations are highly politicized, employing adequate security forces with a composition reflective of the local demographic would help ensure that all groups are afforded an equal ability to participate in elections.

Displacement

Minorities tend to represent a disproportionate number of internally displaced peoples (IDPs) in conflict and post conflict situations. Often, IDPs lack legal status, creating impediments to exercising their right to vote and participate in the political process. Yet, even when the law recognizes the rights of IDPs, political obstacles weaken the influence minorities can wield during elections. Following the Georgian-South Ossetian cease-fire agreement, government policies deterred minorities from choosing to regain their pre-war residences. Such resistance threatens to segment minority constituencies and make them less able to influence election outcomes, especially at the local level.⁹ Furthermore, minority IDPs are particularly vulnerable to undue influence, making them susceptible to intimidation in situations where power is highly contested. In Iraq, the rights of minority IDPs were violated when the disbursement of humanitarian aid for displaced Assyrian Christians was conditioned on their support for the ruling Kurdish political party. NGOs reported IDPs concentrated in minority-heavy regions avoided speaking openly about political officials or taking part in elections.¹⁰

Conclusion and recommendations

Failure to protect the rights of minorities to participate in the political process following situations of conflict prevents them from being part of the state's social, political and economic redevelopment. Human Rights Advocates urges:

- The Human Rights Council to request the Independent Expert on Minority Issues to study best practices for implementing special measures to ensure minorities participate in the political process after conflict.

⁷ 2005 Country Reports on Human Rights Practices: Iraq. US Department of State, March 8, 2006, available at: <http://www.state.gov/j/drl/rls/hrrpt/2005/61689.htm>.

⁸ Minorities in Iraq fear their safety ahead of elections. Minority Rights Group International, March 6, 2012 available at: <http://www.minorityrights.org/9756/press-releases/minorities-in-iraq-fear-for-their-safety-ahead-of-elections.html>.

⁹ Georgia: Avoiding War in South Ossetia, International Crisis Group, November 26, 2004, at p. 6, available at: <http://www.minorityrights.org/9756/press-releases/minorities-in-iraq-fear-for-their-safety-ahead-of-elections.html>.

¹⁰ On Vulnerable Ground: Violence against Minority Communities in Nineveh Province's Disputed Territories, Human Rights Watch, November 2009, at p. 26. Available at: <http://www.hrw.org/sites/default/files/reports/iraq1109web.pdf>.

- States emerging from conflict to:
 - Implement, as early as possible, appropriate measures that ensure minorities, including displaced minorities, have a genuine voice in their state's decision-making process.
 - Ensure the security of minorities and other vulnerable groups.
 - Maintain statistics on minority political participation, surveying public opinion, and assessing the efficacy of special measures in place.
-