Marginalised
Minorities

in Development Programming

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A UNDP RESOURCE GUIDE AND TOOLKIT

PREFACE

The poorest communities in almost any region tend to be minority communities that have been targets of long-standing discrimination, exclusion and sometimes violence. This is true of the least developed countries, but also of the most developed. A key message of my work as Independent Expert on minority issues since July 2005 has been that poverty within minority communities must be viewed as both a cause and a manifestation of the diminished rights, opportunities, and social advancement available to the members of those communities. If poverty reduction initiatives and efforts to achieve the Millennium Development Goals (MDGs) are to benefit minorities, more coherent efforts and targeted strategies are required that address directly the plight of disadvantaged minorities.

The dire situation of so many ethnic, religious or linguistic minorities is often exacerbated by numerous and complex factors. Discrimination and inequality circumscribe every aspect of their life opportunities. They are often denied equal access to quality education. Racist notions in the wider community may limit their employment possibilities to the most low-waged and precarious options. When their rights are violated, recourse to institutions of justice is often a distant possibility. Additionally, disadvantaged minorities are commonly poorly represented in political structures and decision making bodies and consequently have little control over decisions that affect them. Lacking a voice in shaping their own circumstances, they are vulnerable to neglect. And when disasters strike, these communities are most likely to be at the back of the line for humanitarian assistance, if not totally forgotten.

To address the development situation of minorities requires holistic and sustained approaches that recognize their rights as individuals and distinct minority communities. Such approaches must start from an understanding of the impact of discrimination on minority groups and effective methods to achieve equality. There must be a recognition that the human development of every sector of society benefits all and promotes prosperity and stability for all.

I am proud to have collaborated with UNDP in producing **"Marginalised Minorities in Development Programming: A UNDP Resource Guide and Toolkit."** The UNDP brought to this partnership the extraordinary knowledge and commitment of its staff from headquarters, regional centres and country offices around the globe. The process has strengthened its staff's understanding and integration of minority issues across all key areas of work and programmes.

The **UNDP Resource Guide and Toolkit** provides essential guidance on minority issues for UNDP field staff and many others alike. It provides an accessible and invaluable one-stop store of information, including standards and principles of minority rights, consideration of important minority issues, and attention to major challenges facing minorities. Importantly, it provides the practical tools to help UNDP country offices address those challenges for and alongside minorities as partners, not just beneficiaries. I am excited by the prospect of working together to see this Resource Guide and Toolkit applied in different regional and country contexts.

Gay J. McDougall
United Nations Independent Expert on minority issues

FOREWORD

Meaningful progress towards sustainable human development, inclusion and stability can be better achieved through measures that promote and protect human rights and ensure effective participation of minorities in such efforts. Discrimination and exclusion of national or ethnic, religious and linguistic minorities undermine efforts to achieve poverty reduction, the Millennium Development Goals (MDGs), democratic governance, environmental sustainability and conflict prevention. In contrast, effective participation of minorities enriches decision-making, and helps us plan, implement and monitor sustainable and effective solutions to development challenges.

"Marginalised Minorities in Development Programming: A UNDP Resource Guide and Toolkit", a joint initiative between UNDP, the UN Independent Expert on Minority Issues and the Office of the UN High Commissioner for Human Rights, highlights the positive impact that the integration of minority issues can have on development programming processes. While recognizing that diverse development situations involve different challenges and require specific solutions, the document provides practical guidance by drawing on various standards and principles and by providing examples and entry points. The Guide is primarily intended for UNDP country office practitioners and those with policy advisory responsibilities, but it may also serve as a reference document for other UN agencies, multilateral organizations, government counterparts and institutions, and civil society organizations.

The preparation of the document benefited from two important aspects:

First, the process was led by UNDP practitioners who took stock of key issues, challenges and gaps with regard to UNDP engagement with minorities in relevant practice areas. They identified entry points that would help UNDP to better address issues related to minorities in development, took part in an online survey and shared information on projects, programmes and various tools developed for country and region specific situations. UNDP practitioners also drafted different sections of the Guide and validated various drafts. This engagement helped to ensure institutional ownership and practical focus of the Guide.

Second, the unwavering support and substantive contributions of the UN Independent Expert on Minority Issues, the Office of the UN High Commissioner for Human Rights and Minority Rights Group International enriched the document tremendously, bringing clarity to complex conceptual issues that underpin the promotion and protection of minority rights.

This document is being released at a critical moment as we face a range of acute development challenges. We hope that the Guide will be used as widely as possible, and that it will help to pave the way towards an increasingly systematic and decisive contribution by the UN system towards full realization of minority rights, pursuant to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

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ACKNOWLEDGEMENTS

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ACRONYMS AND ABBREVIATIONS

ACHPR African Charter on Human and Peoples' Rights

ACT Assisting Communities Together

AECID Spanish Agency of International Cooperation for Development

AICHR ASEAN Intergovernmental Commission on Human Rights

ARC Autonomous Republic of Crimea

ASEAN Association of South East Asian Nations

CBOS Community-Based Organisations

CCA Common Country Assessment

CEE Central and Eastern Europe

CEMA Committee for Ethnic Minorities, Vietnam

CERD UN Committee on the Elimination of Racial Discrimination

CESCR UN Committee on Economic, Social and Cultural Rights

CIDP Crimean Integration and Development Programme

CIS Commonwealth of Independent States

CMVP Cameroon Millennium Villages Project

CO UNDP Country Office

CODAE Corporación de Desarrollo Afroecuatoriana

CoE Council of Europe

CONAPAA National Commission of Andean, Amazon and Afroperuvian Peoples

COPE Community Owned Primary Education

CPAP Country Programme Action Plan (UNDP)

CPD Country Programme Document (UNDP)

CRC Convention on the Rights of the Child

CSO Civil Society Organisation

DDPA Durban Declaration and Programme of Action

DFID United Kingdom Department of International Development

DGTTF Democratic Governance Thematic Trust Fund

DLGSP Decentralized Local Governance Support Programme

ECHR European Convention on Human Rights and Fundamental Freedoms

ECLAC Economic Commission for Latin America and the Caribbean

ECOSOC UN Economic and Social Council

ECRI European Commission against Racism and Intolerance

EGN Personal Identification Number

ERTF European Roma and Travellers Forum

EWM Early Warning Mechanisms

EWR Early Warning Report

EU European Union

FCNM Framework Convention for the Protection of National Minorities

FDP Formerly Deported People

FPIC Principle of Free, Prior and Informed Consent

FRA EU Agency for Fundamental Rights

GEF Global Environment Facility

GHRSP Global Human Rights Strengthening Programme (UNDP)

GSI Gender and Social Inclusion

HBS Household Budget Survey

HCNM OSCE High Commissioner on National Minorities

HDR Human Development Report

HIs Horizontal Inequalities

HRBA Human Rights-Based Approach

HRC UN Human Rights Committee

HURIST Human Rights Strengthening Programme (UNDP)

ACRONYMS AND ABBREVIATIONS (CONT'D)

IAWG	Inter-Agency Working Group	**RUPP**	Rural Urban Partnership Programme
ICCPR	International Covenant on Civil and Political Rights	**SAARC**	South Asian Association for Regional Cooperation
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination	**SEPPIR**	Special Secretariat for the Promotion of Racial Equality, Brazil
ICT	Information and Communication Technology	**SISPAE**	Afro-Ecuadorian System of Social Indices
IDPs	Internally Displaced Persons	**SME**	Small and Medium Enterprise
ILO	International Labour Organisation	**TOR**	Terms of Reference
INDEPA	National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples	**TTF**	Thematic Trust Fund
		UN	United Nations
IPU	Inter-Parliamentary Union	**UNAIDS**	Joint UN Programme on HIV/AIDS
IRSSA	Indian Residential Schools Settlement Agreement	**UNCT**	UN Country Team
		UNCTAD	UN Conference on Trade and Development
LFS	Labour Force Surveys	**UNDAF**	UN Development Assistance Framework
MDGs	Millennium Development Goals		
M&E	Monitoring and Evaluation	**UNDG**	UN Development Group
MPG	Migration Policy Group	**UNDM**	UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
MRG	Minority Rights Group International		
NAPAP	NGOs and Police Against Prejudice		
NHDR	National Human Development Report	**UNDP**	United Nations Development Programme
NHRI	National Human Rights Institution	**UNESCO**	UN Educational, Scientific and Cultural Organization
NTFPs	Non-Timber Forest Products		
OAS	Organization of American States	**UNFPA**	United Nations Population Fund
ODIHR	OSCE Office of Democratic Institutions and Human Rights	**UNIPACK**	UN Indigenous Peoples Advisory Committee of Kenya
OHCHR	UN Office of the High Commissioner for Human Rights	**UNITAR**	UN Institute for Training and Research
OSCE	Organization for Security and Cooperation in Europe	**UNOCHA**	UN Office for the Coordination of Humanitarian Affairs
PFII	UN Permanent Forum on Indigenous Issues	**UNRISD**	UN Research Institute for Social Development
PRSPs	Poverty Reduction Strategy Papers	**UNV**	UN Volunteers
PSDA	Peace Stability and Development Analysis	**UPR**	Universal Periodic Review (of the UN Human Rights Council)
RLL	Rural Labour Linkages	**WGPAD**	UN Working Group of Experts on People of African Descent
RMAP	Rights-based Municipal Development Programme	**WHO**	World Health Organization

INTRODUCTION

MAIN OBJECTIVES:

The main objectives of the Guide and the Toolkit are to:

- Introduce and enhance understanding of the key issues and rights of minorities;

- Identify institutions and mechanisms at international, regional and national levels for the promotion and protection of minority rights;

- Raise awareness of the importance of addressing minority issues in development programming and to provide guidance in the application of relevant normative frameworks in programme/ project planning, designing, implementation and evaluation; and

- Facilitate capacity development and identify strategies for strengthening partnerships with government counterparts, the donor community and civil society organizations (CSOs).

FOR WHOM?

The primary target groups of this product are UNDP country office practitioners and those with policy advisory responsibilities. However, it may also serve as a reference document for other UN agencies, multilateral organisations, Government counterparts, and civil society organisations. The document is meant to enable the target group(s) to understand the conceptual issues and fundamental principles relating to the promotion and protection of minorities, learn how to draw on the available international and regional standards to engage minorities in development programming processes, influence policy choices, as well as increase their opportunities for meaningful participation and representation in development processes.

HOW TO USE?

The Resource Guide and Toolkit has been divided as follows:

Chapter 1 provides a summary of the key justifications and strategies for ensuring the inclusion of minorities in development. This chapter also addresses: Why is it important for UNDP to address minority issues? What steps can UNDP take to respond to minority issues?

Part I (Chapters 2-3) examines the key conceptual issues and fundamental principles for the promotion and protection of minority rights.

Part II (Chapters 4-7) reviews programming opportunities and relevant strategies for UNDP to integrate minorities in development, including capacity development support for government officials and institutions, UNDP staff, minorities, as well as possible entry points for effective advocacy and partnership building efforts. Detailed attention is given to opportunities and strategies in UNDP practice areas. Several UNDP and country examples are also provided.

Part III (Chapters 8-10) provides **nine tools** to assist UNDP staff in building and/or strengthening their work on minorities in development. The tools are clustered as follows: **Situation Analysis** (Tool 1 - Checklist for Developing Programmes and Projects on Minorities in Development; Tool 2 - Vulnerability Assessment; and Tool 3- HRBA Causality Analysis); **Data Collection** (Tool 4 - Challenges in Collecting Quantitative Ethnic Data; and Tool 5 - Survey Design, Data Collection and Sampling Method: Case Example from UNDP Ukraine); **Monitoring and Evaluation** (Tool 6- Measuring 'Ethnic Distance'; Tool 7- Early Warning on Minorities and Conflict; and Tool- Integrating Minorities into the UNDP Programme Cycle).

Part IV (Chapters 11-12) provides an overview of the international legal standards and mechanisms relevant for minority rights and regional summaries of minority rights protection.

The Annexes provide reference materials on: UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities; Selected Conclusions and Recommendations on Minority Rights from UN Treaty Bodies; Listing of papers of the former UN Working Group on Minorities and the present UN Independent Expert on minority issues; Pamphlets in the UN Guide for Minorities (by theme, by country/region); Major studies or reports of the former UN Sub-Commission on Human Rights; Further recommended reading on minority issues; and useful websites on minority issues.

This Resource Guide and Toolkit complements, *inter alia*, the **UNDG Guidelines on Indigenous Peoples' Issues (2008)** and the **UN-DESA Resource Kit on Indigenous Peoples Issues (2008)**. The UNDG Guidelines outline many similar policy recommendations in addition to the particular rights and issues of concern to indigenous peoples.

Chapter 1

MINORITIES IN DEVELOPMENT: MAKING THE ARGUMENT

1.1 HOW ARE MINORITY ISSUES IMPORTANT FOR DEVELOPMENT?

Government efforts to improve sustainable human development and promote inclusion and stability are complemented and strengthened with better attention to the situation of minorities and with the participation of minorities in such efforts. The marginalisation of ethnic, religious and linguistic minorities has a significant detrimental impact on poverty reduction, democratic governance, environmental sustainability and conflict prevention.

Overcoming the marginalisation of minorities has direct benefits for national development processes and the achievement of inclusive growth. For example:

- Discrimination against minorities is a major factor in poverty and inequality; addressing discrimination can make poverty reduction strategies more effective. Knowledge among government actors of the negative effects of discrimination on development and the particularities of cultural and religious traditions of marginalised groups can better equip them to create more flexible, effective and well-informed strategies for poverty reduction.

- To achieve the Millennium Development Goals (MDGs), greater efforts are needed to address hard-to-reach groups like the most minorities; if these groups are left behind by the MDGs, inequality will increase and inter-communal tensions could rise, undermining the sustainability of MDG achievements.

- Educational attainments among minority groups are often lower; curriculum reform that takes account of minority cultures, languages and tackles discrimination will contribute towards achieving education for all.

- Enabling political participation by minority groups can strengthen State cohesion, accountability and help to achieve democratic governance. Fair political representation of minorities can stimulate broad-appeal policies that maximize development potential.

- Access to justice for minorities can reduce inter-communal tensions, prevent crisis, strengthen the rule of law and help maintain stability for development.

- Markets that are unfairly manipulated to benefit only the dominant groups and discriminate against minorities achieve sub-optimal growth and discourage minorities from investing fully in their human capital potential for production.

1.2 WHY IS IT IMPORTANT FOR UNDP TO ADDRESS MINORITY ISSUES?

In all UNDP countries of operation, there are marginalised ethnic, religious or linguistic minorities. The inclusion of minorities in all aspects of country engagement would further improve UNDP's efforts to support governments to achieve sustainable human development for all. Persons belonging to minority groups make a fundamental contribution to human development as strategic partners and as actors of change. Minorities have different perspectives that enrich the analysis of development, ensure ownership and help find sustainable and effective solutions to development challenges.

There is a **strong link between minority issues and each of UNDP's key practice areas**. Minorities are often poorer, regularly implicated in conflict, have less access to governance mechanisms, have higher HIV prevalence, and the regions in which they live often suffer from higher levels of environmental degradation. Increased attention to minority rights can help overcome obstacles to achieving the MDGs.

Government partners will benefit from increased capacity to work with minorities. Understanding clearly why minorities are marginalised can lead to better solutions for addressing their exclusion and inequality. This can improve the productive capacity of minorities and can increase levels of human development. Attention to minorities is not always evident in national development priorities, MDG reports and Poverty Reduction Strategy Papers (PRSPs). UNDP could help strengthen national development plans by drawing attention to the negative impact of excluding minorities and the benefits of working to include minorities.

Minorities can become strategic partners and support UNDP in achieving its goals. Minority civil society organizations (CSOs) and UNDP employees from minority groups could bring valuable experiences, skills and knowledge to UNDP's work.

Minorities are distinct among marginalised groups and can face particular barriers due to their cultural identity or political status. Other marginalised groups like women, children, or people living with HIV may not share such barriers. This requires different strategic responses to their marginalisation.

Minorities look to UNDP as a partner to support them and their governments in addressing marginalisation and increasing minority participation in national development processes.

Minority rights are human rights. The UN has elaborated specific standards for the protection of persons belonging to national or ethnic, religious and linguistic minorities. Among these standards, minorities have a right to participate in decision-making that will affect them, to protection of their identity and to prevention of discrimination. It is important to ensure development programmes are not in violation of minority rights, either directly or indirectly.

The UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities states:

"The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence" (article 9).

1.3 WHAT STEPS CAN UNDP TAKE TO RESPOND TO MINORITY ISSUES?

Understand the context and power dynamics:

- There is no one-size-fits all approach to minority issues. Each country presents a unique set of historical and contemporary power dynamics that create different conditions and opportunities for addressing the marginalisation of minorities.

- Overcoming the marginalisation of minorities usually means addressing existing inequalities in power and entrenched structures of discrimination. It is important to highlight the negative impact that inequality has upon overall development and to support those in power to make changes that enable the full participation of even the most excluded in society.

- The economic, social and political status of minorities may differ between and within minority groups. Groups that are economically well off might still be politically excluded and discriminated against. Minority women are often more marginalised than minority men.

- Collect disaggregated data on the human development of minority groups to help identify those that are the most marginalised; build a relationship with national statistical offices to determine what information is available and where support is needed to improve data collection. (see Tool 4)

- Conduct a mapping and analysis exercise to determine: the situation of each marginalised minority group; the impact on minorities of marginalisation and exclusion (e.g. the impact on cultural or religious life); the root causes of inequality and exclusion; and the existence and nature of CSOs that articulate the concerns of minorities. (see Tools 1-3)

- Review the national legislative and policy framework for the protection of minorities.

- Build a relationship with any statutory body focused on minorities, non-discrimination and/or with the National Human Rights Institution (NHRI) to learn more about the situation of minorities and their rights.

Identify appropriate entry points for work on minority issues:

- The concept of 'minority' may not be widely used in public discourse. Therefore, it may be necessary to use a different name for the target group as a starting point. Identify terms that may be most familiar to governments in working with these communities – for example, 'socially excluded', 'needy families', 'groups left behind' or the local names of the particular communities without the prefix of 'minority'.

- Not all governments will recognize the correlation between minority identities and inequality. Attention to overcoming the factors that cause marginalisation might be the most constructive starting point for engagement. It is important to note there are often particular causes for the marginalisation of minorities, including discrimination or cultural differences, which could be taken into consideration.

- Make a clear case for the economic, social and political benefits of minority inclusion. Government partners may be encouraged to better understand how strategies for the inclusion of minorities will improve human development, inclusive growth and promote stability.

- A focus on non-discrimination and participation will be beneficial to all minorities. Measures to improve the implementation of laws against discrimination and supporting minorities to participate in decision-making that affects them will go a long way towards reducing inequality and achieving inclusive growth.

- Government partners may need support to balance economic, social and cultural participation of minorities with political participation. Many focus on creating political institutions for minorities (e.g. national minority councils or designated seats in parliament) without taking sufficient measures to ensure that economic, social and cultural life is equally inclusive.

Build UNDP Country Office capacity to address minority issues:

- Review existing UNDP Country Office capacity on minority issues, including in areas such as knowledge of: regions where minorities live; the socio-economic profile of minority communities; minority languages and media; minority community leaders; non-discrimination and minority rights legislation.

- Identify staff with existing competencies in minority issues. Perhaps establish a diversity plan to recruit staff with competencies on minority issues, languages and non-discrimination.

- Initiate a sensitization programme for staff on issues of non-discrimination and minority rights.

- Integrate into the programme cycle specific considerations for the situation of minorities. (see Tool 8)

- Ensure that UNDP support is monitored to prevent direct or indirect discrimination and to determine the impact of interventions on minorities. Integrate specific measurements into monitoring and evaluation activities to assess impact on minority groups. (see Tools 6-7)

Identify national partners:

- Some government ministries may be more open to working on minority issues than others. It may be more strategic to begin, for instance, with the Ministry of Justice to improve access

to justice for the most marginalised minorities or the Ministry of Health to review access to health services and culturally relevant health provisions for minorities.

- National Human Rights Institutions and National Councils on Minorities (or municipal level equivalents) are usually appropriate partners.

- National Statistics Offices can help produce good and reliable data for policy responses on minority issues.

- CSOs from minority communities, and/or CSOs that articulate minority concerns, are important agents and are typically eager to support UNDP and the government in their work.

Identify leverage points:

- Encouraging the inclusion and participation of minorities and their organisations in human development efforts and governance contributes to more cohesive, peaceful and stronger societies.

- Recommendations from international mechanisms often highlight the situation of minorities. For example, the Universal Periodic Review process of the UN Human Rights Council, Treaty body concluding observations and Special Procedures' reports offer useful recommendations to support governments in protecting and including minorities.

- Regional minority rights initiatives may stimulate government involvement.

The above steps are not exhaustive. The Resource Guide and Toolkit offer practical guidance to support UNDP staff to effectively respond to minority issues, thus contributing to broader development outcomes.

BOX 1:
EQUITY AND DEVELOPMENT:
POLITICAL ECONOMY
ARGUMENTS FOR INCLUSION
OF MINORITIES

In 2006, the World Bank focused its annual World Development Report on *Equity and Development*. Many of the findings of that report support the case that greater inclusion of minorities will achieve inclusive growth and improve development.

Marginalised minorities often constitute the deepest pockets of inequity and thus **impact significantly on growth prospects**. Overcoming discrimination, empowering the marginalised and creating more equitable access to and distribution of power can increase productive capacity and strengthen public institutions that will more efficiently regulate markets. Among the key points made by the report are:

- Different cultures and religions around the world may differ in important respects, but they all share a concern with equity and fairness (p.80).

- More egalitarian distributions of political power and income are associated with sustained and enduring prosperity (p. 108).

- Discrimination and stereotyping… have been found to lower the self-esteem, effort, and performance of individuals in the groups discriminated against. Those who expect to be discriminated against in a particular labour market…will tend to invest less in acquiring the type of human capital that the market rewards. This reduces their potential for individual growth and their ability to contribute to the economy (p.8).

- A relatively egalitarian distribution of political power underpins the institutions that promote prosperity. Institutions clearly have distributional effects, and bad institutions often arise because they benefit some group or elite. Good institutions arise when checks are placed on the power of elites and when the balance of political power becomes more equal in society. Growth certainly can occur in societies in which these conditions do not apply. But the preponderance of evidence suggests that such growth is unsustainable (p. 124)

- The growth elasticity of poverty reduction falls with greater income inequality. In other words, the impact (of the same amount of) growth on poverty reduction is significantly greater when initial income inequality is lower (p.9).

- The cost-benefit calculus that policymakers use to assess the merits of various politics too often ignores the long-term, hard to measure but real benefits of greater equity. Greater equity implies more efficient economic functions, reduced conflict, greater trust, and better institutions, with dynamic benefits for investment and growth (p.3).

In response, a team of experts offered suggestions as to how the World Bank could use its role to impact on *Breaking Out of Inequality Traps: Political Economy Considerations* (2008), including:

- Provide technical assistance on the distributional impact analysis of reforms, and encourage wide public dissemination of results to stimulate open debate.

- Promote more equitable and anti-discriminatory policies, and set norms for policies to decrease horizontal (i.e. between groups) inequalities.

- Support information campaigns that may improve public debate, and assist policy makers to elaborate better polices.

PART 1

Minority Protection: Conceptual Issues and Fundamental Rights and Principles

CONCEPTUAL ISSUES

2.1 WHO ARE MINORITIES?

No legal definition of the term 'minority' has been agreed in international law. Individual States recognize a wide range of groups domestically as minorities based on shared ethnic, cultural, religious and/or linguistic characteristics. Such groups are typically non-dominant vis-à-vis the majority(ies) in the spheres of economic, political, social and/or cultural life.

In the absence of a formal definition, the existence of a minority group can be assessed using **objective** and **subjective** criteria; these criteria have been elaborated by various UN independent experts drawing from international standards.[1]

- **Objective criteria** focus on the shared characteristics of the group such as ethnicity, national origin, culture, language or religion. These categories derive from the only global standard on minorities, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM) (see Annex 1) and article 27 of the International Covenant on Civil and Political Rights (ICCPR) concerning the rights of persons belonging to ethnic, religious and linguistic minorities.

- The term 'race' is sometimes used alongside 'ethnicity' in legislation on non-discrimination; this is not considered an endorsement of the notion of distinct races but is recognition that practices of racism and racial discrimination nevertheless persist and need to be combated.

- **Subjective criteria** focus on two key points: the **principle of self-identification** and the desire to **preserve the group identity.** According to the principle of self-identification, individuals belonging to minority groups have the right to self-identify as a minority or to **not** self-identify as a minority (see UNDM article 3.2). A minority community has the

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Article 27 of the International Covenant on Civil and Political Rights (ICCPR):

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

A similar provision is found in article 30 of the Convention on the Rights of the Child (CRC).

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[1] See, for example, the UN Human Rights Committee, *General Comment No. 23: The Rights of Minorities (Article 27)*, CCPR/C/21/Rev.1/Add.5; the UN Working Group on Minorities, *Commentary on the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, E/CN.4/Sub.2/AC.5/2005/2 (4 April 2005); and the UN Independent Expert on Minority Issues, *Annual Report of the Independent Expert on Minority Issues*, E/CN.4/2006/74 (6 January 2006).

right to assert its status as a minority and thereby to claim minority rights. Individuals can claim their membership in a minority community on the basis of objective criteria, including shared ethnicity, culture, language and religion. The preservation of the minority group identity depends on the expressed will of the minority community.

Recognition of minority status in some countries is limited by the domestic legal framework and/or local social constructions. Many constitutions legally recognise certain groups as minorities but frequently apply restrictive definitions. For example, in parts of Europe, the Roma have historically been denied recognition as national minorities because they lacked a defined territorial homeland. In some countries, the concept of 'minority' is not socially or politically accepted. In some cases, **the term 'minority' might not exist in local languages**. In such cases, alternative terms like excluded groups, marginalised communities or vulnerable groups can be

used provided that due attention is still given to the distinct ethnic, cultural, religious or linguistic identity of the minority group.

There are potential divergences between how countries define minorities, how international standards define minorities and how minorities define themselves. Groups that self-identify as minorities with a view to accessing minority protection offered at the international level may be confronted with difficulties when claiming rights as minorities *per se* domestically.

KEY MESSAGES

- Access to power and vulnerability to exclusion are factors in assessing the need for protection of minority rights

- Minority protection is required by non-dominant groups

- Groups that are dominant economically, but not politically or socially, may also need protection

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The *principle of self-identification* in selected international standards:

The UN Committee on the Elimination of Racial Discrimination (CERD), *General Recommendation VIII*, states that unless there is justification to the contrary, identification of persons as members of a racial or ethnic group will be based on "self-identification by the individual concerned". The UN Human Rights Committee (HRC) has said in *General Comment 23*, that for the application of ICCPR article 27 on minorities, the existence of a minority group must be determined by fact and not merely by a decision of the state. The OSCE *Copenhagen Document* (1990) states, "To belong to a national minority is a matter of a person's individual choice and no disadvantage may arise from the exercise of such choice" (paragraph 32). In the case of indigenous peoples, the *ILO Convention 169 Concerning Indigenous and Tribal Peoples* states self-identification is the fundamental criterion for determining the groups to which the convention applies (article 1.2). Article 33.1 of the *UN Declaration on the Rights of Indigenous Peoples*, refers to the rights of indigenous peoples, "to determine their own identity or membership in accordance with their customs and traditions". See *UNDG Guidelines on Indigenous Peoples' Issues*, p 8-9.

2.2 NUMERICAL SIZE AND DEMOGRAPHICS:

Demographics and power distribution both play a role in determining which groups are in need of protection as minorities. The size of the group matters but it is not the main factor in determining whether minority protection is required. **The main factors in determining the need for minority protection are access to power and vulnerability to exclusion.** In most countries, the largest ethnic, religious or linguistic group is the most powerful, necessitating specific measures of protection for numerically smaller groups. In other countries, numerically small group(s) may be the most powerful and therefore do not require any additional measures of minority protection. There are also cases where there is no clear numerical majority or minority group; in such countries, it is important to take account of the distribution of power among groups in determining which groups may require protection. For example, the *Fulani* pastoralist people are present in several countries of West Africa, sometimes migrating across borders, and may have a different status in each country. It is possible that the ethnic, religious or linguistic group with the least access to power is numerically the largest group in the country and, consequently, entitled to special protection measures.

These dynamics of power distribution can change over time and may differ in the political, economic and social spheres. For example, numerical minorities in a dominant position might quickly become non-dominant when a regime changes and they find themselves subject to discrimination. Economically-dominant minorities could be simultaneously politically or socially excluded. **Therefore, access to power must be assessed in a disaggregated manner to identify non-dominance and vulnerability in different spheres.**

Geography can also influence minority status. **A group could constitute a majority within the country but become a numerical minority within a sub-region.** Minority rights protection for groups in this situation can be determined on a case-by-case basis. There are reasons why such groups may need minority rights protection, especially where regional autonomy arrangements exist. For example, majority linguistic groups living in minority regions are still entitled to learn their mother tongue and to form peaceful associations.

KEY MESSAGES

- Demographics and power distribution both play a role in determining which groups are in need of protection as minorities.

- The main factors in determining the need for minority protection are access to power and vulnerability to exclusion.

- These dynamics of power distribution can change over time and may differ in the political, economic and social spheres.

- Access to power must be assessed in a disaggregated manner to identify non-dominance and vulnerability in different spheres.

2.3 'OLD' AND 'NEW' MINORITIES, CITIZENS AND NON-CITIZENS:

Minorities need not be citizens to claim respect for and protection of their identities. However, their residency status may impact on the policy measures taken by the country to fulfil minority rights. Minority rights are human rights and cannot be restricted to citizens only. The UN Human Rights Committee (HRC) has stated that minority rights protection, pursuant to article 27 of the ICCPR, must be applied to all individuals

within the jurisdiction of a State party, including, *inter alia*, non-permanent residents, migrant workers and even visitors.[2] The former UN Working Group on Minorities (replaced in 2007 by the UN Forum on Minority Issues) noted that provisions of the UNDM were inspired by article 27 and thus may apply to non-citizens as well (Eide 2001, paragraph 9).

Countries have some justification for taking greater positive measures for certain minority groups rather than others. This is typically measured by the length of residency of the minority group. Some minority groups have been historically resident in a country, while others may have arrived more recently as immigrants, migrant workers or refugees. **More recently arrived groups are entitled, at a minimum, to non-discrimination and to practice freely their culture, language or religion**. For example, immigrant groups may form their own community organisations and speak their own language without interference. Historically resident minorities often make further claims for positive measures, such as additional resources for education or for political participation. A State should provide access to primary education for all children, including migrants and refugees. However, historically resident minorities may have stronger claims for positive measures by the State, such as public funds for education in the child's mother tongue. The former UN Working Group on Minorities has suggested:

The best approach appears to be to avoid making an absolute distinction between "new" and "old" minorities by excluding the former and including the latter, but to recognize that in the application of the Declaration [on Minorities] the 'old' minorities have stronger entitlements than the 'new'. (Eide 2001, paragraph 11)

A key question is at what point the 'new' minority becomes entitled to increased positive measures? In considering this transition, it is important to determine whether a group's lack of full 'minority' status is due to provisions that are unduly restrictive and discriminatory. Other relevant factors include the population size of the minority community and their corresponding entitlement to public resources; and the practicalities of providing positive measures (e.g. if the community is territorially concentrated this may facilitate measures or if the costs are low the State may be more willing to take further steps in fulfilling rights even for newly arrived groups). At the regional level, the Advisory Committee of the Council of Europe Framework Convention for the Protection of National Minorities (FCNM) takes the approach that the FCNM does not necessarily apply in its entirety to all 'new' minorities, but that certain provisions (e.g. article 6)[3] should be applied on an article-by-article basis, where appropriate.

KEY MESSAGES

- Minorities do not have to be citizens to claim basic minority rights

- Historically resident minorities may have claims to greater positive measures than more recently arrived minorities

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[2] UN Human Rights Committee, *General Comment No. 23: The Rights of Minorities (Article 27)*, CCPR/C/21/Rev.1/Add.5, paragraph 5.1.

[3] FCNM article 6.1: The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media. 6.2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

2.4 MINORITIES AND INDIGENOUS PEOPLES:

In many countries where UNDP works there are both indigenous peoples and minorities. Indigenous peoples have distinct rights in international law, but minority and indigenous **identities can exist along a continuum** and might overlap in some cases. In recognizing these identities, UNDP could – with minorities and indigenous peoples themselves – consider objective and subjective criteria to determine which relevant rights and principles apply.

The **UN Development Group (UNDG) Guidelines on Indigenous Peoples' Issues, 2008, will apply in situations** where communities self-identify as indigenous peoples (subjective criteria) and have specific issues that need protection (objective criteria), such as their distinct cultural identity, social structure, economic system, customs, beliefs, their traditional way of life, and a special connection with the land and natural resources that is essential to their social and cultural survival.

It is paramount that **UNDP take account of each country context** and gain a good understanding of the relationship between indigenous peoples and minorities. Often both communities will have similar concerns, particularly from an economic, social and cultural rights perspective, and may be vying for the same government resources or land. A **"do no harm" approach** could be used to ensure that UNDP initiatives do not create or exacerbate conflict between communities by unfairly privileging some over others without a justification that is based on objective criteria and consideration of the human rights of all people and peoples affected. Creating opportunities for dialogue between communities and with government on shared issues of concern may present an effective way forward for inclusion.

The UNDG Guidelines on Indigenous Peoples' Issues note that there is no legal definition of indigenous peoples. The Guidelines accept the prevailing view that no such definition is needed for the recognition and protection of indigenous peoples' rights. In addition, the UNDG Guidelines note some of the attempts by international institutions to set out the key characteristics of indigenous peoples. For example, the UN *Study on the problem of discrimination against indigenous populations* (1986), prepared by Special Rapporteur, Jose Martinez Cobo, offers the following "working definition":

> "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.[4]

Indigenous peoples have particular rights in international law. These include rights to:

- Self-determination
- Collective land rights
- Use of natural resources and territories
- Practice customary law
- Environmental conservation
- Protect traditional knowledge, intellectual property, and cultural heritage
- Free, prior and informed consent to measures that affect them or their lands and territories

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[4] UN Doc. E/CN.4/Sub.2/1986/7 and Add. 1-4.

The UN Declaration on the Rights of Indigenous Peoples[5] recognizes that indigenous peoples have the right to self-determination and the right to freely pursue their political status and their economic, social and cultural development. The rights of indigenous peoples allow for a high degree of autonomy and non-interference by the State. Collective rights, in particular to land, territories and natural resources, also feature prominently in indigenous peoples' rights. The recognition of collective rights is necessary to ensure the continuing existence, development and well-being of indigenous peoples as distinct collectivities.

The rights of minorities, by contrast, are expressed in international law as *individual* rights of *persons* belonging to minorities. Some of these rights are exercised in parallel with others, for example, speaking a language or practicing a religion. Minorities often seek *autonomy* over their cultural, linguistic or religious lives. This may come in the form of non-territorial autonomy where minorities are dispersed or territorial autonomy if they are concentrated in a particular region. In addition, some minority groups (typically national minorities) may seek self-determination as 'peoples'.

There are factors that influence self-identification as a minority or indigenous, including group cultures and interests, and State policies. It will be important to remember that identities are instrumental for groups, providing access to rights, opportunities and mechanisms. Some minority groups may identify as indigenous peoples with a view to accessing, *inter alia*, collective rights to land.

Other communities that are perceived to be minorities may live with issues that have strong parallels with those of indigenous peoples.

Consequently, such communities may deserve protection emanating from human rights standards for indigenous peoples. The *Garífuna* Afro-descendant people in Central America, for example, have collective land ownership in their culture, and are legally recognized by several States as indigenous peoples (e.g. Guatemala and Nicaragua).[6] The Inter-American Court of Human Rights held, in two cases involving Afro-descendant groups in Suriname, that their cultural practices vis-à-vis land use and ownership, and their historical residency on their lands, entitled them to similar land rights protection afforded to indigenous peoples.[7]

Groups may be pragmatic regarding which mechanisms to use in order to maximize the protection of their rights. For example, indigenous peoples in Canada and Nordic States have sought protection under article 27 of the ICCPR, relevant for minorities, before the UN Human Rights Committee and many Afro-descendant groups in Latin America have used ILO Convention 169 Concerning Indigenous and Tribal Peoples to claim land rights.

In many States, governments use the term 'ethnic minorities' for communities that identify as indigenous peoples. Factors such as historical categories, colonialism and State interests impact upon the acceptance of the 'indigenous' identity. In such cases, communities may use the term ethnic minorities domestically but self-identify in international fora as indigenous peoples.

There are also many communities for whom the boundaries between minority and indigenous status are blurred. They often respond by identifying as 'indigenous minorities' or by using different identity labels depending on the context.

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5   UN Doc. A/RES/61/295 (13 September 2007).

6   See, for example, Inter-American Dialogue, *Race Report: Constitutional Provisions and Legal Actions Related to Discrimination and Afro-Descendant Populations in Latin America*. Washington, D.C.: Inter-American Dialogue 2004.

7   See the Inter-American Court of Human Rights cases of *Moiwana Village v. Suriname, Judgement of 15 June 2005* and *Saramaka people v. Suriname, Judgement of 28 November 2007:* "…the Court considers that the members of the Saramaka people make up a tribal community whose social, cultural and economic characteristics are different from other sections of the national community, particularly because of their special relationship with their ancestral territories, and because they regulate themselves, at least partially, by their own norms, customs, and/or traditions" (paragraph 84).

Although in many cases indigenous peoples are also numerical minorities, in some countries they constitute large majorities of the population despite their relatively low political power. In some regions, indigenous peoples reject the 'minority label' altogether because it does not fit the numerical reality, their self-perception or the status they seek in society at large.

Any groups that self-identify both as minorities *and* indigenous peoples, and fit relevant objective criteria, could claim rights of both groups. The highest standard of rights will apply.

Figure 1. Intersecting identities for minority groups

ETHNIC, RELIGIOUS AND LINGUISITIC MINORITIES

MIGRANTS

INDIGENOUS PEOPLES

REFUGEES
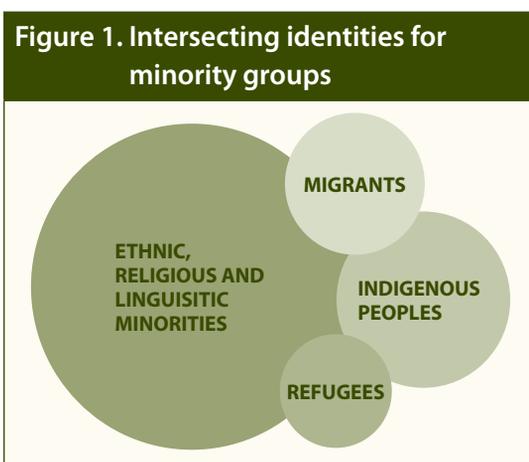
KEY MESSAGES

- Some minority groups are also indigenous peoples

- Such groups may claim both minority rights and indigenous rights but the **highest human rights standards will always apply**

- The **UNDG Guidelines on Indigenous Peoples' Issues** and the **UNDP Policy of Engagement with Indigenous Peoples (2001)** may be applied when working with indigenous peoples.

2.5 DIVERSITY WITHIN MINORITY GROUPS:

Minorities are not internally homogenous communities. Several groups may be marginalised within minority communities including women, children, the elderly, persons with disabilities, sexual minorities and persons living with HIV. These groups will experience multiple forms of exclusion and intersecting discrimination.

In some cases, discrimination against these groups may be culturally entrenched. The exercise of minority rights is not a justification for the practice of discrimination and the rights of such groups must be respected fully and equally. According to the UN Human Rights Committee, "none of the rights protected under article 27 of the [ICCPR] may be legitimately exercised in a manner or to an extent inconsistent with the other provisions of the [ICCPR]".[8]

It is important to recall that individuals have the right *not* to self-identify with a minority group to avoid discrimination. For some, internal discrimination within the minority community may involuntarily push them out. For others, the social stigma and discrimination that comes with being a minority may prompt them to disassociate from this community. In the latter case, it is important to respect the right of self-identification of the individual while simultaneously working against social and political factors that devalue the minority identity.

Women and girls from minority groups experience multiple and intersectional forms of discrimination based on both their minority status and their gender. Such multidimensional discrimination may make them particularly vulnerable to violations and a denial of their rights in both public and private life. Minority women often find themselves marginalised and face exclusion within their own communities and in the society alike. They might have

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8   Human Rights Committee, *General Comment 23, The rights of minorities (Article 27)* , UN Doc. CCPR/C/21/Rev.1/Add.5 (8 April 1994): paragraph 8.

unequal opportunities for political participation and frequently lack adequate employment and income-generating opportunities, social and financial capital, and basic social services. Women are also commonly discriminated against with respect to ownership and inheritance of property. In situations of armed conflict, the vulnerability of women to exploitation and abuse is greatly increased and minority women are often disproportionately affected. For this reason, **a gender perspective is of particular relevance while addressing the situation of minorities in a given country, including in their own communities.**

The Convention on the Rights of the Child (CRC) includes special protection for minority children (article 30). In its General Comment No. 6, the Committee on the Rights of the Child noted: *"State obligations under the Convention apply to each child within the State's territory and to all children subject to its jurisdiction (article 2)"*. The CRC rights are not limited to children who are citizens of a State party and must be available to all children - including asylum-seeking, refugee and migrant children - irrespective of their nationality, immigration status or statelessness. This is of particular relevance to minority children who may be stateless or lack registration documents, which can increase their vulnerability to abuse, trafficking, child labour and other forms of exploitation. The Committee has also recommended that States parties take steps to ensure the development and implementation of culturally sensitive health, social and education services, including the provision of education in minority languages.

KEY MESSAGES

- Some individuals within minority communities might be marginalised and discriminated against by actors in the group and outside the group

- Gender mainstreaming should take account of the intersecting forms of discrimination faced by minority women and girl children.

2.6 MINORITIES EXIST ACROSS BORDERS:

Not all minority communities are contained within a single State. In many cases, ethnic, religious or linguistic minorities have kin groups in neighbouring States or in a wider diaspora with which they maintain ties. Some groups, such as pastoralists, also migrate periodically across borders of one or more States.

Neighbouring States may also be 'kin states', namely, a State where the majority or dominant group shares ethnic, religious or linguistic characteristics with minorities in neighbouring countries. **The interest of kin states in minorities can have both a positive and a negative impact.** Kin states are commonly accused of interfering with state sovereignty in attempting to protect the interests of kin minorities. On the other hand, the interests of kin states in kin minorities may create positive cooperation, in the form of cross-border associations, cultural exchanges, educational support and stronger bilateral ties, all contributing to greater stability and participation.

Minorities have also created transnational ties, for example, through cooperation on advocacy, education or cultural exchange.

3 FUNDAMENTAL RIGHTS AND PRINCIPLES

3.1 WHAT ARE MINORITY RIGHTS AND MINORITY PROTECTION?

Human rights protection is primarily aimed at the individual. However, different groups of human beings, such as women and children, have been acknowledged (e.g. through international treaties) as having distinct rights, albeit derived from universal human rights. These group-specific rights are regarded as part of their human rights. The same is true for minorities.

Minority rights are human rights. Minority rights function to ensure that minorities can enjoy their human rights on the same basis as other people. These rights are part of the body of human rights standards that protect minorities, including article 27 of the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities. Minority rights help protect minorities from harm and from discrimination. These rights help to protect and promote minorities' cultures, religions and languages. Minority rights facilitate the equal participation of minorities in the public sphere and in decision-making that affects them. **These elements – protection of existence, non-discrimination, protection of identity and participation – are the foundations of minority rights**.

In international standards, minority rights are expressed in individual terms as the "rights of *persons* belonging to minorities". In international human rights law, therefore, **minority rights are not the rights of the groups *per se* but of the individual members of the group**. To be

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The UN Independent Expert on minority issues expresses **four** broad concerns stemming from minority rights:

1. Protecting a minority's existence, including through protection of their physical integrity and the prevention of genocide;

2. Protecting and promoting cultural and social identity, 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 effective non-discrimination and equality, including ending structural or systemic discrimination; and

4. Ensuring effective participation of members of minorities in public life, especially with regard to decisions that affect them.

Source: *Report of the Independent Expert on minority issues,* UN Doc. E/CN.4/2006/74 (6 January 2006): paragraph 22.

effective, however, these rights often need to be exercised in community with others. Under international law, States have the obligation to respect, protect and fulfill human rights. This applies also to minority rights.

3.2 RECOGNITION:

Recognition of minorities facilitates the protection of minority rights. There is no right to recognition *per se* in international law. Recognition of minority groups by the State is not a necessary condition for claiming minority protection but it may help. The existence of minorities is a matter of fact, rather than a matter of law. According to the UN Human Rights Committee, such existence 'does not depend upon a decision by that State party but [must] be established by objective criteria'.[9]

Even in the absence of legal recognition of minorities by the State, *de facto* recognition may assist States to acknowledge and respond to the problems faced by minorities. States will be able to better tackle inequality and reduce tensions within their societies if they acknowledge that ethnic, cultural, religious and linguistic diversity exists, and that groups may face discrimination and exclusion along these lines.

Recognition of minorities **facilitates development:** if minorities are not recognized, steps to ensure they benefit equally from development cannot be implemented easily or directly. Recognition facilitates **peaceful coexistence:** the failure to recognize minorities and the marginalisation they face can create inter-communal tensions and even conflict. Recognition facilitates **democratic governance:** participatory and multicultural States acknowledge the diversity of communities that constitute the polity.

Recognition also facilitates the protection of other minority rights. Recognition may enable:

- the collection of disaggregated data
- identification of discrimination based on ethnicity religion, language or descent
- participation in stakeholder consultations
- access to citizenship
- minority language education and media
- affirmative action in employment.

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[9] Human Rights Committee, *General Comment 23, The rights of minorities (Article 27)*, UN Doc. CCPR/C/21/Rev.1/Add.5 (8 April 1994): paragraph 5.2

Policy Responses on Recognition:

- Recognition of minorities can be made in constitutions, public policies, by legal registration of minority organizations, or indirectly in census data or other surveys. In Canada, for example, the Canadian Charter of Rights and Freedoms (1982) recognizes the "multicultural heritage of Canadians", two official languages (French and English), non-discrimination on the basis of "race, national or ethnic origin, colour, religion, sex, age or mental or physical disability" and specific protections regarding the rights of aboriginal peoples of Canada.

- Census taking can be reformed to include data collection enabling persons belonging to minorities to express their ethnic, religious or linguistic identity for census purposes. The World Bank and the Inter-American Development Bank organized a series of conferences in Latin America entitled 'Todos Contamos"("Everyone Counts") in order to support national governments and civil society to formulate better disaggregated data collection strategies.

- Policies in a range of areas can promote recognition of minority identities, including public support for broadcasting in minority languages, curriculum reform to raise awareness of diversity, or public recognition of multi-denominational religious holidays.

- Government authorities could engage minorities in dialogue on recognition and could provide technical support for drafting a legal and regulatory framework, thereby adopting positive measures for protection and promotion of minority identities.

3.3 PROTECTION OF EXISTENCE:

Minorities have a right to protection of their collective physical existence. The UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities indicates that States "shall protect the existence" of minorities "within their respective territories" (article 1.1).

This right is also safeguarded by the **prohibition of genocide and ethnic cleansing**. The intent to destroy a national, ethnical, racial or religious group, "in whole or in part" is prohibited by the Convention on the Prevention and Punishment of the Crime of Genocide (1948), whether it is carried out by killing members of the group or through other coercive measures devised to cause serious harm or physical destruction of the group (article 2). Although the Genocide Convention is not limited to protection of minorities, the dynamics of genocide are such that it is minorities that are most frequently targeted in this way. The Rome Statute of the International Criminal Court prohibits persecution against, *inter alia*, racial, national, ethnic, cultural or religious groups (article 7.1 (h)).

3.4 PROTECTION AND PROMOTION OF IDENTITY:

Minorities have the right to protection of their cultural, religious or linguistic identity. This right entails both **positive and negative obligations** for duty-bearers. Respecting, protecting and fulfilling identity rights for minorities are key factors in managing diversity and creating stability. Attempts to restrict or eradicate minority identities are a common grievance in inter-communal conflict.

Minorities must not be prevented from expressing their identities by undue restrictions or policies of assimilation. Signs of potential assimilation policies include the denial of the existence of minorities, prohibition of cultural practices and vigorous promotion of 'nation-building' that excludes all but one dominant cultural or religious identity.

Assimilation also leads to the eradication of a minority identity, whereas integration enables minority identities to flourish independently at the same time as becoming part of the wider national identity. Integration policies should not restrict the expression of minority identities and should create opportunities for minorities to feel included in society. Assimilation is coerced; integration is voluntary.

According to Article 4.2 of UNDM, States are also encouraged to "take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs". Minorities should be able to promote their identity on an equal basis with majority groups. The protection of cultural heritage essential to the group's identity is one aspect, including for example burial sites, buildings, religious places, documents and/or libraries. Policies may also entail recognition of forms of cultural autonomy for minorities, by determining educational content, forming national cultural institutions or by providing funding for cultural activities. The degree to which the State is obliged to provide resources for such measures varies and may be determined by assessing variables like the size of the group, its territorial concentration, historical residency in the State and the principles of equality, non-discrimination and proportionality.

Minorities and majorities could also be encouraged to gain an understanding of one another's identities. According to article 4.4, States should "take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory" and minorities "should have adequate opportunities to gain knowledge of the society as a whole". These are essential components of integrative strategies.

KEY MESSAGES

- States have positive and negative obligations to protect minority identities
- Policies of integration are voluntary and consistent with the rights of minorities.

3.4.1 Education rights and identity:

Education is a key component of the protection of minority identity. Issues of particular concern are access to education, the language of educational instruction and the cultural content of education.

Minorities often lack equal access to education. This may be seen by lower levels of educational attainment, fewer resources to schools in areas where minorities live, and segregation of minority children from mainstream schools. **Both direct and indirect discrimination play a role**. The curriculum and textbooks used might perpetuate discriminatory attitudes towards minorities. Minorities with low incomes could suffer indirect discrimination where school fees are required or tax revenue to fund schools is lower in their areas of residence. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) calls upon States to prohibit and eliminate discrimination in access to education (article 5(e)(v). States are required not only to ensure equal access for all to education, but to ensure non-discrimination in the quality of education provided as well. Where financial obstacles to accessing education disproportionately affect minorities, States are required to take special measures to overcome this barrier.

Minorities have a **right to educational instruction in their mother tongue**. Minorities may be disadvantaged because they do not speak the language of instruction in state schools. The UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities says "States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue" (article 4.3). Minority groups could **establish their own educational facilities** for providing instruction in their language (the State may also require these facilities to teach the state language). The State may also provide mother tongue education in public schools. States may be supported in providing courses and/or instruction in the minority language at the secondary and tertiary levels, in particular where the minority group has expressed a need for it and is sizeable enough to justify the provision. Even where minority languages are not written languages, there is potential to integrate them into the education system by engaging community members in classroom activities to share cultural knowledge, skills and arts.

The **cultural content of education** is a key concern for minorities. Minority cultures, history and contributions do not necessarily reflected in the national curriculum and textbooks. For religious minorities, the manner in which religion is taught is very important, including whether there is compulsory religious instruction in the religion of the dominant group or whether there is an option for minorities to be instructed in their own religion. According to the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities, "States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory" (article 4.4). The Convention on the Rights of the Child states that education of the child shall be directed, *inter alia*, to the child's "own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own" (article 29.1 (c)). Similarly, the ICCPR holds that States should respect the freedom of parents "to ensure the religious and moral education of their children in conformity with their own convictions" (article 18.4).

If the content or practice of education perceived to be discriminatory towards minorities, this may make minority parents less willing to send their children to school. The inclusion of cultural

instruction also influences a parent's willingness to send their children to school. Parents may find little benefit, for example, in an education that does not teach traditional livelihoods or culture or which stigmatizes their identity. In particular, minority girls are frequently perceived as the bearers of minority culture. Therefore, where schools are not culturally relevant, parents may not send girls to school, fearing that they will lose their culture.

Some of these policies have resource implications for States, since not all minority groups will have access to positive measures on the part of States. Provision of mother-tongue education for immigrant groups may be a lower priority than, for example, for larger and/or long established minorities. At a minimum, States are expected to ensure non-discrimination in access to and provision of education and not prevent minorities from providing private instruction in their languages, cultures or religions in conformity with domestic law. States should be supported to invest resources in inclusive education with the understanding that it is in the best interests of the child and of society at large to facilitate inter-cultural understanding and multiple language skills.

Concerns have been raised regarding **separate schools for minority children**. Some argue that such schools encourage segregation and undermine the integration of minorities. Minority rights standards state clearly that the minority child must also be given opportunities to learn about other cultures and are encouraged strongly to learn the state language. The UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities states, "Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole" (article 4.4). The Convention on the Rights of the Child requires education to prepare the child for "responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin" (article 29.1 (d)). Parents do have the right to educate their children in independent institutions if they wish but the State has an obligation to ensure that both minority and majority children also have access to inter-cultural education.

KEY MESSAGES

- Education is a key component of protecting minority cultural identities.

- Education can promote non-discrimination, inter-cultural understanding and poverty reduction for minorities.

- Education can be a pathway to more engagement of minority communities in the curriculum and wider civic participation.

Policy Responses on Education:

- Affirmative action in various forms is an option for addressing discrimination in access to education. This may be in the form of reserved places in educational institutions for minorities, designated scholarships for minorities, or investment of additional resources into education in regions where minorities reside. Affirmative action policies have been in place since 2001 in Brazil to increase the enrollment of Afro-Brazilians in tertiary education.

- The provision of minority culture education may take many forms. While long-established minorities with large populations may have a greater claim to public resources for minority education, there are benefits to providing similar services to new minority groups. In Sweden, children are legally entitled to tuition in their mother-tongue (Migration Policy Group (MPG) 2006, paragraph 437). Such courses are provided in over 60 languages and a little over half of the eligible students pursue this option. This helps to ease immigrant children into the Swedish education system and language, and builds a multi-lingual constituency in Sweden.

- Financial assistance through inter-state cooperation for the provision of education is also encouraged by international standards (e.g. OSCE Lund Recommendations). In France, bilateral agreements with Algeria, Italy, Morocco, Portugal, Serbia, Spain, Tunisia, and Turkey have been entered into in order to provide instruction in foreign languages and cultures; teachers are paid by the country of origin (MPG 2006, paragraph 439).

- Overcoming inequality in access to education might require the provision of culturally-adapted education. For example, in Vietnam, some minority fishing communities have been provided with floating primary schools that enable their children to access regular education without compromising the ability of families to maintain their traditional livelihoods.

3.4.2 Limits on promotion of identity:

The obligation on States to enable minorities to develop their culture is not absolute. There are two limitations: where specific practices are in "violation of national law" and where they are "contrary to international standards" (UNDM, article 4). Any prohibitions on cultural practices must be based on reasonable and objective grounds. 'Contrary to international standards' means that States are free to (and should) prohibit practices that violate international human rights standards. This clause responds to criticisms sometimes made against minorities when cultural traditions violate the human rights of individual members. This argument is often made in relation to the rights of women.[10] States may not use this clause to prohibit whole cultures on the grounds that a specific practice violates human rights norms; the restrictions must concern the practice in question. Legislation in itself will not usually be sufficient to end these practices. At a minimum, education programmes will be needed. The most effective methods of eradicating harmful practices require the cooperation of all sections of the affected group.

Sometimes a group that has experienced discrimination or marginalisation could perceive legitimate state concern over specific

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[10] For example, the prohibition of practices of violence against women are identified in the Vienna Programme of Action, adopted by the World Conference on Human Rights, 1993, paragraph 38; and the Beijing Declaration and Platform for Action, adopted by the Fourth World Conference on Women, 1995, paragraphs 113 and 118.

cultural practices that violate human rights norms as a further attack on the group. In this instance, there may be a negative reaction from the group (or from the group's leaders) to state interference. On the other hand, cultures are not homogeneous and there may be those within a community who are not in favour of harmful practices and who are working to eradicate them.[11] States could work with the group to eradicate harmful practices in a way that does not threaten the overall identity of the group.

KEY MESSAGES

- Practices within minority communities that violate the human rights of individual members should be prohibited.

- Prohibiting specific practices does not permit prohibition of whole cultural identities.

3.5 NON-DISCRIMINATION AND EQUALITY:

Minorities have a right to non-discrimination and to equality. The principles of non-discrimination and equality are established firmly in international law. There are two types of discrimination – direct and indirect. Broadly speaking, **direct discrimination has the *purpose* of discriminating and indirect discrimination has the (unintended) *effect* of discriminating**.

The International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD) is the core international treaty on the **right to non-discrimination**. ICERD defines racial discrimination as:

any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (article 1.1).

Many domestic laws extend non-discrimination to religious or linguistic groups. The Committee on the Elimination of Racial Discrimination (CERD), in reviewing State periodic reports has correlated religious or linguistic identity to other identities protected by ICERD, such as ethnicity.

The ICERD requires the **establishment of effective remedies** for the prohibition and elimination of discrimination in the enjoyment of civil, political, economic, social and cultural rights (article 5). This includes the creation of national tribunals to combat discrimination (article 6) and public education to promote non-discrimination (article 7). The ICERD also **prohibits incitement to hatred**, discrimination or acts of violence against any group on the basis of race, colour or ethnic or other origin (article 4). Similarly, the ICCPR prohibits "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" (article 20.2).

Importantly, ICERD allows for State **'special measures'** in "social, economic, cultural and other fields" in order to achieve full and equal enjoyment of human rights for groups that face discrimination (articles 1.4 and 2.2). Frequently, these take the form of affirmative action policies (also known as 'positive discrimination'), such as those designed to improve access to employment or education but may also **include efforts like targeted development interventions.** These 'special measures' are not considered as discriminatory under international law if they aim to overcome the barrier posed by discrimination that prevents groups from equally accessing their rights. This is with the proviso that such measures are terminated once discrimination is no longer a factor.

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[11] For example, in many states there are women and men working to eradicate Female Genital Mutilation (FGM), which is a practice carried out by both minority and majority communities but often cited as a 'minority group problem'. In addition, individuals have the right to freely exercise or not their culture under article 3.2 of the UNDM.

Acts that have the purpose of discriminating (i.e. direct discrimination) are easier to identify than acts that have the effect of discriminating (i.e. indirect discrimination). For example, a national policy for school fees may disproportionately impact poor minorities, thus indirectly discriminating in their access to education. **Monitoring the impact of policies through the collection of disaggregated data is essential to prevent both direct and indirect discrimination.**

KEY MESSAGES

- Efforts are needed to eliminate both *direct* and *indirect* discrimination.
- States can use 'special measures' to target additional support to groups that are discriminated against.

Policy Responses on Non-discrimination:

- Most countries have laws on non-discrimination that can be strengthened with monitoring and enforcement mechanisms. Institutions like ombudspersons, employment rights tribunals and national commissions on equality and non-discrimination can be created. The United Kingdom has an Equality and Human Rights Commission with a mandate to enforce equality legislation; Brazil has the ministerial body, the Special Secretariat for the Promotion of Racial Equality (SEPPIR); the European Union's Racial Equality Directive (2000/43/EC) prohibits direct or indirect discrimination based on racial or ethnic origin in a wide range of policy areas, including employment, health, education, social security and housing.

- Non-discrimination legislation could be strengthened by shifting to the principle of shared burden of proof in alleged discrimination cases. CSOs could play a greater role in supporting individuals to take non-discrimination cases. Law clinics in minority areas can improve access to justice for minorities on non-discrimination.

- Affirmative action measures could be adopted. India has a long history of reservations policies for Scheduled Castes and Scheduled Tribes in the public service, now being considered for extension to the private sector as well. Brazil has introduced various forms of affirmative action for Afro-Brazilians and other marginalised groups, including in some public sector employment, higher education, support to business development by Afro-descendants, job training and targeted social programmes for predominantly Afro-descendant neighbourhoods.

3.6 EFFECTIVE PARTICIPATION:

The right to effective participation for minorities can be divided into three key aspects: the right to participate in public life and decision-making, especially on issues that affect them; the right to participate in the life of their own community; and the right to participate in the benefits of economic progress and development.

The right of everyone to participate in the conduct of public affairs is outlined in article 25 of the ICCPR. The UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities reaffirms that "persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life" (article 2.2). Given that minorities are frequently excluded from public participation, the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities states, **"persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, the regional level concerning the minority to which they belong or the regions in which they live"** (Article 2.3).

Minorities also have a right to form their own associations (UNDM article 2.4). This right extends to forming peaceful associations and contact across territorial boundaries with members of the same identity group or with other minorities (UNDM article 2.5).

To facilitate the participation of minorities in the economic sphere "States should consider appropriate measures so that persons belonging to minorities may participate in the economic progress and development in their country" (UNDM article 4.5). The integration of minorities into the development process should take place in ways that ensure minorities can preserve their identity as they wish.

The key message in all these provisions is *effective participation*. Any mechanisms for participation should be genuine and inclusive. Opportunities for consultation should be provided *before* decisions are made. Development partners should take into consideration the outcomes of the consultation process when making final decisions. Development partners can ensure that the consultation process includes **wide participation from within the minority community**. Problems may arise if such engagement only deals with select community leaders who may not represent the community as a whole. For example, community leaders or spokespersons are often older men and may not reflect the opinions or priorities of women or other marginalised groups in the community. Such consideration is to be balanced with due recognition of any traditional leadership structures that exist in the minority community.

Minorities that are also **indigenous peoples** have specific provisions that impact on their participation rights, including **rights to self-determination and to free, prior and informed consent**. The UN Declaration on the Rights of Indigenous Peoples calls upon the "organs and specialized agencies of the United Nations system and other inter-governmental organizations" to establish a "way and means of ensuring participation of indigenous peoples on issues affecting them" (article 41). Also see the UNDG Guidelines on Indigenous Peoples' Issues, (2008, p. 12 and 28).

KEY MESSAGES

- Minorities have a right to participate in decision-making that affects them.
- Measures to ensure the equal participation of marginalised groups within minority communities are needed.

Policy Responses on Participation:

- International law offers little guidance regarding institutions and mechanisms for implementing the right to participation of minorities. However, the stronger the institutions and mechanisms, the more likely they will contribute to stability and non-discrimination.

- Policy responses to ensure the right to participate in decision-making that affects minorities may be taken at the central, regional or local levels. At a minimum, minorities should have the right to vote and to stand for office without discrimination. Consideration may be given to the shape of electoral systems. Factors such as proportional representation, candidate selection and the boundaries of electoral districts can impact upon minority participation. Designated seats for minorities in the legislature may be created. Minorities have the right to form their own political parties as well.

- Although restrictions are often applied to political participation for non-citizens, efforts could be made to accommodate participation of immigrant minorities. This may include conferring voting rights in local elections or the creation of local consultative bodies for non-citizens. For example, Denmark has over 60 integration councils and Germany has about 400 Ausländerbeiräte (foreigners' councils) (MPG, 44). Such bodies can increase participation of excluded minorities, and improve communication and relations between immigrants, citizens and local authorities.

- For some minority groups, forms of territorial or non-territorial autonomy may be appropriate. Minority groups that are territorially concentrated and constitute a sizeable population in the locale may be served best by autonomous forms of local or regional governance. This may enable control over decision-making for issues like education, culture, local public services and local development. Non-territorial forms of autonomy usually focus on cultural rights, such as curriculum development for minority languages, regulation of traditional laws and customs, the right to use and register their names in their own language, and the right to form cultural institutions.

- National consultative bodies for minorities are also common. These bodies may or may not be elected directly by persons belonging to minorities. In Hungary, for example, the national law on minorities (Act LXXVII on the Rights of National and Ethnic Minorities (1993)) is the basis of self-government for Roma, the National Gypsy Self-Government (est. 1995), which contains 53 seats elected by popular vote (i.e. not exclusively by Roma). It was found to be too difficult to restrict voting only to Roma, not least because of self-identification issues. For this reason is it advantageous to adopt a variety of measures that facilitate the participation of minorities in decision-making and not rely on a single entry point of political engagement.

3.7 RESPONSIBILITIES OF MINORITIES:

Minorities have rights and, like all people, they also have responsibilities to wider society. Minorities should **respect the territorial integrity and sovereign independence of States**. The UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities states, "Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States" (article 8.4). Minority rights provisions do not recognize the right to secession for minorities, although in extreme cases this has been a negotiated outcome. More common are forms of territorial or non-territorial autonomy that fulfill minority rights and provide conditions for the peaceful settlement of disputes or claims.

In the exercise of minority rights, **minority communities have a responsibility to respect the human rights and fundamental freedoms of their own members and of other human beings**. In some cases, certain practices of minority cultures can violate the human rights of individuals within their community. The UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities urges States to create favourable conditions so that minorities can express and develop their cultures, religions and languages, "except where specific practices are in violation of national law and contrary to international standards" (article 4.2)

Minorities have a responsibility to **engage in inter-cultural understanding**. The UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities provides, "Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole" (article 4.5). The parents of minority children have a responsibility to ensure that children have opportunities to learn about wider society and inter-communal respect and tolerance. The Convention on the Rights of the Child requires education to prepare the child for "responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin" (article 29.1 (d)). The education of children should also be directed toward the development of respect "for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own" (CRC article 29.1 (c)).

KEY MESSAGES

- Minority rights do not permit violations of the territorial integrity and independence of states

- Minorities should also respect the human rights of all persons

- Societies should engage in inter-cultural understanding

BOX 2.
OVERVIEW OF STANDARDS AND MECHANISMS ON MINORITIES

There are many standards and mechanisms at the global and regional level that aim to protect minorities. There are several legally binding international treaties with specific provisions aimed at minority groups and indigenous peoples, in addition to two relevant non-legally binding UN declarations. (see Table 1). Further details can be found in Chapters 11-12.

Table 1. Key international standards on minorities and indigenous peoples			
Treaty	**Organisation**	**Monitoring or Review Mechanism**	**State Ratifications[12]**
International Covenant on Civil and Political Rights (Article 27)	United Nations	Human Rights Committee	165
Convention on the Rights of the Child (Article 30)	United Nations	Committee on the Rights of the Child	193
ILO Convention 169 Concerning Indigenous and Tribal Peoples	United Nations	Committee of Experts on the Application of Conventions and Recommendations	20
Framework Convention for the Protection of National Minorities (FCNM)	Council of Europe	Advisory Committee	39
European Charter on Regional and Minority Languages	Council of Europe	Committee of Experts	24

Declaration	**Organisation**	**Related Thematic Mechanisms**	**State Support**
UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities	United Nations	Forum on Minority Issues; Independent Expert on minority issues	Adopted by consensus of UN General Assembly
UN Declaration on the Rights of Indigenous Peoples	United Nations	Permanent Forum on Indigenous Issues; Expert Mechanism on the Rights of Indigenous Peoples	Adopted by consensus of UN General Assembly

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[12] Ratifications as of 2 March 2010.

BOX 2 (continued)

Mechanisms that monitor, review or relate to these treaties and declarations include treaty bodies, independent experts and working groups in various forms. Some mechanisms are quasi-judicial. **Minorities have pursued several minority rights cases using international and regional human rights mechanisms**. The decisions of these bodies have established a number of important principles for the protection of minorities (see Annex II). International experts and working groups established by inter-govern-mental organizations have successfully used diplomacy and dialogue to address minority issues. For example, the UN Independent Expert on minority issues has engaged in a range of important initiatives, including working with UNDP, conducting country visits and responding to communications from minorities. An overview of some of the key mechanisms with a particular focus on minorities and/or indigenous peoples is included below. Further information on the work of these mechanisms can be found in Chapters 11-12 and Annexes II-III of the Guide.

Table 2. Key international mechanisms on minorities and indigenous peoples

Mechanism	Organisation	Activities
UN Treaty Bodies	United Nations	• Adjudicate on individual complaints • Review State reports and make recommendations on rights implementation • Accept alternative ('shadow') reports from CSOs on treaty implementation • Produce expert opinions on application of the treaties (i.e. as General Comments/General Recommendations)
Independent Expert on minority issues	United Nations	• Promotes the implementation of the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities • Conducts country visits and makes recommendations on legislative and policy reform (vis-à-vis minorities) • Receives and may respond to communications from minority groups on issues of concern • Engages in normative development and in policy advice
Special Procedures (especially on Racism and Discrimination, Indigenous People, Freedom of Religion, Migrant Workers)	United Nations	• Conduct country visits and make recommendations on legislative and policy reform (vis-à-vis minorities) • Receive and may respond to communications from groups on issues of concern • Engage in policy advice and normative development

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Table 2 (continued)

Mechanism	Organisation	Activities
Forum on Minority Issues	United Nations	• Identifies and analyzes best practices, challenges, opportunities and initiatives for the further implementation of the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities • Provides a platform for promoting dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities, which shall provide thematic contributions and expertise to the work of the independent expert on minority issues (e.g. minorities and the right to education, 2008, minorities and political participation, 2009)
Permanent Forum on Indigenous Issues (PFII)	United Nations	• Provides expert advice and recommendations on indigenous issues to ECOSOC as well as to programmes, funds and agencies of the UN • Raises awareness and promotes the integration and coordination of activities related to indigenous issues within the UN system • Prepares and disseminates information on indigenous issues • Receives information from groups on thematic issues under consideration by the PFII
Expert Mechanism on the Rights of Indigenous Peoples	United Nations	• Provides thematic expertise and recommendations to the UN Human Rights Council on indigenous issues • Receives information from groups on thematic issues under consideration by the Expert Mechanism
Working Group of Experts on People of African Descent	United Nations	• Reviews by theme the problems of racial discrimination faced by people of African descent living in the Diaspora • Engages in policy advice and normative development • Conducts country visits and makes recommendations on legislative and policy reform
Special Advisor on the Prevention of Genocide	United Nations	• Collects existing information, in particular from within the UN system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that might lead to genocide • Makes recommendations to the UN Secretary-General and Security Council • Liaises with UN system on measures for genocide prevention

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BOX 2 (continued)

Table 2 (continued)

Mechanism	Organisation	Activities
High Commissioner on National Minorities	OSCE	• Identifies and seeks early resolution of ethnic tensions that might endanger peace, stability or friendly relations between OSCE participating States using quiet diplomacy • Engages in policy advice and normative development
Contact Point on Roma and Sinti	OSCE	• Supports the implementation of the OSCE Action Plan on Improving the Situation of Roma Within the OSCE Area • Engages in policy advice on Roma and Sinti issues, including in cooperation with community representatives
Advisory Committee on the FCNM	Council of Europe	• Reviews State reports and make recommendations on rights implementation for national minorities • Accepts alternative ('shadow') reports from CSOs on treaty implementation • Produces expert opinions on application of the FCNM (i.e. as Thematic Commentaries)
Committee of Experts on Issues relating to the Protection of National Minorities (DH-MIN)	Council of Europe	• Acts as a forum for the exchange of information, views and experience on policies and good practices for the protection of national minorities • Considers transversal issues relevant to CoE member • States and supports European cooperation on issues relating to the protection of national minorities • Prepares draft opinions on relevant issues
European Roma and Travellers Forum (ERTF) and the Committee of Experts on Roma and Travellers (MG-S-ROM)	Council of Europe	• ERTF is an elected forum with a mandate to promote the human rights of Roma and Travellers in Europe; it is independent but works in close cooperation with the Council of Europe • The MG-S-ROM has a mandate to study, analyse and evaluate the implementation of policies and practices of member States concerning Roma and Travellers • Engages in policy advice and the development of Guidelines
Working Group on Indigenous Populations/ Communities	African Union	• Reviews the situation of indigenous peoples in Africa, making recommendations to the African Commission on Human and Peoples' Rights • Receives information from groups on issues of concern • Conducts country visits and makes recommendations on legislative and policy reform
Special Rapporteurs on: the Rights of People of African Descent and Racial Discrimination; and on Indigenous Peoples	Organization of American States (OAS)	• Conducts country visits and makes recommendations on legislative and policy reform • Receives and may respond to communications from groups on issues of concern • Engages in policy advice and normative development

PART 2

Minorities in Development: Programming Opportunities and Relevant Strategies

4 MINORITIES IN DEVELOPMENT

4.1 MEETING UNDP'S OBJECTIVES: MINORITIES AND UNDP PRACTICE AREAS

Government efforts to tackle poverty, promote democratic governance, recover from crisis, prevent conflict, pursue sustainable development and address the HIV epidemic could all benefit from increased attention to the situation of minorities. The protection of minorities is integrally linked to each of these key UNDP practice areas.

Attention to minority rights is also critical to the fulfillment of a Human Rights-Based Approach (HRBA) to development programming. The HRBA necessitates programming practices that include:

- Identification of human rights claims and the corresponding obligations of all the stakeholder groups involved, *including those of minorities*

- Analyzing the underlying and structural causes of the non realization of rights; assessing the capacities of both rights holders and duty bearers, and supporting capacity development measures, *including examining the causes of non-realization of rights for minorities and building capacity to exercise and fulfill these rights*

- Monitoring and evaluating both processes and outcomes, guided by international human rights standards and principles, *including monitoring impact on minorities and their particular rights to recognition, non-discrimination, protection of identity and participation.*

This chapter provides information on how UNDP could integrate consideration of minority rights into its practice areas and support governments in their efforts to do the same.

4.2 POVERTY REDUCTION AND THE MDGs

4.2.1 Reducing Poverty for Minorities:

Minorities are among the poorest people in most countries. Poverty reduction strategies for minorities frequently lack thorough consideration of the root causes of poverty for minorities, in particular the role of discrimination. Table 3 shows some examples of how the entrenched poverty of minorities can negatively impact on overall development achievements in a country.

There is an urgent need to examine why minorities do not benefit equally from poverty reduction efforts and to respond with appropriate measures. More information on this point is found also in section 4.2.2 of this Guide on MDG 1.

Table 3. How can overcoming poverty of minorities improve overall human development?

Selected factors in minority poverty	Probable impact on national development	Possible policy response
Discrimination in access to employment, to equal wages and to credit	Higher unemployment; fewer (minority-led) businesses; lower human capital; weaker social cohesion; lower growth	Adopt non-discrimination provisions in labour laws; create employment tribunals; establish/monitor micro-credit support to minority businesses
Less access to land and less security in land rights	Higher slum populations; less investment in land production by those with weak land security; lower growth	Support to land titling; clear provisions on land rights; support resolution of land rights claims; where appropriate, enable communal land rights titling
Living in regions where there are fewer public services or employment	Lower life expectancy; Higher levels of child and maternal mortality; higher rates of unemployment; lower levels of educational attainment; less trust in government institutions; lower growth; weaker social cohesion	Increase resource investment in minority areas; provide incentives to professionals (e.g. teachers, doctors) for employment in services to minority areas; avoid involuntary displacement of minority communities
Less access to education and higher rates of illiteracy across generations	Lower levels of educational attainment; Fewer skilled labourers; lower human capital, especially in underdeveloped regions; weaker social cohesion; lower growth	Monitor access to education for minorities; introduce adult education and skills training; support training for teachers from minority groups; reform curricula for non-discrimination and inclusiveness
Less access to justice to protect rights to employment, land and non-discrimination in accessing public services	Weaker rule of law; less trust in government institutions; weaker social cohesion; lower human capital	Monitor justice system for inequalities in access; training for justice sector on non-discrimination and other minority rights
Lack of knowledge of dominant languages hindering access to markets or employment	Less market trading; higher levels of unemployment; less investment in human capital; lower growth	Ensure access to education for minorities; provide translation of public employment opportunities; support minority media for market information
Low levels of political representation to request equal access to budgetary resources	Less fair distribution of national resources; underdevelopment of minority regions; weak or absent minority input into national policy; less trust in government institutions; lower growth; weaker social cohesion	Ensure freedom of association for minorities; reform electoral systems to ensure fair representation of minorities; support the development of parliamentary support networks for minority parliamentarians; ensure transparency in budgetary decision-making

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Table 3 (continued)

Selected factors in minority poverty	Probable impact on national development	Possible policy response
Low levels of participation in development planning to articulate their specific needs	Less effective development plans; increased inequality; less investment in human capital; less trust in government institutions	Ensure representation of minorities in development planning consultations; support to minority CSOs; information outreach to minority communities on development proposals
Failed resettlement plans that erode cultural livelihoods and community development	Increased inequality; higher levels of child and maternal mortality; Lower life expectancy; loss of cultural diversity; weaker social cohesion	Avoid involuntary displacement of minority communities; ensure representation of minorities in development planning consultations; provide support to traditional livelihoods and access to voluntary employment training opportunities

UNDP could support governments to ensure that minorities overcome poverty, including through the following measures.

Improving capacity to monitor poverty reduction for minorities:

Better data collection concerning the poverty of minorities can help reveal the causes of this poverty and monitor improvements. Collection of disaggregated data on minorities could provide important baseline information and the evidence to justify specially targeted programmes for minorities. **UNDP could offer support to carrying out censuses and surveys that aim to gather information on the situation of minorities**. This Guide provides tools for good practice in data collection with the full participation of minorities (see Chapter 9).

Facilitating the participation of minorities in designing poverty reduction strategies:

Marginalised minority groups should be included in stakeholder dialogues on poverty. They can offer important insights for strengthening poverty reduction strategies in a way that will target hard to reach pockets of poverty. Establishing theme groups to examine the specific situation of minorities can be particularly useful. UNDP could provide greater support to CSOs for minorities (such as travel funds, translation services, access to information) to enable them to participate in an informed manner in such dialogues.

Advocating for the improved human development of minority groups:

Raising awareness of minority issues is important. Certain National Human Development Reports (NHDRs) have proven effective in providing data that presents the case for greater action on improving the human development of minorities. NHDRs can create opportunities for dialogue on lesser known issues.

Governments could be assisted to undertake assessments of barriers and root causes of poverty among minorities. These barriers and causes will be context-specific and will usually require specially targeted intervention and/ or adaptation of inclusive approaches to take account of minority-specific issues like cultural or religious identity and discrimination.

4.2.2. Achieving the MDGS for all:

Governments and the international community are working to achieve the eight Millennium Development Goals (MDGs) by 2015. Concerns have been raised over the increased risk of not achieving the MDGs for minorities due to disproportionately high levels of exclusion, the impact of discrimination, identity-related issues and weak participation of minorities in decision-making relating to the MDGs.[13]

The UN Millennium Declaration clearly expresses that States resolve "To strengthen the capacity of all countries to implement the principles and practices of democracy and respect for human rights, *including minority rights*" (paragraph 25, emphasis added). Support could be offered to achieve this objective while at the same time avoiding potential negative outcomes for minorities in the process.

Enhanced attention to marginalised minority groups may improve the chances of achieving the MDGs, for these groups and for a country as a whole. For example, the goal of achieving universal primary education by 2015 might not be reached if minority children continue to drop out of school because of the discrimination. Efforts are also needed to ensure the MDGs do not inadvertently violate minority rights. For example, forced displacement of minority groups from remote areas has been used as a means of improving access to social services for minorities, but has often proven to worsen human development. Governments could be assisted to understand the particular challenges faced by minorities in reaching the MDGs, and to put in place sound strategies – linked to minority rights protection – for overcoming these challenges.

In her initial report to the Commission on Human Rights in 2006, the UN Independent Expert on minority issues highlighted that:

"The poorest communities in almost any region tend to be minority communities that have been targets of longstanding discrimination, violence or exclusion. As such, poverty within minority communities must be viewed as both a cause and a manifestation of the diminished rights, opportunities, and social advancement available to the members of that community as a whole. Without a targeted focus on their needs and rights, they will remain disproportionately impoverished. And without a more coherent effort to reduce poverty through targeted strategies that specifically reach out to minority communities, the international community will fail to achieve, or sustain, the important targets set within the Millennium Development Goals." [14]

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[13] This section draws heavily on the report of the UN Independent Expert on minority issues, *Achieving the Millennium Development Goals (MDGs) for Minorities: A Review of MDG Country Reports and Poverty Reduction Strategy Papers*, UN Doc. A/HRC/4/9/Add.1 (2 March 2007); and on Minority Rights Group International, *The Millennium Development Goals: Helping or Harming Minorities?*, UN Doc E/CN.4/Sub.2/AC.5/2005/WP.4 (April 2005).

[14] E/CN.4/2006/74 (6 January 2006).

Three overarching contributions of UNDP to achieving the MDGs for minorities could be:

- **supporting the articulation of minority concerns** for reaching the MDGs, (e.g. through hosting consultations or developing theme groups on minority issues);

- encouraging governments to **measure the progress of minorities' in all MDG reporting and**;

- **disseminating information on the MDGs to minority groups** (e.g. translating MDG reports into minority languages; inviting minorities to participate in discussions about the MDGs, including facilitating dialogue on the MDGs in minority areas, and supporting minority CSOs' efforts to engage their governments in discussions about the MDGs).

BOX 3:
WHERE ARE MINORITIES IN THE MDG REPORTS?

In 2006, the UN Independent Expert on minority issues conducted a review of MDG country reports to explore whether and how minorities are discussed in progress for achieving the MDGs (see Annex VI, Themes - Reports of the Independent Expert on Minority Issues). The study found that ethnic or linguistic minorities were mentioned in only 19 of the 50 MDG country reports reviewed, most often under Goal 2 on education.

Some promising practices were also noted, including:

- providing background information on minority groups within the country, including poverty indicators that are disaggregated by membership in an ethnic, religious or linguistic group and also by gender;

- discussing the rationale for specially targeted poverty reduction measures for minorities, based on an analysis of disproportionate and persistent inequalities experienced by certain minority groups over time and the failure of previous approaches to benefit such groups;

- giving specific attention to the situation of minority women and girls and providing targeted efforts to overcome the inequalities they experience;

- discussing the importance of the participation of minorities in the elaboration and implementation of MDG and PRSP-related development programmes and projects, especially at the level of local governance;

- adding MDG-Plus Targets aimed at marginalised minorities and including ethnically disaggregated indicators for monitoring progress towards MDG and PRSP objectives;

- making commitments to improve the legal framework for enabling citizens to better access their human rights;

- taking a comprehensive approach to poverty reduction by including mainstreaming and targeted measures for minorities not only in the area of income growth but also key issues such as education, health, governance and access to information.

MDGs 1-7 will be explored below for the particular implications of each goal with respect to minorities and to offer some suggestions on how UNDP could support governments to devise MDGs strategies that are inclusive of minorities and respectful of minority rights.

MDG 1: Eradicate extreme poverty and hunger

Minorities often have **disproportionately high rates of poverty**. Minorities frequently have less access to employment, credit and education opportunities, **reducing economic security and decreasing opportunities to improve human capital**. Such groups tend to live in areas with lower government investment in infrastructure and social services, thus diminishing their human development and market access. Land rights for minorities may be less secure, placing them at **higher risk of displacement, eviction and landlessness**. In times of crisis, minorities may find it harder to access emergency aid. Access to justice may be less secure for minorities, leaving

them **unable to benefit from protective laws** and more vulnerable to harm and exploitation. Minorities may be poorer because they have been **denied citizenship**, lack equal access to social services and full public participation.

Many experts argue that the decision to call for a 'reduction by half' in extreme poverty and hunger leaves open the possibility that **minorities may constitute the majority of those persons still living in poverty and suffering from hunger in 2015**. As a consequence, it may be that minorities not only fail to benefit from MDG 1 strategies, but that **they could also experience significant *increases* in inequalities**. This could further harm national prospects for growth: the World Bank (2005) found that "the growth elasticity of poverty reduction falls with greater income inequality. In other words, the impact (of the same amount of) growth on poverty reduction is significantly greater when initial income inequality is lower" (p. 9). MDG 1 strategies could provide **disaggregated measurements of**

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[15] Another MDG Report on Indigenous Peoples is also being prepared by the UNCT.

[16] See http://www.codae.gov.ec/ (accessed 9 August 2009).

poverty in order to ensure that – at a minimum – inequality levels do not increase as a result of the MDG poverty reduction strategies.[17]

Minorities face difficulties in poverty reduction that should not be ignored. Mainstreaming human rights can help to improve the impact of MDG 1 programmes. The Millennium Project Report called upon States to ensure that special attention is paid to groups like minorities in the elaboration of poverty reduction strategies, in a manner that is consistent with human rights:

National MDG-based poverty reduction strategies should be consistent with the principle of equality and non-discrimination laid down in applicable international human rights standards. This implies that strategies are designed to reach the entire underserved population, irrespective of ethnicity, religion, regional background or gender. It also implies taking steps to ensure that the most underprivileged and marginalised sections of society can exercise their rights. (UN Millennium Project 2005, p. 119)

Violations of the *right to non-discrimination* **are an overarching factor in poverty**. Discrimination can impair access to health, education, financial credit, housing, employment, citizenship and justice – each compounding the likelihood of living in poverty. Minority women may be further disadvantaged because of gender discrimination.

Discrimination can be overcome through non-discrimination legislation, monitoring and enforcement mechanisms and special measures in development programmes. Providing support that enables minorities **to access justice mechanisms** on an equal basis with others is a good starting point, helping to ensure that existing laws of protection are enforced without discrimination. This could include, for instance, improving access to information on employment law, legal clinics and registration of land title. **Legislative and policy reform** may also **address direct or indirect discrimination barriers**. Key sectors include robust labour laws that prohibit discrimination in the public and private sectors, that support employment tribunals, and the development of equal pay monitoring mechanisms.

The ICERD allows States to adopt **"special measures" (i.e. specially targeted programmes) for minorities where disaggregated data reveals inequalities** for these groups. These may include **affirmative action policies in employment, housing or education** to overcome discrimination. Increased resources to minority areas can reduce inequalities in access to basic social services. Supporting **economic development opportunities in areas where minorities reside** may increase prospects for sustainable employment and investment.

GOOD PRACTICE IN POVERTY REDUCTION

MDG reports show that many States are taking action where minorities have higher rates of poverty, including by:

- Publishing disaggregated data on poverty;
- Undertaking baseline studies on the experiences of poverty by minorities;
- Adopting national strategies to reduce poverty for the poorest minorities;
- Using affirmative action policies to increase public employment opportunities for minorities.

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[17] This is consistent with the requirement in the International Covenant on Economic, Social and Cultural Rights that states ensure groups do not experience retrogression in progress towards their economic and social rights. See CESCR *General Comment No. 3 on the Nature of States Parties' Obligations*, UN doc. E/1991/23, Annex III, 1990, paragraph 9, where further caveats are provided.

Monitoring the impact of development programmes on minority groups can help prevent discriminatory effects of such interventions on minorities **making better use of public funds by averting increases in inequality**.

A failure to consider the *right of minorities to participate in decision-making* **that affects them may** result in an absence of attention to minority issues in national dialogues on development. This produces negative effects for minorities and for development prospects overall. For example, the World Bank found that growth is more sustainable where access to political power is more evenly distributed, thus producing development decisions that are more likely to benefit all rather than a select few (World Bank 2005, p. 124). **Increasing minority participation may produce development policies that include consideration of the causes of poverty for minorities**. This can contribute greatly to a **shift away from clientelistic practices and towards greater public deliberation on development plans** (Fritz et al 2008).

Minority participation may be improved by various means. These may include: **access to information** by minorities on development proposals that impact their communities and levels of inequality in key sectors; the creation and/or **engagement of national minority councils** in development planning procedures; **transparency in budget planning** and capacity building of minorities to monitor and engage in these processes; **support to minority associations** within trade unions, increasing their capacity to secure non-discrimination in labour laws and employment; **creation of UNCT mechanisms for minority participation**, including designated working groups and consultative/advisory structures;[18] and advocacy for the participation of minority communities at all stages

of the poverty-reduction programme. Such participation will aid policy makers in preparing better strategies for poverty reduction that respond both to the expressed needs and the rights of minority groups, and to the issue of discrimination.

Rights to identity and culture **also play a role in overcoming poverty and hunger**. Food has certain cultural aspects, which are associated with how a community or people grows, prepares and eats its food. These are fundamental aspects of the culture and values of a community and of its identity. **Cultural acceptability is a core aspect of the right to adequate food.**[19] When a community's food-growing capacity is constrained or their ability to secure traditional food is curtailed, elements of its culture may be threatened. The Human Rights Committee noted, with respect to article 27 of the ICCPR, that the right of minorities to practice their culture might encompass traditional activities, such as fishing or hunting or the use of land resources.[20] For example, for pastoralist minorities in East Africa, cattle rearing is an integral custom, a source of food and income, but may be jeopardised by economic development policies. Therefore, sensitization to the integral links between minority cultures and food production is important, as is devising strategies to ensure this is protected in the long-term.

Cultural and religious identity may also impact priorities and interests in poverty reduction. Cultural and religious preferences can shape the way groups invest their income. For example, pastoralists will be more inclined to invest wealth in livestock. Development planning could take into account these preferences as they can impact on how policies affect the economic security of minorities. Minority groups may wish to emphasise preservation of traditional livelihoods as a component of poverty reduction. This could

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[18] See, for example, UNIPACK in Kenya and the Inter-Agency Working Group on Intercultural Issues in Ecuador, both discussed in this Resource Guide.

[19] CESCR, *General Comment No.12 on the Right to Food*, UN Doc. E/C.12/1999/5, paragraph 11.

[20] Human Rights Committee, *General Comment No.23 (Art. 27)*, UN Doc. CCPR/C/21/Rev.1/Add.5, 1994, para. 7.

be supported, for instance, through capacity building that will make the livelihoods more market-accessible, such as the development of cooperatives, language training and better management and marketing strategies.

How poverty is measured could also be culturally-sensitive, taking into account differing cultural perspectives of what constitutes poverty. For example, some communities may prioritise security of land rights over increased income as a measure of improvement in their standard of living. Overall, it is important that development proposals are evaluated for their impact on the cultural and religious identity of minorities to ensure that development does not become a vehicle for involuntary cultural erosion and assimilation.

KEY MESSAGES

- Disaggregated data can be collected to monitor any increase or decrease in inequality for minorities

- Discrimination is a key barrier to achieving MDG 1

- Minorities have a right to participate in development planning that affects them

- Cultural identity rights can impact on livelihoods, land rights and food access or use

MDG 2: Achieve universal primary education

Minorities continue to face disparities in access to education and are less likely to complete a full course of schooling. In some cases, there is a reluctance of parents and children to enrol in schools where children face discrimination and/or that fail to provide culturally relevant education. These obstacles prevent the achievement of MDG 2 and contribute to long-term problems of unemployment, cultural erosion and social deprivation. Many of these obstacles can be

overcome through the application of minority rights (see also section 3.4.1 of this Guide on education rights for minorities).

There are several factors that contribute to poor access to education for minorities. These include the following: lack of mother-tongue education; poor provision of schools and qualified teachers in minority regions; prohibitive costs of school fees that disproportionately impact on minorities (as the poorest groups); curricula that do not reflect community priorities for learning; and discrimination by teachers and/or pupils. The obstacles for minority girls will be even greater (see discussion under Goal 3).

The disparities in access to primary education for minorities were noted by UNDP Serbia:

All indicators measuring universal primary education show that this goal [on primary education] has already been achieved in Serbia, with net enrolment in primary education at 95%… [However], a large difference exists between standards in urban and rural schools, particularly with regard to accessibility for ethnic minorities, including Roma children.

See http://www.undp.org.yu/mdg/default.asp

The MDG country reports of Bosnia and Herzegovina, Cambodia, China, Hungary, the Philippines, Thailand and Vietnam mention minority education. **Baseline data is needed to measure existing inequalities in access to education for minorities**. The challenge remains as to how to address such disparities. Two key issues are resource implications and cultural identity. MDG 2 strategies must address these issues simultaneously.

In order to ensure universal enrolment and educational attainment, **marginalised minority children and schools will need additional support**. Many governments will be concerned about resource implications for improving enrolment of minorities. With pressure to achieve MDG 2, using resources to achieve maximum gains towards the MDGs will be the priority. It is important, however, that efforts to reach the MDGs in the short-term are consistent with long-term sustainability of development interventions. Support to minorities could include: more teacher training for minority teachers or for teaching in/of minority languages; incentives for teachers to teach in areas where minorities live; the provision of more schools in minority areas; exemption or subsidisation of school fees for the poorest minorities; and review of safe access to schools for minority children.

On *identity issues*, consideration may be given as to **how the curriculum reflects minorities** and whether there are **identity barriers that may impede minorities from staying in school**. In many cases, sending children to school can weaken the ability of families to meet their basic survival needs; where parents do not see that the education offered will be of use in the long-term economic and cultural survival of their communities, enrolling children becomes a low priority. These concerns are best discussed in consultation with minority community members. Education should not undermine cultural identities but rather should help to protect those identities, while also enabling children to participate effectively in the wider community.

Protecting the *right to mother tongue education* is key. As the 2003 Human Development Report on the MDGs confirms, "[i]n countries where several languages are spoken, teaching in the mother tongue in the early years dramatically improves the learning experience" (UNDP 2003, p. 7). The UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities provides, "States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue" (article 4.3). Mother tongue education in the early primary years can ease transition into schools of majority languages and **sustain enrolment for minority children**, thus improving overall figures for educational attainment. In some cases the child's mother tongue may not be a written language. Efforts could be made to involve members of that linguistic community in the schooling process, for example, by inviting community members to share cultural

stories or knowledge and skills held within the community. This can **improve community engagement in education**, create valuable inter-cultural exchange, and make children from these linguistic groups feel an equal part of the education system. In Morocco, for example, the government has invested resources in teaching and documenting the *Amazigh* language, which was previously unused in schools but has been integrated into the curriculum since 2003.

National curricula could be amended to include more opportunities for inter-cultural education. Recruitment of teachers from minority groups could help with language barriers and inter-cultural understanding. Minority groups may also wish to establish education that promotes and develops their culture and livelihoods.[21] All of these steps may help to prevent parents from withdrawing their children from formal education where they are seen to be discriminated against or gaining no culturally relevant knowledge. In both the short and long-term, this is the best means of achieving universal primary education.

KEY MESSAGES

- Minority girls and women experience intersecting forms of discrimination
- Cultural factors can play a role in access to education for minority girls

MDG 3: Promote gender equality and empower women

The promotion of gender equality and the empowerment of women is a cross cutting issue that affects each of the MDGs. Moreover, some women face multiple forms of discrimination. The Human Development Report 2003 on the MDGs highlights just how far minority women are from achieving the MDGs. When asking 'who is being left behind?' the Report noted that:

Income disparities appear to be increasing in several countries, indicating wider gaps between people…at the bottom (mostly rural, female-headed households of indigenous or ethnically marginal descent) (UNDP 2003, p. 47-49).

Eliminating gender disparity in access to education is more difficult for minority girls and women. This is because of the **compound impact of discrimination based on gender and on ethnic, religious or linguistic identity**. This phenomenon is known as **'intersectionality'**, whereby "multiple discriminations do not operate independently but intersect and reinforce each other with cumulative adverse consequences for the enjoyment of human rights" (Banda and Chinkin 2004, p. 11).

The challenge for those working to eliminate gender disparities is to ensure that other forms of discrimination do not become invisible in these policy prescriptions. Minority girls face particular barriers that others will not. For example, minority girls may find it more difficult to integrate into schools because of language barriers and may have less family support for their education because parents (especially mothers) may also lack the necessary language skills to assist their children. There may be particular cultural norms in relation to the role of women and girls in some minority communities that restrict their opportunities for education, such as early marriage. Opportunities for minority girls to access education are also closely linked to higher poverty rates of minorities, with minority girl children being more likely to remain at home to support the family's welfare. Therefore, **familial opportunities to overcome poverty** may be seen as integral to achieving gender equality in access to education for minorities.

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[21] The Committee on Economic, Social and Cultural Rights (CESCR) has said in General Comment 13 that education should be culturally appropriate in both its form and substance, including curricula and teaching methods. CESCR, *General Comment No.13, The Right to Education*, UN Doc. E/C.12/1999/10, para. 6.

Minority groups are trying to address gender discrimination and MDGs 2 and 3 can complement these efforts. MRG's report on *Gender, Minorities and Indigenous Peoples* (2004) cites a programme among the *Khomani* of Northern Cape, which involves the collection of oral histories recounting stories of positive female role models who were successful hunter-gatherers in years past, to be used in educational material for *San* children (p. 22). Such efforts can be very effective in helping minority communities to do more to ensure girl children's access to education while at the same time improving the representation of minorities in national curricula.

It is notable that **gender inequality could negatively affect minority men as well**. Brazil's MDG progess report (2004) indicated that there were marginal inequalities in access to primary school by gender or race (3% difference by race) but that Afro-Brazilian *males* were least likely to access secondary and higher education. The report notes, "although women are present in higher education numbers regardless of race, among the black and mulatto population the ratio increases: it leaps to 125.9%, reaching 143.3% in higher education." The report attributed this to "the even more increased dropout of black and mulatto men to enter the labour market, and to the phenomenon of discrimination, which affects blacks and mulattos of both genders and ends up moving them away from school" (Institute for Applied Economic Research (IPEA) 2004, p. 35).

MDGs 4, 5 and 6: Reduce child mortality. Improve maternal health. Combat HIV/AIDS, malaria and other diseases.

The Human Development Index rate in many countries is low and it is argued that minorities are more likely to experience lower life expectancy due to unequal access to health care and a higher incidence of some diseases than majority groups. These disparities are related to several causes. Health and sanitation conditions are often worse in regions where minorities live. Existing infrastructure for medical services might be more limited in remote or impoverished areas where

minorities are based. In hospitals, lack of medical professionals able to communicate in their languages. The cultural practices of minorities may be unfamiliar to mainstream medical personnel, which may inhibit the effective prescription of pre- and post-natal care. All of these factors combine to reduce minorities' access to good health care, impacting negatively on their infant and maternal mortality rates and causing minorities in many countries to suffer disproportionately from malnutrition, HIV/AIDS or other diseases (on HIV/AIDS see also section 4.6 of this Guide).

Strategies to achieve the health-related MDGs will need to take account of these circumstances in order to be successful. According to the UN Committee on Economic, Social and Cultural Rights (CESCR), this means ensuring that health facilities, goods and services are within safe physical reach for all sections of the population; that medical services and underlying determinants of health, such as water and sanitation, are within safe physical reach, including in rural areas; that health facilities, goods and services are affordable for all; and that the right to seek, receive and impart information and ideas concerning health issues is assured.[22]

Reaching areas were some minorities live may require special effort, as will the provision of primary health care services that are adapted to minority cultures, environments and traditional medical practices. In Thailand, the MDG Report acknowledged that regions with a high proportion

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[22] CESCR, *General Comment No. 14, The Right to the Highest Attainable Standard of Health*, UN doc. E/C.12/2000/4.

of minorities had less health care: "There are difficulties accessing primary health care in the North due to the mountainous terrain. In the southernmost provinces, complexities based on gender, culture, religion and language can make access to or use of primary health care difficult".[23] In response, the Government of Thailand elaborated additional targets under MDGs 4 and 5, namely, to reduce by half, between 2005 and 2015, the under 5 mortality rate and the maternal mortality rate "in highland areas, selected northern provinces and three southernmost provinces".

Minorities could be trained as health care providers as a measure to improve community health care programmes. Minority health workers can ensure that health information is made available in minority languages and is culturally appropriate, while simultaneously addressing some of the discrimination issues that minorities can face from health workers. In Romania, one measure adopted to help reduce ethnic disparities in health was the creation of the office of Roma Community Health Mediator (Government of Romania 2003, p. 12 and 22). One of the strategies in Bolivia to reach the health MDGs is the use of the Intercultural Health Approach through the development of the health with identity programme. Through a process of training health personnel in relation to the importance of promoting respect for the practices and traditions of indigenous peoples, the approach acknowledges the need to overcome cultural barriers in the offering of health services (UNDP Bolivia 2001, p. 13). In the United States, the Red Cross has created a targeted HIV/AIDS awareness programme for Hispanic communities: the programme was created based on languages, customs, family relationships, spirituality, sexuality and health beliefs of Hispanic and Latino communities.[24]

Ensuring the *right to participation* of minorities – particularly minority women – in health programme design is an important means of devising strategies for the MDGs that will work. This will help to ensure that health programmes are **attuned to the priority health concerns of minority communities as well as to the cultures, lifestyles and traditional medical practices** of these groups. This standard is already reflected in ILO Convention 169 Concerning Indigenous and Tribal Peoples: article 25 stresses that health services should be community-based, and planned and administered in cooperation with the peoples concerned, taking into account their traditional preventive care, healing practices and medicines.

It is particularly important to respect the link between land rights and health. Where minority communities have been displaced from their land or housing - sometimes in the name of improving their access to health and other public services - the effects have often been devastating on the human development of community members. Achieving the health MDGs for these communities may therefore need to take into consideration unresolved land rights issues.

KEY MESSAGES

- Discrimination in the provision of health care decreases the chances of reaching the health MDGs

- Culture impacts significantly on health and appropriate healthcare

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[23] Office of the National Economic and Social Development Board, *Thailand Millennium Development Goals Report 2004*, Bangkok, 2004, p. 29.

[24] For more information see http://www2.redcross.org/services/hss/hivaids/hispanic.html (accessed 9 August 2009).

There are many benefits to creating specially targeted health programmes for minorities. A community radio health programme in Peru has created the space to exercise the right to express oneself in one's native language. Before *Bienvenida Salud!* (Welcome Health!), certain indigenous languages, such as *Urarina*, had never been heard on the radio in Loreto, Peru. The radio programme reads letters of complaints about rights' violations by the State, including lack of health posts or health personnel. When these situations are exposed and denounced over the radio, people across these small and dispersed communities recognize they face similar problems and can join together to act. Letters also recount success stories (e.g. bridges that were repaired, health posts that were built, initiatives for reforestation and community control of natural resources), which promote a sense of effective agency and understandings of their health rights. By bringing rights into health MDGs' strategies, minority groups can be empowered for wider improvements in their capacity to change their situation.

Source: A.E. Yamin, "Health rights", in M. Salomon, (ed.). *Economic, Social and Cultural Rights: A Guide for Minorities and Indigenous Peoples*, London: MRG, 2005 (p. 41-54).

MDG 7: Ensure environmental sustainability; access to safe drinking water; and improvements in the lives of slum dwellers

Minority groups are frequently vulnerable to the effects of environmental degradation, impacting negatively on their health, livelihoods, land security and poverty levels. The disproportionately high levels of poverty among minorities make them particularly vulnerable to environmental changes that can undermine their already precarious social and economic security.

There is a widespread problem of "environmental racism" (e.g. Bullard and UNRISD 2004), whereby higher levels of environmental pollution and degradation are commonly found in areas where minorities reside. This may be because lower standards for environmental health and safety are enforced in minority areas or because minorities involuntarily migrate to such regions because of poverty, discrimination or displacement. The result is that they can suffer much higher levels of environmentally-related illnesses and have less safe drinking water.

Minorities **make up a significant proportion of slum dwellers**, where they have been **forcibly displaced** from their regions, housing and land or where they have **migrated to cities in search of improved economic opportunities** not available in their regions. Minorities are less able to oppose such displacement, or to seek participation in resettlement decision-making or adequate compensation. Forced displacement has also been used as a means of improving access to basic services for minorities, including drinking water, because relocation is perceived to reduce the costs of delivering such services. In fact, **displacement can cause harmful shifts in cultural, social and economic life that dramatically decrease human development prospects**. Physical, economic and social security of minority groups declines because, *inter alia*, traditional livelihoods are no longer feasible, new housing breaks structures of communal support, and minorities feel alienated in new settlement regions where they may not be welcomed nor speak the language. The new environment might be less relevant to cultural and religious practice and could erode minority identities.

Strategies for economic growth that rely heavily on **natural resource exploitation often have an adverse impact on minority communities living in affected areas**. When wealth is extracted, the return for minorities is typically low and they are left with environmental degradation and low human development. This exclusion from the benefits of natural resource extraction may create tension among minority groups that can even lead to conflict.

Protection of minority rights can help achieve MDG 7 targets. *Discrimination* in access to justice for land and housing rights needs to be addressed in efforts to reduce displacement and slum living. MDG 7 could be more effectively achieved with legal recognition of property rights for minorities, and with full consultation and compensation for minority groups in situations where displacement is unavoidable. 'Environmental racism' may be tackled with such measures that strictly enforce environmental laws in minority areas and provide remedies to minorities harmed by environmental degradation.

Governments could reduce net migration to urban slums by adopting "special measures" for achieving greater equality in living conditions and employment opportunities in regions where minorities live. In Brazil, for example, the government responded to the fact that many Afro-Brazilians "live in areas with higher levels of inadequate housing and do not have access to credit for housing purposes" by adopting "several programmes and actions directed towards the diversification of the forms of access to housing, such as: […] building of houses for residents in land reform settlements, indigenous and *quilombola* (slave descendant) communities, in addition to the supply of direct subsidies to the poorer population" (IPEA 2004, p. 77).

The *participation* of minorities in devising sustainable development strategies is essential. Minorities have the right to participate in decision-making that affects them and the regions where they live. This participation can reveal also important access issues.

Protection of the *cultural identity* of minorities is often linked to environmental issues. Income security can be strengthened where support is given to traditional livelihoods of minorities, a measure that can also **reduce net migration to urban slums** for work. An understanding of **how culture impacts on practices of health, food cultivation and housing** can mitigate negative effects of displacement to new regions where necessary.

4.3 DEMOCRATIC GOVERNANCE

All governments work for multi-ethnic and multi-cultural constituencies. Devising effective ways to manage this diversity within democratic governance requires transparency, inter-communal dialogue and respect for human rights, including minority rights. Democratic governance can emphasize **policies that create an inclusive society**. Democratic governance is facilitated where the multi-ethnic and multi-cultural composition of the State is fully recognized.

Minorities, especially minority women, frequently **lack representation in government at the local or national level**. Therefore, minorities have fewer opportunities to make a contribution to the government's design, implementation, monitoring and evaluation of development policies and programmes. Minorities often lack **access to justice** when their rights have been violated, even where non-discrimination legislation exists. Some minorities are **prevented from obtaining citizenship** because of requirements like language levels or citizenship laws based on descent; this means they cannot participate on an equal basis in elections and they can have difficulties in accessing social security benefits.

Democratic institutions are less effective at ensuring equality without special protection for minorities. Any initiative in support of democratic governance should be cognizant of the access and participation barriers that minorities may face and work to overcome these barriers. **Two key factors are minority access to justice and participation in governance.**

Before proceeding, a caveat is required. **The relationship between the State and marginalised minorities is distinct in some ways from the relationship between the State and other marginalised groups**. One of the main differences is *political*: minority groups are more likely to be viewed by some governments as potential political challengers than other groups. Ethnic, religious and linguistic minorities, for example, commonly form political parties, whereas women, persons with disabilities or people living with HIV do not. Governments could be supported to create an environment where minorities can participate on an equal basis in political processes, including strengthening institutions for political freedom so that minority groups may form their own (political) associations.

4.3.1 Access to Justice

Minorities often lack access to justice and equal protection of the law due to discrimination. Discrimination can occur in the various stages of law enforcement, from interaction with police, to presentation of court cases and sentencing, and at higher levels of legislative drafting. Minorities are more vulnerable to arbitrary arrests and are less likely to receive a fair trial due to discrimination, under-representation in legal services, higher levels of social exclusion and language barriers. The absence of non-discrimination legislation and/or the lack of effective remedies are common problems. It is important to recall that the ICERD recognises the right of everyone "to equal treatment before the tribunals and all other organs administering justice" (article 5 (a)) without discrimination. This applies to all minorities, including migrant communities.

Policing:

In many societies, minorities may have a negative relationship with the police. This may be due to discriminatory practices by the police, such as racial profiling, low representation of minorities among the police force, failure of the police to investigate crimes committed against minorities and in some cases violence by the police against minorities. The cumulative effect is that trust and cooperation with the police by minority groups is often very low.

There are several solutions for remedying this. The police force could be monitored by the government to ensure that it is not violating the rights of minorities, that it is fully implementing the laws that protect minorities, and that it is investigating and prosecuting crimes committed against minorities, without discrimination. Training on minority rights and the factors of exclusion that affect minorities may be offered and reviewed regularly. The police could reflect the ethnic, religious and linguistic composition of the population at large and greater efforts to recruit and retain minority women and men could be made. Institutionalized racism could be addressed, for instance, with appropriate monitoring and complaints systems.

Relations between the police and minority communities may be strengthened by partnership agreements. Such partnerships could be forged between local and national police, minority CSOs and minority community representatives. Such partnerships involve committed, long-term trust building between the parties to ensure mutual understanding, open communication and transparency. Minority community liaison officers are a good tool but engagement could be mainstreamed throughout law enforcement institutions at all levels. Overcoming prejudice and distrust on the part of minorities and the police will be a lengthy and sensitive process but is an important step in building public confidence in the law enforcement system. Given that the police are often at the front line of managing inter-communal conflict, sensitising them to the rights of minorities is also a vital part of conflict prevention.

NGOs and Police Against Prejudice (NAPAP) was a programme established with the help of the European Commission in 1997. It aimed to build partnerships between police and minority CSOs. As part of the initiative, the *Rotterdam Charter: Policing for a Multi-Ethnic Society* (see http://www.rotterdamcharter.nl/) was drafted by participants focusing on policy responses in the areas of recruitment and retention, training, implementation of the law, building bridges between minorities and the police, and use of statistics about minorities and crime. Evaluations of the NAPAP work found the most successful initiatives evolved from solid foundations. For example, in a Catalan project based in Barcelona, one year "was spent in first building up strong relationships and shared understandings of problems and appropriate ways forward, with the result that the training partnerships forged by police and local ethnic community organizations were among the most effective and enduring in the whole programme" (Oakley 2001).

Recently, the OSCE High Commissioner on National Minorities has issued a set of **Recommendations on Policing in Multi-Ethnic Societies** (February 2006). The UN Independent Expert on minority issues also held a review of good practice at an **Expert Meeting on Integration with Diversity in Policing.**[25]

Judicial system reform:

Minorities may not be able to access the judicial system because of discrimination, language barriers, low confidence in the process, financial barriers and the lack of judicial facilities in regions where they live. Some minority groups may also **prefer to use traditional justice systems** to resolve disputes.

Important improvements could be made by **training existing judges and lawyers about** international **minority rights** standards. Often these laws are not implemented because there is low awareness of them among domestic legal practitioners. Such training could include sensitization to the particular needs of minorities to aid legal practitioners to better serve these groups. It is also beneficial to **increase the representation of minorities among judges and lawyers**. This can help reduce discrimination, increase understanding of minority issues and address language barriers. During judicial proceedings it is essential that minorities be provided with translation into their own languages as requested (see ICCPR article 14.3 (a) and (f)). In areas where minorities are poor, access to judicial services may be impeded by financial costs. Efforts therefore can be made to provide low cost or free **legal aid resources** for minorities.

Traditional systems of justice are important to many minority communities. The adoption of so-called **'Alternative Dispute Resolution'** mechanisms is one means of improving access to justice for these minority groups. This may take several forms, including recognition of traditional law in some areas of law (e.g. divorce, property); use of traditional mediators from minority communities to settle disputes; and training paralegals from minority communities to aid in dispute resolutions and advise on the use of formal judicial services. Mainstream judicial actors may be educated about traditional justice systems as appropriate. However, such mechanisms are not a panacea for minority justice and may harm marginalised groups within

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[25] For a report on the meeting and recommendations, see UN Doc. A/HRC/10/38/Add.1 (27 February 2009).

minority communities, such as minority women, who may not always treated equally under these traditional legal systems

Minorities often experience disproportionate rates of incarceration. These rates could be reduced through better provision of legal aid to minorities, including assistance in minority languages. Use of alternative dispute resolution and restorative community-based justice can decrease reliance on custodial measures. Training for prison officials could sensitize them to the cultural and religious rights and needs of minority prisoners and to their right to non-discrimination. Overall, greater monitoring and accountability within the justice system will reduce the impact of discrimination that results in the higher incarceration rates.

WORKING WITH TRADITIONAL JUSTICE SYSTEMS IN NEPAL

In order to properly understand indigenous justice systems, UNDP Nepal commissioned several studies in remote areas. It found that these century-old community mediation systems are functioning effectively, including the implementation of and adherence to rulings in criminal cases. Based on the studies, a mediation manual was prepared that was used to train traditional mediators in order to raise awareness about the formal law. It was essential to convince traditional mediators of the added value of adhering to formal law as well as providing them with the best international practices on mediation.

Source: UNDP, *Programming for Justice: Access for All. A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*, UNDP 2005, p. 104.

DESIGNING INNOVATIVE APPROACHES TO ENHANCE ACCESS TO JUSTICE IN KOSOVO

In Kosovo, efforts were made to promote a professional, independent, impartial and multi-ethnic judiciary and prosecution service. A multi-ethnic judiciary, especially at the local level, can help in taking action against ethnic bias and to build trust between different communities. For example, the Judicial Integration Section (JIS) was, "tasked with increasing minority participation in the judiciary and prosecution service, ensuring access to justice for minorities and tracking the treatment of minorities by the justice system." Other ways in which the JIS addressed obstacles facing ethnic minority communities included: shuttle services to and from the community to courts in order to overcome restrictions on freedom of movement; court liaison officers to facilitate access to courts by providing advice and outreaching to different ethnic groups; oversight bodies to monitor investigations, court processes and judges to ensure impartiality; and victim assistance units to provide comprehensive assistance including legal services, shelter services, psycho-social support, medical assistance, education, income generation and compensation.

Source: UNDP, *Programming for Justice: Access for All. A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*, UNDP 2005, p. 168.

Legislative reform:

Technical support to governments to review existing legislation for compliance with international standards on non-discrimination and minority rights could be provided. This could be accompanied by strategies for more effective implementation of non-discrimination legislation, such as **individual complaints mechanisms that are accessible to all**.

Constitutional reform is a good entry point for the legislative protection of minorities. Constitutional protection of minorities as distinct communities, or constitutional endorsement of pluralism and multiculturalism within a given State, are important signs of inclusive democratic governance. Constitutional guarantees of protection and promotion of minority rights exist in many countries. Efforts could be made to understand what legal protections for minority rights have been adopted in national laws to give effect to the constitutional provisions.

NATIONAL LEGISLATION FOR MINORITIES IN UKRAINE AND CROATIA

In Ukraine, the **1996 Constitution defines 'the Ukrainian people' as "citizens of Ukraine of all nationalities"**. The Constitution guarantees for minorities the right of legal equality, the prohibition of discrimination and the right to develop their culture and preserve their ethnic identity. The Constitution also provides for protection against hate crimes. The Constitution lays the foundation for state support for the development of ethnic minorities and obliges local authorities in places of compact minority residence to ensure the implementation of national and regional programmes for minorities' national and cultural development.

In **Croatia,** the **Constitutional Law on National Minorities** was adopted in December 2002. The law establishes firm legal protection for national minorities, focusing on a wide range of issues including language, cultural autonomy, religion, associations and media. Importantly, it also outlines strong provisions for public participation by minorities, including reserved seats in government and the establishment of Councils of National Minorities that act as advisory bodies to national, local and regional governments. There is also a National Minority Rights Sub-Committee of the National Human Rights Committee that considers issues pertaining to the exercise of national minority rights as established by the constitution and laws.

National Human Rights and Minority Rights Institutions:

Support to National Human Rights Institutions (NHRIs) to improve their capacity to protect minority rights could be encouraged. In addition to improvements in non-discrimination legislation and enforcement, NHRIs may need **guidance on the content and application of minority rights**. Issues such as linguistic rights (e.g. mother tongue education), freedom of religion, freedom to practice one's culture, citizenship entitlements and regional autonomy can be complex areas of law with which some NHRIs are not adequately familiar. **Examples of good practice in regions where minority rights issues have been well addressed by national legislation and institutions could be disseminated**. Information on best practice in treaty body reporting on minority issues would also be useful, both for state reports and NGO shadow reporting.

Some States have created **statutory bodies specifically to monitor minority rights**. For example, the **Government of Serbia has established the Agency for Human and Minority Rights**. Its responsibilities include: monitoring the harmonization of local regulations with international standards for human and minority rights; reporting on the implementation of international agreements on human and minority rights;

supporting the Council of National Minorities; and establishing connections between national minorities and their countries of origin. In **Vietnam**, the **Committee for Ethnic Minorities (CEMA)** is a ministerial level agency with numerous duties including to: coordinate government ministries on laws, policies and programmes pertaining to ethnic minorities; draft laws and regulations pertaining to ethnic minorities; conduct surveys and research on ethnic minority groups of Vietnam; monitor the implementation of policies on ethnic minorities; and consider petitions of citizens regarding these policies.[26]

The **Government of India** has established a **National Commission for Scheduled Castes**. The Commission can investigate individual complaints, advise on government policy vis-à-vis Scheduled Castes and monitor general trends in the implementation of relevant legislation.[27] **The Government of Nepal** established a similar body in 2002, the **National Dalit Commission**. In 2003, the **Government of Brazil** created the **Special Secretariat for the Promotion of Racial Equality (SEPPIR)** at the ministerial level, the first institution of its kind in Latin America. SEPPIR works closely with a **National Council of Racial Equality Promotion**, consisting of 20 representatives of civil society, including representatives of ethnic and religious minorities, and government actors.

There are numerous combinations of electoral structures and policy interventions that can be adopted and 'hybrid' systems are increasingly common. Options include: adoption of a proportional representation voting scheme; exemptions for minimal voting share threshold for minority parties; redrawing of electoral district boundaries to increase the influence of minority voters; requirements that party voting lists include a certain percentage of minority candidates; and designating seats for minorities in parliament. In post-conflict states, power-sharing models may need to be developed, although experience suggests that even in these systems space should be left for multi-ethnic parties to participate.

Source: A. Reynolds, *Electoral Systems and the Protection and Participation of Minorities*, London: MRG, 2006.

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[26] See http://cema.gov.vn/index.php (accessed 9 August 2009).

[27] See http://ncsc.nic.in/index.asp (accessed 9 August 2009).

Transitional justice:

Redress for past violations of minority rights is important for ensuring that **past grievances do not overshadow current relationships between groups and become a catalyst for new problems**. Such violations may include genocide and ethnic cleansing, forced displacement, and restrictions on cultural practices. **Forms of reparation** may vary depending on the situation. However, the **effective participation of the group concerned in deciding how to redress the violation is crucial**. Examples of potential forms of reparation include an official apology for the violation, compensation for individuals or communities, truth and reconciliation commissions, prosecution of perpetrators, and return of land or property. Even where the action was in accordance with the national law at the time, but would currently constitute a violation of national law or international standards, States can follow good practice and provide appropriate reparation. In an effort towards reconciliation in Australia, for example, the Prime Minister issued an apology to Australia *Aborigines* in 2008. The Government of Canada negotiated an Indian Residential Schools Settlement Agreement (IRSSA) in September 2007 to redress the legacy of First Nations children that were forced into residential schools. The agreement includes provisions for financial compensation, a truth and reconciliation commission, and additional healing measures for survivors.

4.3.2 Political Participation of Minorities:

The participation of minorities in governance processes is often very weak at all levels, especially for minority women. This is because minorities lack political representation in government or are under represented within the public service. Minorities might be poorly represented in other institutions like trade unions or the academic sphere. This exclusion may be due to several factors, including discrimination, poverty, low institutional trust, lack of capacity, language barriers, weak access to media outlets or public information, or living in remote areas.

Electoral reform:

Changes in an electoral system can significantly improve the representation and participation of minorities. **At the simplest level, voter education and registration initiatives could be made more accessible to minorities**. This may entail measures like producing materials in minority languages, hiring minorities to help with voter registration or providing transportation for minorities to enable them to vote securely or if they live remotely. These initiatives could take account of literacy rates of men and women among minority communities and make accommodations if necessary.

At a more complex level, governments could undertake reforms in the electoral system to help increase minority participation. Any reform must be context specific – **there is no one-size-fits-all answer in creating a stable and inclusive electoral system**. Factors such as historical and current inter-communal relations, population size of minority groups, geographic dispersion or concentration of minority groups, voting preferences of minorities and the existence of minority-specific political parties can have an impact.

Discrimination against minorities can inhibit electoral participation. **Institutional trust can be very low** where groups have experienced sustained exclusion and weak access to justice, prompting a *de facto* disenfranchisement. Where fluency in an official language is a precondition to running for election, this may discriminate against linguistic minorities. Citizenship may also be a requirement for electoral participation. Although such a requirement is not, a priori, a violation of international law, the criteria for gaining citizenship might discriminate against minorities.

Finally, it is important to recall that minorities have the right to form associations and to maintain contacts across borders. This **right extends to the formation of political parities.**

Decentralization:

Decentralization of power can greatly improve minority participation, especially if they are territorially concentrated. **Most policies concerning minorities are *implemented* at the local level**, even if it is central governments that make the initial commitment to protect minority rights.

Decentralization can take several forms. In circumstances where minorities are territorially concentrated and have expressed a desire for autonomy, the creation of autonomous regions of governance may be highly effective in increasing minority participation. Where appropriate, the recognition of autonomy could also take the form of transferring some authority to existing traditional forms of community governance. Forms of **cultural autonomy** are also commonly endorsed. For example, in Ukraine, the Law on Local Government grants local authorities specific rights in facilitating national cultural traditions and in providing broad possibilities for education in the mother tongue of local people. In post-conflict situations, **power-sharing agreements** may also be effective. In all cases the processes do need to be monitored closely to ensure the best outcome for equal representation of minorities and of marginalised groups within minority communities. As with other areas, good practices on decentralization mechanisms and institutions that increase minority participation could be shared with governments.

IMPLEMENTING GOOD GOVERNANCE IN MULTI-ETHNIC COMMUNITIES: EXPERIENCE FROM SOUTHEAST EUROPE

The Ethno-cultural Diversity Resource Centre organized a regional conference in 2006 on "Good Governance in Multi-Ethnic Communities" to share best practice from Southeast Europe and identify common standards and principles. The findings set out some key recommendations for good governance in multi-ethnic communities:

- Give minorities a role in decision-making at the local level;
- Do not limit their participation to consultation;
- If small minority groups are underrepresented, then appropriate mechanisms to improve representation should be developed;
- Ensure genuine representation of all groups in the local representative bodies;
- Empower people;
- Do not limit your approach to minority rights;
- Raise awareness of the existing diversity in the community;
- Promote cross-group alliances in order to support each local ethno-cultural community's interests;
- Monitor the impact of the existing legislation through appropriate indicators;
- Ensure participation of the beneficiaries in all stages of implementation of the legislation;
- Ensure resources at the local level as well, in order to implement the national legislation and to respond to the community's needs.

Source: *Good Governance in Multi-Ethnic Communities: Conditions, Instruments, Best Practices, Ways to Achieve and Measure Good Governance at the Local Level,* Ethno-cultural Diversity Resource Centre and King Baudouin Foundation, 2007: p. 54.

Decentralization could entail the **creation of specific institutions at the local level to address minority issues**. In Serbia, for example, municipalities with one national minority that accounts for more than 5% of the municipal population, or all national minorities collectively account for more than 10% of the municipal population, form a **Council for Inter-Ethnic Relations**. These Municipal Councils for Interethnic Relations are established according to Article 36 of the Law on Local Self Government to deal with the realization, protection, and improvement of ethnic equality in local communities.[28]

Where decentralization processes seem unlikely, governments could establish communication mechanisms with minority groups, to enable transparent dialogue on issues of mutual concern.

Building local government capacity:

Local government service delivery could be improved by increased attention to minority protection and development. **It is important to empower local government officials to implement policies regarding minorities**. This requires open dialogue about their concerns regarding minority issues, including with minority actors; sensitization to minorities' concerns; and awareness-raising on minority rights standards and their application to policy. Institutions at the local level to monitor and advise on minority issues can be an important support to local government.

National Minority Councils:

Some governments have established national councils on minorities. These bodies aim to be representative and consultative institutions, usually with responsibility to liaise with governments on minority policy issues and make recommendations in this regard.

The **Government of Serbia** has created a **Council of National Minorities** that coordinates the work of the 15 National Councils of National Minorities (i.e. the Hungarian, Ruthenian, Romanian, Wlachian, Croatian, Slovak, Bunjevci, Greek, Bulgarian, Ukrainian, Romani, Bosniac, Macedonian, Jewish and German Councils). The National Councils of National Minorities have competencies in four areas of national minority rights: culture, education, information and the official use of language and the alphabet. Line ministries have the duty to consult with the Council anytime they are preparing policies or regulations in these areas. The Council of National Minorities has representatives of each minority council who are elected by their constituencies for a term of four years. The Council is part of the Serbian Agency for Human and Minority Rights, chaired by the Prime Minister. In 2001, **the Government of Peru** created the National Commission of Andean, Amazon and Afroperuvian Peoples (CONAPAA), subsequently re-established in April 2005 as the **National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples (INDEPA)**, a body with ministerial status. Afro-Peruvians have two representatives on the body (there are four for the Andean and three for the Amazonian indigenous peoples). The body was established under a World Bank loan designated for indigenous peoples and Afro-Peruvians. In Europe, a regional-level **European Roma and Travellers Forum** has been created to provide a similar function vis-à-vis European institutions, in particular, the Council of Europe.

The effectiveness of these councils rests, *inter alia*, on their authority, accountability, budget and leadership. Efforts can be made to facilitate dialogue with minorities in alternative fora as well, especially at the level of local government or through other traditional decision-making structures, in order to enable pluralism of minority participation.

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[28] A complete description and analysis of the functioning of these council can be found in the OSCE Guidebook for the Municipal Councils for Interethnic Relations, available at http://www.osce.org/serbia/item_11_24300.html (accessed 9 August 2009).

Parliamentary support:

Minority parliamentarians could play an important role in proposing legislative reforms that would help minorities to realize their rights and to have a stronger voice in governance. Minorities could face significant barriers in getting elected. However, this usually stems from discrimination within political parties and from lack of resources to run for office. Depending on local environment, support could be offered to parliamentarians that wish to form caucuses on minority related concerns or regional networks to unite minority parliamentarians. In the United States, for example, the Congressional Black Caucus has been active since 1971 in supporting legislation that would help meet the needs of African Americans. In Latin America, a **Black Parliament of the Americas** is being forged as a regional network of Afro-descendant parliamentarians. The NGO Minority Rights Group International has been supporting a **network of pastoralist parliamentarians** in Eastern and the Horn of Africa.
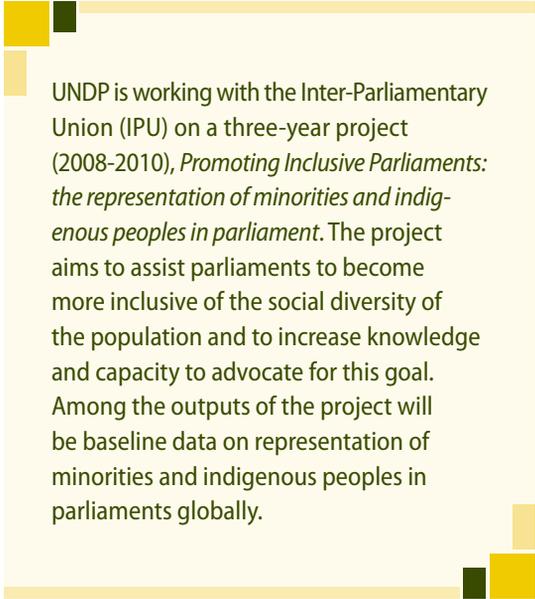
UNDP is working with the Inter-Parliamentary Union (IPU) on a three-year project (2008-2010), *Promoting Inclusive Parliaments: the representation of minorities and indigenous peoples in parliament*. The project aims to assist parliaments to become more inclusive of the social diversity of the population and to increase knowledge and capacity to advocate for this goal. Among the outputs of the project will be baseline data on representation of minorities and indigenous peoples in parliaments globally.

Public service reform:

The public service bears much responsibility for implementing minority rights but may not have the capacity. Activities in public service reform could: advise on how to increase the employment of minorities as public servants; train public servants on non-discrimination; provide complaints mechanisms accessible to all; and ensure that public services are equally accessible to minorities, including in the regions in which they live and in the languages that they speak. These efforts will help minorities to not only benefit more from public services like health and education, it will also enable minorities to become deliverers of these services, making governance more participatory and increasing trust in institutions.

Media:

Equal access to the media is an important element of political participation. Minorities have the right to freedom of expression in their own language and pertaining to their own culture. Efforts to assist independent media and public service broadcasting could include targeted programmes for the development of media outlets servicing minority groups, including allocation of subsidies, broadcasting frequencies and capacity building. Governments could adopt measures to combat hate speech in the media, including anti-hate speech legislation, monitoring and self-regulation mechanisms by media outlets.

Using media to promote social inclusion in Albania:

UNDP Albania's Public Information Office has created a project that works to improve the awareness and attitude of the general public about disadvantaged minority groups by supporting several activities that promote a sense of multiculturalism within the country. The media provides a platform for minorities to share their culture and express their rights and values while creating a common understanding with the rest of the population. It also helps to overcome stereotypes and discriminatory practices. Activities to be implemented include celebrations for International Roma Day, International Volunteer Day, the annual human rights film festival or other events that can sensitize the majority population. In addition, each issue that is covered by the project (such as registration, child protection, health, and vocational training) has an advocacy activity associated with it.

Source: UNDP Albania.

4.4 CRISIS PREVENTION AND RECOVERY

Attention to minority issues is crucial for long-term sustainability of peace and development. This is because minority identities can be used as fault lines of conflict and because minority inclusion helps create stability. Historical patterns of exclusion of minorities that cause conflict may re-emerge if not adequately addressed.

The joint **UNDP, World Bank and UNDG** *Practical Guide to Multilateral Needs Assessments in Post-Conflict Situations* (August 2004), identifies conflict factors that have roots in minority rights violations, such as unequal access to land and education, weak political participation and discrimination:

Conflict is also likely to resume where the root causes of the conflict remain unchanged. These may include **unequal access to land, education and services, the discrimination of certain religious, ethnic or regional groups, competition over natural resources or resentment caused by bad governance**. *To sustain the peace process, conflict parties need to be confident early on that their grievances will be addressed. The PCNA [Post-conflict Needs Assessment] should identify key grievances that could re-ignite conflict and propose actions that the national authorities and international community can undertake to mitigate them.* (p.14)

The protection of minority rights is a crucial factor in preventing conflict and in promoting sustainable peace when conflict has occurred. The **UN Peacebuilding Commission** recommends that to help prevent conflict within and between countries **"the United Nations should build on the experience of regional organizations in developing frameworks for minority rights".[29]**

Linking minority rights with conflict prevention and recovery

Violations of minority rights often lead to conflict: The four key pillars of minority rights – protection of existence, non-discrimination, protection of identity and participation – each have a role to play in maintaining stability in countries. When these rights are violated, tensions can emerge

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[29] UN Peace Building Commission, *A More Secure World: Our shared responsibility; Report of the High-level Panel on Threats, Challenges and Change*, UN (2004): p. 100

and when exacerbated can lead to violent conflict. The connection between minority rights and conflict are evident in many ways, including:

Protection of existence: minorities are often the targets of violence in situations of conflict or as the parties to the conflict. MRG reports, "Such violence may arise from dislike of the community, from the minority being a useful scapegoat, or from a desire to drive out or destroy the community, in the name of ethnic or religious purity, or simply to grab their property and resources" (Baldwin et al 2007, p. 32). In most cases of genocide or ethnic cleansing, national, ethnic or religious minorities are the victims. The human security of minorities requires action against impunity, a police force that fulfills its obligations to protect minorities, equal access to justice for crimes committed against minorities and vigilantly enforced laws that prevent and punish actions like hate speech and hate crimes that can instigate violence against minorities.

Non-discrimination: Direct and indirect discrimination against minorities can stimulate violent conflict. Discrimination is a key factor in social exclusion and has given rise to group violence in numerous cases by stimulating resentment from excluded minorities.

Protection of identity: Violations of identity rights are powerful sources of grievance and exclusion. The right of minorities to freely express their culture, language and religion is often violated in the name of social cohesion and security, yet typically has the opposite effect. In the experiences of the OSCE High Commissioner on National Minorities, "a minority that has the opportunity to fully develop its identity is more likely to remain loyal to the State than a minority who is denied its identity".[30] Constitutional recognition of minority identities, coupled with strong policies for protecting the freedom of minorities to express their identity and support to promoting their identity can facilitate integration and promote stability.

Political participation: When minorities have weak political participation, they lack a political pathway to peacefully raise and resolve their grievances. Minorities have a right to participate in decision-making that will affect them and these processes can help militate against policy decisions that will create tensions with minority groups. Minorities may not always achieve the policy outcomes they desire, but where they have been involved in genuine participatory decision-making, the opportunity to have their voice heard can go a long way in preventing tension and possible conflict. Denial of political participation for minorities, such as through restrictive citizenship policies, can severely exacerbate existing tensions and reduce minorities' loyalty to the State. It can also send a signal to society that minorities are not part of the national community, thus leading the way for potential violence.

KEY MESSAGES

- There are clear links between violations of minority rights and the increased likelihood of conflict
- Protecting minority rights can help prevent conflict

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30   M. Van der Stoel, *The Protection of Minorities in the OSCE Region, Address at a Seminar at the OSCE Parliamentary Assembly*, Antalya, 12 April 2000.

Early warning by monitoring minority rights:

Awareness of the situation of minorities is a useful tool for early warning to prevent conflict. Discrimination against minorities and violations of minority rights often increase in situations of immediate pre-conflict, taking such forms as:

- hate speech between groups, especially by politicians;

- gradual processes of demonization/dehumanization of minorities, especially in the media or education;

- increased incidence of sexual violence/ harassment towards minority women;

- passing of laws that restrict cultural or religious expression by minority groups;

- random violence against minorities or their property;

- denial of citizenship or mother tongue education to minorities;

- land rights disputes;

- gross economic inequalities between groups.

Recognizing the role hate speech has played in conflicts and genocide, both ICERD and the ICCPR require signatories to prohibit advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. In 2005, CERD recognized the importance of hate speech when it developed indicators to help it to identify the early signs of genocide, when examining a government's record towards eliminating racial discrimination.

Crisis and violent conflict has a differential impact on minorities:

Minority communities are particularly vulnerable during times of crisis. The position of marginalisation in which many minorities live means that any instability within a country can push them beyond their means to survive or to protect their communities. Minorities often become internally displaced persons or refugees, which can impact on inter-communal dynamics in neighbouring countries.

Some conflicts in the recent past have been characterized by ethnic cleansing. Even in cases where minority issues were not at the centre of the conflict, violent conflict provides a fertile ground for minority groups to be classified as 'disloyal' making oppression and expulsion easier. Minorities may simply flee the war, but find their property and homes have been seized making return unlikely due to their weaker access to justice and security.

Minority women may also be particularly vulnerable during and after conflict as targets of rape or human trafficking.

Minority issues are not systematically addressed in post-conflict recovery:

Post-conflict recovery is a window of opportunity for addressing minority grievances and realizing protection of minority rights. Post-conflict contexts pose a particularly difficult challenge: during times of conflict, identities tend to be 'simplified', made one-dimensional, normally emphasizing the identity that is at the core of the conflict (e.g. religious identity, ethnic identity). Women belonging to minorities may often feel this narrowing of identities most acutely, as they may be required to suppress their specific grievances (including repression from within the community) in the name of prioritizing the 'more pressing' conflict with the State. Power-sharing agreements that are intended to bring conflicts to an end might contribute to fixing and simplifying identities, and work against the multiple, cross-cutting identities that help to emphasise what people have in common rather than what divides them.

The exclusion of minorities from peace processes exacerbates this divide. While some measures are needed to secure a peace agreement, **the exclusion of minorities from temporary peacemaking arrangements tend to become permanent**. These arrangements will undermine long-term integration and social cohesion, **laying the ground for future conflict**.

KEY MESSAGES

- Ignoring minority concerns in crisis and conflict recovery can reignite tensions in the future.
- Smaller minority groups and minority women are often overlooked in crisis and conflict recovery

"Do no harm" development for minorities:

Development programmes that are insensitive to the particular issues of minorities may 'do harm' by promoting and reinforcing tensions. Badly planned economic and development policies and programmes can deepen inequalities, entrench power and economic hierarchies, and stimulate or aggravate inter-ethnic tensions leading to conflict. Development that clashes with the priorities and needs of minorities, such as through the appropriation of lands, could lead to **development conflict**. Project aid also can exacerbate tensions among different groups if the **project is vulnerable to ethnic distortion** by individuals and groups involved in its implementation.

There is an increasing recognition within the international community that development can have the unintended consequences of creating or reinforcing tensions and contributing to violent conflict by, for instance, increasing inequalities or the perception of inequalities. Even moves towards more equitable distribution can result in increased conflict risk in the short run. Aid programmes can work against the grain of existing social structures and undermine coping strategies of communities. External assistance has the potential to increase tensions and exacerbate conflict dynamics unintentionally.

In situations where there is no direct physical violence, external assistance can have a negative impact by reinforcing conditions of structural violence. In particular, external interventions (including development interventions) can 'do harm' by:

- privileging some groups at the expenses of others;
- creating parallel systems and structures, hence undermining existing institutions;
- reinforcing corruption;
- legitimizing or reinforcing existing structures of exploitation and inequity.

The possibility that development interventions "do harm" does not merely depend on the objectives the development intervention plans to achieve, but also on how it tries to achieve such objectives – including the choice of modalities for implementation, the selection of partners and staff, and the timeline for implementation.

When working with minority groups, harm could be avoided by appropriate participation processes. Minorities can be included in general participation and also given opportunities to give input in specially-designated consultations (because general participation meetings may be intimidating spaces for raising concerns). Minority communities are often the best judge of possible inter-communal tensions that might arise when projects targeted for them are developed; they can offer strategies, such as transparency, raising awareness of need through media reports, and collection of disaggregated data, that can avoid conflict.

Development programmes that aim to reinforce the rights of minorities may also do harm if they consider the issues of minorities disconnected from the overall context. In order to be conflict-sensitive, development interventions could take account of broader identity- and social- dynamics when considering minority issues.

Minority issues need to be understood in the context of multiple identities. There is a danger that pro-minority policies and programmes may create an identity discourse that privileges one dimension of identity over other dimensions. For example, strong policies for the social inclusion of ethnic minorities could put the focus of public attention entirely on ethnicity. Such policies run the risk of jeopardizing the inclusion of people who, for example, define themselves mainly in terms of being members of a minority religion. At the same time, social cohesion is depen-dent upon all individuals feeling committed to a common national identity that is meaningful and relevant to them. This requires full acknowl-edgement of cultural, religious and linguistic diversity within the State.

In **Fiji**, a **Peace Stability and Development Analysis (PSDA)** facilitated by UNDP in 2005 found that one-dimensional international and national assertion of indigenous rights may have had backlash effects on the overall social cohe-sion. The methods of championing indigenous

rights led to the exclusion of other minority groups from political participation and economic rights, increasing ethnic polarization. In connection with the PSDA process, representatives from all communities came together to elaborate their 'Vision for Fiji', one that was inclusive of all ethnic and religious identities while at the same time building an overarching multicultural Fijian identity: "where the rich ethnic and historical heritage of its peoples is celebrated; people work together for national development and there is a strong civic pride in being a Fijian citizen" (UNDP Fiji 2005). They recommended a series of confidence-building measures to bring together divided ethnic and religious communities for dialogue and cooperation. This approach worked well in the Fijian context and was developed by the communities directly; in other contexts, dynamics will differ and so might the outcomes. The bottom line is to ensure that minority and majority communities have an equal opportunity to contribute to their collective vision of peace.

To improve conflict sensitivity in dealing with minorities, an analysis that identifies issues, risks and vulnerabilities related to minorities in the overall context is needed. With this information, actors are better positioned to define possible responses both in terms of specific programmes addressing minority issues and re-adaptation of existing mainstream programmes.

Minorities being targeted as the beneficiaries of programmes can sometimes lead to tensions, especially where the relatively less well-off feel that they will suffer as a result. Minority groups encourage governments and other actors to adopt transparent and inclusive strategies for elaborating development interventions. This transparency can mitigate concerns of other (majority) communities by outlining clear justifications for targeted programmes for minorities where needed and to create opportunities for integration of minority concerns into mainstream development interventions. The balance

between these two approaches is determined by the needs of the respective communities, their rights and their expressed interests (see section 5.2 of this Guide and Table 5).

In the post-conflict situation in **Nepal**, UNDP analysis recommended to consider targeting programmes in favour of the excluded groups in order to compensate for their disadvantage. In particular, it was recommended to deliberately target villages with a higher proportion of underprivileged ethnicities and lower castes. UNDP programmes have begun reorienting to this by including percentages of ethnic minorities as a criterion for selecting the inclusion of new villages and implementing positive discrimination policies.

KEY MESSAGES

- There is no one-size-fits-all approach to recovery from inter-ethnic conflict.
- At a minimum, the basic minority rights to exist, to non-discrimination, to protection of identity and to participation need to be guaranteed.

Adopting minority-sensitive crisis prevention and recovery strategies:

Foster dialogue:

The establishment of mechanisms at the local and national level for redressing grievances expressed by minorities could prevent wider conflict. Of central importance are complaints mechanisms to address discrimination (past and present) and participation mechanisms to enable minority voices to be heard in decision-making and through inter-communal dialogue. These mechanisms can help prevent the use of coercive assimilation policies and elaborate voluntary integrative policies.

Promote reconciliation:

Where crises have led to conflict between minorities or with majorities, international actors could assume a role in supporting reconciliation between the government and minority groups, where requested. It is a difficult task to restore confidence in the legitimacy of national unity but respect for minority rights is an essential element of any programme of reconciliation and sustainable peace. The reconstruction can consider the demand for new or improved structures for minority participation in decision-making, including establishment of some form of regional or cultural autonomy where appropriate and a national representative body on minorities where necessary. This can also be a feature of any post-conflict constitutional reform, along with more general protection measures for minorities. There is no one-size-fits-all approach but ensuring the basic minimum protection of minority rights to exist, to non-discrimination, to protection of identity and to participation are the guiding principles to inform policy and institutional responses.

Reconciliation processes after ethnic or religious civil conflicts are extremely challenging. Such conflicts may stem from long historical grievances and in the worst cases will entail gross human rights violations and even genocide. New governments may prefer a strategy of building a new national identity that officially recognizes no distinctions between communities as a means of preventing future inter-communal violence. In such cases, it is important to be sensitive to the healing process that is behind such strategies, while still working to ensure basic minority rights protection.

There is also a tendency in post-conflict situations for only those minorities directly party to the conflict to be supported in the rehabilitation process. Smaller minorities might be overlooked, even though they have usually suffered greater marginalisation in the conflict and been the targets of violence and blame by all parties.

Smaller minorities might also have **difficulty in accessing relief efforts on an equal basis after natural disaster** because of discrimination or the distance to locations where they live.

Minority women might not have equal opportunities to participate in peace-building initiatives or adequate support for the peace initiatives they lead. Minority women might also be particularly vulnerable during and after conflict as targets of rape or human trafficking.

UNDP could play an important part in advocating for the integration of marginalised minorities and minority women into rehabilitation and reconstruction initiatives.

Information to prevent crisis:

Early Warning Report (EWR) evaluates potential crisis situations. Some reports include analysis of relations between minority and majority groups and provide useful information on points of tension in these relations. The EWRs can be a useful tool.

Assist in the return of displaced minorities:

The task of supporting return of displaced minority groups has often proven a very difficult and complex issue. The human security of minorities is very uncertain in regions from which they have been forced out, either directly or indirectly. Return and restoration of properties is a high priority for displaced persons. Therefore, reintegrating minorities into multi-ethnic communities will require great sensitivity and commitment on the part of international agencies and governments. Housing and property restoration issues will need to be managed in a fair manner, recognizing that returnees have rights that should be respected.

Support could be provided through the provision of transparent information about the process of return and the distribution of resources to support returning families from all minority (and

majority) communities and garnering the necessary political will for return to occur in a timely, transparent and equitable manner.

Promote access to justice for minorities:
In security sector reform, efforts can be made to include minorities amongst new security and justice personnel, including human rights training and monitoring of security forces' relations with minority communities. Creating Ombudsperson offices and similar complaints mechanisms to militate against discrimination will help to improve access to justice for all groups.

Support local ownership over reconciliation:
Minority representatives recommend that local CSOs be involved as much as possible in sustainable peacebuilding initiatives. In some cases, governments will find it difficult to accept cooperation with communities that had segments of their populations acting as combatants, terrorists or calling for secession. It is possible to identify CSOs that are promoting genuinely non-violent and constructive peace-building initiatives. Use can be made also of traditional dispute resolution and reconciliation mechanisms followed by minority communities.

BOX 7:
MRG RECOMMENDS THE MOST IMPORTANT STEPS TO PROTECT MINORITY RIGHTS AFTER AN ETHNIC OR RELIGIOUS CONFLICT:

- Stop violence against minorities, ensure a justice system that identifies and prosecutes perpetrators, especially the leaders. Ensure that all communities are free from attack, including minority women.

- Ensure minorities do not leave against their will, by providing security and financial assistance. Provide conditions for minorities to return who have recently left as quickly as possible. Set up systems for identifying owners of property and returning these.

- Prohibit and prosecute hate speech, especially in the media and education.

- Create a political system based on equality. Remove (and do not insert any new) references to a country being based on a particular people, religion or constituent peoples.

- If power-sharing is considered the only option, have a clause providing for a review or termination after a fixed period. Do not have any system that forces persons into ethnic groups.

- Create an effective legal system that uses all languages in the country and is open to all. Ensure minorities have financial means to use it.

- Create a system to outlaw discrimination, and give effective (legal and other) remedies against it.

- If quotas are deemed necessary, make them temporary and ensure the discrimination is addressed first.

- Ensure economic development does not marginalise communities, or destroy their identity. Ensure those involved in development understand discrimination.

- Create an education system that ensures all children can learn their communities' language, religion and culture, but also creates common experiences and understanding. Ensure a shared history curriculum.

Source: C. Baldwin, C. Chapman and Z. Gray, *Minority Rights: The Key to Conflict Prevention*, London: MRG 2007.

BOX 8:
MINORITIES AND CONFLICT: EXPERIENCES FROM MINORITY GROUPS

In a 2005 UN workshop on *Minorities and Conflict Prevention and Resolution*, participants from minority groups in conflict areas shared experiences from several regions, highlighting the common factors that stimulate conflict involving minorities. The minority participants identified the following root causes and solutions to conflict involving minorities:

Root causes of conflict:	Recommended solutions to conflict:
- Discriminatory government legislation that does not recognize minority groups, that deny minority groups their rights to land; and inappropriate government policies that fail to consider the lifestyles of minorities, e.g. pastoralists - Lack of participation in decision-making bodies, and non-consultation of minorities in issues that affect the minority people - Weakening of the traditional forms of settling disputes, such as the council of elders - Religious intolerance, including caste systems and the imposition of state religion - Poverty that disproportionately affects minorities - Competition for limited natural resources - Gross violations of human rights by governments and multinational corporations. - Institutionalized racial exclusion causes poverty, which causes conflict - Unfair distribution of resources and infrastructure - Leadership tussle among political leaders in order to serve their own interests - Forced evictions by the government without compensation or providing alternative land for the minority groups - Government and international bodies failing to act on early-warning signals - Denial of internal self-determination - Not having access to basic social services and lack of social security provision - Unfair justice system - Inferiority of minority language - Fighting for group identity.	- Constitutional recognition of ethnic, religious, linguistic and national minorities - Legislative reforms in conformity with international human rights standards, in particular with the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities - Dialogue promotion among the conflicting parties - Strengthening the traditional forms of settling disputes - Timely action on early-warning signals - Provision of effective protection in minority areas - Fair and equal distribution of natural resources and infrastructure - Impartial promotion and enforcement of human rights legislation - Access to justice - Effective participation in decision-making bodies - The public in general and minorities in particular should be educated on minority rights.

Source: *Report on the Workshop on Minorities and Conflict Prevention and Resolution*, Geneva, Switzerland, 26-27 May 2005 (UN Doc. E/CN.4/Sub.2/AC.5/2006/2).

Support impartial delivery of the resources:
There can be perceived inequalities in the allocation of reconstruction or humanitarian aid resources. It is important that government and international actors be transparent and communicate clearly their objectives in such circumstances, taking steps to mitigate any tensions between communities that may result from intervention. The early involvement of men and women from minority groups in planning reconstruction is a vital step, not least because it gives all groups the chance to work together in rebuilding their communities.

KEY MESSAGES

- Special attention to how projects impact differentially on minority and majority groups can help prevent harm and conflict.

- Transparency and participation in development planning can militate against harm.

4.5 ENVIRONMENT AND ENERGY FOR SUSTAINABLE DEVELOPMENT

The poor are disproportionately affected by environmental degradation and lack of access to clean, affordable energy services. The special relationship between indigenous peoples and the environment has been well documented: the environmental protection of lands, territories and natural resources is integral to the cultural, spiritual and livelihood practices of indigenous peoples. More overlooked, however, is the impact of environmental and energy issues on minority groups and how the exclusion of minorities affects these sectors.

Minorities are **particularly vulnerable** with respect to the environment. Researchers and activists have documented practices of 'environmental racism', which show that minorities are more likely to be affected by environmental pollution than dominant groups (e.g. Bullard and UNRISD 2004). For example, they are more likely to live in polluted areas, to rely on contaminated water sources or to take jobs that expose them to higher risks of environmental harm. The effects of climate change could also be especially harsh for minorities. Already facing discrimination in access to basic services, water, land and energy resources, **increased scarcity of these resources will further exclude minorities, possibly leading to inter-communal conflict over such resources**. The political and economic marginalisation of minorities means they are less able to move out of environmentally harmful areas or harmful employment and less able to influence political decisions that determine environmental policy.

Minority regions may be disproportionately affected by environmental change. For example, climate change can affect those living in low-lying coastal regions impacted by rising water levels, those living in mountainous regions by changes in vegetation and those who rely on pastoralism facing increased desertification. These changes can affect the livelihoods and cultures of minority groups, increasing their vulnerability to poverty and cultural erosion.

Minorities also find it more difficult to access relief in circumstances of environmental disaster because of discrimination or the disproportionately under-serviced areas where they live.

The specific livelihoods of minorities might expose them to greater threats from environmental degradation, which can increase rates of poverty. For example, minorities that traditionally engage in fishing will struggle with climate and environmental changes in coastal regions and pastoralists will suffer from desertification and other environmental changes across their traditional grazing territories. Minority livelihoods might be viewed incorrectly as harmful to the environment. For example, practices by ethnic minorities in Southeast Asia of shifting cultivation have been criticized by those who do not

understand the sustainability strategy behind these practices, which aim to conserve rather than destroy the land's productive capacity.

Eco-tourism is an increasing trend and visits to ethnic minority areas and festivals or religious minorities' sacred sites are common attractions. While eco-tourism, managed ethically, may be beneficial to minorities, it could also cause harm. Often minority communities are affected by such tourism but accrue few economic or social benefits and have little control over the use of their cultural identity for marketing of tourism. Very few of the profits from eco-tourism reach the communities directly, while scare resources of food, water and energy can be diverted for the use of visitors and away from community access, increasing vulnerability.

Minorities may be particularly vulnerable to the **health effects of environmental pollution** and degradation. Environmental racism pushes minorities into the most polluted settlement areas, where provision of clean water and sanitation is at its lowest. Minorities also frequently live in sub-standard housing conditions. **Traditional food production** by minorities can be impacted by environmental change. Reductions in fish stocks, sufficient grazing areas for cattle, biodiversity or forest areas can severely threaten food security for communities that culturally rely on these sources of food and livelihood. Some communities use traditional medicines derived from forest resources; as these resources decrease, traditional healthcare practices are at risk.

The full participation of minorities in devising sustainable development strategies is essential both because of community expertise on environmental issues and because of the impact of such strategies on their culture, lifestyles and livelihoods. Representatives from minority communities can be invited to participate in environmental regulatory institutions. This can help to mitigate the practice of approving

environmentally harmful industries to be based disproportionately in regions where mostly minorities live.

Forms of discrimination that manifest, *inter alia*, as environmental racism, can be averted by ensuring **access to justice** for minorities. Access to Justice projects for groups affected by environmental harms can be supported. Programmes and projects can be assessed for potential adverse impact on minority groups. Provision of relief following environmental disasters can be planned with consideration for avoiding possible discriminatory practices and can be monitored to ensure minorities are benefiting equally.

Cultural identities can be safeguarded against the adverse impact of environmental changes. Specific attention can be paid to reviewing how events like flooding, climate change, desertification, and air pollution are impacting on the ability of minority communities to practice their livelihoods, food production and protect their cultural ways of living. Special measures to assist minorities whose livelihoods are particularly harmed by environmental degradation can be put in place, including as part of poverty reduction strategies. Eco-tourism programmes could be managed with respect for minority protection. Programmes may be assessed to ensure that community members have consented to their participation in the schemes, that cultural and religious identities are protected and that members are benefiting from the potential economic gains of tourism. There are **good examples of community-managed eco-tourism schemes** that work to ensure the best interests of the community are met (e.g. Zeppel 2007).

The **UNDG Guidelines on Indigenous Peoples' Issues** notes that many indigenous peoples are highly dependent on their lands and natural resources and that any changes to the ecosystem may impact on their way of life and survival. Environmental degradation contributes to continued poverty in indigenous communities due

to their strong reliance on the environment for their livelihoods. Indigenous peoples may live in areas that are rich in biodiversity and particularly vulnerable to modifications in the environment, including those due to climate change. The direct and indirect impacts of climate change may threaten the very existence of the peoples of the Arctic, of small islands, high altitude areas, drylands and other vulnerable environments. Indigenous laws, beliefs and customs provide the framework for harmonious relations between indigenous peoples and their environment. In some cases, **conservation programmes might have negative impacts on indigenous peoples and their capacity to use and protect their environment**. Indigenous peoples are also severely affected by locally produced environmental contaminants, including from alien settlements, transportation routes, industry, forestry, military activities, prospecting, mining and oil production. Exposed indigenous communities may in some cases be forced to shift from traditional to non-traditional diets in order to minimize future risk of contamination.

The UNDG Guidelines provide a number of **guiding principles for UNDP policy responses that are consistent with the right of indigenous peoples to the conservation and productive capacity of the environment**. The spiritual relationship of indigenous peoples to their lands and territories and environmentally sustainable practices have been recognized and conservation efforts on indigenous lands, including the establishment of new and management of existing protected areas, need to take place with the free, prior and informed consent and full participation of the communities concerned. Indigenous peoples have traditional lifestyles relevant for the conservation and sustainable use of biodiversity and their knowledge, and such practices should be recognized and respected, including their rights to benefit from traditional knowledge.

In the case of climate change, indigenous communities have contributed the least to the emission of carbon dioxide and other greenhouse gases because of their traditional practices, yet they are among the first to face direct adverse environmental, social and human consequences of climate change. Consequently, indigenous peoples must fully participate in the definition and implementation of policies and plans related to climate change impact mitigation.

Based on their long-term relationship with their environments, indigenous peoples often possess sophisticated traditional ecological knowledge of weather patterns, including complex adaptive responses towards cycles of climatic variability. In this context, indigenous peoples' knowledge could be considered an important element within the international debate regarding adaptation to climate change.

KEY MESSAGES

- Lack of participation, higher rates of poverty, and discrimination are some factors that make marginalised minorities especially vulnerable to environmental conditions.

- Traditional livelihoods of minorities can be particularly affected by environmental change

- Practices of environmental racism put minorities at higher risk of environmentally-related health problems

BOX 9.
FREE, PRIOR AND INFORMED CONSENT: FORESTRY MANAGEMENT IN THE CONGO BASIN

A feasibility study was prepared by two Swiss CSOs to assist governments, the forestry industry and affected populations to address the principle of free, prior and informed consent (FPIC) when working in regions of indigenous peoples' territories. The report investigated strategies for integrating FPIC into the legal, commercial and social context of forestry management. Experiences from industry practice suggested that the best way to achieve sustainable forest use was to negotiate fair and committed agreements by consent with affected indigenous peoples across the Congo Basin. This ensured, both for communities and for industry, that forestry programmes were stable, beneficial, and accountable to all stakeholders.

Several challenges were found that needed to be addressed if adherence to FPIC was to be achieved. The report offers practical steps for overcoming these challenges, including recommendations on:

- ways to integrate FPIC into national forestry laws;
- managing differing understandings of 'consent' across stakeholders;
- ensuring transparency in decision-making on forestry development;
- devising forestry management partnerships with indigenous peoples;
- how to map usage zones for key economic and cultural resources;
- improving access to information on forestry management, including for the most marginalised within indigenous communities;
- building institutional capacity for integrating FPIC into forestry programmes.

Source: Lewis, et al, Free, *Prior and Informed Consent and Sustainable Forest Management in the Congo Basin (2008)*; see also http://www.tropicalforests.ch/.

BOX 10.
GLOBAL ENVIRONMENT FACILITY (GEF) SMALL GRANTS PROGRAMME: INVOLVING INDIGENOUS PEOPLES WOMEN IN SUSTAINABLE DEVELOPMENT COMMUNITY-BASED INITIATIVES.

In Cameroon, the UNDP GEF programme has supported capacity building for indigenous minority communities and given particular attention to the participation of indigenous women. Since 2007, a series of community-based projects for the conservation of native crops, medicinal plants, Non-Timber Forest Products

(NTFPs) and other biodiversity-based products are being supported for three highly marginalised groups, the Mbororo, the Bakola and the Bagyeli indigenous peoples.

The Mbororo community project seeks the valorization of traditional knowledge through an inventory of traditional knowledge and practices for the conservation of herbs and plants used in animal healthcare (CMR/SGP/OP4/RAF/07/03). It promotes the complementary use of indigenous and conventional veterinary medicine for sustainable livestock production, basic animal health care with the Mbororo community, and promotes the conservation of medicinal plant resources.

BOX 10 (continued)

Although the project is still under execution, some key changes have been observed in the communities. In terms of women's empowerment, an emphasis has been put on the involvement of community women in sustainable livelihoods activities generally undertaken by men. In a community where women are not involved in animal healthcare, men and women can now sit together to attend workshops and practical training sessions for animal healthcare. Moreover, trained women are more eager to put in practice the acquired knowledge.

As in most indigenous communities, women are considered as the guardians of traditional knowledge on medicinal plants. Their expertise is commonly required for the documentation of traditional knowledge and practices for the conservation of biodiversity used in human and/or animal healthcare and related ailments treated or relieved by such herbs/plants. The project is building the capacity of women to apply their existing knowledge in conjunction with new skills and knowledge, and in doing so to have a positive impact on the livelihoods and welfare of the community at large.

The project is helping to preserve traditional knowledge and to pass this on to younger generations, thus building their capacity for forest management using the best of indigenous and conventional expertise.

Two other projects (CMR/SGP/OP4/RAF/07/01 or CMR/SGP/OP4/RAF/07/02) with indigenous communities are building capacity in other livelihood activities: through these projects, Bakola and Bagyeli indigenous peoples, and especially those who are gatherers and hunters, have been involved in agriculture for subsistence or for income generation, and in beekeeping.

The Government of Cameroon plans to implement a 5-year project entitled the Cameroon Millennium Villages Project (CMVP) with the financial support of the Government of Japan and in partnership with the United Nations system. This project intends to improve the living conditions of the target population in 2 clusters of Cameroon by offering them a range of supports designed to contribute to the achievement of the MDGs. The focus areas are Meyomessi and its surrounding areas, situated in the Forest Region. Particular attention will be given to the Baka indigenous peoples. A GEF regional project entitled conservation of trans-boundary biodiversity in the minkebe – odzala - dja interzone in Gabon, Congo and Cameroon will contribute to support this process. The project will assist the three governments in designing and implementing a coherent land-use plan that designates protected areas, permanent forest and rural development areas, building the capacity to control resource use, to monitor trends in biodiversity and ecosystem functions, through an effective law enforcement system, collaborative management schemes with the private sector and communities, including, in particular, indigenous people, and implementation of a cost-effective monitoring system.

Source: UNDP Cameroon

4.6 HIV/AIDS

UNDP is working on HIV prevention and the reduction of its impact. As the key development partner, and co-sponsor of UNAIDS, UNDP helps countries to put HIV at the centre of national development and poverty reduction strategies; build national capacity to mobilize all levels of government and civil society for a coordinated and effective response to the epidemic; and promote and protect the rights of people living with HIV, women, vulnerable and marginalised populations.

Minority groups are one of the key populations at higher risk to HIV. Interventions for addressing HIV prevalence in minority groups must take a 'social determinants of health' approach. According to the World Health Organization, social determinants of health are shaped by the conditions in which people live and work, conditions that are created by inequalities in access to power and resources; these social determinants are "mostly responsible for health inequities - the unfair and avoidable differences in health status seen within and between countries".[31] Ethnicity, language and religion are among the factors that can influence health inequities. Public policy responses to HIV may not be effective for minority populations if **strategies are based on addressing risk factors characteristic only of majority populations** and not adapted to minority cultures and social realities. Minorities living with HIV may have **unequal access to health care** because of discrimination in health care services, lack of culturally adapted healthcare or higher poverty levels that reduce affordability of retroviral care. Existing infrastructure for medical services may be more limited in remote or impoverished areas where minorities are settled. Minorities are more vulnerable to HIV-related disease in countries where they have higher incidences of injecting drug use and human trafficking.

Gender inequality and unequal power relations between and among women and men continue to be major drivers of HIV infection. HIV prevalence in women and girls is closely associated with intimate partner violence, challenges in negotiating safer sex and other manifestations of gender inequality. Gender inequality and harmful gender norms are not only associated with the spread of HIV but also with its consequences, such as violence targeted toward HIV positive women and girls. **These risk factors might impact differently on women and girls from minority groups because of different cultural practices and different experiences of social exclusion**. For example, some minority women are more vulnerable to human trafficking, because of higher levels of poverty or because they live close to transit routes where prostitution is predominant, increasing the risk of contracting HIV.

There is a clear relationship between HIV and human rights violations. Stigma, discrimination and violence are often directed toward persons because of their real or perceived HIV status and because of behaviours, such as sex work, injecting drug use or same-sex relations. People who are marginalised may be disproportionately exposed to human rights abuses, both in general and as related to HIV. People living with HIV face additional stigma and discrimination, often deterring their access to treatment, care, support and prevention services, and resulting in multiple discrimination.

Promoting and protecting the rights of people living with HIV, especially those who are marginalised, is critical to an effective AIDS response and fundamental to yielding public health and development benefits for populations as a whole. UNDP works with countries to create enabling human rights and gender responsive

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[31] For further information, see http://www.who.int/social_determinants/en/ (accessed 9 August 2009).

environments. UNDP supports countries to address gender inequalities – through the empowerment of women and girls and sexual minorities (i.e. men who have sex with men, transgender populations, lesbians and bisexuals), while also engaging with men and boys to challenge harmful gender norms.

In order to reduce the prevalence of HIV in ethnic, religious and linguistic minority groups, specific policy interventions should be developed. Taking into consideration of the social determinants of health approach, **prevention measures need to be culturally attuned and focused on the risk factors that are particular to each minority community**. Minorities could be trained as health care providers to improve community HIV prevention programmes. Minority health workers could ensure that culturally appropriate health information is made available in minority languages, while also addressing discrimination issues that minorities may face

from health workers. Box 11 outlines some of the efforts in the United States to reduce higher HIV prevalence among minority groups. Special efforts are needed to reach minorities in remote areas and to provide primary health care services that are adapted to minorities' cultures, environments and traditional medical practices. Box 12 illustrates some lessons learned from HIV education projects in the remote areas of the Upper Mekong region.

KEY MESSAGES

- Cultural stigma and poverty can result in higher rates of HIV among minorities

- Discrimination can prevent minorities from accessing equal health services for HIV

- HIV policy responses need to take into consideration specific cultural risk factors for minorities and the impact of discrimination

BOX 11.
REDUCING HIGHER RATES OF HIV/AIDS AMONG MINORITIES IN THE UNITED STATES

Figures from the U.S. Government show that HIV prevalence among some minority populations in the US is higher than other groups. For example, African Americans constitute 13% of the population yet represent nearly half of new HIV cases. Hispanic and Latino communities are 15% of the population but 17% of new HIV cases. These groups also have shorter life expectancy once diagnosed with HIV. Broadly speaking, the differences are attributed to higher incidences of poverty, higher rates of injecting drug use, sexually transmitted diseases or unprotected sex, and cultural stigma around sexual health issues and social norms of sexuality.

The Minority AIDS Initiative, created in 1998, is part of the U.S. Department of Health and Human Services' larger Initiative to Eliminate Racial and Ethnic Disparities in Health by the year 2010. The Minority AIDS Initiative provides funds to community-based organizations, faith communities, research institutions, minority-serving colleges and universities, health care organizations, state and local health departments, and correctional institutions to help them address the HIV epidemic within the minority populations they serve. The Ryan White Treatment Modernization Act of 2006 codified the Minority AIDS Initiative. The National Minority Aids Council (NMAC), created in 1987, represents a coalition of 3,000 CSOs and AIDS service organizations delivering HIV/AIDS services in ethnic, racial and religious minority communities nationwide. An example of a specially targeted programme by an AIDS service organization is the American Red Cross Hispanic HIV/AIDS Programme, which aims at raising HIV/AIDS awareness for Hispanic communities. The bilingual programme was created based on languages, customs, family relationships, spirituality, sexuality and health beliefs of Hispanic and Latino communities.

Sources: NMAC: www.nmac.org; US Centres for Disease Control and Prevention (CDC): http://www.cdc.gov/hiv/hispanics/index.htm; http://www.cdc.gov/hiv/topics/aa/index.htm; Red Cross: http://www2.redcross.org/services/hss/hivaids/hispanic.html

BOX 12.
PREVENTION OF HIV/AIDS AMONG ETHNIC MINORITIES OF THE UPPER MEKONG REGION: LESSONS LEARNED

The UNESCO Regional Unit for Social and Human Sciences in Asia and the Pacific coordinated a project aimed at HIV prevention among ethnic minorities of the Upper Mekong Region. This project was implemented in selected communities in southern China, northern Laos and northern Thailand, where the risk of HIV infection is very high, due in part to higher incidences of human trafficking and injecting drug use among ethnic minority groups. Under this project, educational materials were developed in local languages, in order to counter the lack of culturally appropriate information regarding HIV prevention among ethnic minority communities. In the Phase I of the project, a detailed survey of the HIV prevalence amongst the ethnic groups in the pilot areas was carried out. Based on this survey, preventive materials (posters, booklets, video cassettes, audio tapes, puppet shows, etc.) in local languages in the three pilot areas were developed. These materials were tested, evaluated, modified and have been reproduced for use by NGOs and other community organizations to promote HIV education.

The project evaluation highlights important lessons learned for future work on HIV prevention with ethnic minority communities. Among the findings and recommendations of the evaluation:

- Translation of materials into local languages was positively received. However, the materials were not always based on the particular ethnic audience, but instead imported from lowland cultures. Stereotypes and mainstream responses to problems were reproduced without taking into account the particular vulnerabilities of ethnic minorities. In China, videos produced using local footage and featuring the *Lahu* minority culture and custom proved more effective.

- More use could be made of non-formal teaching networks and teachers to help instigate behavioural change, rather than just knowledge transfer. Education on the social development context, and directed to risk factors of specific cultures and behaviours is needed. The moralising approach and stigmatization of traditional cultural practices was considered unsustainable. It was recommended, for example, that condom use be promoted in the practice of multi-partner sexual relations rather than prohibition of pre-marital sex.

- The surveys prepared were problematic (due to length and culturally inappropriate questions) but did reveal some trends, including that knowledge of HIV is not well integrated into local understandings. The greatest value of the survey was to encourage dialogue with local ethnic minority communities on the issues. Traditional healers were not sufficiently referred to as resource persons, and more time could have been allocated to ensure the participation of community members with direct experience of injecting drug use or commercial sex. The promotion of grassroots involvement at all stages of the programme was strongly recommended.

Source: http://www.unescobkk.org/rushsap/programmes-and-activities/prevention-of-hivaids-among-ethnic-minorities-upper-mekong-region/

Chapter 5

PROGRAMMING OPPORTUNITIES AND RELEVANT STRATEGIES

Minority rights can be integrated into various UNDP programmes. The strategy used will vary with the national context. This may depend upon the openness and capacity of governments, inter-communal relations, legal recognition of minorities, the demographics of minorities, the presence and capacities of minority CSOs, and UNDP staff commitment and capacity.

In all situations, there is a responsibility to ensure that UNDP interventions do not violate minority rights. Even where government relations with minority groups may be strained, care could be taken not to directly or indirectly discriminate against minorities. Even in difficult circumstances, entry points may be found for assisting the government and minority groups to realize human rights and secure better development for all.

Table 4. Linking Minority Rights and MDGs Strategies		
Key Minority Rights	**MDG Country Reports Response**	**MDG Policy Response**
The right to exist	• Description of different ethnic, religious and linguistic groups that live in the country, including by region • Disaggregated data on minorities living in the country, especially for each of the MDGs • Additional targets to reduce inequalities experienced by minorities in the MDGs • Discussion of both mainstreamed and targeted policies for minorities	• Improved data collection on the situation of minority groups • Additional investment for minority-specific targets to reduce inequalities in the MDGs • Constitutional recognition and protection of minority identities • Investment in minority rights training for law enforcement officials and other public sector employees
The right to non-discrimination	• Discussion of the inequalities faced by minorities in the country • Provide disaggregated data by gender and social group for each of the MDGs • Discussion of the structural and social barriers faced by minorities due to discrimination • Discussion of national laws and policies in place to address discrimination against minorities	• Adoption of a National Action Plan on tacking all forms of discrimination • Disaggregation of data by gender and social group • Use of impact assessments for proposed MDG strategies to evaluate benefits or harm to minorities • Review and strengthening of national laws on non-discrimination

▶

Table 4. (continued)

Key Minority Rights	MDG Country Reports Response	MDG Policy Response
The right to cultural identity	• Discussion of different cultural views of development policy as may be held by minorities, especially in relation to livelihoods and use of land • Discussion of access to education policy for minorities (e.g. mother tongue education) • Translation of MDG Country Reports into minority languages	• Consultation with minority representatives on cultural impacts of MDG strategies • Government openness to alternative viewpoints on development priorities and processes • Adoption of culturally appropriate mechanisms for improving access to education and health for minorities and supporting livelihoods of minorities • Translation of MDG information into minority languages and to minority media outlets
The right to participate in public life	• Discussion of consultation processes for MDG strategies, e.g. how minorities have been involved in these processes • Discussion of minority representation at national and local governance levels • Discussion of distribution of MDG-related resources to local governance level	• Establishment of national bodies on minority issues • Engagement of minority representatives in MDG policy dialogue at national and local levels • Support to minority representatives to participate in national dialogues on MDG-related strategies • Information and outreach plan to inform and involve minorities in the MDGs • Affirmative action policies to increase minority employment in public services and representation in local governance

5.1 COMMON COUNTRY ASSESSMENT AND UNITED NATIONS DEVELOPMENT ASSISTANCE FRAMEWORK (CCA/UNDAF):

Integrating attention to minorities in the CCA and UNDAF can have a positive impact on achieving UNDP's goals for sustainable human development for all. The *Guidelines for UN Country Teams on Preparing a CCA and UNDAF* **(Updated February 2009) underline the importance of attention to excluded groups**, including minorities, indigenous peoples and migrants, and the application of a human rights-based approach in the CCA/UNDAF.

Four steps to integrate minority rights into the CCA/UNDAF:

1. **Include minority CSOs in CCA/UNDAF consultations:** there is great scope for UNCTs to encourage minority CSOs to participate equally in these processes. In some cases, this could be facilitated by specific training to minority CSOs so they are in a stronger position to contribute policy advice. By holding meetings outside of capital cities, conducting information and outreach to minority communities, providing language translation and building in longer time frames for consultation, increased minority participation can be achieved.

2. **Collect disaggregated baseline data to inform the CCA drafting:** there is often a lack of attention to minority issues in existing data and analysis. The *CCA/UNDAF Guidelines* require that, **"Particular attention should be paid to disaggregation of data [including by sex, language, religion and ethnicity] and to any research that reflects the situation and views of people who suffer from discrimination"** (2009, paragraph 45). Even where government-led analytical work is preferred over drafting a CCA, the *Guidelines* still urge the following:

   - Identify hidden trends in the data on excluded groups.

   - Identify disparities that suggest unequal treatment and the possibility of discrimination.

   - Help partners to conduct more detailed causality analysis, to identify the root causes that contribute to multiple problems. (2009, paragraph 36)

   Fully disaggregated data may be hard to find. If this data is missing, new data collection and analysis could be commissioned to provide a fuller picture of development in the country.

3. **Systematically review the UNDAF to ensure that minority related issues raised by the CCA are addressed with programme interventions:** in some cases, minorities are mentioned in the CCA but this fails to translate into responses under the UNDAF. The situation of minorities that is systematically analyzed in the CCA can be responded to with relevant interventions elaborated in the UNDAF.

4. **Adopt disaggregated monitoring tools and targets for the UNDAF:** the monitoring and evaluation framework and the results matrix of the UNDAF both can reflect specific indicators, baselines and targets for minority groups. It is not sufficient to list generalized indicators and results. According to the *Guidelines*:

   "Averages hide disparities thus hindering the identification of discrimination such as gender and *racial discrimination*, so indicators must be specific to the change expected, and to the subject of change, either the rights holder or the duty-bearer. This means disaggregation - as much as necessary - by sex, age, *ethnicity*, *language*, urban and rural areas" (emphasis added) (2009, paragraph 113).

Where there are clear indicators and targets for minority groups, this will reinforce confidence in national development processes and provide them with additional leverage to hold governments to account for minority rights obligations. Using a human rights-based approach, these indicators and targets should be linked to minority rights.

The *Guidelines* instruct that any CCA should "Identify patterns of discrimination and inequality, and describe the situation of groups excluded and made vulnerable due to the denial of their rights" (2009, paragraph 30). This could be achieved by verifying:

- **Is data sufficiently disaggregated (e.g. by gender, ethnicity, region, religion and language, as well as disability, HIV/AIDS and other status) to identify excluded groups?**

- **What are the priorities?**

- **Are the root causes identified?**

- **Does the analysis describe patterns of discrimination and the different ways that females and males experience these problems?** (2009, Annex 2)

Many of these objectives were achieved by **UNCT Nepal**. Emphasizing the importance of addressing inequality and exclusion in Nepal, the CCA 2006 recommended that UN support to Nepal mainstream "**the overcoming of gender inequality and social exclusion"** across all priority areas of cooperation. Accordingly, the UNDAF for 2008-2010 took a **two-pronged strategy** to mainstream gender and social inclusion (GSI): integrating GSI issues in all its priority areas and keeping Human Rights, Gender Equality and Social Inclusion as a separate priority area as well to ensure that the UN supports programmes specifically targeted to women and socially excluded groups.

Drawing from the UNDAF for 2008-2010, UNDP's **Country Programme Document** (CPD) for the same three-year period focuses on peace and inclusive development. Bearing in mind the gender policy and the Government of Nepal's emphasis on social inclusion, the CPD mainstreamed gender and social inclusion in the overall programme. The emphasis is on reaching out to women and other excluded groups so that they are socially and politically empowered and their access to resources and basic services will be significantly increased for better livelihoods. In addition, reform in policy and governance issues is also stressed in order to remove institutional barriers for women and excluded groups to benefit from development opportunities and peace dividends.

The UNCT Nepal involved the CSOs in the UNDAF development process through consultation with organizations representing various ethnic groups as well as women's groups (consultations with civil society stakeholders were not possible during the preparation of the CCA because of the security situation in Nepal at that time). The fourth pillar of Nepal's UNDAF is on Human Rights, Gender Equality, and Social Inclusion. The working group that prepared this pillar held consultations with various CSOs to share the preliminary draft of the outcomes and outputs matrix and sought their feedback. Civil society representatives also actively participated in the UNDAF workshop that defined the four focus areas. Civil society organizations that are already in partnership with UNDP were invited to the various cluster-based consultations (e.g. livelihoods, local governance and access to justice, disaster risk reduction) while developing the results and resources framework for the CPAP.

In Brazil, the 2005 CCA includes a **chapter on "Racial and Ethnic Discrimination: Reducing Exclusion and Vulnerability"**, outlining the government's weak responses to the effects of racism and discrimination. This contributed to the elaboration of UNDAF outcomes. It was clear that the key UNDAF outcome of ensuring that vulnerable persons enjoy the right to basic services would not be achieved without giving particular attention to issues of discrimination. In response, the UNDAF adopts a specific outcome aimed at reducing gender and racial/ethnic inequalities (see Box 13). A **UNCT Theme Group on 'Gender and Race'** was created and "will play a key role in monitoring the progress of outputs and activities under each related outcome and their annual reviews will also feed into the M&E process" (UNCT Brazil 2005, p. 14).

KEY MESSAGES

- Attention to minorities issues can be reflected in both the CCA and UNDAF

- Theme groups on minorities can be established

- Specific indicators for minorities can be adopted

- Disaggregated data can inform the CCA/UNDAF and its monitoring

BOX 13.
IN 2005, THE UNCT BRAZIL ADOPTED A SPECIFIC UNDAF OUTCOME AIMED AT COMBATTING DISCRIMINATION BY BUILDING CAPACITY, PROMOTING PARTICIPATION AND INCREASING ACCOUNTABILITY.

National Priority	Main goal 1: social inclusion and reduction of social inequalities
	Challenge 8: Promote reduction of racial inequalities
	Challenge 9: Promote reduction of gender inequalities
UNDAF Outcome 2	2. Gender and racial/ethnic inequalities are reduced, taking into account territorial heterogeneities
Country Programme Outcome	Country Programme Output
2.1 Increased mainstreaming and crosscutting of the gender and racial/ethnic dimension in their design, implementation, management, monitoring and evaluation of policies and programmes.	**2.1.1** Public managers and social players trained in mainstreaming the gender and racial/ethnic dimension in design, implementation, management, monitoring and evaluation of policies and programmes.
	2.1.2 Government and non-government agents trained in conception, generation, analysis and use of data and indicators disaggregated by sex, race/colour and ethnicity.
	2.1.3 Society and governments informed and sensitized in ensuring gender and racial/ethnic equality rights, including for refugees and asylum seekers.
2.2 Increased political, institutional, managerial and financial capacity of government and non-government spheres in the promotion of gender and race equity.	**2.2.1** Institutional capacities developed in the implementation of international commitments and national, state and municipal plans related to gender, race, refugee and ethnic issues.
	2.2.2 Strengthened advocacy capacities of non-government networks and institutions in the promotion of gender, racial and ethnic equity.
2.3 Increased participation of youth, women, blacks and ethnic minorities in public and private decision-making spheres.	**2.3.1** Enhances institutional capacities in the implementation of legislation and mechanisms for increased political participation of women, youth, blacks and indigenous people.
	2.3.2 Mechanisms for promotion of diversity and of participation of women, youth and blacks in the decision-making levels of companies implemented and disseminated.
2.4 Equal opportunities of access to education, health services and decent work for women, blacks, and ethnic minorities increased (including refugees and asylum seekers).	**2.4.1** Strengthened institutional capacities in promoting equal opportunities of access to education, health (including HIV prevention and care) and decent work for women, youth, blacks, refugees and ethnic minorities.
	2.4.2 Increased institutional capacity, including that of empowers and workers organization, in combating gender and racial/ethnic discrimination, as well as discrimination against refugees.

Source: The UN in Brazil: UNDAF 2007-2011, UNCT Brazil, December 2005

The **UNCT Ecuador** has established an **Interagency Working Group on Intercultural Issues** in 2005. The Group prepared **matrices to assist in the drafting of the UNDAF taking into account intercultural issues**, particularily as they affect Indigenous Peoples and Afro-descendants. In addition to the matrix example below in Box 14, the note also reviewed the relevant international and domestic standards applicable for Afro-descendants and indigenous peoples in the context of the UNDAF (e.g. provisions of the 2001 *Durban Declaration and Programme of Action*; provisions of the new Constitution of Ecuador pertaining to Afro-descendants, indigenous peoples and multiculturalism).

BOX 14.
MATRICES FOR ENSURING 'INTERCULTURALITY' IN THE UNDAF FOR ECUADOR

UNDAF's matrix of results			
National priority:			
UNDAF outcome	Does this outcome contribute to the reduction of the gap between indigenous peoples/Afro-descendants and the rest of the population? Or to the eradication of discrimination against indigenous peoples/Afro-descendants?		
Country programme outcomes	**Country programme outputs**	**Role of the partners**	**Resource mobilisation targets**
Does this outcome contribute to the reduction of the gap between indigenous peoples/Afro-descendants and the rest of the population? Or to the eradication of discrimination against indigenous peoples/Afro-descendants? Is this outcome based on information/evidence of the ethnic and cultural discrimination? In what way does the outcome contribute to strengthen the capacities of the rights-holders and duty-bearers and/or to promote institutional or behavioural changes, for the full realisation of the rights of indigenous peoples/Afro-descendants?	Does the output include the delivery of goods, services and/or tools to the rights-holders and duty-bearers, for the full realisation of the rights of indigenous peoples/Afro-descendants? Does the distribution of resources take into the account the equity with indigenous peoples/Afro-descendants, including - depending on the case - affirmative action in order to achieve real equity? In case of outputs intended for another population, is it at least assured that indigenous peoples/Afro-descendants will not be negatively affected?	Have the indigenous/afro-Ecuadorian organizations and the State institutions which ensure their rights and development been included/consulted?	Have resources for specific activities, which contribute to the reduction of the gap between indigenous peoples/Afro-descendants or to the eradication of discrimination against indigenous peoples/Afro-descendants, been allocated?

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BOX 14. (continued)

UNDAF's matrix of follow-up and evaluation

Country programme outcomes	Indicators, baselines, targets	Means of verification	Risks and assumptions
Does this outcome contribute to the reduction of the gap between indigenous peoples/ Afro-descendants and the rest of the population? Or to the eradication of discrimination against indigenous peoples/ Afro-descendants?	What measures or indicators can be used to verify if the programme is sensitive to the differences and inequalities between indigenous peoples/Afro-descendants and the rest of the population?	Are the available verification data disaggregated by ethnicity and analyzed from the perspectives of the rights of indigenous peoples/ Afro-descendants?	What are the external factors that are necessary for the outcome to remain sensitive to the differences and inequalities between indigenous peoples/ Afro-descendants and the rest of the population? What are the external factors that are necessary for the outcomes of the project to benefit specifically indigenous peoples/ Afro-descendants?
Does this outcome contribute to the reduction of the gap between indigenous peoples/ Afro-descendants and the rest of the population? Or to the eradication of discrimination against indigenous peoples/ Afro-descendants?	What measures or indicators can be used to verify if the programme is sensitive to the differences and inequalities between indigenous peoples/Afro-descendants and the rest of the population?	Are the available verification data disaggregated by ethnicity and analyzed from the perspectives of the rights of indigenous peoples/ Afro-descendants?	What are the external factors that are necessary for the outcome to remain sensitive to the differences and inequalities between indigenous peoples/ Afro-descendants and the rest of the population? What are the external factors that are necessary for the outcomes of the project to benefit specifically indigenous peoples/ Afro-descendants?
Output Does the output include the delivery of goods, services and/or tools to the rights-holders and duty-bearers, for the full realisation of the rights of indigenous peoples/ Afro-descendants?	Which indicators allow me to guarantee and measure concretely the delivery of goods, services and/or tools to the rights-holders and duty-bearers, for the full realisation of the rights of indigenous peoples/ Afro-descendants? What information is available? Have the information systems of SIISE (SIDENPE and SISPAE) been consulted?	Are the available verification data disaggregated by ethnicity and analyzed from the perspectives of the rights of indigenous peoples/ Afro-descendants?	What are the external factors that are necessary for the outcome to remain sensitive to the differences and inequalities between indigenous peoples/ Afro-descendants and the rest of the population? What are the external factors that are necessary for the outcomes of the project to benefit specifically indigenous peoples/ Afro-descendants?

5.2 COUNTRY PROGRAMMES

Incorporating attention to minorities into UNDP country programmes could strengthen interventions and assist governments to improve human development for all. Broadly speaking, **two types of approaches are possible: targeted or inclusive**. Targeted approaches focus on marginalised minority groups as the *primary rights-holders* in the development intervention; inclusive approaches ensure that minorities are *among the rights-holders* in development interventions aimed at a broader constituency. The decision to employ targeted or inclusive approaches depends on a number of variables, of which the preferences of minority groups should be a major consideration. Bearing in mind the 'do no harm' approach, targeted interventions might create tensions where they are seen to unjustly privilege minority groups. Conversely, inclusive approaches that do not give attention to the particular needs and rights of minorities might inadvertently exclude minorities and cause harm.

To mitigate these unwanted effects, two key steps are needed. First, proposals for country programming could entail a **participatory decision-making process** that includes representatives of both minority and majority groups. Second, an **impact assessment** of proposals for country programming could measure the possibility of direct or indirect discrimination from the proposal, consider the impact on relevant minority rights and include disaggregated data.

Policies aimed at 'excluded groups' or 'vulnerable groups' may *not* necessarily benefit minorities. The impact of discrimination and the factors of cultural/religious/linguistic identity frequently mean that minorities experience development differently. Minorities face **different obstacles in realizing development** – of

which discrimination is a principle example – and in many cases have **different objectives for development outcomes**. These obstacles and outcomes pertain to minority rights protection and should be taken into consideration when making proposals for development interventions.

Targeted and inclusive approaches can be used concurrently. Often a combination of both approaches will maximize the benefits to minorities and minimize tensions with majority communities. For example, a programme on education could aim to support all poor people to access education; poor minorities will be among the intended rights-holders to benefit from such a programme. However, a further targeted measure is necessary within the programme parameters to ensure that the *particular* barriers to education experienced by minorities are taken into account in the general education programme. This means, for instance, considering whether minorities have higher poverty rates, cultural practices that are impacting on access to education, discriminatory practices in schools that dissuade minorities from participating in education and consideration of measures such as mother tongue education that could enable minorities to access education more readily. **A targeted objective *within* an inclusive programme can deliver effective results**.

KEY MESSAGES

- Targeted approaches can help to reach the most marginalised minorities

- Projects for 'vulnerable groups' may not tackle the particular obstacles – such as discrimination – that keep minorities marginalised

Table 5. Targeted or Inclusive Approaches?

Both targeted and inclusive approaches have the potential to benefit minorities and need to be considered carefully. The same programme can include both approaches for achieving different goals. For example, a programme on access to health could focus on vulnerable groups but include a special component to examine why access to maternal health is disproportionately lower for minority women. When determining which approach is best suited, some guiding questions can be helpful:

Key question	Considerations	Programme response
Is there evidence that the minority group is particularly marginalised?	If yes, targeted approaches might be needed to concentrate resources and to adapt programmes to address the particular obstacles faced by this group.	Meet with minority communities to discuss what factors they believe are causing their marginalisation. In consultation with minorities, consider appropriate programme responses to address these factors that could be targeted or integrated into inclusive programmes.
Can data be produced to justify the need for targeted programmes?	Having disaggregated data can reassure other stakeholders that targeted programmes for minorities are justified because of the high levels of inequality they experience.	Gather or commission the collection of disaggregated data on key human development indicators for groups affected by proposed development interventions.
Are there existing tensions between minorities and neighbouring groups?	Using targeted approaches might exacerbate existing tensions. This is particularly true where neighbouring groups are also experiencing exclusion.	Convene dialogues on development needs at the community level with all affected groups present. If necessary, create an additional space where minorities can express their concerns freely and safely.
Have minority groups called for targeted approaches?	If not, they may not want targeted approaches or there may be underlying fears among the community that targeted approaches will cause tension. It is also possible that minority groups do not realise they are entitled to 'special measures' to overcome discrimination against them.	Review government practice with affirmative actions policies and public reaction to them. Open a dialogue with members of minority communities to determine their perceptions of possible development interventions, both targeted and inclusive.
Are existing development interventions having an impact on minorities?	If inclusive approaches are not improving the human development of minorities and inequalities are growing, targeted approaches may be needed to supplement mainstream programmes.	Monitor and evaluate existing programmes to determine the impact on minorities
Is the government open to discussion on the status of minorities?	If the government is open, they may be more considerate of targeted approaches. Where the government is not open, inclusive approaches that are integrative of minority concerns may be preferable.	Open a discussion with key ministries to determine if minorities are a government concern. If not, identify entry points, such as attention to the poorest, where more effort can be made to include minorities.

5.2.1 UNDP experiences with targeted and inclusive approaches:

UNDP Nepal has used an approach of combining targeted and inclusive policies. UNDP Nepal has policy frameworks that clearly state that the target group for UNDP is the disadvantaged groups—the poor and the socially excluded like women, *Dalits*, *Janajatis* (indigenous peoples), and those living in remote areas. Except for a project entitled "Mainstreaming Gender Equity Programme" that focused primarily on women's economic, political and social empowerment, UNDP Nepal's projects are not targeted to specific minority or excluded groups only. However, in order to make sure that issues of disempowerment, lack of voice, social exclusion, and poverty are addressed by projects that are not specifically targeted to the excluded only, there are a number of approaches that have been adopted. These include:

Mainstreaming gender and social inclusion in UNDP projects:

All project documents and concept notes are thoroughly reviewed through the gender and social inclusion lens by the **Gender and Social Inclusion Specialist** and substantive written feedback is provided to the concerned programme units. In addition, all project formulation teams and evaluations teams have a gender and social inclusion expert.

Staff have undergone **sensitization on gender and social inclusion** issues including basic concepts, gender analysis, and gender and social inclusion responsive planning. There is still a need for in-house capacity building particularly of programme staff in this area through thematic gender and social inclusion trainings in the practice areas.

Social mobilization as an entry point for UNDP projects:

UNDP Nepal supported projects, especially those in the area of local governance, livelihoods and energy and environment, are typically based on community mobilization for the purposes of project implementation, sustainability, and local level monitoring. The mobilization process usually involves a formation of community-based organizations (CBOs) consisting of at least one member of every household in the targeted geographic area. The approach adopted is holistic in the sense that it is not targeted to any particular caste or ethnic group or any particular category. However, given that special efforts are needed to empower women, women only CBOs are formed also. When some settlements in the community are ethnically homogenous, CBOs formed there tend to be ethnically homogenous as well, such as CBOs consisting of only *Dalits* who are a minority and an excluded group in Nepal. CBOs have been successful in promoting saving and credit schemes, developing the capacity of the members in collective decision-making, resource mobilization, and providing support to each other. At this level, women, *Dalits* or other minority or "left behind" groups are actively involved and have been empowered to some extent.

The second level in the social mobilization process is the formation of a higher-level organization that consists of the chairs or managers of the CBOs. This entity is a mixed group in terms of sex and ethnicity and could be led by local elites. It is through this entity that support to the community flows for village development programmes. The challenge, therefore, lies in making sure that the needs of the excluded groups and women in the community are addressed through this mechanism. **When resources are not earmarked for addressing issues of minorities only, the challenge is to ensure that their issues and needs receive the priority they deserve**. Also, the local relationships of power and cultural norms and practices may create barriers for the poor, women, and other excluded groups to gain access and control over resources.

BOX 15.
ADDRESSING CASTE DISCRIMINATION IN DEVELOPMENT

According to independent experts of the UN human rights bodies, caste discrimination is any distinction, exclusion, restriction, or preference based on inherited status such as work and descent, commonly originating from a division of society into castes or social categories. This status is associated with the notion of impurity, pollution and practices of 'untouchability'. It is estimated to affect 260 million people worldwide, many of which are found in South Asia (where the affected group typically self-identifies as 'Dalits') but also reportedly in parts of Africa and among diaspora groups. In 2009, the UN Human Rights Council published a set of Draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent (this is UN terminology for caste-based discrimination). It provides a framework of measures for states, international agencies and private sector actors on how to address this form of discrimination. For the full Draft UN Principles and Guidelines please see: UN Doc. A/HRC/11/CRP.3 (18 May 2009). Further information is also available from, for example, the International Dalit Solidarity Network, www.idsn.org.

Targeted intervention through affirmative action for the excluded:

This is another approach that UNDP projects have adopted to ensure that resources reach out to the poor, the *Dalits*, women and *Janajatis*. Most UNDP projects in Nepal that are funding community development activities through the local government have **earmarked a specific proportion of project resources for excluded groups like *Dalits* and women**. For example, in the Decentralized Finance and Development Programme, 30% of project funds are for women and *Dalits*. The Decentralized Local Governance Support Programme (DLGSP) has a pro-poor policy to promote active participation of women, the poorest of the poor, and the disadvantaged ethnic groups in community organizations and to have 70% of Local Development Fund (supported by DLGSP) to be allocated to disadvantaged groups. The Community Owned Primary Education (COPE) programme (closed in July 2007) had a policy of hiring only female teachers in community schools it supported in rural Nepal. Moreover, Rural Urban Partnership Programme (RUPP) has a special programme called Rural Labour Linkages (RLL), which provides support for persons willing to undertake a traditional enterprise related to their "occupational castes". Although theoretically this fund is not limited to those from the *Dalit* community who are engaged in traditional occupations such as tailoring, blacksmithing, shoemaking, hair cutting, and clay pot making, the beneficiaries of RLL have predominantly been from this community as they continue to be engaged in such "occupational caste" activities for livelihood.

Providing options for the excluded:

When specific communities or households cannot take advantage of provisions made available under a development project, options are provided to them to make sure that they are not excluded from benefitting from the project. For example, when it was realized that *Dalit* households who could not afford to pay for the electricity provided by a micro-hydro project under the Rural Energy Development Programme would remain excluded, they were provided with the option of having electricity through rechargeable batteries that could be recharged locally.

UNDP Vietnam reports that under the direction of the government's **Committee on Ethnic Minority Areas (CEMA)**, a high priority has been given to targeted programmes for ethnic

minorities to overcome disparities in poverty reduction. The **Socio-Economic Development Programme for Ethnic and Mountainous Areas or Programme 135 Phase II (P135II)** aims to reduce the poverty rate in ethnic minority and mountainous areas to less than 30%, narrow the development gap between ethnic groups and other regions, promote market-led development and improve socio-cultural livelihoods for ethnic minorities.

In developing policies targeting ethnic minorities, the Government of Vietnam applies the following broad principles:

- Promoting equality, solidarity, and mutual help among ethnic minorities;

- Creating favourable conditions for ethnic minorities to develop and advance toward mainstream society and the common development of all Vietnam's ethnic groups;

- Respecting the interests, traditional cultures, languages, customs and beliefs of all ethnic minorities; and

- Matching socio-economic policies with the special characteristics of regions and ethnic minorities.

There are three general areas of policies that relate to the socio-economic development of ethnic minorities. Long term socio-economic development strategies and plans (e.g. the 10 year strategy and 5 year plan) guide the country's overall socio-economic development and include numerous references to ethnic minorities including development objectives. National poverty-targeted programmes such as Programme 135 and the national targeted programmes on poverty reduction translate general poverty reduction objectives into concrete measures and include ethnic minority groups in their targeting. Finally there are a **wide range of specific policies and programmes directly targeting ethnic minorities**, including subsidies for teachers working in remote areas; scholarships

and free textbooks for ethnic minority students; teaching ethnic minority languages to officials and public servants working in ethnic minority and mountainous areas; reductions and exemptions of hospital fees; forest allocation, land allocation and land reclamation.

UNDP Albania developed targeted approaches (**"Empowering the Vulnerable Communities of Albania"**). Evidence showed that Roma were falling behind other groups even in projects targeted at the poorest. The Government of Albania has prioritized attention to overcoming Romani exclusion, partly in line with European Union (EU) accession criteria to secure protection of minorities and also in conjunction with a regional programme, the Decade for Roma Inclusion (see section 12.5.5 of this Guide). The targeted project has proven to build good trust with the Romani community and has been a useful means for conducting advocacy around Romani issues.

The project coordinates the activities of agencies working with vulnerable minorities and provides direct assistance to the poorest and most marginalised Romani communities at the local level. At the regional level, the project empowers vulnerable ethnic minorities to partner with relevant organizations and government institutions in facilitating access to social and economic aid programmes with the registration of marginalised communities. **Minority communities partner with local government to address urgent development priorities in the poorest areas, supporting Roma to access property rights and receive documentation of land ownership**. The minority group members, targeting women and youth of this community, participate in on-the-job training and vocational education. A network of health and police mediators is established to further secure the well-being of the Romani and Egyptian population.

At the central level, the project supports the government's work on social inclusion and improved governance, placing Romani issues on the national development agenda, and bringing

minority rights in line with similar proactive courses of action taken by neighbouring states. The project builds capacities of central and local government, NGOs and media on minority rights and provides them with the proper tools for mainstreaming minority issues in mechanisms of national and regional development planning. **A comprehensive public information campaign serves to increase awareness about disadvantaged minorities**.

Based on intensive consultations and field visits, the project implements activities based on six key intervention goals:

- Enhance Social Inclusion and Access of Minorities to Social Services;

- Support Community Participation to Address Development Priorities;

- Develop Capacities and Employable Skills;

- Mobilize Community Volunteer Health and Police Mediators;

- Promote Minority Issues and Implement the National Roma Strategy; and

- Advocacy on Minority Issues and Social Inclusion.

UN Volunteers (UNV) interventions at the community level in regions with large minority populations are helping to building bridges between government and minority citizens as well as fostering a constructive dialogue within the communities and with external government and civil society stakeholders. The UNV project also raises awareness about disadvantaged minorities through a comprehensive public information campaign, supporting national media to foster mutual understanding and promote social inclusion. Advocacy activities promoted International Roma Day, celebrated Roma culture by bringing movies to poor communities,

and involved the broadcast of a 15-minute documentary. Additional activities including free legal counselling and support, the raising of awareness on the values of registration particularly among young women and expecting mothers, and lobbying with relevant public authorities will be incorporated into the project.

Among the tools created by the project are **two manuals that could be adapted for other UNDP COs:** *a Training of Trainers Manual: Respecting the Rights of Vulnerable Minorities and Promoting Interculturalism in Albania* (June 2006); and **a manual on surveying**, *Conducting a Socio-Economic Survey on Roma Community in Albania* (October 2007).

UNDP Ukraine has used an **area-based approach** for its **Crimean Integration and Development Programme (CIDP)**. An 'area-based approach' can also complement targeted and inclusive approaches. This can be particularly appropriate when minorities are territorially concentrated. An area-based approach can also stimulate cooperation between minority and majority groups within a region in designing and implementing development interventions, helping to increase social cohesion if managed effectively. An area-based approach can be defined as targeting specific geographical areas in a country, characterized by a particular development problem, in an integrated, inclusive, participatory and flexible manner.[32]

The CIDP was the main UNDP initiative aimed at promoting peace and stability in the Crimean peninsula where the Crimean Tatar minority is marginalised. The 'Emergency' stage (1995-2000) of the programme was designed in order to **directly address the needs of formerly deported people**. Although such an approach was justified by the extremely poor living conditions in which returnees lived, UNDP support was viewed by the rest of population of Crimea as unnecessarily selective given that many other

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[32] For more detailed information on Area-Based Development, see the "UNDP/RBEC Area-Based Development Practitioners Workshop, Crimea, Ukraine, 29-31 October 2003, Main Outcomes", which is available at UNDP Ukraine.

Crimeans, in particular in the rural areas, were equally struggling to cope. The decision was made to adjust the project strategy in order to **address the needs of all communities**, paying special attention to the promotion of tolerance and integration.

The CIDP was redesigned to **address root causes of the inter-ethnic tensions**. The individual interventions were targeted to:

- promote local governance through communal and social development in multi-ethnic communities of Crimea by helping people to organize themselves;

- support self-help initiatives;

- bring community organizations and local authorities closer together in dialogue and decision-making;

- encourage civil society organizations to identify and articulate their own priorities in local development plans and to pool financial and material resources in order to realize these plans.

Community-based organizations have been encouraged to identify and articulate their own priorities in local development plans and to pool financial and material resources in order to realize these plans. In all of its actions, CIDP is applying a bottom-up and participatory approach that maximizes participation of villagers and communities in local planning and decision-making processes in a way that is inclusive of all ethnic groups, transparent and responsive to people's needs. By facilitating collaboration between people from different ethnic and cultural backgrounds for the improvement of their own living conditions and by bringing local communities, social service providers and their authorities closer together, CIDP promotes the participation of disenfranchised communities of Formerly Deported People (FDPs) in society as full citizens. At the same time these activities are successful in raising understanding and awareness with local authorities and other groups of society about the specific needs of FDPs as well as the opportunities they bring to Crimean society.

Among the main types of projects under CIDP framework are:

Support to community-led initiatives: Community initiatives include small-scale drinking and irrigation water supply systems, small health posts, community pre-school facilities, community centres, youth clubs, sports facilities, women's centres, and small community savings funds to finance such activities as school transportation or to establish revolving credit schemes.

Capacity-building for local authorities: CIDP implements capacity building initiatives to support the local authorities of the Autonomous Republic of Crimea (ARC) in the preparation of strategic plans by providing trainings and consultations; and in the preparation and adoption of a comprehensive legal/policy framework institutionalizing the best practices of community initiatives.

Human Security & Conflict Management Policy: UNDP, in consultation with the government, established a "Human Security and Development Monitoring System", which contains basic elements of an Early Warning System while providing broader information on many aspects of human security. The system was designed with the participation of government, civil society and representatives of ethnic groups. The tool helps to accurately measure and analyze to what extent policies are effective in improving living conditions in Crimea and if these improvements are matched by people's perceptions about their quality of life.

Tolerance education initiatives: Schools are ethnically mixed and influence how children of different ethnic backgrounds relate to each other. The project supports community projects in schools that involve all

communities[33] but some components are developed to directly address the needs of minorities. CIDP aims to expand possibilities for education in Ukrainian and Crimean Tatar languages.[34] CIDP systematizes and disseminates the experience of existing bi-/tri-lingual schools among school communities, District Departments of Education and the ARC Ministry of Education, which will be supported in the development of a programme of teaching in native languages on the basis of bi-/tri-lingual schools.

Initiatives to reduce poverty: The establishment of Business Promotion Centres and One-Stop-Shops with the support of CIDP has removed some of the barriers to small and medium enterprise (SME) development. These centres are member-based and maintained through membership contributions and service fees. With the Ministry of Economy, the Coordinating Committees for Entrepreneurship Development were reactivated further enhancing state – citizen dialogue. Agricultural cooperatives' development is also supported.

BOX 16.
UNDP ECUADOR PROJECT ON ACHIEVING THE MDGS FOR AFRO-DESCENDANTS

Project: "Promotion of inclusive participation and support to public policies for the achievement of the MDGs by Afro-descendants in Ecuador" (December 2008 to November 2010; US$ 475.000 – Spain-UNDP Trust Fund "Towards an integrated and inclusive development in Latin America").

Background: The high incidence of inequity and exclusion in Ecuador constitutes a barrier to the enjoyment of human rights. The harshest effects of exclusion are felt in the provision of social services. Discriminatory practices against minority groups are also frequent in daily social interaction. Traditional ethnic-racial prejudices strengthen institutional discrimination. The Afro-descendant population faces a situation of poverty, vulnerability and marginalisation. Their precarious material conditions, and lower levels of educational attainment and literacy, have also become obstacles to their organizational, participatory and self-development efforts. Statistics and social indicators further demonstrate that Afro-descendants are in disadvantage, when compared to the national average and other ethnic groups, in relation to almost all MDGs indicators.

Overall objective: To promote the inclusive participation of all Afro-descendants in Ecuador and to support public policies for the achievement of the MDGs by this population, with a special emphasis on the most vulnerable groups: children, young persons, women and the elderly.

Specific objectives: To initiate public policy actions aimed at overcoming poverty among Afro-descendants, increasing political participation (especially among women), and reducing the impacts of discrimination and exclusion.

Key outputs: (a) Active participation of Afro-descendants strengthened in the design and implementation of a national public policy

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[33] As a result of UNDP/CIDP support, parents' committees were established. They come together to improve school facilities, organize multi-cultural events, festivals, virtual museums of their village, newspapers, computer classes

[34] As of today, only 10% of school students have an opportunity to learn in their native languages. During the last 15 years, 15 Crimean Tatar schools and 5 Ukrainian schools were established in Crimea representing 3% and 1% respectively of all schools whereas the share of Crimean Tatars among the ARC population is 12.1% and of Ukrainians 24.4%. Lack of schools with Crimean Tatar and Ukrainian language teaching has lead to the assimilation of Crimean Tatars and their poor knowledge of the Ukrainian language makes it more difficult for the Crimean Tatars to enter Ukrainian universities. Both factors represent obstacles for FDPs' integration into society.

BOX 16. (continued)

for integrated development, aimed at the achievement of the MDGs by Afro-descendants; (b) Knowledge on Afro-descendants' rights among Afro-descendants' civil society strengthened; (c) Capacities of national implementing partners to implement policies and plans on the needs and demands of Afro-descendants strengthened; and (d) International cooperation in support of the development of the Afro-descendant population effectively coordinated.

Key activities: (a) Based on the National Development Plan, build a strategic framework for the implementation of a public policy for the Afro-descendant population, particularly from Guayaquil; (b) Provide technical assistance to incorporate an intercultural and gender-sensitive approach and special attention to the Afro-descendant population into "Plan Ecuador"; (c) Support the evaluation of the 2001 World Conference Against Racism **Durban Declaration and Programme of Action (DDPA)** and improvements in achieving the MDGs by the Afro-descendants, and promote follow-up actions for the DDPA's effective implementation; (d) Provide technical legal support for the formulation and approval of a **draft bill on racial equality and affirmative action**; and (e) Support the establishment of a mechanism for following-up, monitoring and reporting racial discrimination acts and for monitoring and evaluating public policies of social inclusion.

Strategy: The design of the project was fundamentally guided by existing public policies, updated tools for assessing the situation of the Afro-descendant population, the strategic focus areas of CODAE (Corporación de Desarrollo Afroecuatoriano), and a complementarity with other present and future international cooperation efforts for Afro-descendants. The project encompasses an integrated and inclusive approach to human development, including the formulation and implementation of affirmative action.

The project promotes broad and active participation of Afro-descendant organizations, both national and local, throughout the different phases of the project cycle, and the national coordinating mechanism will work with a wide range of local government authorities, civil society organisations, as well as the Spanish Agency of International Cooperation for Development (AECID).

The project is guided by the fundamental human rights principles enshrined in the Convention on the Elimination of All Forms of Racial Discrimination, ILO Convention 169 Concerning Indigenous and Tribal Peoples, the Durban Declaration and Programme of Action and the Millennium Declaration. Moreover, the implementation of the project will attempt to incorporate the recommendations formulated by the UN Treaty Bodies and the Special Procedures of the Human Rights Council, especially those related to the rights of Afro-descendents, racial discrimination and the follow-up to the DDPA.

BOX 17.
BUILDING GOVERNMENT CAPACITY: STUDY TOUR ON MINORITY ISSUES

UNDP in Vietnam supported a study tour for Vietnamese government officials to Brazil at the end of 2007 to learn and consider relevant options for innovative and successful social protection and development policies for ethnic minorities in other countries, especially targeting chronic poverty and self-help approaches that support ethnic minorities to manage their own development. The main objectives of the study tour were to help Vietnamese officials responsible for ethnic minorities and social development to:

a) **learn from other countries' experiences:**
   1) what policies have improved living standards for the chronic poor especially among ethnic minorities and enhanced their financial and human capital and overall security;
   2) how these countries have created an enabling environment for social development that benefits ethnic minorities and the chronic poor; and
   3) what are the lessons learned in terms of how social development policies have benefited or not ethnic minorities;

b) **apply this knowledge** to contribute to developing appropriate policies in Vietnam for initiatives for the socio-economic development of ethnic minorities, specifically within the Socio-Economic Development Programme for Ethnic and Mountainous Areas (P135-II).

The study tour featured meetings with both CSOs and government officials working on issues pertaining to Afro-Brazilians and indigenous peoples of Brazil. The outputs of the study tour included a detailed report and presentation describing what was learned from the study tour and how these lessons can be applied in the Vietnamese context; and a concept paper analyzing opportunities, constraints and recommendations to apply/pilot in Vietnam selected best practices.

The study tour set out to answer a number of key questions:

- What are the most effective ways to design social policies and programmes and what is the role of facts, research and evidence? If an evidence-based approach to policy making has been applied, how was this developed, encouraged and maintained?

- Is improving human development and/or social protection an explicit policy objective or an indirect objective of a programme focused on reducing hunger and poverty? How are social protection and development objectives integrated, or not? How are the needs and interests of ethnic minorities factored into this?

- What types of financial and non-financial barriers to access need to be addressed, and are there any specific to ethnic minorities?

- What is the role of gender in terms of enhancing effectiveness and impact? Are there differences in how ethnic minorities versus majority groups approach gender and are these considered in policy and programme design?

- How are the poor and ethnic minorities involved in designing, implementing, monitoring and evaluating programmes and policies? Is it important for administrative staff to apply a participatory approach?

- What is the role of culture and how can adapting policies and programmes to the cultural realities of ethnic minorities increase effectiveness?

BOX 17. (continued)

- What political pressures do governments face when applying conditions and targeting policies and programmes for ethnic minorities and/or the chronic poor?

- What capacity is needed to administer implementation at different levels and how is this addressed? What capacities need to be developed among beneficiaries, and through what mechanisms or channels? Are there specific capacities related to programmes that deal with ethnic minorities?

- How is targeting managed, and what are the trade-offs between accuracy of targeting and the politics and cost of targeting? Are ethnic minorities specifically targeted, and if not how are they included as policy and programme beneficiaries? Are there any measures to ensure that minorities get fair access to benefits in mixed communities?

- Will the benefits of social policies and programmes - in terms of human development outcomes, and also in terms of reducing hunger and income poverty, increasing women's empowerment, and promoting growth -

exceed the costs of administering them? How is this issue relevant for programmes that specifically target ethnic minorities and/or the decisions made whether or not to target minority groups?

- How are programmes and policies monitored and evaluated, and how does the information feed back into the policy formulation process? Is data on ethnic minorities disaggregated?

- How do beneficiaries "graduate" from a programme and what support is there for those who fail to reach the programme objectives?

- How is improved access to education conditioned by available economic opportunities, and are there differences specific to ethnic minorities?

- What role does microfinance play in social development for ethnic minorities and the poorest and can it be part of broader social protection measures?

Chapter 6
CAPACITY DEVELOPMENT

6.1 BUILDING GOVERNMENT CAPACITY ON MINORITY ISSUES

Building the capacity of governments and other partners to integrate minorities into development programme will reduce exclusion. It may be challenging for partners to understand the important national benefits that will flow from such inclusion, particularly where discrimination against minorities is deeply entrenched and the balance of power could be upset. The benefits of minority inclusion could be highlighted (see, for example, Chapter 1) and used to encourage government buy-in. A multi-stakeholder dialogue with minority CSOs and national councils for non-discrimination or minorities could inform as to the capacity building needs and form.

Capacity building needs will be country specific. Government capacity vis-à-vis some minority groups (e.g. indigenous peoples) may be stronger than towards others. Inter-communal relations and minority CSOs capacity for advocacy are important considerations. Table 6 offers some key suggestions for building capacity at the individual, organizational and enabling environment levels. **Consideration of how to build capacity on minority issues can be mainstreamed into all capacity assessments.** Some guiding questions include:

Institutional arrangements

- Is non-discrimination routinely monitored in all institutional procedures?
- Are there any statutory institutions with responsibility to oversee non-discrimination issues and/or minority protection issues?

- Are all minorities proportionately represented in public service staff?
- Are there measures in place to improve, support and maintain the ethnic, religious and cultural diversity of employed staff?

Leadership

- Are minority CSOs able to operate and to form networks freely?
- Does the government have any cooperation agreements with minority CSOs?
- Are high-level actors knowledgeable about, accessible and accountable to minorities?

Knowledge

- Are public sector staff aware of the situation of minorities in relation to their operational responsibilities?
- Do public sector staff have access to training on non-discrimination and minority protection? Are they able to apply non-discrimination practices in their daily work?
- Are minorities able to easily access information on government activities affecting them?

Accountability

- Are there any monitoring and evaluation systems to assess the impact of government policies and programmes on minorities?
- Are minorities able to access mechanisms of complaint regarding government practices that affect them?
- Do minority actors participate in all civil society initiatives established by government?
- Are non-discrimination laws fully and equally implemented for minorities?

Table 6. Capacity Building for Governments for Minorities in Development		
Levels of Capacity	**Types of Capacity**	**Capacity Building on Minorities in Development**
INDIVIDUAL CAPACITY	Experience Knowledge Skills	• Training for government staff on non-discrimination and minority rights • Information about measures to prevent discrimination, e.g. employment tribunals • Access to data on the status of minorities • Information about existing minority CSOs and areas of expertise • Encourage employment 'diversity' associations of minority staff and other underrepresented groups • Creating opportunities for dialogue between government actors and minorities • Building capacity of minority CSO leaders to work with government officials (e.g. through briefings on policy proposals)
ORGANIZATIONAL CAPACITY	Internal Policies Procedures Frameworks	• Establishment of national councils on non-discrimination and/or minorities and similar institutions at the local level • Data collection reforms to produce and analyze adequate disaggregated data • Integration of consideration of minorities into all national development plans and policies • Systematic monitoring of impact of policies and programmes on minorities • Adoption of non-discrimination policies for all public and private sector employment • Establishment of competencies on minority issues in all public institutions (e.g. through designated staff or divisions) • Building institutional cooperation with minority CSOs and networks
ENABLING ENVIRONMENT	Policies Legislation Power relations Social norms	• Legislative reform protecting the rights of minorities to express culture, language and religion • Strong mechanisms to implement non-discrimination legislation • Public education campaigns on non-discrimination • Ensuring freedom of association for minorities in law and practice • Support to media outlets aimed at minorities • Review of budget allocations to ensure non-discrimination against minorities • Minority support to parliamentarian networking • Integration of minority issues into all UN Treaty Body reports, the Universal Periodic Review mechanism and country visits of UN Special Rapporteurs

6.2 BUILDING UNDP CAPACITY ON MINORITY ISSUES

Many UNDP COs have good experience in working with vulnerable groups, including indigenous peoples. This experience can be used in building capacity for effective engagement with ethnic, religious and linguistic minorities. There are several actions that could be undertaken to build this capacity. Some general recommendations are outlined below.

6.2.1 Staff Diversity:

One of the best ways to engage with minorities is to employ staff members from minority groups. By employing staff that are able, for instance, to communicate in minority languages or understand the opportunities and constraints of minority cultures, awareness on minority issues could be raised.

Existing staff members could be encouraged to know the relevant minority groups in their countries of concern, the key issues for such minority groups, and to have sensitivity to minority cultures and languages. Similarly, UNDP could build knowledge on minority issues at regional and global levels. UNDP could consider establishing training programmes that aim to enhance knowledge on minority issues among its staff. UNDP Nepal has made staff diversity a priority and has strengthened its engagement with excluded groups as a result (see Box 18).

Where there are few qualified minority candidates, consideration could be given to career support initiatives, and the creation of internship programmes to nurture emerging professionals. In order to avoid a 'brain drain' of highly qualified minorities from minority CSOs, CSO partnership frameworks may be explored to increase UNDP's capacity on minority issues without decreasing the capacity of minority CSOs.

BOX 18.
UNDP NEPAL'S INTERIM WORKFORCE DIVERSITY POLICY

A task force was created in 2006 to examine the issue of workforce diversity in the UNDP country office for Nepal and to develop a strategy to diversify the workforce. The report of this task force revealed that 78% of the total staff came from only five ethnic groups (while Nepal has 102 ethnic groups according to census data). Also, among the national officers, 78% came from the same five ethnic groups. Female staff numbered only 38% out of which only 21% were officers and 79% were support staff. It was concluded that there was no gender balance, women were concentrated in support positions, and men from particular ethnic groups dominated professional positions. In response, UNDP developed a policy and strategy to diversify its workforce both to implement the corporate policy of gender balance at all levels by 2010 and to have a more representative staff composition given Nepal's ethnic diversity. Some of the key features of this policy include:

- All Terms of References are to include issues on gender and social inclusion relevant to the position and areas of responsibility

- All vacancy announcements are to include the statements:

"UNDP has a policy to have a gender balance in its staff at all levels by 2010",

"Women, Dalits, Janajatis, Madhesis, persons with disabilities, and other minorities are especially encouraged to apply"

"Work experience and/or academic knowledge in relation to gender and social exclusion will be an added advantage"

▶

BOX 18. (continued)

- All vacancy announcements are to be disseminated as widely as possible through the media, civil society networks, UNDP field offices and project offices.

- Recruitment committees are to have equal number of males and females whenever possible.

Applicants are categorized into three priority groups:

- **First group:** Madhesi, Dalits, persons from religious minorities, disadvantaged Janajatis (indigenous peoples) and women with disabilities.

- **Second group:** Madhesi, Dalit, persons from religious minorities, disadvantaged Janajatis, men with disabilities, and women from Brahman/Chhetri or advantaged Janajati groups.

- **Third group:** advantaged Janajati groups (Newars, Gurungs, Thakalis) and male Hill Brahman/Chhetri

- For candidates from the first and the second categories, the following affirmative action policies are to be applied: Their work experience on gender and/or social inclusion issues is counted under "years of experience". The number of years of experience required for project positions is lowered by 2 to 3 years. Candidates are also assessed for their potential to advance in the job and, if selected, are provided with capacity building support within the first 6 months of employment. Affirmative Action Points are to be given during written exam and interview. At least one question on issues of gender inequality and social exclusion, and part of the interview will be conducted in Nepali for project field level staff. Targeted head hunting will be carried out to ensure that individuals from excluded groups and women apply.

- Intermediate (i.e. by 2010) and long-term (by 2015) targets are set by social groups according to the proportion in the 2001 population census. The UNDP corporate target of gender balance by 2010 is also applied.

- Targets are to be revised annually and strategy modified accordingly.

Policy implementation has been challenging. More time is required for the recruitment process, there have been difficulties in determining the ethnicity of some applicants using UN Personal History Forms (P-11), there are fewer qualified candidates from excluded groups and the policy has proven difficult to implement for project work (i.e. outside the work of national office staff). Accordingly, UNDP Nepal has developed other tools to support the policy, including training on unbiased interviewing, offering telephone and field based interviews, and regular monitoring of policy impact. Some staff have expressed concern that the policy was passed too quickly at senior level without sufficient consultation. The strategy is an interim one at present and there are plans to revise it according to initial implementation challenges and to improve the communication strategy around the policy.

The benefits of the policy have been demonstrated. UNDP is more sensitive to gender and exclusion issues; there are more staff members with good knowledge of local realities and leaders from different regions; and there is recognition that future recruitment of staff from conflict areas would enable UNDP to better enter and communicate with communities in conflict. Since the implementation of the policy in June 2007, there have been some significant changes in the staff composition. For example, by the end of November 2008, women were 47% of the entire staff (as opposed to 38% in May 2007); and the ethnic diversity of the staff had increased by 9%. Firm commitment to the policy at the senior level has been essential to its success.

6.2.2 Training:

Specialized training can help UNDP staff and partners to increase their awareness of the situation of minorities and minority rights. Staff could be provided with training on minority rights standards that are relevant for their work and learn from minorities about their cultures, livelihoods and concerns for development. Such training could be integrated into existing training initiatives by including modules on minorities.

Trainings with a particular focus on individual practice areas might also be appropriate, enabling an in-depth examination of how minorities can be more effectively included in accordance with their rights, while at the same time encouraging training support to government counterparts on these issues.

Special attention in training could be paid to understanding non-discrimination and the promotion of minority rights. This could include raising awareness of international and national non-discrimination standards. It could also include training on the issue of 'special measures' to overcome discrimination, which enables governments to take extra steps in the economic, social and political spheres to ensure equality in fact. An understanding of actions that can be taken by States in promoting other minority rights is also important.

6.2.3 Collecting Baseline Data on Minorities:

It is important to know who the minority groups are in specific country contexts and across borders. This information might not be readily available from official statistics. Some minority groups may be invisible in such statistics, while other groups may dispute the official measurements of their populations (usually as under-counted). An independent assessment could provide a more accurate picture of the number, geographical distribution and identity of the different minority groups. This may help to reveal inequalities in distribution of resources (especially if minorities are geographically concentrated) and gaps in existing statistics. This Guide provides useful tools for collecting data on minority groups, including information on how to engage minorities in the data collection process (see especially Tool 4).

Cooperation with **national statistics offices** could build capacity for data collection and encourage dialogue on concerns that may arise from changes in data collection procedures (e.g. concerns over privacy law).

In some cases, it may be difficult to discern distinct identities, or to understand which minority groups are also indigenous peoples. The official recognition of some groups may not be congruent with self-identification. However, international law favours self-identification, rather than state recognition, as a key indicator of minority (or indigenous) status.

BOX 19.
DEVELOPING A SOCIAL INCLUSION INDEX: UNDP NEPAL

It is generally agreed that poverty and human deprivation encompass much more than the purely economic dimensions of human welfare. In order to identify which groups are most in need of government policy and programmatic support, an Inclusion Index is being developed, that combines indicators on poverty (economic exclusion), health and education levels and disparities in political voice to measure the relative status of the different social groups in Nepal.

The Index is a work in progress. It looks at economic exclusion (measured by % of a given group falling below the poverty line), human development (measured by school participation rate among 6-14 year old children, % of 20-29 aged population who have graduated from high school, stunting rate among children under 5, underweight rate among children under 5), and political exclusion (measured by membership in the civil service, current teachers, local level government officials from the 1999 election). All data is disaggregated by sex and caste/ethnic groups (the small ones have been clustered together).

This work is in line with the Government of Nepal's three-year interim plan, which has made a commitment to further develop a Poverty Monitoring Analysis System and use it to track progress on reducing income poverty, as well as disparities in education, health and political voice between men and women and different social group. In order to do so, it is necessary to develop a standardized manner of clustering the 103 different social groups found in the 2001 Census. Preliminary findings of this work, which has been carried out in collaboration with the National Planning Commission, have ranked the caste/ethnic groups for each of the three indices. The work continues to develop the composite index for measuring exclusion. DFID and the World Bank are supporting this initiative.

6.2.4 Identifying Minority Rights Standards:

Familiarity with the monitoring and enforcement mechanisms of international minority standards (e.g. the UN Independent Expert on minority issues) and domestic mechanisms (e.g. National Council on Minorities) is also useful for policy and programme support because such mechanisms offer relevant guidance to governments.

6.2.5 Inter-Agency Cooperation:

Inter-agency cooperation on minority issues can be established at the national, regional and global levels. The Office of the High Commissioner for Human Rights (OHCHR) coordinates the **UN Inter-Agency Group on Minorities** in Geneva. **In Nepal**, for example, a **Social Inclusion Action Group** (SIAG) is a multi-agency forum of donor agencies (including UNDP) and civil society organizations with the purpose of promoting inclusion in policy and practice through advocacy work, learning events, and information sharing. This group helps to bring about changes within participating organizations, and positively influences government and civil society on social inclusion issues. The SIAG is focusing on issues such as workforce diversity and monitoring systems. It is conducting a workforce diversity survey of donor agencies, sharing methodologies for mapping the disadvantaged groups in Nepal and working on developing a social inclusion index. **In Ecuador**, the UNCT created the **Inter-Agency Working Group on Intercultural Issues** to coordinate activities impacting principally on marginalised Afro-descendants and Indigenous Peoples (see Box 20).

BOX 20.
THE INTER-AGENCY WORKING GROUP ON INTERCULTURAL ISSUES IN ECUADOR

At the operative level, the United Nations system in Ecuador established an inter-agency coordination mechanism, based on the concept of a lead agency for each one of the MDGs and the related themes contained in the Millennium Declaration. One of the mechanisms of this coordination process is the creation of the thematic Inter-Agency Working Groups (IAWG), which was created in 2005. The IAWGs were requested to integrate the principles of "Action 2"[35], as well as an intercultural and gender approach, into the definition of their policies and initiatives.

In particular, an Inter-Agency Working Group on Intercultural Issues was established, led by the United Nations Population Fund (UNFPA), to coordinate themes related to indigenous peoples and Afro-descendants.

Some of the activities carried out by the IAWG on Intercultural Issues included:

- Drafting a common policy on intercultural issues for the UN system in Ecuador.

- Conducting annual preparatory workshops for the participation of indigenous peoples in the UN Permanent Forum on Indigenous Issues.

- Publishing a report on the MDGs and Afro-descendants[36] (a report on the MDGs and indigenous peoples also will be published).

- Drafting and presenting annual activity reports to the UN Permanent Forum on Indigenous Issues.

- Publishing the periodical IAWG Information Bulletin.

- Conducting a preparatory workshop for the participation of Afro-descendants in the UN Durban Review Conference 2009, which was a follow up to the 2001 UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

- Attempts to create a mechanism of consultation with indigenous peoples (a "Permanent Consultative and Advisory Council of the United Nations and the Indigenous Organizations, Nationalities and Peoples").

- Implementing a first large-scale Joint Programme (**"Development and cultural diversity for the reduction of poverty and social inclusion programme"**) presented by the member agencies of the IAWG (8 UN agencies) to the UNDP-Spain MDG Achievement Fund, under the Thematic Window on "Culture and Development". The total three-year budget is US$ 5,500,000.

- Supporting several UN Special Procedure visits to the country, including the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, and the Working Group of Experts on People of African Descent. In the case of other UN Special Procedure missions to Ecuador, intercultural issues have been included as a cross-cutting issue, facilitated by field visits to communities, meetings with ethnic groups and with state bodies responsible for human rights and public policies related to ethnic groups.

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[35] Action II is an initiative of the UN Secretary-General in 2002 and focuses on the role of UN institutions in supporting governments to strengthen national human rights protection systems. Action II calls for UN agencies to integrate a human rights-based approach into their work and to make human rights a key focus of all UN Country Teams.

[36] See http://www.odmamericalatina.org/frontEnd/images/objetos/Informe_AFROECUATORIANO.pdf (accessed 9 August 2009).

6.3 UN SUPPORT TO CAPACITY-BUILDING FOR MINORITIES

Overcoming marginalisation by building the capacity of minorities to fully engage in economic and political spheres is a major undertaking for governments. The UN Millennium Campaign offers grants to civil society for advocacy on the MDGs. These programmes can be used for pilot projects that demonstrate good practice in overcoming marginalisation and protecting minority rights. Other UN agencies have targeted efforts at building capacity of minorities for cooperating with governments and the UN.

Minority Fellowship Programme: OHCHR organizes annual human rights training programmes specifically addressed to minorities. The Minority Fellowship Programme aims to strengthen the knowledge of minority representatives of the UN system and relevant mechanisms so minorities can better promote and protect the rights of their communities. The Minority Fellowship Programme started in 2005 and, by end 2009, over 40 minority representatives from different ethnic, religious and linguistic communities had already benefited from this programme. It is currently available in English and Arabic.[37]

Community-Led Training for Minorities: Through OHCHR, the UN also conducts community-led human rights trainings to encourage former minority fellows and other representatives to share their knowledge with the entire community. The proposals are submitted to OHCHR (to the Indigenous Peoples and Minorities Unit), which analyses their relevance and presents them to the OHCHR Grants Committee for possible funding. The community-led training deals with the promotion and protection of human rights, with the direct involvement of minority representatives in the training formulation, methodology, implementation and evaluation.

In the long-term, a harmonized Inter-Agency Programme could be developed, providing more opportunities for the fellows to cooperate with UN agencies and national human rights institutions upon return.

COMMUNITY-LED TRAINING IN BULGARIA

One Community-Led Training supported by OHCHR was submitted by a former minority fellow from a Roma community in Bulgaria, to organize a training course in the Municipality of Polski Trambesh in Bulgaria in December 2006. The project enabled "Roma Together", the former minority fellow's organization, to organize a training workshop for local Roma representatives. The workshop aimed to engage and equip the local Roma community to put into practice the 2005-2015 "Decade of Roma Inclusion", as designated by nine countries in Central and South Eastern Europe. Participants devised a strategy to enhance Roma participation in the official decision-making process, especially in areas where their rights and daily lives are most affected. They all agreed that the Municipal Council should set up a standing body of local minority representatives to provide policy input concerning minority issues. This proposal was accepted by the Mayor and Head of the Municipal Council, who then presented the proposal to the local council members. The standing body has now been established. The former minority fellow was excited to see the knowledge and skills he acquired making a difference at home.

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[37] For more information see http://www2.ohchr.org/english/issues/minorities/fellowprog.htm (accessed 9 August 2009). OHCHR also hosts a similar **Indigenous Fellowship Programme** for indigenous peoples: see http://www2.ohchr.org/english/issues/indigenous/fellowship.htm (accessed 9 August 2009).

The United Nations Voluntary Trust Fund on Contemporary Forms of Slavery: The Fund gives small grants to organizations for projects that provide legal, financial and humanitarian assistance to victims of contemporary forms of slavery, and often supports projects of minority organizations. The maximum grant for any project is US$15,000 and the average grant is about US$10,000. The deadline for applications is December each year.[38]

Programme in Peacemaking and Preventative Diplomacy: The focus of the UN Institute for Training and Research (UNITAR) Training Programme to Enhance the Conflict Prevention and Peacebuilding Capacities of Indigenous Peoples' Representatives is a problem-solving negotiation approach to strengthen participants' capacity to more effectively negotiate to have their needs met, while also promoting constructive relationships between members of minority communities and those in the dominant community. UNITAR also organizes this programme at the regional level, which includes specific sessions on identity and conflict. In addition, UNITAR organizes an annual regional training programme for African Government officials and UN peacekeeping operation staff, and the UNITAR-International Peace Academy Fellowship Programme in Peacemaking and Preventive Diplomacy for mid and senior-level UN staff and international diplomats using negotiation simulations focusing on minority concerns and strengthening skills in conflict analysis and mediation.[39]

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[38] More information on the Fund, including application forms and criteria, can be found on the website: http://www2.ohchr.org/english/about/funds/slavery/ (accessed 9 August 2009).

[39] For more information see http://www.unitar.org/pmcp/ (accessed 9 August 9, 2009).

Chapter 7

ADVOCACY AND PARTNERSHIP

7.1 CREATING PARTNERSHIPS WITH MINORITY CSOs:

Minority CSOs can be strategic partners in the achievement of development results to accelerate progress towards the fulfillment of the MDGs and other development priorities. There is immense capacity among minority communities to support UNDP in achieving its goals. Many minority CSOs are already engaged in working towards these goals and strategic partnerships can be forged with these and other actors (in cross-sectoral partnerships) for greater impact.

The UN Charter, the UN Millennium Declaration (2000) and the UN World Summit (2005) provide a clear mandate for UNDP to work with civil society organizations (CSOs). The UNDP Strategic Plan 2008-2011 provides that UNDP:

> …will seek to build more extensive partnerships to scale up the scope and impact of its work in all areas. In addition to core partnerships with other United Nations organizations and governments, UNDP will pursue innovative and strategic partnerships with civil society organizations […] volunteerism and civic engagement are also important partnership modalities with significant potential.

Planning strategic partnerships: Advanced planning of strategic partnerships with minorities and minority organizations is to be encouraged. Strategic partnerships may be identified, aligned and integrated in UNDP-supported development plans and documents such as the CCA/UNDAFs, **Country Programme Documents and project documents** at the country level and **regional cooperation frameworks** at the regional level. It will be useful first to identify the partners and spell out their responsibilities in the respective columns of the results frameworks. In this regard, UNDP could carry out mapping and scoping exercises as well as capacity assessment of CSOs and develop a partnership strategy that will be part of the Country Action Plan (CPAP). UNDP could engage with minority organizations in various manners, ranging from development policy to operational engagement.

Partnership principles: Partnership activities need to be clearly articulated and jointly developed based on:[40]

- equity, integrity, and dedication to agreed outcomes;

- realistic expectations, underlying institutional interests and organizational values;

- a medium- to long-term perspective;

- a relationship positioned at the centre of organizational priorities and processes; and

- mutual accountability and mutual benefit.

The aspect of equity is particularly important in the case of minorities and minorities' organizations, since they often have unequal bargaining power and a different set of capacity assets that need to be recognized but also supported.

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[40] Depending on the nature of the partner organization (civil society, private sector, UN agency etc.) and the type of partnership, additional specific principles can apply that are enshrined in existing UNDP policies.

The analysis, identification and formalization of partnerships in the framework of CPAPs provide excellent opportunities to promote greater collaboration between local government units and minorities, as well as with other stakeholders, such as the private sector, through the promotion of cross-sector partnerships and the establishment of multi-stakeholder dialogue mechanisms.

The existing capacity of minorities could be utilized. This could help to ensure that development projects meet local needs. Many minority CSOs are working in UNDP practice areas, taking the lead in providing HIV care and education or providing access to information and communication technologies (ICT) for communities. Minorities and minority organizations may become stronger development actors if they are involved to a greater extent in UNDP and government work.

Promoting **civic engagement and volunteerism among minorities** can be a strategic way to partner while strengthening democratic governance and development effectiveness.

UNDP has experience in working with a wide range of CSOs while strengthening networks, encouraging policy dialogue and capacity building. In Sri Lanka, UNDP implemented a small grants programme to partner with civil society partners in crisis response and recovery following the Ceasefire Agreement and the 2004 tsunami. UNDP used an innovative and comprehensive approach to set up a grants scheme to support national CSOs and provided sub-grants to community based organizations. Part of the programme was focused on civil society capacity development and civil society advisory committees were established at the local and national levels.[41]

BOX 21.
UNV'S ENGAGEMENT IN EMPOWERING THE VULNERABLE COMMUNITIES OF ALBANIA

United Nations Volunteers (UNV) play an active role in facilitating the recognition and integration of minorities into mainstream society through legitimizing their social status and cooperating with concerned stakeholders to raise awareness on equal opportunity rights. UNV activities with regard to minorities in Albania demonstrate how volunteerism has promoted recognition and integration of minorities. UNV plays a key role in facilitating the recognition and integration of minorities into mainstream society through legitimizing their social status (birth certificates, personal identification cards, documents, etc.) needed to access social and economic assistance, health care, education, employment opportunities and political representation) and cooperating with concerned stakeholders to raise awareness on equal opportunity rights. Moreover, UNVs are instrumental in mobilizing local minority communities via community-based organizations (CBOs) and volunteer-involving organizations, building on local community dynamics and social mechanisms. UNV volunteers involve community volunteers by using a participatory process that identifies and implements local development initiatives to enhance their living conditions (i.e., infrastructure projects) and build local capacity. UNV interventions at the local level will build trusting relationships between government and minority citizens as well as foster a constructive dialogue between the communities, government and civil society stakeholders.

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41 See the report: *Civil Society and UNDP in Sri Lanka: Partnerships in Crisis Situations* (2007) http://www.undp.org/partners/cso/publications/ Civil_Society_and_UNDP_in_Sri_Lanka_partnerships_in_crisis_situations.pdf (accessed 9 August 2009).

Capacity development activities with minorities could include a comprehensive assessment of capacity assets and areas for improvement. Monitoring and evaluation of progress is an important component.

Forging partnerships with minority CSOs provides a unique opportunity to increase impact. However, identifying partnerships with minority CSOs can be challenging. Constituencies within minority communities may compete for representative authority and individuals can be co-opted by external actors without genuine authority to make decisions on the community's behalf. Community decision-making structures might exclude certain groups. Partnerships could also include organizations that will bring different community perspectives to the table, such as **youth groups or women's organizations**. Some specific minority groups might not be considered by CSOs that articulate general minority concerns or the existing CSOs might not be strong. In such cases, **specific organizational and managerial capacity support** could be provided in community-driven processes and devise mechanisms and processes for engaging communities in decision-making that affects them.

7.2 ADVOCACY:

UNDP has an important advocacy role in the promotion of human development and human rights. UNDP publications like the **National Human Development Reports (NHDRs) or MDG progress reports** can raise awareness of gaps in human development for minorities and highlight good practice. NHDRs that include disaggregated statistics could encourage other actors to collect such data. Minority groups can rely on the data as authoritative for their advocacy. The launch of NHDRs can provide useful occasions for starting dialogue with stakeholders on human development and governance issues of concern to minorities. **The Regional Human Development Report on the Roma has been helpful at the national level in advancing**

dialogue between government and Roma representatives. Producing similar regional HDRs focused on minority groups could be effective in raising relevant minority issues.

The **quiet 'development diplomacy'** of senior managers in the field is another means of advocating for minority rights. The gains in sustainable peace and development that stem from attention to minority issues and protection of minority rights could be emphasised.

The **UN Millennium Campaign** is another useful platform for bringing attention to minorities and the MDGs. The Millennium Campaign reaches out to CSOs to engage them in advocacy on such issues.

Inviting minorities to **participate in UNDP events** provides opportunitity for advocacy to minorities. Support to minority campaigns when engaging with government officials may help to raise the profile of such campaigns.

7.3 DIALOGUE:

Seeking opportunities for direct dialogue with minority communities is important. In some countries, government and the public service could include individuals from minority groups, which could help to broker dialogue on minority issues. In other cases, an official body dedicated to examining minority issues may be useful for capacity building. In many countries, neither option may exist and finding opportunities for engaging in dialogue, especially with the most marginalised minority groups, will be challenging.

Any efforts to engage in dialogue with civil society could include participation by minorities. This is particularly important where such issues may impact directly on minority communities. Such dialogue can be an important source of information for crisis prevention and for the improvement of development strategies that directly impact minorities. The CCA/UNDAF

process is a key process where, in accordance with the HRBA, a mapping and analysis of rights and duties (to minorities) could be undertaken in consultation with minorities.

Many CSOs **could be encouraged to engage in social dialogue with minority groups.** For example, trade unions often include sub-committees focused on the concerns of minority members. National platforms of CSOs could be encouraged to better reflect national diversity through the inclusion of minority CSOs. CSOs focused on the rights of women or youth could liaise with minority communities and minority CSOs with shared interests. Media associations could be sensitized to minority concerns to help combat stereotyping, hate speech and religious defamation and the development of minority media can be supported to add diversity to public discourses.

BOX 22.
PRACTICAL MEASURES TO FACILITATE THE PARTICIPATION OF MINORITIES IN LOCAL CONSULTATION

Encourage minority participation:

- Hold meetings at times and locations where minority men and women can attend safely

- Arrange informal childcare during meetings

- Provide translation into minority languages in meetings as needed; this may include translation into local dialects, which may be particularly important for facilitating minority women's participation

- Ensure that minority men and women know about the process by disseminating information through minority associations or in areas frequented by minorities (e.g. religious institutions), or through radio or TV advertisements in programmes that minorities watch or listen to.

Be aware of cultural dynamics:

- Conduct meetings so that minority men and women can voice their concerns (e.g. oderator to invite minority men and women to express themselves)

- Hold separate meetings for minority men and women on the same issue of consultation

- If direct participation from the minority community is not possible, at least invite minority representatives (from NGOs, community-based organizations).

Be aware of other obstacles to minority participation:

- Build the capacity of minority men and women to participate through education about their rights, and information about local political processes

- Use communication methods which ensure that illiterate minority men and women can participate

- In the longer term, build the capacity of minority men and women to participate through leadership capacity building.

Source: Adapted from the UNDP Toolkit on How to Mainstream HRBA and Gender into Local Governance, (2007): p. 43.

Some minority groups exist across state boundaries. Regional coordination may ensure that cross-border minority issues are addressed through **regional dialogue** as appropriate. The inclusion of minority groups in regional and global NGO platforms and consultation processes may be supported. For example, the negotiation of the regional free trade agreement for Central America[42] created a civil society committee but did not initially invite Afro-descendant NGOs to participate; thanks to lobbying by Afro-descendant NGOs, they secured a place on the committee and have been able to articulate their specific concerns over the negotiation.

7.4 INFORMATION AND OUTREACH:

Community outreach to minority groups is important. Special efforts could be made to hold meetings and consultations at the regional level, closer to minority areas. These could be more accessible through the provision of translation into minority languages. Resources could be allocated for the translation of country office websites and publications into minority languages. This is especially important where publications and projects are relevant to minority communities.

7.5 PARTICIPATION:

The right to participation for minorities may be facilitated in various ways. Minority CSOs could be engaged in a manner similar to that of other CSOs,[43] including enabling minority women and men to participate in civil society consultations/committees; supporting the development of networks of minority CSOs; and encouraging governments to engage in dialogue with minorities on key issues. **Theme groups** on minorities could be created for CCA/UNDAF processes and UNCT CSO **consultative institutions could include permanent representation from minority groups**. Public policy discussions on issues that are of particular importance to minorities, such as discrimination, education, or local governance could be convened. Each of these actions helps minorities to participate in decision-making processes that affect their communities. The **participation process may be slower and/or more costly when engaging minorities (e.g. because of translation costs, cultural processes of dialogue and decision-making), which could be factored into consultation planning**.

For indigenous peoples, the principle of free, prior and informed consent is a core component of their right to participation and to self-determination. The UNDG Guidelines on Indigenous Peoples' Issues provides a detailed discussion on how UNDP and other UN Agencies can play an instrumental role in supporting capacities to ensure participation and respect for the principle of free, prior and informed consent.

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[42] See the Dominican Republic-Central America – United States Free Trade Agreement (CAFTA-DR).

[43] See the recommendations of: *UNDP and Civil Society Organizations: A Policy of Engagement*.

BOX 23.
THE UN INDIGENOUS PEOPLES ADVISORY COMMITTEE OF KENYA (UNIPACK)

The UN **Indigenous Peoples Advisory Committee of Kenya (UNIPACK)** was one of the outputs of the 2004-2005 Human Rights Strengthening (HURIST) project focused on mainstreaming indigenous peoples' rights in Kenya. An interim committee was established in consensus with indigenous representatives participating in the June-July 2004 HURIST pilot workshop in Kenya. The interim committee served for one year and was composed of nine indigenous peoples' representatives and one UNDP representative. A long process of selecting the representatives to sit on UNIPACK was undertaken, including travel to eight sites for regional consultations with over 23 different indigenous and ethnic communities. Representatives were elected and groups were required to nominate candidates in a transparent process. The definition of 'indigenous peoples' for the purpose of UNIPACK was agreed with the communities to include pastoralists, hunter-gatherers and ethnic minorities.

UNIPACK served to:

1. Establish a mechanism for dialogue and information sharing amongst indigenous peoples, UNDP/UN system and relevant national actors, such as Government authorities and parliamentarians.

2. Provide strategic guidance on indigenous peoples' concerns, principles and perspectives for UNDP country programming and related policy initiatives supported by UNDP and the UN system.

3. Promote stakeholder dialogues and initiatives with state and non-state actors including representatives from indigenous peoples'

organizations and CSOs that strengthen networks and raise awareness about influencing policy.

4. Provide space for mutual learning and understanding between indigenous peoples and UNDP/UN staff.

UNIPACK successes:

- Some members of UNIPACK undertook advisory roles on other steering committees within UNDP programming, including the Global Environment Facility (GEF) and Assisting Communities Together (ACT);

- The NHRI has now integrated consideration of indigenous peoples and minorities into its strategic planning process;

- UNIPACK can build UNDP's capacity to support the Kenyan Government in new initiatives such as the proposed National Ethnic Race and Reconciliation Commission and forthcoming constitutional reform.

UNIPACK challenges:

- The concepts of 'indigenous peoples' and 'minorities' were not widely internalized in Kenya, which presented problems for the engagement of UNIPACK with government institutions and for accurately determining which groups constitute minorities and indigenous peoples and therefore eligible for participation with UNIPACK;

- The long-term sustainability of UNIPACK, created under HURIST, threatened by the reliance of the structure on UNDP core funding;

- There is some debate over whether to maintain UNIPACK as a distinct structure or to integrate minorities and indigenous peoples into the CSO Advisory Committee.

PART 3

Selected Tools to Integrate Minority Issues into Development Programming

INTRODUCTION

This section provides selected tools to integrate minorities into development programming and conflict prevention efforts. These tools include checklists, questionnaires and survey techniques developed by UNDP COs, UN agencies and other actors.

In order to support governments to promote inclusive growth it is necessary to first have baseline data on the situation faced by minorities and to monitor progress. This data will help to identify which minorities are the most vulnerable, the extent of inequalities faced, and the legal and regulatory framework and institutions available to address these inequalities.

Since individual minority communities are likely to have distinct challenges in overcoming inequality, the situation of each group may be assessed independently.

Using these tools:

The tools have been grouped according to utility for: situation analysis; data collection; monitoring and evaluation; early warning for conflict prevention; and integration of minorities in programme cycle management. Some tools are useful for more than one application.

Application of the tools:

The tools can be used at several stages of the programme cycle. Many of the situation analysis tools are most relevant for CCA preparation; data collection tools are appropriate for determining baseline data for setting UNDAF targets; monitoring and evaluation tools are useful for tracking the impact of CPDs and early warning tools can be used throughout the programme cycle. The information collected with these tools can be integrated into programme documents, publications, monitoring and evaluation to supplement a broader picture of development cooperation and interventions. Tool 8 on Integrating Minorities into the Programme Cycle gives a general overview of this process and key considerations for each stage of the programme management.

UNDP cooperation with governments and UNCTs is vital for efficient use of the tools and to ensure that data collected is freely available. Governments may have legitimate concerns about gathering data on minority groups. Therefore, this process may be pursued in a transparent and multilateral framework, ideally under the UNCT framework. The involvement of minority CSOs in using the tools is also recommended.

When publishing data on ethnic, religious and linguistic groups, it is important to bear in mind that many individuals may not want to identify as members of this group, usually for reasons of discrimination or social stigma. Tool 4 gives some guidance on how to deal with these issues and with privacy rights.

Sources of information:

UNDP will either rely on existing sources of information or commission the collection of primary data in order to use these tools. It is important to note that not all existing information will be objective or reliable; it is best to cross-check information against a range of data sources. There are many potential sources of information:

- Governments may have data available from the national census and other methods statistics collection. Where this data is not disaggregated by ethnicity, religion and/or language, it may be possible to use geographical region as a proxy for evaluating minority groups if they are predominantly settled in one or more areas.

- National Human Rights Institutions and, where applicable, national minority councils or non-discrimination councils, may have a monitoring role, producing information on the status of minority groups.

- Parliamentarians from minority groups will have good knowledge on legal provisions for minorities and emerging legislation.

- Minority CSOs will regularly produce reports or commentaries on issues of concern.

- Commissioned surveys and focus groups with individuals from minority communities will yield valuable information.

- The Universal Periodic Review, UN Treaty Bodies and UN Special Rapporteur country visits produce many documents evaluating a wide range of issues of relevance for minorities. Information for these reports is provided by the State and by CSOs.

- The UN Working Group on Minorities has commissioned many working papers on country situations involving minorities (see Annex III).

- Several websites of international organizations and CSOs provide up to date information on the status of minority groups (see Annex V).

- Media reports from mainstream media and particularly from media outlets aimed at minority groups will provide information on current events and perceptions of and by minority groups.

Additional reference materials are also included in the Annexes, such as: the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities; publications on minority issues; and websites on minority issues.

Table 7. Overview of Tools			
	Tool	**Application**	**Resource Implications**
Situation Analysis Tools	**Tool 1.** Checklist on general situation of minorities	Early stages of CCA/ CPD Gives general legal and social status overview of several minority groups	Staff to conduct desk survey of UN Treaty Body Reports, media reports, legal frameworks, etc Consultation with minority CSOs Consultation with any national minority council or NHRI
	Tool 2. Vulnerability Assessments	Early stages of CCA/CPD or Programme/Project development Gives information on specific minority groups and helps identify targets for development interventions	Staff to conduct desk survey Commission new primary data collection in field as needed Consultation with relevant minority CSOs Consultation with any national minority council or NHRI
	Tool 3. HRBA Causality Analysis	Early stages of CCA/CPD or Programme/Project development Provides an assessment of immediate, underlying and root causes of minority rights violations	Inputs gathered from Tools 1 or 2 Consultation with project staff to conduct HRBA analysis Consultation with local government actors to assess duties and capacity gaps for minority protection Consultation with relevant minority CSOs to assess capacity gaps
Data Collection Tools	**Tool 4.** Collecting Quantitative Ethnic Data	Early stages of CCA/CPD or Programme/Project development, CPAP monitoring and evaluation Gives guidance on parameters for conducting ethnic data collection	Staff to oversee ethnic data collection project Government actors (e.g. National statistics offices) to lead data collection Consultants to produce data collection and/or provide capacity building support to governments Consultants from minority groups to participate in data collection processes

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Table 7. (continued)

	Tool	Application	Resource Implications
Monitoring and Evaluation Tools	**Tool 5.** Survey Design, Data Collection and Sampling Method: Case Example from UNDP Ukraine	Early stages of CCA/CPD or Programme/Project development, CPAP monitoring and evaluation Gives example of institutional processes for beginning a data collection project and sample questions used to gather data on ethnic inequality	Staff to oversee data collection project Government actors (e.g. National statistics offices, local government) to lead data collection and/or monitor the data collection process. Consultants to produce data collection and/or provide capacity building support to governments Consultants from minority groups to participate in data collection processes
	Tool 6. Measuring Ethnic Distance See also Tools 4, 5, 7	Early stages of CCA/CPD or Programme/Project development, CPAP monitoring and evaluation Provides data on inter-communal relations; can give insight into the impact of project interventions on increasing or decreasing ethnic distance, which can help determine if targeted or inclusive development interventions are appropriate.	Staff to oversee data collection project Government actors (e.g. National statistics offices, local government) to monitor the data collection process. Consultants to produce data collection and/or provide capacity building support to governments Consultants from minority groups to participate in data collection processes
	Tool 7. Minorities and Conflict Checklist See also Tool 2	Early stages of CCA/CPD or Programme/Project development, CPAP monitoring and evaluation Provides data on inter-communal relations and early warning of tensions and escalating tensions; data can be shared with UNCT and relevant local mechanisms for conflict prevention	Staff to conduct desk survey Inputs from Tools 1, 2 and 6 as baseline data Consultation with relevant minority CSOs Consultation with any national minority council or NHRI Working Group on Conflict Prevention with UNCT
	Tool 8. Integrating Minorities in the UNDP Programme Cycle	Early stages of CCA/CPD or Programme/Project development, CPAP monitoring and evaluation Helps to ensure that consideration of minorities is integrated into all stages of the programme cycle	Staff to oversee integration at each stage of programming cycle

Chapter 8

8

SITUATION ANALYSIS TOOLS

TOOL NO. 1:
CHECKLIST FOR DEVELOPING PROGRAMMES AND PROJECTS ON MINORITIES IN DEVELOPMENT

The following checklist draws from an **Information Note** developed by OHCHR for its staff and other practitioners, with the support of the **Inter-Agency Group on Minorities** (composed of OHCHR, UNDP, UNESCO, UNOCHA, UNITAR, ILO, UNCTAD and WHO etc.).

Using this tool:

This tool has been developed in accordance with the provisions of the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities. It is useful for collecting a range of baseline information, which can be used, *inter alia*, to help build activities to promote and protect rights of minorities. Several sections address the needs and rights of particular minority groups, including **displaced minorities, minority women, and religious minorities**. The tool provides helpful guiding questions to inform the creation of specific surveys.

Part F provides guidance on how the UN may support the effective participation of persons belonging to minorities. OHCHR presents the tool as a work-in-progress that could be expanded in due course taking into consideration experiences from the field. If using this tool, it might be helpful to coordinate activities with OHCHR field staff and/or the OHCHR Indigenous Peoples and Minorities Unit (minorities@ohchr.org).

A. Understanding and assessing the situation of minorities in a given country

- Are minority groups recognized in the country? If so, is it through any specific legal or policy framework?

- What are the most relevant concerns for minorities in the country, i.e. gaps and situation analysis to assess which rights to which minorities are entitled, are not being enjoyed and for what reasons?

- Are these concerns specific to the minority or do other groups or sectors of the society share the same concerns?

- Are these concerns equally affecting women and men within the minority groups and in the society at large?

- What recommendations have the human rights treaty bodies or the special procedures made regarding the situation of minorities?

- Are there NGOs working on the issues of minorities? Have they, or NHRIs, produced reports, surveys or other studies, or have concerns relating to minorities been raised by the media or international NGOs?

- Does any disaggregated data exist along ethnic or religious lines that tell us something about the situations of minorities in relation to the general population?

B. Structures and settings to improve the situation of minorities

- Are minority groups organized in the country? Have women and men equal access to organizational structures and mechanisms that are representative of minorities, such as NGOs working to promote the rights of minorities?

- Is there any particular neutral setting or space for dialogue between minority representatives and government officials at the central and/or local levels and is there any room for the UN Country Team to promote their establishment and/or strengthening?

- What are the main actions currently in place in the country (Government, international community, civil society) to promote and protect the rights of minorities as set forth in the **UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities**?

- Is there any specific mechanism for the collection of disaggregated data, including on the access to education, housing and health care and health conditions that could independently reflect the realities faced by minorities in the country? Do sex and age disaggregated data exist?

- Has the UN Country Team established a mechanism (including any thematic group) or policy to consult with minorities and address their concerns?

- Does the CCA include any particular reference to the situation of minorities? If so, have their situations and concerns been included in the UNDAF for support? Does your respective Country Programme pay attention to the situation and concerns of minorities?

- Have the particular needs of minorities been analysed in the preparation of the appeals (e.g. for Donor and Agency funding for Consolidated Appeals Processes and Common Humanitarian Action Plans) for those countries where their human rights and humanitarian situations are particularly challenging?

C. Identifying priorities to address the situation of minorities

The identification of priority areas for action depends on the urgency of the situation and the kind of responses required. In situations where there are serious human rights violations or in armed conflicts, priority areas will need to be identified for immediate action. However, this is not a substitute for a more general protection framework covering a wide range of civil, political, economic, social and cultural rights.

Protection of existence of national or ethnic, religious and linguistic minorities:

- Have there been historical cases of mass violence, atrocities, sexual violence, or acts of genocide perpetrated against minorities?

- Are there cases in which members of minority groups are being physically expelled or forcibly deported from the country?

- Is there any specific situation where minority groups and/or their members are particularly excluded or targeted?

- Are there situations in which minorities are suffering as a direct or indirect result of the historical past and does this legacy still impact on their lives or livelihoods?

- Are the cases of violence against minorities systematically investigated and, if not, why not? What are the main causes of violence against minorities?

- Are freedom of religion and the right to enjoy and maintain one's own culture respected?

- Are minority women particularly at risk of abuse and social exclusion and what are the precautionary measures in place to address their situation?

Promotion of identity and education and culture:

- What sort of programmes and actions can be supported to create the favourable conditions that enable minority women and men to express their characteristics and to develop their culture, language, religion, traditions and customs?

- In the context of the support being provided to the country in the education system, how can minorities' enjoyment of adequate opportunities to learn their mother tongue or have instruction in their mother tongue, including the knowledge of their history, traditions, language and culture, be ensured?

- In a humanitarian crisis and in particular in situations of displacement, how can the right of minority children to learn their mother tongue be ensured?

Promotion of non-discrimination and equality:

- Are there comprehensive constitutional provisions and/or legislation on non-discrimination, and to what extent do they reflect the rights and the protection of minorities?

- Are there inequalities between different groups including minorities?

- Are the allegations of discrimination systematically registered when the parties are minorities?

- What are the possibilities for the UN Country Team to adopt a coordinated approach and fight against both social and institutional discrimination?

- Is there any particular situation of discrimination against minority women within their communities? How is the UN acting to protect their rights?

- Is there any discrimination in the access to basic services (health care, clean water, food and education) to minority groups?

- What are the dynamics behind multiple discrimination practices and who are the most vulnerable to it? What suitable mechanisms can be promoted to address this issue?

Promotion of participation in public life:

- Do minority groups have access to information relating to public policies and decisions taken on their behalf, especially when they were not involved in the decision-making processes?

- Is there any possibility and do mechanisms exist to ensure dialogue with minority groups at the national, regional or local government level?

- Do possibilities or mechanisms exist to ensure that the contributions of minority groups are taken into account and/or included in public policies? Are there any parliamentary or other kinds of lobby groups on minorities?

- Are minorities represented in public administration (e.g. as members of parliament, in the judicial services, and law enforcement etc)? If yes, is it proportionate with regard to the size of their communities and the interests to be addressed? If not, what could be done to promote their integration in the public service?

- Does the participation of members of minorities in public life have an effect on gender equality within the community and in the society at large? What kind of mechanisms have been or could be promoted to encourage minority women's participation?

- What are the possibilities for the UN to build the capacity of minority groups to participate in decision-making and to monitor the implementation of public policies?

Protection of the provisions of basic social services for minorities:

- How does poverty particularly affect minorities in the country? Are persons belonging to minorities considered to be disproportionately affected by poverty? Why?

- Do minority groups experience or present special health concerns? Is, for example, HIV prevalence or the incidence of poverty-related disease or malnutrition different from the rest of the population? If so, what are the causes?

- What can be done to better ensure that social services are equally accessible and appropriate to the specific needs of women and men belonging to minority groups?

- What are the possibilities for the UN to help the Government to improve social policies supporting the provision of basic social services for minorities?

- What resources do minorities control or manage locally for service delivery? Are these gender-sensitive services?

- Are minority groups able to monitor the delivery of basic social services?

- Do the main social indicators such as hunger, child mortality rates, health conditions and school enrolment reflect any particular difference between the conditions of the mainstream society and that of minorities?

Promotion of inclusiveness and participation in development:

- While carrying out assessments and project design, have the widest possible consultations with the targeted groups been ensured?

- Have there been any efforts to ensure participation of the least powerful and assertive from these groups (i.e. women, people living with HIV, children, persons with disabilities, youth, non-citizens), including the creation of conditions to ensure their equal involvement in the process?

- Has the human rights-based approach to development been used to ensure the active, free and meaningful participation of those affected by the development processes?

- Have the legitimate interests of minorities been taken into account in the development of national policies and programmes including in the planning and implementing processes?

Promotion and protection of the rights of minority children:

- How is the general situation of minority children in the country? What information is available to make an assessment of the situation? Do we need to improve our information?

- If there is an internal displacement situation, how is the situation of minority children being monitored?

- Is there any attention being paid to the needs of refugee children?

- Is children's enjoyment of human rights, including access to education and health, freedom from exploitation and child labour ensured by national laws and in practice? Do effective enforcement mechanisms exist and do they take the situations and needs of minority children into account?

Promotion of the right of minorities to maintain associations:

- Is the right to form associations and trade union organizations ensured by national legislation and equally accessible to minority workers?

- Is there any particular obstacle in the country for minorities to fully enjoy these rights?

- Have there been any efforts by the existing minority civil society organizations to establish a network for exchange of information and coordination of actions?

Access to decent work and to productive assets:

- Do minorities have equal access to employment and income generating opportunities? What is the situation of minority women in this respect? Is there a tendency for minority women or men to be concentrated in certain occupations or sectors (i.e. domestic and care work, construction, manufacturing in export processing zone, etc)? If so, what are the working conditions that prevail in their workplaces?

- Does the existing regulatory and policy framework, particularly the labour legislation and national employment polices, take into account the work-related

human rights of minorities? What are the implementation and enforcement mechanisms in place?

- Do minorities enjoy the fundamental principles and rights of freedom of association and the right to collective bargaining, the elimination of forced labour and child labour, as well as freedom from discrimination? Are these rights guaranteed to minorities, in law and in practice, on an equal footing with other workers?

- Do policies and programmes promoting decent work, including those specifically focusing on minorities, take into consideration the specific position of minorities, and in particular of minority women, in the labour market and in the workplace? Are appropriate mechanisms in place to assess the impact of these policies and programmes?

- Do minorities have equal access to productive resources, including credit, technology, vocational and skills training, information, and land? Is there a gender disparity in access?

- Do minorities enjoy the right to adequate housing and how is this enjoyment related to their situation with regard to access to land and property?

- How is the distribution of productive and reproductive work organized within minority and non-minority households? Is there any strategy in place to address the unequal distribution of household responsibilities between women and men and better balance family and work responsibilities in the communities and in the society at large?

- What kind of formal and informal social protection measures are in place to protect workers? What kind of strategy can be supported to extend social protection

coverage to minority workers, especially when they are concentrated in the informal economy?

- Is statistical information concerning the position of minorities in the formal and informal economy being collected and analysed on a regular basis?

- Are minority workers represented in trade unions and employers' organizations and do they participate in social dialogue in the country?

Displaced minorities:

- Are there minority groups within an internally displaced or refugee population?

- What are the causes of their displacement and are these linked to their minority status?

- If displaced outside their country of origin, have they been given access to refugee status determination procedures? How have claims for refugee status been assessed?

Stateless minority populations and individuals:

- Have stateless minority populations and individual stateless persons been identified?

- Are births of minority children registered so as to document where they were born and to whom? Would birth registration programmes contribute to reducing statelessness?

- Is information available on nationality procedures in a form that is accessible and comprehensible to members of minorities?

- Are there mechanisms in place to reduce statelessness, such as facilitated naturalization based on lawful, habitual residence in the territory and acquisition of nationality at birth by children who would otherwise be stateless?

- Do stateless minority populations habitually resident in the territory enjoy the full range of civil, economic, social and cultural rights guaranteed to non-citizens under international law?

D. Checklist of issues for religious minorities:

- Have there been cases dealt with by courts or complaints brought to the attention of United Nations human rights treaty bodies or special procedures, in particular the Special Rapporteur on freedom of religion or belief, with respect to the rights of persons belonging to religious minorities?[44]

- Is there recognition and respect for the right to profess and practice religion without discrimination and interference from the State or others? Do guarantees exist for this?

- Are there any limitations or restrictions placed on the right to manifest one's religion or belief?

- Is there freedom to adopt, change or renounce a religion or belief? How is freedom to adopt, change or renounce a religion or belief recognized and respected in law and practice?

- What measures are in place to ensure freedom to worship or assembly in connection with a religion or belief?

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[44] See in particular "framework for communications" contained in the annex to the report of the Special Rapporteur on freedom of religion (E/CN.4/2006/5) as well as the OSCE ODIHR Guidelines for the review of legislation on religion and belief.

- Is social pressure or forced conversion an issue affecting the minority? If yes, how is the Government addressing this?

- Is there recognition of religious minorities' holidays by the State? Are they recognized as public holidays?

- Is there recognition and protection of the right to hold religious ceremonies?

- What is the procedure for the appointment of religious leaders, priests and teachers, for those belonging to religious minorities?

- Do people belonging to religious minorities have the right to effectively participate in and be represented on religious advisory bodies? Where such advisory bodies exist, to whom do they provide counsel?

- Does the Government encourage interfaith and interreligious dialogue at all levels? How does it do so? Where communal and sectarian issues exist, how does the Government address such matters?

- Where religious education is a subject of the curriculum, what measures are in place, if any, to promote interfaith and interreligious understanding and dialogue?

- Does the Constitution or other national legislation declare the State to be secular and or officially recognize a religion or religions?

- Is there a requirement that the Head of State or other public officials belong to a certain religion?

- Is there a requirement to indicate religious affiliation in identity cards?

- What measures are in place to protect holy places, including for their non-desecration, and to ensure access to them by religious minorities?

- Is there government and authorities' support for the repair and maintenance of religious buildings? Is such support subject to any restrictions?

- Do criteria exist for establishing new religious buildings and are they agreed to in consultation with minority religious representatives or institutions? In that regard, are the following issues of importance for the minority: keeping a geographical distance between different religious buildings or maintaining a distance between existing religious buildings and the establishment of a new religious building?

E. Checklist of issues in relation to minority women:

- Minority women's access to specific social services, including education in their own language and culturally sensitive health care, child care facilities, etc.

- Minority women's social and economic conditions and their relation to exploitation and abuse, including trafficking. How does poverty affect women and men differently within the minority community and the society at large?

- The situation of minority women vis-à-vis matrimonial property rights, land tenure and property in general.

- Access to employment and income-generating activities, including equal access to human and financial resources such as capital, credit, land, information and technology, training and skills development, market and saving opportunities, social networks, etc.

- Women's level of participation in decision-making, including local development plans and poverty reduction strategies.

- Non-discrimination in relation to the acquisition, change and retention of nationality by women and passing on of nationality by women to their children and the impact on the lives of minority women and children.

- Barriers women face in accessing administration of justice services and the availability of specialized legal advice and legal literacy training.

- Violence within the community and ways of overcoming it from inside.

- Abuse and targeting of women in conflicts.

- Access to education and training – discrimination between boys and girls.

- Minority women's equal access to humanitarian aid in conflicts or natural disasters.

- The particular situation of refugee and IDP women in camps where they may be at heightened risk of being subjected to sexual and gender based violence and face problems in accessing specific social and health facilities, water and sanitation, skill and vocational training, child care and other services.

- Particular discrimination against women on the basis of work of descent (caste) and gender, for example women being forced to do particular tasks such as manual scavenging or forced into prostitution.

- Interaction between various grounds of discrimination and the special situation of minority women in global migration. Specific vulnerabilities of minority migrant women to exploitation and abuse, including trafficking, need to be taken into account for policy formulation.

- Supporting dialogue with women belonging to minorities especially in conflict situations (with particular reference to Security Council resolution 1325).

- Assessing the impact of legislation and policies in addressing discrimination affecting women belonging to minorities.

- Supporting the training and empowerment of women belonging to minorities.

- Supporting the creation or work of organizations focussing on the issues of women belonging to minorities.

F. The UN can support the effective participation of persons belonging to minorities by ensuring:

- Their participation in the development, design, implementation and evaluation of UN programmes, particularly through civil society advisory or consultative bodies to the UN;

- Support for their participation in national, regional or local level government decision-making, particularly through advisory or consultative bodies;

- Promotion of their participation in cultural decision-making bodies or religious advisory bodies;

- Encouragement and empowerment for their participation in public and political life, including through sharing good experiences;

- The grounds for their involvement in the sharing of the benefits of development and economic progress in equal conditions as the rest of the society;

- Affirmative action to increase access for persons belonging to minorities to jobs and internships or fellowships programmes;

- Encouraging and assisting reform of discriminatory processes or electoral systems.

Try to ensure, among other things:

- Access to the UN's work by minority groups;

- Participation of the least powerful (or non-dominant) in the process of programme planning and analysis of situation affecting women and children;

- Assessing the efficiency of the already existing consultation mechanisms before establishing new processes;

- Particular attention to understand the power relations and cultural behaviour and respect for cultural appropriateness of participation;

- Creation of ownership by the targeted group;

- When possible envisage promoting joint initiatives with minority organizations;

- As much as possible facilitate collaborative efforts and better coordination.

TOOL NO 2: VULNERABILITY ASSESSMENTS: STEPS AND TECHNIQUES

This tool has been adapted from the **UNDP Toolkit for a Human Rights Based Approach and Gender Analysis for Local Governance**. It was developed by UNDP Bosnia and Herzegovina's Rights-based Municipal Development Programme (RMAP) project. It includes a **'Vulnerable Groups List'**, which is an extensive list of pertinent indicators and questions anchored in a human rights framework to identify potentially vulnerable groups and assess likely human rights issues affecting them in the country context. The list includes groups such as women, persons with disabilities, national minorities, Roma, displaced persons, refugees and returnees, children, the elderly, trafficked persons, detainees, HIV positive persons, homosexuals and the very poor. The Vulnerability Assessment for Roma is provided as an example of how to target assessment to a specific minority group. The questions can be adapted for other minorities.

Using this tool:

Step 1: It is useful to begin with a desk-study of the existing socio-economic, political and culturally relevant data of the local community. This can be done by reviewing reports and publications on the area as well as existing statistics at the local level. All data collected needs to be disaggregated by sex and by ethnicity, religion and language. It is important to have a gender perspective while conducting the desk review. This means reviewing documents with information about the situation of men and women in the community, paying attention to references to different problems of men and women when reviewing documents about specific vulnerable groups, and most important, by analyzing sex disaggregated data at the local level. The output of the desk study could be a mapping of the major challenges and a few general hypotheses about who might be the vulnerable minority groups in the municipality, the ways in which they experience vulnerability, and the reasons for their vulnerability.

Following the desk review, a **primary data collection** process is necessary to identify vulnerable minority groups, the causes of their vulnerability, as well as to investigate the situation of vulnerable groups with regard to access to local services and decision making in order to set priorities and identify concrete actions to redress vulnerability in the municipality. This is important because data is often missing on the most vulnerable minority groups. To obtain this data you can use quantitative and qualitative methods. The assessment is an excellent entry point for participation of local stakeholders.

To use **quantitative methods** to conduct a vulnerability assessment you could use tools such as a survey. In this toolkit there are several examples of questionnaires from surveys identifying vulnerability. In developing the survey, it is advisable to cooperate with a professional polling institute or statistical office and to engage cooperation from minority communities. This team can also lead on training the interviewers, and collecting and analyzing data with the appropriate statistical techniques.

Another way to collect information on vulnerability and exclusion is to use qualitative methods. What characterizes qualitative methods is that they are: interactive and communicative; help develop hypotheses; help to interpret and develop linkages; are dynamic and flexible processes; and help with data analysis. They enhance understanding of a specific context, generating information on such important points as the extent and types of discrimination, quality of social services, and (dis)satisfaction of rights-holders. Tools to use are interviews, observations and focus groups to involve communities and other stakeholders in in-depth examination of their marginalisation (dimensions, causes and consequences as well as actions to be taken) and challenges.[45]

Step 2: Filling in the Matrices. Once the information has been collected, it can be used to fill in data in matrices. Matrices are self-explanatory and easy to complete. Sample matrices:

Minority Challenges Matrix:
Minority group inequalities/issues
Causes
Programme/actions at the local level to solve the issue
Existing resources at the local level to support the action

Minority Sensitive Service Delivery Matrix:
Service (e.g. Health, Energy, Education)
How the service is used by minorities/majorities
Problems/strategies to access the service
Impact of lack of access to the service
Measures to be taken for minority sensitive service design and delivery

There are two options when filling in matrices:

Project teams fill in the matrices. This could be done in a participatory manner between all project team members. Problems could be prioritized according to the preferences expressed by communities during the data collection. If the matrix is filled out by the project team/local government, a final community meeting could be included to share the results with the community and to get their reaction to the priorities established by the team.

Community members fill in the matrices. Matrices can also be used in a participatory manner, asking communities to identify problems, solutions and the resources available to implement these solutions. If truly participatory, it is important to ensure that men and women, as well as the excluded and vulnerable, have a say in the consultation process and participate effectively.

Objectives of the Vulnerable Groups List

- To aid assessment teams/researchers to identify potentially vulnerable groups and the types of issues that these groups may face.

- To make sure that teams/researchers do not overlook the concerns of entire categories of people who may not be immediately visible on first assessment of the municipality. Indeed, to guarantee a meaningful participatory approach to assessment, it is important

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45 Participatory Rural Appraisal includes a variety of participatory techniques to use in community assessments and consultation processes.

to pay attention to those who are typically marginalised and whose issues would not necessarily be voiced either by themselves, or by the State authorities or other residents on their behalf.

- To ensure that information gathered is relevant to human rights indicators or couched in the human rights framework.

- To ensure that the needs of men and women are taken into account in the process of design of the project/programme/policy at the local level.

How to use the Vulnerable Groups List

- Assessment teams/users could use the list as a reference for the types of questions to be asked in identifying the most vulnerable groups and relevant municipal actors.

- This list does not claim to be exhaustive and is intended to be a living instrument that teams can adapt according to experience and relevance in the field. As a result, users may use it as a guideline, rather than as a rigid tool. Similar questions may also be asked of other groups under each sector depending on what emerges as a priority in the municipality/sector assessed. Assessment teams/researchers are encouraged to add their own questions/comments and, where necessary, go that one step further to ask, 'why?'

- When answering the questions in the list, one needs to explain how such conclusions were reached and assessed (e.g. is this an impression formed during the assessment visit? Was information gathered from NGOs or the general public? Was there any focus group discussion conducted?). References and sources for answers need to be provided.

When to use the Vulnerable Groups List during the "Programme/Project Cycle"

1) This tool will help you to ask relevant questions during the **situation and problem analysis**

2) During **Policy and Programming development**

3) **Monitoring and Evaluation stages:** if new challenges arise, for example during the "reflective praxis", this tool will help as a background document for human rights related questions with regard to social inclusion and non-discrimination issues

Vulnerability assessment list for Roma

Note: The HRBA and Gender in Local Governance Toolkit (2007) also includes vulnerability assessments for: national minorities, migrant workers, refugees and asylum seekers.

Marginalisation / Discrimination

- Is there political, social and/or economical discrimination against Roma communities?

- Have the authorities taken measures to improve the relations between Roma communities and non-Roma communities, with a view to promoting tolerance and overcoming prejudices and negative stereotypes on both sides?

Status/identity

- Are Roma people registered as "displaced persons" or "refugees"? Do they have evidence of that status?

- Do the authorities respect the wishes of Roma as to the designation they want to be given and the group to which they want to belong? Is there any disadvantage resulting from the choice Roma make in that respect?

- Do Roma feel free to identify themselves or register as Roma for different services, without fear of reprisals or discrimination, if they want to?

- Do Roma have birth certificates? Do they have evidence of state citizenship?

- Do they face problems in obtaining official personal documents?

Public participation

Elections

- Do Roma face barriers concerning voting rights (e.g. inability to validate citizenship claims?)

- Are there any Roma political parties?

Direct participation in public affairs

- Have the authorities developed appropriate modalities of communication and dialogue between them and Roma communities and encouraged their active participation?

- In particular, are there modalities and structures of consultation with Roma political parties, associations and representatives in place, when considering issues and adopting decisions on matters of concern to Roma communities?

Civil Society

- Are there any Roma organizations or associations? What are they focusing on? Is there any organization dealing with advocacy for the rights of Roma?

- Is the ability of Roma organizations to address the concerns of the Roma population as a whole frustrated through lack of co-operation between communities? If so, are there efforts to increase co-operation?

- Are there any Roma women's associations? If so, what does their work involve?

Justice

- Are crimes perpetrated against Roma investigated and punished appropriately? Do Roma perceive they have equal legal protection of the authorities?

- Are Roma in conflict with law treated with dignity and the principle of equality before law and equal protection of law are implemented for them also? Is there any incident recorded on discrimination against Roma in equal protection of law?

Pre-trial rights

- Are translators made available when the individual does not speak one of the constituent languages?

During trial rights

- Are attacks against Roma dealt with appropriately by the courts (i.e. are complaints listened to seriously and appropriate remedies issued)?

Economy

Right to work

- Are there any statistics available on Roma in employment?

- Are Roma enjoying opportunities related to employment e.g. access to education, vocational training, information etc? If not, are Roma confined to certain types of employment, such as manual labour? Are there vocational training programmes specifically targeted to Roma in order to provide more work opportunities?

- Is there discrimination against Roma in recruitment or dismissal practices of employers? If so, what is the municipality doing to eradicate such discrimination? Are Roma workers aware of their rights and legal measures that can be resorted to when discrimination occurs?

- Does the registration process create barriers to entry to the employment market for Roma?

- Does the municipality support self-employment initiatives (e.g. development of agricultural co-operatives/small businesses) amongst the Roma population?

Education

- Are there statistics regarding the school attendance of Roma children? If so, is attendance of this minority group considerably lower than for other ethnic groups in the municipality? How many Roma children go on to secondary or further education? Of these, what percentage are girls?

- Do Roma children in urban areas enjoy their right to education more than those living in rural areas? Are there programmes in place to facilitate the inclusion of Roma children into mainstream schools, e.g. the establishment of preparatory classes?

- Do Roma children face problems of access to education based on lack of financial resources for clothing, supplies, books and tuition, transport, or registration problems due to lack of birth certificates, language etc? If so, are there any initiatives (national/local authorities, NGOs or international organizations etc) to solve this problem?

- Are Roma children relied upon by their families for income generated through work carried out during school time?

- Is early marriage an issue in terms of cutting short the school careers of Roma children?

- Are there alternatives available to Roma children as to their religious or moral education in mainstream schools (if they/ their parents do not wish them to receive instruction in the religion dictated by the curriculum)?

- Do Roma children face discrimination/ prejudice from fellow pupils or teachers? Does this deter enrolment or attendance?

- Are there attempts by state authorities (at local or central level) responsible for education to block the attendance of Roma children in schools?

- Are there attempts by state authorities to encourage the attendance of Roma children in schools and reduce dropout rates, in particular among Roma girls?

Social Welfare

- Are Roma excluded from social services benefits due to complicated processes of registration (e.g. requires official documentation, payment of fee, stable address, action to be taken within a certain time limit)?

- Have attempts by Roma to register been frustrated by authorities?

- Are there statistics available on the number of Roma receiving social security/benefits and what this includes (i.e. is any financial assistance sufficient to cover basic living requirements)?

- Are Roma aware of their entitlements to social welfare?

Health

- Have there been reports of increased health problems linked to poverty that disproportionately affect the Roma population? Is infant mortality amongst Roma unduly high in comparison with national average?

- Are Roma covered by a valid health insurance policy? If not, can they afford health care, or is access restricted?

- Do Roma face discrimination from health care workers?

- Do Roma women in particular receive adequate health care according to their needs? If not, why not?

Adequate housing

- Do Roma enjoy all aspects of the right to adequate housing, including the right to security of tenancy (e.g. in Roma settlements)?

- Are there local measures of denying of residence to Roma or unlawful expulsion of Roma? What has been done to give redress to Roma in these cases?

- Is the accommodation where Roma reside habitable?

- Are sanitation/waste collection services provided to Roma communities – in promotion of adequate housing, health and healthy environment?

- Do Roma households have access to potable water?

- Has the adequacy of sanitation of Roma settlements suffered due to increased numbers of returnees relying on the facilities?

- Do Roma benefit from alternative accommodation or alterative housing arrangements that are of an adequate standard?

Property

- Do Roma possess clear property titles in order to benefit from current property laws? Is there enjoyment of the right to property frustrated through lack of documentation?

- Is the problem of destroyed property an issue for Roma in the municipality?

- Do Roma benefit equally from any reconstruction projects in the municipality?

Culture

- Do Roma suffer from discrimination based on stereotypes of Roma culture?

- Is the municipality undertaking any efforts to dispel misconceptions e.g. education of the local population as to Roma culture and the situation of Roma in society?

- Are the media aware of their particular responsibility to not disseminate prejudices about Roma?

- Are the media educating the public about Roma life, society and culture, in the aim of building an inclusive society while respecting the human rights and identity of Roma?

Gender

- What are the traditional roles of men and women in Roma culture?

- Do men and women find obstacles in the new area to fulfil these roles in the new area?

- Does this have negative consequences for men, women, and there families?

- Do Roma women experience domestic violence? If so, can they access municipal services to protect women from domestic violence? Do municipal social services have a strategy to reach out to Roma women who experience domestic violence?

- Do Roma cultural norms discriminate against women and limit their development opportunities? In which ways?

- Does the new environment offer opportunities to end discrimination against Roma women by accessing municipal and NGO run services/programmes?

- Are Roma men particularly affected by alcoholism and other stress related behaviours? If so, can they access municipal services to treat these problems? Is there a municipal strategy to reach out to Roma men with this type of problem?

TOOL NO 3:
HRBA CAUSALITY ANALYSIS: IMMEDIATE, UNDERLYING AND ROOT CAUSES

The UN Common Learning Package on the Human Rights-Based Approach (HRBA) has developed a causality analysis process. To make a development intervention produce sustainable results, activities need to address the root causes of discrimination and inequalities. To ensure this, an analysis needs to be undertaken that maps the immediate, underlying and structural/root causes to the problem as well as the relationships between these levels.

Using this tool:

HRBA causality analysis aims at highlighting the underlying causes to non-fulfilled rights and development challenges. It analyzes not only the immediate causes for a situation but also the underlying and structural causes of social exclusion, poverty, discrimination or any other condition related to non-fulfillment of human rights. This tool can be useful for determining root causes of the marginalisation of minority groups. The findings can feed into the CCA, UNDAF outcomes and CPD responses.

Objectives:

- Map the immediate, underlying and structural causes of unfulfilled human rights, such as discrimination, poverty and social exclusion.

- Form a base for a holistic, inter-disciplinary response to the development problems; by tackling the root causes of the problem more sustainable results can be achieved.

- Break down problems to manageable and definable components.

- Identify issues and arguments, and help establish who and what the political actors and processes are at each stage;

- Help to establish whether further information, evidence or resources are needed to make a strong case, or build a convincing solution.

The Problem Tree/Objectives Tree is an exercise to facilitate causal analysis. By undertaking the exercise, relations between immediate, underlying and structural causes are identified. The tool can also be used in a participatory manner to conduct causality analysis giving it the added value of building a shared sense of understanding, purpose and action.

Discuss and agree on a local development challenge to be analysed. The problem or issue is written in the centre of the flip chart and becomes the 'trunk' of the tree. This becomes the 'focal problem'. Do not worry if it seems like a broad topic. The problem tree will help break it down. The wording does not need to be exact as the roots and branches will further define it. However, ensure to describe an actual issue that participants prioritize.

The group identifies the **causes of the development challenge** - these become the roots. Then identify the consequences, which become the branches. These causes and consequences can be created on post-it notes or cards, perhaps individually or in pairs, so that they can be arranged in a cause-and-effect logic. Some cards may also turn out to be overall constraints (move to the side of the core problem). Try to find all cause and effect relations and move the cards accordingly. There can be more causes to one effect or more effects to one cause.

The problems identified can easily be 'inverted' in an *objectives tree*. Taking the *problem tree* as your base, **reformulate the problems positively in order to turn them into objectives.** This process then leads into an "objectives tree" with the central objective simply being the inverse of the central problem. Ask participants then to look at these objectives, discuss which of these can be tackled by the project, and set priorities. Breaking men and women into different groups is recommended.

Example of Causality Analysis: Minority girls and access to education	
Development challenge **What is happening, to whom and where?**	Minority girls in rural areas are not enrolled in school, thus, the right to education for all is not fulfilled in violation of the ICESCR, CEDAW and the CRC, all ratified by the State. Initial question to ask: Why is this human right not being fulfilled?
Immediate causes WHY?	Parents are opposed to girls attending school due to distance of school from home, lack of reliable transportation and discrimination faced by minority girls at school. Curriculum does not give attention to cultural identity of the minority community and includes negative stereotypes of minorities. Teachers are not from the minority group and are not sensitive to discriminatory attitudes. School primarily attended by boys from majority groups. Initial question to ask: Why is this occurring?
Underlying causes WHY?	Schools are not built in minority areas so distances to school are great. Community lacks resources to revise curriculum. Teachers lack authority or will to change curriculum. Government has not monitored or prioritized access to education by minorities. Laws guaranteeing universal education are not implemented. Why is this occurring?
Structural/Root-causes WHY?	Lack of political will to improve minority girls' enrolment is due to persistent pattern of discrimination against minorities and gender discrimination. Minority parents are concerned with preserving cultural identity and self-esteem for girls. Cultural values give more importance to the education of boys than of girls. Minorities are unable to access higher education for teacher training. Questions to begin to ask: What is the best entry point for UN intervention? Where will CP programmes be more effective and obtain results?

Source: Adapted from *UN Common Understanding Learning Resource Guide, p. 77.*

Once the HRBA causality analysis is completed, the following step is the identification of rights-holders, their main claims and the corresponding duty bearers and their specific obligations to respect protect and fulfill those claims. You also need to map out the legal framework and formal mandates as well as the relationship between rights holders and duty bearers. The capacity assessment maps out the gaps in their ability to claim and fulfill rights so they can be addressed with capacity building exercises during the implementation phase of the project.

Objectives

- To map out responsibilities of local and central government regarding human rights at the local level

- To facilitate alignment of local development plans with national and international human rights commitments ratified by the country

- To identify relationships between rights holders and duty bearers within the area

- To identify specific responsibilities of local governments vis-à-vis citizens with regard to human rights.

- To identify capacity gaps with rights holders to claim rights and with duty bearers to fulfil rights

Tools and Steps:

Review of legislation. The review of legislation entails: (i) identifying which *international human rights instruments* have been ratified by the State[46] and the provisions regarding to your area of work (minority rights, health, education, etc.) in them. (ii) Reviewing *national laws* such as the constitution, bill of rights, non-discrimination and gender-equality laws, civil and penal codes, human rights case law, laws on decentralization, etc., and identifying the provision regarding your area of work (health, education, etc.) and, (iii) reviewing *other commitments* entered into at recent world conferences insofar as they bear upon human rights, including the United Nations Millennium Declaration (2000) or the World Conference Against Racism Durban Declaration and Programme of Action (2001) and identifying provisions regarding the project area of work.

Identifying features of human rights-based local service delivery. Using the information gathered, the project team must identify what the local government's obligations are vis-à-vis local citizens in the specific area under analysis, as well as the responsibilities of the regional and central government with regard to the specific area.

Identification of duty bearers at all levels in administration, including local and national governments, authorities, departments and relatives and other civilians with duties. This may be done within the applicable legal framework for the area of the planned intervention.

Map out the relationships between the duty bearers and claim holders following the legal framework that you have mapped out. This step gives a more detailed description of the actual entitlements and claims of rights holders vis-à-vis duty bearers and what the channels are for working with them.

Conduct the capacity assessment by identifying the rights holders and duty bearers of the planned intervention. Assess the gaps in their abilities to claim, fulfill and protect rights.

Examples of issues to investigate when undertaking capacity assessment:

Why do rights holders face difficulties in claiming their rights?

- Is there policy and law in place to claim the specific right at local level?

- Is there policy on the right and access to information?

- Do they have access to information?

- Are these norms and regulations being implemented?

- Do right holders have the ability to organize themselves?

- Are they empowered to claim rights?

Why do duty bearers fail to respect protect and fulfill rights?

- Analysis needs to be directed towards mandate and resources

- Is the mandate to fulfill a right on the side of the local government?

- Have law and policy been put in place to regulate the specific right?

- Are there sufficient budget allocations?

- Are there sufficient financial and knowledge resources?

The assessment forms the basis for capacity building activities, which are undertaken during the implementation stages of the project. Similarly, indicators are used to assess the impact after the activity.

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[46]   For this, see http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx (accessed 9 August 2009).

DATA COLLECTION TOOLS

TOOL NO 4:
CHALLENGES IN COLLECTING QUANTITATIVE ETHNIC DATA

This tool was developed by UNDP's Regional Centre for Europe and CIS. It draws from the experiences of data collection on minority groups, including innovative surveys conducted in support of the UNDP Regional Human Development Report on the Roma, 'Avoiding the Dependency Trap' (2003) and 'At Risk: Roma and the Displaced in Southeast Europe' (2006).

Using this tool:

This tool provides a detailed introduction to the approaches and challenges of collecting disaggregated data by ethnicity, religion and/or language. It provides UNDP COs with some guiding principles to observe when commissioning new data collection on minorities.

Data on household incomes and expenditures and in Labour Force surveys disaggregated by ethnicity or religion is scarce. For many reasons, statistical institutes do not tend to monitor household budgets along these lines. In the case of the Roma, for example, this reflects both political sensitivity regarding Roma and the rest of society and resistance from Romani organizations. The latter have (not wholly unreasonable) concerns that ethnically disaggregated data could be used for discriminatory purposes and thereby increase tensions and intolerance between the minority and majority.

Current data collection instruments fail to capture accurate information about minorities because of the following reasons:

- In some countries, legal constraints prevent collection of ethnic data in censuses or other surveys.

- Government and minorities fear the consequences of data collection

- Household surveys and censuses often significantly underestimate the size of ethnic minorities.

In a national census, members of minorities may opt not to identify themselves as such, often out of fear of discriminatory practices. With fluid definitions of identity, the very populations in question are unclear and any estimates can be susceptible to speculation. National representative survey samples are usually based on census data with all the consequences from under-representation of minority groups. As a consequence, minorities who did not self-identify in the census are therefore likely to be under-sampled.

Here both researchers and policy-makers face a peculiar vicious circle: data is necessary but not available. When available, it is not reliable (different estimations of minorities can be equally acceptable and justified using different sets of arguments). As a result, the opportunity for data misinterpretation is disturbingly broad. Depending on whether higher or lower estimates "work" better in the particular political context, different actors can argue for or against

some current political issue usually unrelated to the goal of improving the socio-economic status of minorities.

Obstacles to effective monitoring

The principle of self-identification

There is widespread agreement that data on ethnicity or religion are necessary for the design and implementation of effective policies to combat discrimination. At the same time, under international law, no one can be compelled to reveal certain kinds of sensitive information, including data on ethnic origin and religion. This standard is sometimes misinterpreted as prohibiting any collection of data on ethnicity. In fact, international law supports the principle of self-identification, leaving the individual to choose with which ethnic, religious or linguistic group(s), if any, to identify. Further, the Committee on the Elimination of Racial Discrimination (CERD) stated in General Recommendation VIII that the way individuals be identified as belonging to ethnic groups will 'if no justification exists to the contrary, be based upon self-identification by the individual concerned'.

Although the principle of self-identification is useful for resolving legal-ethical dilemmas concerning the collection of data on ethnicity in general, this principle alone is not sufficient to ensure meaningful data on minority groups. In the case of many minorities, a deep-seated resistance to declare their ethnic or religious identity is rooted in lived experiences of abuse of personal data. On the other hand, where programmes are established for particular groups, such as a programme to assist members of minorities to obtain jobs, individuals who do not meet any of the objective criteria for membership of a particular ethnic group (culture, ethnicity, religion, language), may attempt to self-identify with that group in order to benefit from the programme; however, there is no right to arbitrarily choose to belong to a particular minority. 'The individual's subjective choice is inseparably linked to objective criteria relevant to the person's identity'.[47]

Equally problematic is external identification. The State may not impose an identity on individuals so it is not acceptable to use the perception of the interviewer as the sole means of identifying different individuals' membership of a group. Practically, this method would also be subject to the prejudices of the interviewer and therefore likely to be inaccurate. Resolving these ambiguities about self-identification requires confidence and trust building efforts by the government and minority NGOs.

Fear, stigmatization and confounded identities

Fear of the consequences of ethnic data collection is pervasive. The fears of minorities and governments differ. Government fears include concerns that data showing large inequalities between groups will cause conflict or exacerbate historical conflicts between groups. Minorities' fear may include distrust towards government claims that data intended for beneficial use instead will create more discrimination and stigmatization. Another aspect of under-reporting of minorities is related to the multiple identities minorities might have. Experience shows that ethnicity is often confounded with civic, confessional, and linguistic identities.

Underestimation and overestimation

Taken together, the various pitfalls associated with measuring the size of ethnic populations combine to yield considerable discrepancies between official and unofficial numbers, with the official figures often considerably lower than the number of persons who identify themselves as ethnic minority in daily life. Among the problems associated with underestimating the size of a given country's minority population are overestimation on socially sensitive indicators such as birth-rate, unemployment, and criminality.

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[47] Council of Europe, *Framework Convention for the Protection of National Minorities (FCNM), Article 3.1 and Explanatory Report*, H(1995)010, paragraph 35.

Protecting sensitive data

Principles of data protection

Data protection laws are often cited as prohibiting the collection of ethnic data. However, data protection laws can distinguish between the collection of individually identifiable data and that of anonymous data, permitting the latter. European Union law, for example, applies to personal data and exempts anonymous data.[48] The Council of Europe notes that statistical results are not personal data because they are not linked to an identifiable person and highlights the need for balance between the need for research and the protection of privacy of individuals.[49]

In an attempt to balance the need for data on ethnicity with considerations of personal privacy, the European Commission against Racism and Intolerance (ECRI) has recommended that ethnic data be collected in ways that ensure confidentiality, informed consent, and voluntary self-identification. Furthermore, ECRI has urged against publication of personal data in such a way as to divulge individual identity. Taking this line of thinking a step further, one data protection expert has suggested that abuse of personal data be prevented through a method that would "**count** the members of a community without **numbering** them, i.e., without recording them individually in files, registries or computer databases" (Székely 2001, p. 279).

In addition to containing a general prohibition on the processing of **sensitive data** –including but not necessarily limited to personal data on racial or ethic origin, political opinions, religious or philosophical beliefs, trade union membership and health or sex life – the EU Data Protection Directive enumerates conditions under which the processing of sensitive data can be legitimated. For example, Article 8 (2) states sensitive data may be processed on the basis of the data subject's consent, unless the laws of the member States otherwise provide.

Further exemptions to the prohibition on processing sensitive data under the Data Protection Directive may be laid down by national laws or by decision of national supervisory authority, provided that suitable safeguards are provided (i.e. necessary technical and organizational measures are taken in order to maintain data security). The reason for this class of exemptions is to facilitate scientific research and government statistics, enabling processing and storage of sensitive data in central population registers, tax registers, census registers and the like.

Article 6 of the Data Protection Directive sets out five qualitative principles that must be respected when personal data is processed. These principles require that personal data must be:

- Processed fairly and lawfully;

- Collected for specified, explicit and legitimate purposes;

- Adequate, relevant and non-excessive;

- Accurate, and where necessary kept up to date; and

- Kept in a form that permits the identification of data subjects for no longer than necessary.

By virtue of the above principles, data collection operations could wherever possible conduct:

- Secondary rather than primary data collection;

- Anonymous rather than non-anonymous surveys;

- Sampling rather than full-scale surveys;

- Voluntary rather than compulsory surveys.

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[48] EU directive on the protection of individuals with regard to the processing of personal data and on the free movement of such data, 95/46/EC, 24 October.

[49] Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (1981) and Recommendation No. R(97) 18 of the Committee of Ministers Concerning the Protection of Personal Data Collected and Processed for Statistical Purposes (1997).

Solutions

There are six major options for producing disaggregated data. All of the approaches are mutually reinforcing and complement each other and may be seen as integral pillars of comprehensive system of ethnically sensitive data collection and monitoring. However, in some cases, additional legislation may need to be enacted to ensure full respect for the right to privacy and individual data integrity.

1. Disaggregating hard statistics using personal identification numbers as ethnic markers

2. Disaggregating hard statistics using territorial tags as ethnic markers

3. Extending the samples of regular sample surveys with Roma boosters

4. Custom "on the spot" surveys among recipients of social services

5. Community-based collection of data conducted by data collectors from the communities monitored

6. Census improvement

1. Personal Identification Number (PIN) based tagging

PIN-tagging is based on the fact that in many countries the census records ethnic affiliation (e.g. mother tongue) and the individual respondents' unique personal identification number (PIN). Matching the census identity with PIN registration in administrative data bases makes possible identification of the representatives from the respective ethnic group out of the total universe of the respective data base. This approach is applicable for extracting national-level ethnically disaggregated data on administrative (including population) statistics, registered unemployment, health treatment (both hospitalization and personal doctors visits), social insurance coverage (including labour contracts). Indicators such as registered unemployment rates, morbidity rates, mortality rates social assistance coverage, formal/informal employment rates may be computed with high level of accuracy.[50] However, for such purpose, explicit procedures for data anonymization and relevant administrative structure need to be in place.

2. Territorial markers tagging

This approach is based on the fact that minority groups are also excluded territorially, in separate (often segregated) communities. Thus territorial mapping of those communities is possible. Once a detailed map of minority-dominated communities is available, ethnic tags based on an individual's address can be applied with the assumption that an individual living in an area identified as "predominantly one ethnic group" is from this ethnic group. These tags can be used, for instance, in line ministry registries (particularly Ministry of Education) and personal doctor databases.

Territorial marker tagging is thus complementary to PIN-tagging. But it has some benefits that the latter does not have. To certain extent it can be more reliable because solves the problem with understating ethnic identity during censuses. It is also less susceptible to fluctuations due to changes in the political environment, revealing that ethnic identity is heavily influenced by the political climate, and the rise and influence of extremist parties. However, those benefits come at a cost – it grasps the marginalised, visually excluded segment of the ethnic population whilst the probability is high that the share of ethnic population integrated will fall out of the scope of the data collection exercise.

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[50] The fact that census data underestimates the number of Roma population is not a problem because the similar degree of underreporting will appear both in the nominator and the denominator. In addition indicators computed on the basis of PIN-tagging can be correlated with other data to improve their robustness.

In any case however using territorial markers tagging is important (and to certain extent – the only reliable) approach that can provide acceptably relevant estimate of the absolute number of the population in question (and not just shares as poverty rates and unemployment rates). The absolute number is crucial for needs assessment and hence for defining numeric targets. If targets (and resources) are determined on the basis of census data, the real needs will be inevitably underestimated.

3. Ethnic minority boosters in sample surveys

Household budget surveys (HBS) and labour force surveys (LFS) are the most important surveys when looking at issues of poverty, unemployment and social exclusion and the respective policies to address those issues. Unfortunately, these surveys in most countries fail to include a representative sample of ethnic minorities (especially when a minority is small or lives segregated from the majority) or when it is solely based on census data. To overcome this sampling problem and use HBS/LFS as a regular and precise data collection mechanism for minorities, sampling boosters of the respective minorities (i.e. increasing the sample size of minorities) or separate minority samples would be necessary. However, this is very costly and impossible when several minorities exist in one country.

Constructing the random sample boosters may be a problem, mostly because of the unclear number of the ethnic population. One possible compromise is accepting the self-identification principle (during the census) and constructing a random sample based on the population self-identified or having declared a respective mother tongue (ideally both). In this case a minority booster would bear the "genetic" features (and problems) of the PIN-based methods for statistical data disaggregation and shares both its benefits and detriments. An alternative could be constructing a sample on the basis of territorial mapping of the ethnic population – assuming

that such mapping is in place. Similar to the latter is using GIS (Geographic Information System)-based sampling, which to large extent is a variety of territorial tagging.

4. Custom surveys among social services recipients

This approach entails anonymous questionnaires (usually brief, consisting of just few questions) filled in by recipients of social services on voluntary basis. For example, unemployed person registering at the labour office is invited to fill in a questionnaire in addition to the regular forms. The questionnaire may include the field "ethnicity" and is dropped in a sealed box to make linking of the questionnaire with the standard application impossible.

Such approach can be a good source of information, both for the ethnic profile of the recipients of social services and for the way in which their providers work (for example, are there any ethnic-based prejudices?). In the best case scenario (assuming there is no duplication of questionnaires and their number is close to that of the recipients of social services) such survey could be representative just for the recipients, not for the whole ethnic group.

5. Community-based monitoring

Community-level data is particularly important with regard to monitoring social exclusion and poverty. Such a system could provide basic information on the communities in question based on standard questionnaires completed on regular basis by a designated member of the community after receiving training on basic data collection and reporting techniques. The system would provide:

- Quantitative information on the community status (number of households, their housing conditions, number of children attending school, their age and grade, number of drop-outs, number of new-born, number of vaccinated children etc.).

- Quantitative information on the occurrence of certain events relevant for monitoring perspective (power cuts and their duration, accidents, conflicts with majority or other ethnic groups, NGOs activities etc.).

Data collected within the system of community monitoring will provide information with respect to the status of the minority communities, their internal dynamics and the life in ethnic neighborhoods, particularly in closed ghettoes. In this regard, such data that will be complementary to other sources. For complementarity purposes, the structure of data (and the design of the instruments used) should be as close as possible to other instruments for similar data collection. A necessary precondition is the training of the local data collectors on basic data collection techniques and standards and establishing a system of incentives for responsible and reliable work as well as a control system.

6. Census improvement

The census remains the most effective instrument to collect comprehensive data on the population of a country. The major difficulty lies in capturing the multiple identities of minorities. As outlined above, using the ethnicity question, even if it is not prohibited, will not necessarily produce accurate statistics on the situation of minorities, given the issues of fear and self-identification. Therefore, the census needs to be improved in various ways to accommodate the multiple identities minorities might have, increase their willingness and trust to state their ethnicity and believe in the value and benefit of data.[51]

Regarding the ethnicity question, there are various suggestions on how to circumvent this issue. One is to introduce a multiple choice question on ethnicity. Another suggestion is to differentiate clearly between ethnicity and citizenship or nationality to prevent the respondent from the need of choosing one option only, though s/he feels to have various identities. Another option is to add questions on language, religion, partner's ethnicity or country of birth or origin as objective identification criteria.[52]

Minority involvement

Collection of data on ethnic and cultural background can be successful only if the national statistical system creates trust with regard to the confidentiality of individual data, and more generally a positive environment for population sub-groups. Therefore, one of the major prerequisites for relevant data collection is the participation and involvement of the communities surveyed in the process of data collection at all stages. Fieldwork has an important role to play within the data collection process. Simple factors become relevant, such as the sex or ethnicity of the interviewer, the way a question will be asked, or how the interviewer would be accepted by the respondent.

Minority representatives, including women, could be trained as interviewers and in the basics of sociological data collection, interviewing techniques, the contents and context of individual questions. Fieldwork could then be carried out by the trained interviewers, or regular interviewers could be accompanied by an "assistant interviewer" from the surveyed minority.

The role envisaged for the "assistant interviewers" is much broader than community penetration. Such interviewers could constitute the core of future data collectors who could actively cooperate with the national statistical institutes and

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[51] The 2006 UNECE/EUROSTAT *Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing* explicitly state: "It is recommended that representatives of ethnic, language and religious groups be consulted in the drafting of census questions, the definition of classification procedures and the conduct of censuses among minority populations to assure transparency, the correct understanding of the questions and the full participation of the population".

[52] The 2006 UNECE/EUROSTAT *Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing* explicitly state: "Ethnicity has necessarily a subjective dimension and some ethnic groups are very small. Information on ethnicity should therefore always be based on the free self-declaration of a person, questionnaires should include an open question and interviewers should refrain from suggesting answers to the respondents. Respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliations if they wish so".

other bodies interested in collecting adequate data on the socio-economic status of marginalised groups. This is a long-term investment that goes far beyond the validity of the results of surveys and censuses. These kinds of partnerships with local communities and NGOs are required to improve the data collection process and respective results.

TOOL NO 5:
SURVEY-DESIGN[53], DATA COLLECTION[54] & SAMPLING METHOD: CASE EXAMPLE FROM UNDP UKRAINE

This tool is provided by UNDP Ukraine. The Autonomous Republic of Crimea is the region where the surveys were conducted. It is a multi-ethnic region of the Ukraine, comprised primarily of ethnic Russians, Ukrainians, Crimean Tatars and of numerous other minorities.

Using this tool:

This tool provides a useful example of the rationale, processes and outputs of data collection on ethnic groups. It complements Tool 4 by demonstrating the application of many of the principles of good practice in ethnic data collection and how to operationalize them.

If current public records and statistics do not provide reliable data based on ethnic demographic divisions, statistical evidence drawing on existing data cannot be an option. Since ethnicity is a key demographic category within the Crimean region, it would be beneficial for ongoing monitoring of social inclusion and cohesion at the structural level to ensure that future public statistical data includes an ethnic profile.

Priority needs to be given to the collection of comparable and concrete data on social conditions linked to economics, land/housing/living and education issues. These are currently pressing areas of concern and at the forefront of general discourse. The data collection needs to occur once and be repeated following a period of 1-1.5 years to compare changes in the socio-economic situation. This data will only be useful if the initial preliminary results are examined thoroughly and strategic plans and objectives are devised and rolled out to address the potential disparities and inequalities observed in the data collected. The scale of data collection would need to be across Crimea's population, including all districts and cities. As the aim is to understand differences between various key demographic subgroups and ensure an overview of the general population of the region, the use of a stratified random sampling method[55] is advised.

To allow for a margin of error of 2% and a confidence rate of 95% with regard to the comparable data collected, the following steps are advised:

1. Outline the population size within each district/city ("Area unit") stratified according to the 3 majority ethnic subgroups with percentage of population size above 0.4 % of total country population size.

2. Calculate 0.97% of total population in each ethnic subgroup of every district. This is the size sample group you would need to randomly select.

3. To ensure that the data collection adds up to 0.97%, estimate the respond rate and based on that, increase the number of each sample size.

53   Resources drawn from include: The Gallup Organization, Gallup Poll Questionnaires, http://www.gallup.com/; and Cornel University, Empire State Poll 2006, Survey Research Institute, http://sri.cornell.edu/sri/esp.reports.cfm (accessed 9 August 2009).

54   Resources drawn from include: UN-ECOSOC, Handbook of Household Surveys, Statistics Office, New York, 1984 http://unstats.un.org/unsd/publication/SeriesF/SeriesF_31E.pdf; UN-ECOSOC: Designing Household Survey Samples: Practical Guidelines, Statistics Division, Series F No.98, New York, 2005.

55   Resource useful for calculating sample: http://www.custominsight.com/articles/random-sample- calculator.asp (accessed 9 August 2009).

A **Multi-Subject Household Survey** design approach is proposed, dealing with a number of subject matters in one survey. A representative adult parent/guardian within the household could be requested to participate in the survey. In order to ensure a gender balance among participants in the survey, the individuals responsible for administering the surveys will have to ensure that, ideally, 50% of those representative adult parents/guardians approached within the randomly selected households be female and 50% male. This may be an essential guideline given during roll-out in each area unit. As long as the results show balanced representation of both genders that would be sufficient to ensure both female and male respondents.

Since every district would need to be involved in the implementation of this plan, the approach for the collection of data may differ in each locality depending on the conditions. It is essential that the government institutions at the city and district levels including all Local Councils and identified civil servants in each region be fully involved in the implementation of this monitoring plan. UNDP's Crimean Integration and Development Programme (CIDP) would need to function as a facilitator to ensure its effective roll-out and provide guidance and orientation. In order to ensure local ownership and practical applicability, government institutions must be consulted to determine the final approach. The proposed approach for the collection of the data involves a combination of the following, which may vary according to area unit:

- Delivery of surveys by post or hand delivery to be filled out in written form (in cities/urban areas)

- House visits and one-on-one interviews (rural areas)

It is essential to note that this process will not be effectively implemented unless an officially authorized individual representing a state institution (i.e. Village District Council, etc.) is involved in administering and collecting the data. No UNDP-CIDP field officer should be solely involved in any district unless absolutely deemed appropriate. As it is out of the cultural norm for sensitive issues to be discussed publicly, the necessity to engage the government institutions in every step of consultation and implementation cannot be overemphasised.

Preparatory Phase

To ensure an effective and quality survey collection plan, it would be beneficial for the following steps to be put into effect:

1) Thorough review and finalization of the survey design and data collection plan by an identified Working Group composed of UNDP-CIDP Team and key representatives among stakeholders and Government representatives. The mandate of the Working Group is:

   - To ensure that the finalized design and plan is fully applicable and appropriate to the Crimean context

   - To devise and launch an operational plan in partnership with relevant authorities at the district/City Councils

2) Conducting a field pre-test of the draft survey questionnaire involving 10 family units to test its usability

Structural Indicators for Assessing Discrimination

In order to assess discrimination at the structural level, indicators of social cohesion and inclusion need to be defined. Discrimination and exclusion towards any demographic subgroup can be measured when an unequal treatment is observed in the results of comparable data within various population subgroups.

In the Crimean context, indicators of social inclusion and cohesion may be outlined as follows:

Economic Issues:

a. **Free open private entrepreneurship – equal opportunity to register and run a private enterprise.**

Comparison among ethnic and economic subgroups and within various localities measuring:

- Equal treatment in relation to time-span and requirements for registering private businesses

- Equal treatment *within a sector* in relation to frequency and nature of inspection of private business (note: variation may naturally be observed among various sectors, for example, the agricultural sector might be more often inspected than the industry sector)

Data Collection Tool: Multi-Subject Household Survey Design

b. **Equal ethnic representation in labour force proportional to ethnic population with qualified professional skills**

Comparison among ethnic populations, measuring:

- Equal treatment in relation to job opportunities for skilled professionals in various institutions in the public and private sectors

Data Collection Tool: Multi-Subject Survey Design

Land Issues:

a. **Similar processing times for land requests among all ethnic groups**

b. **Equal access to basic housing conditions**

Comparison among ethnic and economic subgroups, measuring:

- Equal treatment in processing land requests

- Differences in relation to distribution of land location

- Equal treatment in providing basic access to heat, water, electricity and adequate roads

Data Collection Tool: Multi-Subject Survey Design

Education Issues:

a. **Universal access to primary education**

b. **Equal access proportional to ethnic population in relation to native language textbook materials and classes**

c. **Equal access proportional to all ethnic populations in relation to pre-service and in-service training resources in all native language groups in Crimea**

d. **Cross-curricular formal integration of a "Culture of Peace" dialogue in the school curriculum and programme**

Comparison among ethnic populations, measuring:

- Equal treatment in the production of native language textbooks and inclusion of native language classes within an extent proportional to needs of each ethnic population

- Equal treatment in the development of native language pre-service and in-service training resources to an extent proportional to the needs of each ethnic population

- Equal treatment in relation to access to education

Data Collection Tool: Existing public records/reports and Multi-Subject Survey Design

Governance Issues:

a. **Equal representation proportional to ethnic populations at the state, district and local levels**

   Comparison among ethnic populations, measuring:

   - Equal representation in professional and political appointments within government institutions

   Data Collection Tool: Existing public records/reports

Social Security Issues:

a. **Equal access to social security and governmental programmes**

   Comparison among ethnic populations, measuring:

   - Equal treatment in relation to access to social security, health, government subsidies, etc.

   Data Collection Tool: Multi-Subject Household Survey

Religious Rights Issues:

a. **Return of old confiscated sites for places of worships as claimed by all represented religious communities**

b. **Inclusion of law that ensures the right of any religious community to openly worship while respecting the rights of other communities**

   Data Collection Tool: Existing public records/reports

MONITORING AND EVALUATION TOOLS

TOOL NO 6: MEASURING 'ETHNIC DISTANCE'

The Ethnic Distance survey is a tool used by several UNDP COs. The existence of minorities in society can be perceived either as a source of tension or as something that enriches the society. One of the ways to study attitudes towards other ethnic, religious or linguistic groups is by measuring "social distance" (or, in this case, specifically "ethnic social distance"). Social distance mean the degree of understanding and intimacy between members of social groups, which is manifested in readiness to establish more or less close social relationships with members of this group, or lack thereof.

Using this tool:

Ethnic distance surveys are useful for assessing the impact of project interventions by making comparative surveys before, after and during the project intervention. Ethnic distance surveys are also used to monitor for early warning indicators of increasing/declining tensions and possible conflict. The sample size need not be large and the tool can be used for very localized populations affected by particular projects, or on a larger scale. The tool would benefit particularly from an advisory role of minority CSOs to help determine the questions asked. Some examples are provided here on how various UNDP COs have used ethnic distance surveys.

The Human Development Report (HDR) for Serbia, 'Strengths of Diversity' (2005), conducted a survey of social distance focusing on ethnic distance between minority communities in Serbia, through four potential social relationships.[56] The findings were presented in the HDR, which highlighted the multiple identities people had and focused both on majority and minority groups together. The government was supportive of the publication of this information; ethnic distance measuring has long been a feature of social policy in the former Yugoslavia. Below is a sample table drawn from the HDR:

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[56] The Human development report for Serbia 2005 illustrates (pp. 33-44) what indicators are used to conduct a survey and analyses the results, available at http://hdr.undp.org/en/reports/nationalreports/europethecis/serbia/name,3304,en.html (accessed 9 August 2009).

Sample survey matrix of answers to statements from the scale of ethnocentrism						
	Completely disagree	Somewhat disagree	Both yes and no	Somewhat agree	Completely agree	Total
1. Members of my nation should not mix with other nations through mixed marriages						
2. One should always be cautious and reserved towards members of other nations, even if they behave as our friends						
3. In comparison with other nations, the nation I belong to is much more intelligent						
4. Openness and sincerity towards other nations brings more damage than benefit						
5. I trust more the members of my nation than other nations						
6. Due to mixing of various cultures, my nation is threatened of losing its cultural identity						
7. For each nation it is necessary to be open towards the world and influence of other cultures						
8. I think it is wonderful to have people of various nations and cultures in my country						

UNDP Ukraine used an ethnic distance monitoring tool to monitor and analyze the impact of an educational intervention. A series of questions were elaborated:

- Is greater acknowledgement of inequalities and problems different minorities are facing achieved by the end of the project?

- Have there been any 'structural' changes in schools participating in the project that are intended to help to promote equality, such as additional language classes, additional classes in human rights or other related topics, complaint procedures or forums for addressing concerns?

- Have changes in policy occurred – either at the regional, or at the school level /districts (in terms of increased curricula to address related issues, or improvement in teacher training)

- Have there been attempts, in spite of its difficulties, to measure, how the perceptions of the majority population towards minority populations as well the self-perceptions of minorities themselves have changed?

The results of the monitoring are publicized and used to inform the recommendations for teachers and head teachers which will be drawn up at the end of the project.

UNDP Kosovo has relied on ethnic distance surveys as part of its regular Early Warning Reports. Among their initiatives was the establishment of an Expert Group on Interethnic Issues to evaluate the findings of the surveys and make policy advice. The responses are disaggregated by 'Kosovar-Serb', 'Kosovar-Albanian' and 'other'. Some examples of the questions asked as part of the Early Warning Reports are:

Frequency of interethnic contacts:

- On more than three occasions
- One or two occasions
- I haven't had any contact
- I deliberately have avoided contact with any person from another nationality

Inclination to work and live with other ethnic groups:

- Would work with
- Would live on the same street
- Would live in the same town
- Would marry

Prognosis on when interethnic tensions will normalize:

- They will normalize in the near future
- They will normalize in the distant future
- Relations are already normal
- They will never normalize

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[57] UN Doc. CERD/C/67/1 (14 October 2005).

TOOL NO. 7: EARLY WARNING ON MINORITIES AND CONFLICT

This tool assists in early warning by assessing whether a country is at risk of violent conflict involving minorities. It is adapted from three sources: indicators identified by the UN Special Advisor to the Secretary-General on the Prevention of Genocide; 'Indicators for Preventing Genocide' adopted by the UN Committee on the Elimination of Racial Discrimination (CERD)[57]; and indicators suggested by Minority Rights Group International in the report, *Minority Rights: The Key to Conflict Prevention* (2007).

Using this tool:

This tool is presented as an example only and indicators must be adapted to the specific country situation. It is most relevant in countries that have a history of inter-communal conflict. However, inter-communal tensions may emerge in any country and early signs of rising tension will be evident if monitored systematically. This tool can also help to assess whether existing tensions/violence are escalating towards genocide. In situations of on-going conflict, the data collected can help to identify probable root causes of conflict, which can in turn be used for devising appropriate conflict prevention and resolution measures. It would be beneficial if minority CSOs are consulted as to which subjects and indicators are most relevant for conflict prevention.

Any UNDP projects impacting on political reform, economic inequality, land rights, justice sector reform and education reform, would benefit from application of early warning monitoring to ensure that projects will not exacerbate tensions. UNDP in some COs (e.g. Kosovo, Former Yugoslav Republic of Macedonia) has prepared Early Warning Reports that include collection of data on inter-communal tensions involving minority groups.

In 2004, the UN Secretary-General created the office of the **Special Advisor to the Secretary-General on the Prevention of Genocide**. The Special Advisor has a mandate to collect information, in particular from within the UN system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide. This provides an early-warning mechanism to the Secretary–General and to the Security Council, and liaises with the UN system on activities to prevent genocide.

The **CERD Indicators of Genocide** serve as a tool for the Committee, when examining the situation in a State party under one of its procedures, to assess the existence of factors known to be important components of situations leading to conflict and genocide. If one or more of the indicators are present, this is to be stated clearly in the concluding observations or decision, and the Committee shall recommend that the State party report, within a fixed deadline, to the Committee under the followup procedure on what it intends to do to ameliorate the situation.

Several **CSOs are engaged in early warning monitoring**. The International Crisis Group monitors conflict in over 60 countries or situations of actual or potential conflict. Minority Rights Group International hosts a database on the situation of minority groups worldwide that is regularly updated. The Minorities At Risk project is a university-based monitoring mechanism that monitors and analyzes the status and conflicts of politically-active communal groups in all countries with a current population of at least 500,000. (See Annex V of this Guide for website details).

Tool 7. Early Warning on Minorities and Conflict

Subject	Early Warning Monitoring	Possible Indicators	Data sources
Identity	Is everyone able to practice their language, religion and culture freely? Is everyone able to choose their identity or identities without suffering a detriment? Does the State accept it has minorities? Are some groups, religions, cultures or languages given superior status, such as by stating the State is of a particular religion or people, or 'constituent' peoples?	• Systematic official denial of the existence of particular distinct groups. • Compulsory identification against the will of members of particular groups, including the use of identity cards indicating ethnicity. • Legal or *de facto* restrictions on the expression of religious, linguistic or cultural identity in the public or private sphere.	• Media reports, including minority language or minority group media outlets • New or existing legislation • Constitutional provisions • UN Treaty Body reports • NHRI reports • Ethnic Distance surveys
History	Is there a history of violence and crimes against different groups? Where there is a history of major crimes against minorities has this been addressed, through investigations, prosecutions at the senior level, and apologies? Is there a common history curriculum, which reflects the history of all the communities in the country in a positive way?	• Grossly biased versions of historical events in school textbooks and other educational materials as well as celebration of historical events that exacerbate tensions between groups and peoples. • Prior history of genocide or violence against a group. • Policy or practice of impunity for past crimes. • A history of vilification or dehumanization of a group including the use of symbols, flags or markings to conjure previous abuse; denial of past atrocities and genocides; and celebration of instances of perceived or actual abuse of a group.	• Current school curricula and textbooks • Public events • Historical records • Dialogue with minority groups
Separation and Segregation	Are different peoples able to mix? Do they live together? Are schools, housing, jobs segregated? Are there strict quota systems?	• The systematic exclusion in law or in fact of groups from positions of power, employment in state institutions and key professions such as teaching, the judiciary and the police. • Compulsory identification against the will of members of particular groups, including the use of identity cards indicating ethnicity. • Policies of forced removal of children belonging to ethnic minorities with the purpose of complete assimilation. • Policies of segregation, direct and indirect, for example separate schools and housing areas.	• New or existing legislation • UN Treaty Body reports • NHRI reports • Ethnic Distance surveys • Dialogue with minority groups

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Subject	Early Warning Monitoring	Possible Indicators	Data sources
Political Framework	Does the political system ensure participation by all groups, including women in all groups? Is the government accountable in fact to all groups? Does the political system encourage parties to seek support across different groups, or force parties and voters into ethnic or religious blocs? Where there is devolution or decentralization, are the boundaries arbitrary? If devolution is on the basis of 'ethnic' or 'religious' areas are minorities within those areas given equal rights and the ability to freely express their identity?	• Grave statements by political leaders/ prominent people that express support for affirmation of superiority of a race or an ethnic group, dehumanize and demonize minorities, or condone or justify violence against a minority. • Development and organization of militia groups and/or extreme political groups based on a racist platform. • Existence of proactive communities abroad fostering extremism and/or providing arms.	• Public statements of government officials and political leaders • Media reports, including minority language or minority group media outlets • New or existing legislation • Constitutional provisions • UN Treaty Body reports • NHRI reports • CSO reports • Dialogue with minority groups • Ethnic Distance surveys
Legal Framework	Does the Constitution guarantee equality? Is there systematic discrimination against particular groups? Are there laws against discrimination? Are these implemented? Are cases being brought and implemented? Can and do minorities use the justice system, especially in security, land/property and discrimination? Are there legal restrictions on the expression of religious, linguistic or cultural identity markers?	• Existence and implementation of a legislative framework and institutions to prevent racial discrimination and provide recourse to victims of discrimination. • Existence and implementation of a legislative framework and institutions to protect freedom of religion, freedom of expression, and cultural identity. • Policy or practice of impunity for crimes committed against minorities.	• New or existing legislation • Constitutional provisions • UN Treaty Body reports • NHRI reports • Records of police arrests and incarceration of members of minority groups • Records of prosecution for crimes committed against minorities • Dialogue with minority groups
Economic Framework	Are any groups economically marginalised? Are development actors Is there understanding and action by those helping on development to address such marginalisation? Is development respectful of minorities' identity, including language, religion, and land? Do minorities have equal access to water and arable land?	• The systematic exclusion in law or in fact of groups from positions of power, employment in state institutions and key professions such as teaching, the judiciary and the police. • Violence or severe restrictions targeting minority groups perceived to have traditionally maintained a prominent position, for example as business elites or in political life and state institutions. • Significant disparities in socio economic indicators evidencing a pattern of serious racial discrimination. • Policies aimed at the prevention of delivery of essential services or assistance, including obstruction of aid delivery or access to food, water, sanitation or essential medical supplies in certain regions or targeting specific groups.	• UN Treaty Body reports • NHRI reports • Disaggregated data on Human Development Indicators (e.g. by region, language, ethnicity, religion), employment rates, poverty rates and access to education • Dialogue with minority groups

Subject	Early Warning Monitoring	Possible Indicators	Data sources
Land and Property	Do minorities have full protection of their property and land rights, in law and in practice? Has there been historic eviction of minorities from their homes? Where there have been evictions, are there effective mechanisms to address this, providing restitution and/or compensation? Are the displaced people integrated into new homes where they can make a viable living and maintain their identity? Do minorities have equal access to water and arable land? Are important sites to religions and groups protected?	• Lack of legal tenure for land and property of minority groups. • Involuntary displacement of minority groups from their land or property, including without compensation. • Displacement of minorities to land less arable, subject to environmental degradation or with poor access to water resources. • Destruction, seizure of desecration of sites of culture and religious significance to minority groups.	• New or existing legislation • UN Treaty Body reports • NHRI reports • Dialogue with minority groups
Security and Violence	Is hate speech tolerated against minorities, especially in the media and education? Is violence common against minorities? Is there any rule of law for minorities – do police protect them and arrest those who are violent towards them? Do minorities feel safe? Do minorities perceive increasing levels of inter-ethnic tension?	• Systematic and widespread use and acceptance of speech or propaganda promoting hatred and/or inciting violence against minority groups, particularly in the media. • Grave statements by political leaders/prominent people that express support for affirmation of superiority of a race or an ethnic group, dehumanize and demonize minorities, or condone or justify violence against a minority. • Violence or severe restrictions targeting minority groups perceived to have traditionally maintained a prominent position, for example as business elites or in political life and state institutions. • Serious patterns of individual attacks on members of minorities by private citizens which appear to be principally motivated by the victims' membership of that group. • Development and organization of militia groups and/or extreme political groups based on a racist platform. • Existence of proactive communities abroad fostering extremism and/or providing arms.	• Media reports, including minority language or minority group media outlets • UN Treaty Body reports • NHRI reports • Public statements of government officials and political leaders • Records of police arrests and incarceration of members of minority groups • Records of prosecution for crimes committed against minorities • Dialogue with minority groups • Ethnic Distance surveys

TOOL NO. 8.
INTEGRATING MINORITIES
IN PROGRAMME CYCLE

Using this tool:

This tool is intended to offer useful tips for UNDP to integrate consideration of minorities in each stage of the programme cycle and in some key components of work, such as the MDG/HDR reports and general engagement with civil society. It includes many of the recommendations made in other components of this Resource Guide and Toolkit but is best used in conjunction with more detailed information in the relevant chapters.

COMMON COUNTRY ASSESSMENT (CCA)

- Canvass UNCT experience of working with minorities

- Liaise with any governmental national council on minorities/non-discrimination

- Include an assessment of government capacity on minority issues in the enabling environment and organizational capacity assessments

- Conduct situation analysis of minorities (Tools 1-3 and 7)

- Establish Thematic Group on minorities and/ or ensure presence of minority experts and advocates from the governmental and CSO sectors in CCA preparatory consultations

- Include disaggregated data on minorities in CCA across all sectors (Tool 4)

- Ensure minorities are reflected throughout CCA, not only in demographic overview

- Include dedicated analysis on issues of particular importance to minorities (e.g. religious freedom; discrimination in access to employment or education)

UNITED NATIONS DEVELOPMENT ASSISTANCE FRAMEWORK (UNDAF)

- Ensure that the situation of minorities as identified in CCA is reflected in UNDAF Goals

- With Thematic Group, set UNDAF Goals or minorities and/or include specific UNDAF Indicators

- Aim to ensure all UNDAF Indicators are disaggregated by ethnic, religious and/or linguistic group

- Use the HRBA Causality Analysis (Tool 3) to identify root causes of marginalisation for minorities and aim to focus on these in the UNDAF

COUNTRY PROGRAMME DOCUMENT (CPD)

- Engage Thematic Groups on minorities in CPD elaboration

- Include measures in CPD to build government capacities for working on issues of minorities

- Aim to ensure the CPD specifically names minorities and considers the particular obstacles they face as distinct from other vulnerable groups; specifically identify minorities as programme beneficiaries

- Ensure that project tenders are produced in minority languages and distributed to minority media outlets and CSOs

- Ensure that TORs for posts include requirements for cultural sensitivity, expertise on non-discrimination and/or encouragement of minorities to apply

- Establish a Diversity Policy for recruitment of new staff (see experience of UNDP Nepal)

- Identify the training needs of UNDP staff on minority issues (e.g. non-discrimination, minority rights standards, knowledge of minority groups and development concerns)

COUNTRY PROGRAMME ACTION PLAN (CPAP)

- Seek out partnerships with minority CSOs for project implementation

- Ensure TORs for project implementation include criteria for monitoring impact of projects on minorities and evidence of relevant knowledge on minority issues

- Include baseline data and indicators for monitoring and evaluation of the impact of projects and programmes on minorities

- Integrate attention to minority issues into relevant CO training

MILLENNIUM DEVELOPMENT GOALS REPORTS, NATIONAL HUMAN DEVELOPMENT REPORTS

- Include disaggregated data tracking how minorities are achieving the MDGs/HDI

- Include dedicated analysis on issues of particular importance to minorities (e.g. environmental impact on minority-specific livelihoods; discrimination in access to employment or education)

- Consider translating summaries of MDG reports and NHDRs into minority languages and/or devising communications strategies to minority regions to disseminate key findings of reports (e.g. radio programmes, features in minority-focused newspapers)

EVALUATION

- Ensure elaboration of TORs for evaluation includes input from minority stakeholders

- Ensure evaluation consultants have expertise on minority issues and non-discrimination

- Provide evaluation consultants with contact info for relevant minority CSOs

- Distribute call for evaluators among minority CSO networks, minority media and in minority languages.

- Ensure that Programme and Project Evaluation Reports evaluate impact on marginalised minority groups (e.g. Tools 4, 6)

ENGAGEMENT WITH CIVIL SOCIETY ORGANISATIONS

- Ensure that minorities can access information on UNDP activities in their country/region (e.g. through translation of documents, dissemination through minority radio/print media, in-community briefings, dissemination via minority CSO networks)

- Actively inform minorities about proposed UNDP projects for their regions

- Offer support to minority CSOs so that they can participate in CSO stakeholder activities (e.g. funding to travel, translation services, background briefings)

- Ensure that CO Civil Society Advisory Committees strive to reflect the ethnic, religious and linguistic diversity of the country; ensure that minorities have some representation in and access to the Committee

- Ensure language accessibility: at a minimum, provide basic information on CO in relevant minority languages; publish documents in minority languages where project activities will affect minorities

- Adapt participation processes to facilitate greater participation by minorities (e.g. language access; longer, more flexible consultation periods; hold meetings in minority areas; respect for traditional decision-making processes of minority communities)

- Participate in events hosted by minority CSOs to build relationships

- In CSO capacity assessments, examine CSO engagement with minority groups (e.g. projects of cooperation with minority CSOs, minority staff, ability to communicate in minority languages, non-discrimination policies, monitoring of impact on minority groups, any field presence in minority areas).

PART 4

International and Regional Legal Standards and Mechanisms on Minority Rights

Chapter 11

11 UN STANDARDS AND MECHANISMS

The UN has adopted several instruments and mechanisms on minority rights. It is important to recall that members of minorities can have multiple identities and may also use standards and mechanisms created for those identities, for example, as women, children, indigenous peoples, migrants, refugees, persons with disabilities or non-citizens.

11.1 UN DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

The main international instrument on minorities is the **United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities**, proclaimed in 1992 (resolution 47/135) by the UN General Assembly. The Declaration elaborates minimum standards for minority rights based on article 27 of the ICCPR. Like other UN declarations, it is not legally binding. However, it is a strong political commitment by States that was adopted by consensus in the UN General Assembly.

The Declaration grants persons belonging to minorities:

Protection, by States, of their existence and their national or ethnic, cultural, religious and linguistic identity (article 1);

The right to enjoy their own culture, to profess and practise their own religion and to use their own language in private and in public (article 2.1);

The right to participate in cultural, religious, social, economic and public life (article 2.2);

The right to participate in decisions that affect them on the national and regional levels (article 2.3);

The right to establish and maintain their own associations (article 2.4);

The right to establish and maintain peaceful contacts with other members of their group and with persons belonging to other minorities, both within their own country and across state borders (article 2.5); and

The freedom to exercise their rights, individually as well as in community with other members of their group, without discrimination (article 3).

The Declaration also compels States to "take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms" (article 4.1). These measures include:

To create favourable conditions to enable them to express their characteristics and to develop their culture, language, religion, traditions and customs (article 4.2);

To allow adequate opportunities for minorities to learn their mother tongue or to have instruction in their mother tongue (article 4.3);

To encourage knowledge of the history, traditions, language and culture of minorities existing within minority territory and ensure that members of such minorities have adequate opportunities to gain knowledge of the society as a whole (article 4.4);

To allow minority participation in economic progress and development (article 4.5);

To consider the legitimate interests of minorities in developing national policies and programmes, as well as in planning and implementing programmes of cooperation and assistance (article 5);

To cooperate with other States on questions relating to minorities, including the exchange of information and experiences, in order to promote mutual understanding and confidence (article 6);

To promote respect for the rights set forth in the Declaration (article 7);

To fulfil the obligations and commitments States have assumed under international treaties and agreements to which they are parties (article 8.1); and

The specialized agencies and other organizations of the United Nations system are encouraged to contribute to the realization of the rights set forth in the Declaration (article 9).

For minority groups that are also indigenous peoples, please see the UNDG Guidelines on Indigenous Peoples' Issues (2008) for a discussion of the rights of indigenous peoples, including the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169 Concerning Indigenous and Tribal Peoples.

11.2 UN HUMAN RIGHTS TREATIES

General UN human rights treaties provide important standards for the protection of the rights of persons belonging to minority groups. There are eight human rights treaties that have established committees to follow the implementation of their work (listed in parentheses):

ICCPR - International Covenant on Civil and Political Rights (Human Rights Committee)

ICESCR - International Covenant on Economic, Social and Cultural Rights (Committee on Economic, Social and Cultural Rights)

ICERD - International Convention on the Elimination of All Forms of Racial Discrimination (Committee on the Elimination of Racial Discrimination)

CRC - Convention on the Rights of the Child (Committee on the Rights of the Child)

CAT - Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Committee against Torture)

CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women (Committee on the Elimination of Discrimination Against Women)

ICRMW - International Convention on the Protection of the Rights of All Migrant Workers and their Families (Committee on Migrant Workers)

CRPD - Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities (Committee on the Rights of Persons with Disabilities)

Two of these treaties contain minority-specific provisions:

Article 27 of ICCPR is the most widely accepted legally binding provision on minorities and provides basis for the UN Declaration on Minorities. Article 27 reads:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

The article grants persons belonging to minorities the right to a national, ethnic, religious or linguistic identity, or a combination thereof, and to preserve the characteristics they wish to maintain and develop. Although the article refers to the rights of minorities in those States in which they *exist*, its applicability is not subject to official recognition of a minority by a State. States that have ratified the ICCPR are obliged to ensure that all individuals under their jurisdiction enjoy their rights; this may require specific action to correct inequalities to which minorities are subjected.

Article 30 of CRC provides a similar standard for minority children:

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 practise his or her own religion, or to use his or her own language.

Given the wide ratification of the ICCPR and the CRC, **almost every State in the world has a legally-binding obligation to protect minority rights based on its voluntary commitments under international law**.

11.3 UN TREATY BODY MECHANISMS:

In order to implement the rights provided for in the different UN human rights treaties, human rights treaty bodies (committees) monitor the progress made by States parties in the fulfilment of their obligations to bring national laws and state practice in line with international human rights law. States parties submit periodic reports to the respective committees outlining the legislative, judicial, policy and other measures which they have taken to ensure the enjoyment of, *inter alia*, the minority-specific rights contained in the relevant instruments. On the basis of the information they receive, the committees may pursue a dialogue with the reporting State. Once consideration of a State report has been concluded, the committees issue "concluding observations". The concluding observations outline the positive steps the State party has taken in implementing the convention and make recommendations on those areas where the State is failing to fully meet its commitments.

The committees also hold thematic discussions and adopt general comments/recommendations, which provide guidance on specific issues relating to the conventions. In relation to minority rights, several General Comments/Recommendations stand out:

- HRC General Comment No. 23 on the Rights of Minorities (Article 27)

- CESCR General Comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights (Article. 2, paragraph 2)

- CERD General Recommendation No. 27 on Discrimination against Roma

- CERD General Recommendation No. 29 on Article 1, paragraph 1 of the Convention (Descent) (focusing, *inter alia,* on discrimination on the basis of caste and analogous systems)

- CERD General Recommendation No. 30 on Discrimination against Non-Citizens

- CERD General Recommendation No. 23 on the Rights of Indigenous Peoples

CERD has conducted thematic discussions on the subjects of Roma, discrimination based on descent, affirmative action/special measures, indicators for genocide prevention and the rights of non-citizens.[58] CERD also has an Early Warning Procedure to respond in cases where existing problems with implementing ICERD could escalate into more serious conflict. This may include statements or resolutions by CERD and even field visits. The committees have made recommendations on a wide range of human rights issues affecting minorities in all regions of the world. Some examples are provided in Annex II by theme.

11.4 OTHER STANDARDS RELEVANT TO MINORITIES

There are several additional international human rights standards that have particular relevance to the situation of minorities. The instruments discussed below could be considered alongside other group-specific instruments such as those for women, children, indigenous peoples, migrants, persons with disabilities and refugees.

The Convention for the Prevention and Punishment of the Crime of Genocide aims to protect[59] national, ethnical, racial or religious groups (including minorities), from destruction in whole or in part. No treaty body was established to monitor implementation. However, the Convention does foresee the creation of national or international criminal tribunals to try crimes of genocide (article 6). The International Criminal Tribunals for the former Yugoslavia and Rwanda are examples of such tribunals.

The Rome Statute of the International Criminal Court provides for the prosecution of cases that encompass not only the crime of genocide but also crimes against humanity. A list of acts that constitute crimes against humanity is contained in article 7, paragraph 1. The Rome Statue also prohibits persecution against; *inter alia*, racial, national, ethnic, cultural or religious groups (article 7.1 (h)). Practices such as forced population transfers intended to move persons belonging to minorities away from the territory on which they live, or with that effect, as well as forced sterilizations, would constitute serious breaches of the Rome Statute.

The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) requires States to adopt and implement national policies to promote and ensure equality of opportunity and treatment in employment, with a view to eliminating direct and indirect discrimination on grounds of race, colour, sex, religion, political opinion, national extraction and social origin (articles 1 and 2). National policies must address discrimination and promote equality, in law and in practice, in the areas of access to education and training, employment services, recruitment, access to particular occupations, as well as terms and conditions of employment.

The 1998 ILO Declaration on Fundamental Principles and Rights at Work provides that all Members of the ILO have an obligation to respect, to promote and to realize the fundamental principles and rights at work ("core labour standards"). These include the principle of non-discrimination in employment and occupation, freedom of association and the right to collective bargaining and the elimination of forced and compulsory labour, as well as child

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[58] See http://www2.ohchr.org/english/bodies/cerd/discussions.htm (accessed 9 August 2009).

[59] Article 2 of the Genocide Convention defines genocide as: any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.

labour. The enjoyment of equality of opportunity and treatment of minorities in work is monitored under this Declaration.

The 1960 UNESCO Convention Against Discrimination in Education governs equality in access to education and to training for teachers as well as providing safeguards for religious or linguistic education and education by national minorities. The importance of providing education that will "promote understanding, tolerance and friendship among all nations, racial or religious groups" is stressed (article 5.1 (a)).

The 2003 UNESCO Convention for the Safeguarding of Intangible Heritage safeguards and promotes the practices, representations, expressions, knowledge, skills – as well as the associated instruments, objects, artefacts and cultural spaces – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. For this purpose, the Convention establishes a fund and a listing system of representative and endangered heritage.

The 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions encourages States to incorporate culture in national and international development policies and to adopt measures aimed at protecting and promoting the diversity of cultural expressions within their territory. The UNESCO Convention emphasises the recognition of equal dignity and respect for all cultures, including that of persons belonging to minorities. It provides for the freedom to create, produce, disseminate, distribute and have access to traditional cultural expressions, and encourages States to create environments conducive to this.

11.5 UN SPECIAL PROCEDURES

The UN Office of the High Commissioner for Human Rights (OHCHR) supports a number of special procedures (also known as Independent Experts, Special Rapporteurs and Working Groups) that may be used to promote minority rights. Their mandates are usually to examine, monitor, advise and publicly report on human rights situations in specific countries or territories, known as "country mandates", or on major phenomena of human rights concern worldwide, known as "thematic mandates". Various activities are undertaken by special procedures, including responding to individual complaints, conducting studies, providing advice on technical cooperation and engaging in general promotional activities. Most receive information on specific allegations of human rights violations and send urgent appeals or letters of allegation to governments asking for clarification. They also carry out country visits at the invitation of the country concerned.

11.5.1 The UN Independent Expert on Minority Issues

The mandate of the Independent Expert on minority issues complements and enhances the work of other UN bodies and mechanisms that address minority rights and minority issues, including the Forum on Minority Issues and the treaty monitoring bodies. The Independent Expert can consult directly with governments and may take into account the views of NGOs, offering a unique opportunity for constructive engagement in country situations.

The Commission on Human Rights, in Resolution 2005/79, established the mandate of the Independent Expert on minority issues:

(a) *To promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including through consultations with Governments, taking into account existing international standards and national legislation concerning minorities;*

(b) *To identify best practices and possibilities for technical cooperation by the Office of the United Nations High Commissioner for Human Rights at the request of Governments;*

(c) To apply a gender perspective in his or her work;

(d) To cooperate closely, while avoiding duplication, with existing relevant United Nations bodies, mandates and mechanisms, as well as regional organizations;

(e) To take into account the views of NGOs on matters pertaining to her mandate.

The Independent Expert is guided by international standards relating to the rights of minorities, including the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities and provisions of other international treaties specifically relating to minority rights, including article 27 of the ICCPR and article 30 of the CRC. The Independent Expert notes that the rights guaranteed in all other UN human rights conventions apply equally to members of minority groups. In addition, other existing regional human and minority rights instruments and mechanisms including, for example, the Council of Europe's 1995 Framework Convention for the Protection of National Minorities may be applied. The work of treaty-monitoring bodies also provides valuable sources of expertise, including authoritative interpretations of standards relevant to minorities. The Independent Expert has developed a strong collaboration with CERD.

The independent expert has identified four broad areas of concern relating to minorities around the world, based on the Declaration on the Rights of Minorities and other relevant international standards relating to minority rights:

(a) protecting a minority's survival, including through protection of their physical integrity and the prevention of genocide;

(b) protecting and promoting cultural and social identity, 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;

(c) ensuring effective non-discrimination and equality, including ending structural or systemic discrimination; and

(d) ensuring effective participation of members of minorities in public life, especially with regard to decisions that affect them.

The Independent Expert also takes note of the collective nature of minority rights. This is important for the promotion and protection of minority identity and visibility, for the informed 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.

The Independent Expert employs various methods of work in order to achieve the most effective results. These include **consultation with governments, including through communications (allegation letters and urgent appeals) and country visits**. Such communications, often sent jointly with other mandates, are based on information received from a variety of sources, including NGOs and representatives of minority communities. Since 2005, the Independent Expert has conducted country visits to the **Dominican Republic, Ethiopia, France, Greece, Guyana, Hungary and Kazakhstan**. During country visits, consultations are held with various stakeholders, including senior government representatives, CSOs, minority groups, UN agencies, bodies and mechanisms, regional and other intergovernmental organizations, and academic, legal, research and policy development

centres. The Independent Expert also convenes expert consultations, seminars and workshops linked to thematic priorities, with the aim of developing recommendations and guidelines. The Independent Expert reports annually to the Human Rights Council.

Given the breadth of work that demands attention with respect to minority issues, the initial work of the Independent Expert focused on three broad strategic priorities:

A. *To increase the focus on minority communities in the context of poverty alleviation and development*

The Independent Expert is concerned that minorities and other marginalised communities are failing to benefit from international efforts to achieve the Millennium Development Goals by 2015. In her report to the Human Rights Council in 2007, the Expert highlights that poverty is both a cause and a manifestation of the diminished rights, opportunities and social advancement available to members of minority communities. She notes the need to work closely with States and all other development actors, including minorities themselves, to promote programmes, policies and activities that fully take into account the needs and rights of minorities. She has identified UNDP as a key UN agency for close collaboration, and seeks to identify successful practices and implementation strategies, including poverty reduction strategies, to assist States in their consideration of minority issues. Full and effective participation of minorities in framing the policies and decisions that affect them is a guiding principle of the Independent Expert's work. She also considers that the collection and use of disaggregated data, which reveals inequalities between communities, to be an important tool in the development field and for minority communities generally.

She is working to promote the importance of appropriate disaggregated data and to deliver technical assistance to States in this respect.

B. *To increase the understanding of minority issues in the context of ensuring stable societies*

Minority rights, inclusion and equality play an important role in the promotion of political and social stability, and peace. This has been recognized at the highest level of the UN and is stated in the outcome document of the 2005 World Summit of Heads of State and Government, approved by the General Assembly. The implementation of law and policy relevant to inclusion and equality, and effective strategies for social cohesion, are therefore important goals for the Independent Expert. The Independent Expert recognizes that exclusion, discrimination and racism directed at minority groups may result in social unrest. There is a need to better understand the causes and prevalence of discrimination against minorities in order to effectively address such situations. The Independent Expert highlights to States the significant benefits of legislative and policy reform that seeks to promote effective strategies of social cohesion, equality and non-discrimination. She also recognizes the need for mechanisms, including indicators, which may act as early warning systems for potential conflict situations.

C. *To mainstream the consideration of minority issues within the work of the United Nations and other important multilateral forums*

In the Independent Expert's annual report to the Human Rights Council in 2008, the thematic focus was on issues relating to the discriminatory denial or deprivation of citizenship as a tool for exclusion of national, ethnic, religious and linguistic minorities. The report notes that minorities often face

discrimination and exclusion, and they struggle to gain access to their human rights, even under conditions of full and unquestioned citizenship. Denying or stripping them of citizenship can be an effective method of compounding their vulnerability, and can even lead to mass expulsion. Many minorities live in a precarious legal situation because, even though they may be entitled under law to citizenship in the State in which they live, they are often denied or deprived of that right and may in fact exist in a situation of statelessness. While many conditions give rise to the creation of statelessness, most stateless persons today are members of minority groups.

11.5.2 UN Special Rapporteurs

In addition to the Independent Expert on minority issues, there are other Special Procedures of the Human Rights Council that give particular attention to minority groups. These include:

- The Working Group on people of African descent

- The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

- The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people

- The Special Rapporteur on freedom of religion or belief

- The Special Rapporteur on the human rights of migrants.

Special Procedures may conduct country visits (upon invitation) and receive communications. They also produce regular thematic reports. Special Procedures have cooperated with UNDP COs during country visits to raise awareness and engage in dialogue with governments on best practice and potential reform.[60] For example, the UNCT Ecuador worked closely with the Special Rapporteur on the human rights of indigenous people during country visits. Both Special Rapporteur Rodolfo Stavenhagen's country visit report and Special Rapporteur James Anaya's specific recommendations on the 2008 Constituent Assembly Process provided important inputs for the development programming and programme implementation of the UNCT and the IAWG on Intercultural Issues. Ecuador will also receive a visit of the UN Working Group of Experts on People of African Descent.

11.6 THE UN FORUM ON MINORITY ISSUES

In 2007, the UN Human Rights Council established the **UN Forum on Minority Issues**. The Forum on Minority Issues provides a platform for promoting dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities; provides thematic contributions and expertise to the work of the Independent Expert on minority issues; identifies and analyzes best practices, challenges, opportunities and initiatives for the further implementation of the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities; and contributes to efforts to improve cooperation among UN 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. The Independent Expert on minority issues guides the work of the Forum, prepares its annual meetings and includes the thematic recommendations of the Forum in his or her report. The Forum meets annually for two days in Geneva and is open to attendance by States, UN agencies and mechanisms, international organizations,

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[60] For an overview of best practice in implementing recommendations of Special Rapporteur on indigenous people, see *Study Regarding Best practice Carried out to Implement the Recommendations Contained in the Annual Report of the Special Rapporteur*, UN Doc. A/HRC/4/32/Add.4 (26 February 2007).

national human rights institutions, NGOs, and academics and experts on minority issues. The participation of minorities from all regions of the world is especially encouraged.

The UN Forum on Minority Issues was preceded by the **UN Working Group on Minorities** established in 1995 to, *inter alia*, review the promotion and practical realization of the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities. The Working Group was comprised of five independent experts and held 12 sessions between 1995 and 2006. It was a subsidiary body of the former UN Sub-Commission on the Promotion and Protection of Human Rights. A wealth of work was undertaken by the Working Group not only on conceptualization of the rights of persons belonging to minorities but also good practices and other measures for the promotion and protection of minorities. Numerous papers were prepared and submitted for consideration by the Working Group. A list of those documents is available on the OHCHR website and in Annex III.[61] In 2005, the Working Group adopted a detailed *Commentary* intended to serve as a guide for understanding and application of the UN Declaration on the Rights of National or Ethnic, Religious and Linguistic Minorities.[62]

11.7 THE UN PERMANENT FORUM ON INDIGENOUS ISSUES (PFII) AND THE UN EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES

The Permanent Forum on Indigenous Issues serves as an advisory body to the UN Economic and Social Council. It has a mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights. Its aims include the better coordination of activities related to indigenous issues within the UN system. The independent experts that sit in the PFII are regionally balanced representatives selected both by indigenous peoples and States. The PFII holds annual two-week sessions, typically in New York. CSOs and indigenous peoples can be accredited to participate in the sessions.

The Expert Mechanism on the Rights of Indigenous Peoples provides thematic expertise on the rights of indigenous peoples to the Human Rights Council. It is formed by 5 independent experts and meets annually in Geneva. CSOs and indigenous peoples are among those permitted to attend the sessions. The Expert Mechanism replaces the UN Working Group on Indigenous Populations (1982-2006).

11.8 THE UN WORKING GROUP OF EXPERTS ON PEOPLE OF AFRICAN DESCENT (WGPAD)

The UN Working Group of Experts on People of African Descent is comprised of five independent experts, meets for one 5-day session per year in Geneva and is authorized to conduct country visits upon invitation of governments. As an output of the 2001 World Conference Against Racism, the WGPAD is mandated to make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world; and to address all the issues concerning the well-being of Africans and people of African descent contained in the Durban Declaration and Programme of Action. CSOs are able to participate in these sessions.

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[61] http://www2.ohchr.org/english/issues/minorities/docs/docstable.doc (accessed 9 August 2009).

[62] See UN Doc. E/CN.4/Sub.2/AC.5/2005/2 (4 April 2005). Additionally, the Working Group considered the Minority Profile and Matrix contained in document E/CN.4/Sub.2/AC.5/2006/3, which provides a checklist of issues and measures based on the provisions and principles contained in the UN Declaration and the Commentary.

11.9 THE UN OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

The UN High Commissioner for Human Rights is mandated to promote and protect the human rights of all persons. In an effort to mainstream minority rights, the Office of the High Commissioner for Human Rights (OHCHR) promotes and implements the principles contained in the UN Declaration on Minorities; cooperates with other organs and bodies of the UN, including the international human rights community, and programmes of technical assistance and advisory services; and engages in dialogue with governments and other parties concerned with minority issues. This includes efforts to close the implementation gap in the protection of the rights of minorities and the follow-up of minority-related resolutions of legislative bodies and the recommendations of the treaty bodies, the former Working Group on Minorities, and the Special Procedures, including the Independent Expert on minority issues. The OHCHR also promotes the normative framework for indigenous and minority rights; works towards increased awareness, knowledge and understanding of minority rights in the international community; through support to the treaty bodies, ensures compliance with human rights standards relevant to the protection of minorities; contributes to coverage of minority issues in the growing field presences; and works closely with inter-agency networks to deepen integration of minority issues into operational programmes. Finally, OHCHR strives for an increased empowerment of minorities through training and advancing the knowledge and use of human rights mechanisms. See section 6.3 for examples of opportunities for cooperation with OHCHR on minority issues.

11.10 UNIVERSAL PERIODIC REVIEW (UPR) OF THE UN HUMAN RIGHTS COUNCIL

In 2006, the General Assembly adopted resolution 60/251 which decided that the UN Human Rights Council (an inter-state body) would undertake a universal periodic review of each State as to the fulfillment of its human rights commitments. All UN Member States will be reviewed by the UPR mechanism every four years. The review is based on three documents: one report prepared by the State concerned, and two OHCHR-prepared reports: a compilation of UN information (from reports of treaty bodies, special procedures and other relevant official United Nations documents), and a summary of stakeholders' input (from NGOs, national human rights institutions, academic institutions and regional organizations). For the preparation of these three documents, which may include information on the human rights situation of persons belonging to minorities, UN entities can consider to: (i) advise States on preparing State reports in a consultative manner; (ii) send submissions to OHCHR, and/or draw attention to agency publications for OHCHR's review, to be considered for the compilation of UN information reports; and (iii) disseminate information to stakeholders including NGOs for preparation of their input.

The review of a State is conducted during a three-hour interactive dialogue of the Working Group on the UPR composed of the 47 member States of the Council. After the Working Group session, the Council meets in a plenary session to consider and adopt the outcome of the UPR, which includes a report consisting of a summary of the proceedings, conclusions and/or recommendations, and the voluntary commitments of the State concerned. At the Council plenary

session, when a one-hour meeting is devoted to each State under review, UN entities and stakeholders, including national human rights institutions and NGOs, have the opportunity to make interventions.

UN entities may facilitate local access to the UPR meetings (webcast by the UN) by convening targeted or inclusive public screenings. In the follow-up phase, UN entities can provide support by, *inter alia*, ensuring the translation (including in minority languages) and broad dissemination of UPR documents, encourage/facilitate the use of the recommendations, including on minority issues, by all relevant actors at the national level, and consider UPR documentation when preparing UN planning instruments, including CCA/UNDAFs and agencies' specific programmes.[63]

11.11 UN EARLY WARNING MECHANISMS (EWMs)

Early warning mechanisms have been set up to prevent, *inter alia*, racial, ethnic or religious tensions from escalating into conflicts. Three types of provisions for EWMs established by the UN should be mentioned in the context of minority protection. First, the Office of the High Commissioner for Human Rights is mandated to monitor and prevent human rights violations. In carrying out its mission, OHCHR gives priority to addressing the most pressing human rights violations, both acute and chronic, particularly those that put life in imminent peril. OHCHR responds to emerging human rights crises by anticipating and responding to deteriorating human rights situations across the globe, including through fact finding missions and commissions of inquiry that investigate serious allegations of human rights abuses. **The UN High Commissioner for Human Rights may play a mediation and diplomacy role** in situations that may escalate into conflict by encouraging dialogue among the parties concerned.

Second, **CERD has established an early warning mechanism** to draw the attention of its members to situations where racial discrimination has reached alarming levels. The Committee has adopted both early warning measures and urgent procedures to prevent as well as to respond more effectively to violations of ICERD.

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[63] For more information on the Universal Periodic Review see www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx (accessed 9 August 2009).

CERD early warning measures could be utilized when the following indicators are present:

(a) Presence of a significant and persistent pattern of racial discrimination, as evidenced in social and economic indicators;

(b) Presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other State officials;

(c) Adoption of new discriminatory legislation;

(d) Segregation policies or de facto exclusion of members of a group from political, economic, social and cultural life;

(e) Lack of an adequate legislative framework defining and criminalizing all forms of racial discrimination or lack of effective mechanisms, including lack of recourse procedures;

(f) Policies or practice of impunity regarding: (i) Violence targeting members of a group identified on the basis of race, colour, descent or national or ethnic origin by State officials or private actors; (ii) Grave statements by political leaders/prominent people that condone or justify violence against a group identified on the ground of race, colour, descent, national or ethnic origin; and (iii) Development and organization of militia groups and/or extreme political groups based on a racist platform;

(g) Significant flows of refugees or displaced persons, especially when those concerned belong to specific ethnic groups;

(h) Encroachment on the traditional lands of indigenous peoples or forced removal of these peoples from their lands, in particular for the purpose of exploitation of natural resources;

(i) Polluting or hazardous activities that reflect a pattern of racial discrimination with substantial harm to specific groups.

Third, the post of the **UN Special Advisor on the Prevention of Genocide** was created in 2004 with the mandate, *inter alia*, to act as an early warning mechanism to the UN Secretary-General and the Security Council by bringing to their attention potential situations that could result in genocide. To this end, the Special Advisor collects information on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that might lead to genocide, makes recommendations to the Security Council (through the UN Secretary-General) on actions to prevent or halt genocide, and liaises with the UN system on activities for the prevention of genocide, including enhancement of UN capacity to analyze and manage information relating to genocide and related crimes.

12

REGIONAL ISSUES, STANDARDS AND MECHANISMS[64]

12.1 MINORITIES IN AFRICA

The ethnic composition of African States is often highly pluralist. Minority status, especially in terms of the non-dominance of particular groups, can be difficult to determine. Indeed, international criteria on minorities may not fully reflect the complexity of multi-ethnic States in Africa that are highly diversified in terms of ethnicity, religion and language – sometimes comprised of more than 250 different ethnic groups, for example, in Nigeria or Cameroon. In practice, some numerically smaller groups, through alliances with other groups, may exert political dominance. There are examples where numerically large ethnic groups have not achieved equal access to power. Furthermore, the examples of the colonial and minority white-ruled States have given a negative connotation to the term 'minority'. The post-colonial efforts to forge national unifying identities in African States have meant that attention to specific ethnic, religious and linguistic identities has been downplayed in the public sphere, yet they are relevant to power relations.

Another challenge in the African context is that the distinction between minority groups and indigenous peoples is not always clear. Moreover, the concept of 'indigenous' is not widely accepted, including by government actors. Recognition as 'indigenous' may be contentious where groups are claiming land rights and self-determination, rights that form part of international standards on indigenous peoples. Marginalised indigenous groups often adopt alternative terms, such as 'ethnic minorities' or 'indigenous minorities' in order to initiate dialogue with government on their concerns.

Forms of caste-based discrimination are reportedly found in Burkina Faso, Cameroon, Ethiopia, Kenya, Mali, Mauritania, Nigeria, Senegal, Sierra Leone, Somalia and possibly more.[65] Affected communities are said to include the *Dime* of Ethiopia, the *Osu* of Nigeria and the *Sab* of Somalia. According to a study by the former UN Sub-Commission on Human Rights, such groups face a number of common experiences, including the ascription of their status by birth, their predominance in (and sometimes restriction to) certain low-status and 'polluted' occupations (e.g. blacksmiths, leather workers, sweepers, servants, entertainers), restrictions on marrying outside their group, and a general regard as being 'impure' peoples.[66]

Among the most common concerns for minorities in Africa are participation, poverty, and traditional lands and livelihoods. These three concerns are closely connected. Because of their marginalisation, many minorities do not have opportunities to participate equally in planning of poverty reduction strategies. Their communities and regions are often excluded from the benefits of development programmes. In many cases, the prescriptions for poverty reduction do not take into account the particular traditional

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[64] This chapter was drafted by the Minority Rights Group International, as one of the members of the Task Force. However, the views expressed in this chapter do not necessarily represents those of the UN, including UNDP, or their Member States. For up to date information on regional and other issues, visit: http://www.minorityrights.org/

[65] International Dalit Solidarity Network, http://idsn.org/caste-discrimination/caste-exists-where/ (9 August 2009).

[66] See UN Doc. E/CN.4/Sub.2/2004/31 (5 July 2004) and Annex III, section 16 of this Guide.

livelihoods of minorities, such as pastoralism, or the discrimination they face. The practice of (involuntary) displacement of minorities from their traditional lands also is common, either to make way for infrastructure and foreign direct investment projects; to establish conservation areas; or to move communities closer to basic services that are not available in their regions.

The failure to address the significant economic inequalities that exist between ethnic and religious communities has resulted in instability and sometimes local or widespread conflict. Many conflicts in Africa (as elsewhere) do have an 'ethnic grievance' dimension, which political leaders can use to mobilize opposition support. However, it is often the most marginalised groups, such as the *Batwa*, that experience the greatest hardship as a result of any conflict.[67]

The civil society of minority groups in Africa is limited but growing. Groups have been successful in coming together for national, regional and international advocacy work (Kane 2008). The networks, for example, of pastoralist communities in East Africa and the Horn of Africa are strong, as are the networks of *San* and *Batwa*. Many communities, however, are so marginalised that they lack both the capacity and the resources to form CSOs or to organize advocacy on their concerns.

12.1.1 Standards and Mechanisms of the African Union:

There are no minority-specific provisions in the African Charter on Human and Peoples Rights. Yet, encouragingly, some of the jurisprudence of the African Commission on Human Rights has supported minority communities and the African Commission has established a Working Group on Indigenous Populations/Communities.

The main regional human rights instrument in Africa is the **African Charter on Human and Peoples Rights (ACHPR)**. It was adopted by the

Organization of African Unity (now the African Union) in 1981 and came into force in 1986. All African Union members are party to the Charter. The African Commission on Human and Peoples Rights, established by the Charter, monitors the implementation of the Charter through examining periodic reports presented by States, interpreting the provisions of the Charter and considering communications from individuals and States alleging violations of the Charter. By 1994, there was strong and growing feeling that the Commission was not sufficient to deal with human rights violations and there was need for an African Court that could provide enforceable remedies (the rulings of the Commission are recommendations and non-binding). A protocol to the African Charter was adopted in 1998 establishing the African Court on Human and Peoples' Rights. In 2005, the protocol establishing the Court entered into force and the Court will commence its work once it is fully operational.

Article 2 of the Charter prohibits discrimination on the grounds of **"race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status"** with respect to the rights in the Charter. The Charter makes no mention of minorities. However, it recognizes the collective rights of 'peoples' to equality, existence, self-determination, development, to freely dispose of their natural resources, to international peace and security and to a satisfactory environment for development (articles 19-24).

The Charter does not define the term 'peoples'. This has been the subject of much discussion. Documents from the meeting of experts convened to draft the Charter show that the aim of the principle of equality of peoples was closely linked to the fight against colonialism. Initially the Commission appeared reluctant to interpret the concept of peoples, possibly due to the lack of other international jurisprudence in this area. However, cases invoking the rights of peoples

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[67] See *supra* note 35.

have been adjudicated and the jurisprudence is growing. The Commission has interpreted the term differently in various cases.

One interpretation of the term 'peoples' is every individual within a given State. In the case of **Democratic Republic of the Congo (DRC) v Burundi, Rwanda and Uganda**, the Commission uses the phrases "Congolese peoples' rights" and "the rights of people" in the DRC interchangeably to mean all affected individuals in the DRC.[68] It is a state-centric approach where the 'peoples' are equated with the territorial demarcation of the State. This approach also appears to have been followed in the *Gambian Coup* case where the Commission did not attempt to define the peoples who have the right to "freely determine their political status" under article 20.1. The Commission referred instead to all Gambians who were eligible to vote.[69]

The Commission has also interpreted the term 'peoples' to mean groups of individuals sharing distinct characteristics – including minorities – within the State. In the case of **Legal Resources Foundations v Zambia**, the Commission found that article 19, equality of all peoples, did not apply because to demonstrate such a violation, the applicants would need to show that "an identifiable group of Zambian citizens by reason of their common ancestry, ethnic origin, language and cultural habits" had been affected adversely.[70]

In the case of the **Katangese Peoples' Congress v Zaire** the Commission had to decide whether the right of the Katangese people to self-determination extended to secession. The Commission stated that self-determination could be exercised in various ways including "independence, self-government, local government, federalism, confederalism, unitarism or any other form of relations that accords with the wishes of the people but fully cognisant of other recognized principles such as sovereignty and territorial integrity".[71] In contrast to the UN Human Rights Committee, which has refused to hear cases concerning claims of self-determination,[72] the Commission examined the merits but ruled against the Katangese people because of the absence of "concrete evidence of serious violations of human rights to the point that the territorial integrity of Zaire should be called to question and the absence of evidence that the people of Katanga are denied the right to participate in Government".[73] This then leaves open the possibility that a community suffering severe discrimination and human rights abuses may have a claim under the Charter.

The Commission does not make a distinction between minorities and indigenous peoples in any of the cases that address the violation of peoples' rights. This is, again, a contrast to the approach under UN instruments where the term 'peoples' has been applied to indigenous groups and not to minorities. In the *Katengese Peoples' Congress* case, the Commission did not examine whether the community is indigenous or a minority. The terms 'minority' and 'indigenous' were not mentioned in the case of **Ogoni v Nigeria**.[74] However, the Commission considered that the *Ogoni* (an indigenous minority from the Niger Delta) were entitled to the rights accorded to peoples under the Charter and found a violation of the rights of peoples to freely dispose of their natural resources and to a satisfactory environment favourable to their

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[68] DRC v. *Burundi, Rwanda and Uganda*, Communication 227/1999, 20th Annual Activity Report.

[69] *Jawara v. The Gambia (Gambian Coup Case)*, Communications 147/95 and 149/96, 13th Annual Activity Report.

[70] *Legal Resources Foundation v. Zambia*, Communication 211/98, 14th Annual Activity Report, paragraph 73.

[71] *Congrès de Peuple Katangais v. Zaire*, Communication 75/92, 8th Annual Activity Report, paragraph 4.

[72] Human Rights Committee, *General Comment 23 on Article 27 (The Rights of Minorities)*, paragraph 3.1.

[73] *Congrès de Peuple Katangais v. Zaire*, Communication 75/92, 8th Annual Activity Report, paragraph 6.

[74] *The Social and Economic Rights Action Centre for Economic and Social Rights v. Nigeria*, African Commission on Human and Peoples' Rights, Communication 155/96, (2001).

development (articles 21 and 24). Likewise, in ruling on a number of joined cases against Mauritania, although the Commission found no violation of the right to equality of peoples based on the facts, it did not rule out the possibility that discrimination against "black Mauritanians" could constitute a violation of the rights of peoples under the Charter.[75]

It is clear, therefore, that the possibility exists for both minority and indigenous communities to make use of the ACHPR to protect their collective rights. In addition to cases invoking peoples' rights (articles 19-24), there are judgments from the African Commission relating to other rights that are important to minorities.

A ruling which could be very important for linguistic minorities, stated:

"Language is an integral part of the structure of culture; it in fact constitutes its pillar and means of expression par excellence. Its usage enriches the individual and enables him to take an active part in the community and in its activities. To deprive a man of such participation amounts to depriving him of his identity".[76]

There will be an opportunity for the Commission to further develop its jurisprudence on peoples' rights when it makes its decision on the pending case of *CEMIRIDE – Centre for Minority Rights Development (on behalf of the Endorois Community) v. Republic of Kenya*.[77] The case relates to the alleged forced eviction of a pastoralist community in the 1970s to make way for the creation of a game reserve. The *Endorois* claim they were not consulted prior to their removal from the land, nor were they compensated for their loss. They are now seeking the restitution of their ancestral land, which is vital for their economic and socio-cultural survival as a pastoralist people.

In 2000, the Commission established a **Working Group on Indigenous Populations/ Communities** with a mandate to examine the concept of indigenous populations/communities in Africa and to study how specific rights in the Charter relate to the well being of indigenous populations/communities. Currently, there is no respective body to deal with the rights of minorities. The Working Group on Indigenous Populations/Communities has carried out a great deal of work on issues including the situation of indigenous peoples, the approach of the ACHPR in its jurisprudence and analysis of State reports, and the identification of indigenous peoples in Africa. This work was adopted by the ACHPR in 2005. The ACHPR also produced an 'Advisory Opinion' (May 2007) on the UN Declaration on the Rights of Indigenous Peoples[78] to address concerns expressed by African States during the drafting of the Declaration.

12.2 MINORITIES IN LATIN AMERICA AND THE CARIBBEAN:

While many countries in Latin America and the Caribbean are classified as middle income, there are pockets of acute and intractable poverty that are populated disproportionately by people of African descent and indigenous peoples. There are several numerical minority populations in the region, such as those of Indian, Japanese or European descent. However, these groups do not experience the extent of marginalisation that indigenous peoples and people of African descent do. Romani groups also exist in several Latin American States (including Brazil,

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[75] *Malawi African Association and Others v. Mauritania*, African Commission on Human and Peoples' Rights, Communication Nos. 54/91, 61/91, 98/93, 164/97, 196/97 and 210/98 (2000).

[76] *Ibid*, paragraph 137.

[77] Communication 276/2003, decision pending.

[78] Advisory Opinion of the African Commission on Human and Peoples Rights on the UN Declaration on the Rights of Indigenous Peoples, Adopted by the African Commission on Human and Peoples Rights at its 41st Ordinary Session, held in May 2007, Accra, Ghana.

Argentina and Colombia) and reportedly experience discrimination (Tchileva 2004). In Caribbean States, the situation of some migrant workers is particularly poor.

Democratization and multicultural reforms have created more space for acknowledgement of racial discrimination and the historical and cultural contributions of minority groups. The emergence of movements of indigenous peoples and people of African descent has been central to this process.

The development of a strong movement of indigenous peoples in the region seeking protection of land rights, cultural rights and self-determination has resulted in an awareness and acknowledgement of the existence of indigenous peoples and their concerns. In some States, indigenous peoples constitute the majority population (e.g. Bolivia, Guatemala) but often continue to be marginalised; even where they constitute a numerical minority, indigenous communities typically will reject the 'minority' identity label in an effort to assert their status as 'peoples'. Most constitutions recognize the indigenous peoples in the region and development donors and governments have developed strategies that give consideration to their needs, although not always successfully nor in accordance with the expressed wishes and rights of indigenous communities.

The response to the situation of Afro-descendants has been weaker, in part because the civil society of Afro-descendants is not as strong as that of indigenous peoples. Afro-descendants constitute some 150 million people in the Americas region, representing about one-third of the total population. Many Afro-descendants live in urban areas although in some countries there are specific geographical regions with a high concentration of Afro-descendants, such as the Atlantic coastal regions of Central America.

Virtually all Afro-descendants in Latin America and the Caribbean are the descendants of slaves or escaped slaves.

Development actors are taking steps to consider inequalities experienced by people of African descent, who make up 50% of people living in poverty in the region (e.g. Zoninsein 2001). The strong contribution of Afro-descendants to culture in the region has not translated into greater political participation. People of African descent remain marginalised economically, socially and politically, largely due to discrimination (e.g. Morrison 2007). Afro-descendant CSOs report that discrimination, access to land, education (including inter-cultural and bilingual education), disaggregated data collection, employment and recognition of cultural heritage are among the key issues of concern for Afro-descendants. These issues are also noted in the Durban Declaration and Programme of Action of the 2001 World Conference Against Racism.[79]

Some States in the region are taking steps to address the gross marginalisation of people of African descent. Four policy responses stand out: the creation of new institutions focused on Afro-descendants; the adoption of affirmative action policies; improved disaggregated data collection; and attention to land rights claims. Several States, including Brazil, Colombia, Honduras and Peru, have created national consultative or non-discrimination institutions. Brazil has pursued a series of affirmative action policies in the areas of higher education and in employment in several government ministries. The World Bank, Inter-American Development Bank, and ECLAC (Economic Commission for Latin America and the Caribbean) have been supporting States to collect disaggregated data, including through census reform. Land rights entitlements for Afro-descendants are legally recognized in at least seven countries (Belize, Brazil, Colombia, Ecuador, Guatemala, Honduras and Nicaragua) (Inter-American Dialogue 2004).

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[79] See WCAR *Declaration*, paragraphs 32-35; *Programme of Action*, paragraphs 4-14.

Migration has also been a feature of this region and the protection of migrant workers as minorities needs also to be considered (e.g. Ferguson 2003). Migrant communities are often victims of racism in their new society and there are concerns around workers' rights and discrimination. Undocumented migrants are particularly vulnerable to harassment and deportation.

Relations between minority groups have sometimes been strained. Afro-descendants and indigenous peoples often have united in their claims for economic and land rights, but sometimes experience fractious relations due to competition for (limited) government resources or land (e.g. Ng'weno 2007). Some groups of African descent self-identify also as indigenous peoples (e.g. Garífuna), because they are descended also from indigenous populations in the region and because they have continuously inhabited the same land and practice traditional cultures (e.g. Anderson 2007).

The civil society of indigenous peoples is strong. Afro-descendant CSOs have consolidated further since the preparations for the 2001 World Conference Against Racism, which offered people of African descent important political opportunities for advocacy and dialogue. The Roma of Latin America, whose population is estimated at over 1 million people, have been largely unrecognized to date but are also beginning to mobilise to advocate for non-discrimination and cultural protection (Tchileva 2004).

12.2.1 Standards and Mechanisms of the Organization of American States (OAS)

The OAS does not have any specific provisions for minority rights within the human rights treaties of this system. It is currently negotiating a draft Inter-American Convention against Racism and all forms of Discrimination and Intolerance and a draft American Declaration on the Rights of Indigenous Peoples. The Inter-American Court

of Human Rights has made some important decisions governing the rights of indigenous peoples and Afro-descendants. There are Special Rapporteurs on: the Rights of Persons of African Descent and Racial Discrimination; on Migrant Workers and their Families; and on the Rights of Indigenous Peoples.

The main human rights instrument of the OAS is the American Convention on Human Rights, also known as the Pact of San José, which came into force in 1978. The Convention has 24 States parties. There is an Optional Protocol to the Convention on economic, social and cultural rights (Protocol of San Salvador) which has 14 States parties and came into force in 1999.

The Convention is monitored by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Individuals alleging violations of their rights under the Convention cannot apply directly to the Court; they must submit their case to the Commission first. The Commission examines the case and if it finds the State responsible, it will usually give the State a list of recommendations for addressing the issue. Should the State fail to comply, or if the case addresses a particularly important matter of law, the Commission will, as a last resort, refer the case to the Inter-American Court.

The American Convention does not mention minorities. Article 1 of the Convention protects against discrimination on the grounds of "race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition" in the exercise of rights under the Convention. Freedom of religion is guaranteed under article 12, and article 24 provides for equal protection of the law without discrimination. The Protocol on economic, social and cultural rights also contains non-discrimination provisions and article 14 recognizes the right to take part in the cultural life of the community.

The OAS is currently working on **a draft Inter-American Convention against Racism and all forms of Discrimination and Intolerance**. The current draft includes important definitions of direct and indirect discrimination. There are mentions of collective rights for indigenous peoples and Afro-descendent communities. The draft includes a list of acts or treatment that constitute discrimination and which must be prohibited by the State. Minorities are recognized in the draft convention, including in the Preamble, that acknowledges "the victims of racism, discrimination and intolerance in the Americas are, *inter alia*, Afro-descendents, indigenous peoples, migrants, refugees and displaced persons and their families, as well as other racial, ethnic, sexual, cultural, religious and linguistic groups or minorities that are affected by such manifestations". The Convention, once the text is finalized and adopted, will be another important tool for the protection of minorities in the Americas.

The Inter-American Commission has created a **Special Rapporteur on the Rights of Persons of African Descent and Racial Discrimination**. The Special Rapporteur has a mandate to support the Commission to assist OAS member States to fulfil their duty to respect the rights of Afro-descendants, to analyse current challenges on Afro-descendant issues, to gather and disseminate best practice, to formulate recommendations, and to provide technical advice as needed. The position has been held since its creation in 2005 by Dr. Clare Roberts, President of the Inter-American Commission. The Special Rapporteur has conducted one informal country visit to Brazil in 2005 and an official country visit to Colombia in 2007.

The **Inter-American Court of Human Rights** has made a number of important decisions that impact on the rights of minorities in the Americas. Most of the relevant cases have been taken by people of African descent focusing on the areas of non-discrimination, land rights and culture. The case of *Yean and Bosico v. Dominican Republic* concerned two ethnic Haitian children who were born in the Domincan Republic but were denied Dominican citizenship despite the fact that Dominican law provides for anyone born on the territory to receive citizenship *(jus solis)*.[80] Since they were unable to register their births, they could not enroll in school and their undocumented status left them vulnerable to deportation to a country with which they had little connection. They argued that officials refused to register the births because of their perceived ethnic origin and that the requirements for late registration of births indirectly discriminated against ethnic Haitians. The Court found that the Dominican Republic had applied its nationality and birth registration laws in a discriminatory mannor which left ethnic Haitian children stateless and unable to access vital services, such as education, in breach of the Convention.

The Commission examined the case of *Simone André Diniz v. the Republic of Brazil*. The case concerned racial discrimination against the applicant in applying for a job and the failure of the justice system to adequately investigate her complaint. The Commission found that the State of Brazil had violated the applicant's right to equality before the law, the right to judicial protection and the right to a fair trial. The case exposed long-standing systematic failures in Brazil to implement its own stringent domestic laws against racial discrimination. In its recommendations, the Commission has urged the government, *inter alia*, to "make the legislative and administrative changes needed so that the anti-racism law is effective" and to "promote awareness campaigns against racial discrimination and racism".[81]

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[80] Inter-American Court of Human Rights, *Yean and Bosico v. Dominican Republic*, Judgement of September 8, 2005.

[81] Inter-American Commission on Human Rights, Report N° 66/06, Case 12.001 Merits, *Simone André Diniz v. Brazil* (21 October 2006): paragraph 146.

In the **Moiwana Village v. Suriname** case, in 2005, the Court ruled in favour of the African-descended N'djuka community forcibly expelled from their traditional lands around the *Moiwana* village and unable as a consequence to practice their culture. While it was accepted that the *N'djuka* were not 'indigenous' to the territory of Suriname, the important link between their cultural life and the use of lands traditionally inhabited by them since the 17th century was a central factor in the decision. The Court argued that Suriname had violated, *inter alia*, the collective land rights of the group and ordered that:

The State shall adopt such legislative, administrative, and other measures as are necessary to ensure the property rights of the members of the Moiwana community in relation to the traditional territories from which they were expelled, and provide for the members' use and enjoyment of those territories.[82]

A similar decision was taken by the Court in 2007 in the case of the **Saramaka People v. Suriname** where another Afro-descendant community was recognized to hold collective rights to land because of its status as a "tribal people" and its ancestral connection to the territory in question; the Court reasoned that its jurisprudence with regard to indigenous peoples' right to property was applicable to this community.[83]

The case of **López-Álvarez v. Honduras** provided an innovative interpretation of cultural rights for Afro-descendants. Mr. López-Álvarez was a community leader among the *Garífuna* Afro-descendants in Honduras. In his case he alleged that state actors had created a false narcotics charge against him as a means of intimidating him and his community during their pursuit of a legal challenge to the State regarding land rights. The Afro-descendant NGO OFRANEH

assisted the applicant in bringing his case. The decision was given in favour of Mr. López-Álvarez, but of particular interest is the aspect of the case that dealt with the applicant's right to speak his mother tongue whilst in prison, a right denied him by the prison authorities where he was held. The Court ruled this was a violation of the freedom of thought and expression and an act of discrimination against Mr. López-Álvarez as a member of the *Garífuna* community, citing that "Language is one of the most important elements of identity of any people, precisely because it guarantees the expression, diffusion, and transmission of their culture".[84] Thus, the case was an effective use of an international institution to challenge the obstruction of the State when Afro-descendants tried to claim their rights and also an important source of jurisprudence on Afro-descendant identity protection.

These decisions provide a fertile basis for strengthening domestic law and practice and expanding the jurisprudence of the American Convention on Human Rights to protect members of distinct identity groups.

12.3 MINORITIES IN THE ARAB STATES

The concept of minority rights is not widely accepted in Arab States although ethnic and religious pluralism has long been a feature of this region. This is most evident in the concept of *dhimmi*, a 'protected minority', found in *Shari'a* law, which recognizes the responsibility to give protection to some non-Muslim groups living under Islamic rule.

Among the key minority (and/or indigenous) groups across the region are the Kurds in Iraq and Syria, *Amazighen* in Morocco and Algeria, *Dinka* in Sudan, *Bidouns* in Kuwait, Baha'is in Iran,

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[82] Inter-American Court of Human Rights. *Case of Moiwana Village v. Suriname*, Judgement of 15 June 2005; paragraph 233.

[83] Inter-American Court of Human Rights. *Case of the Saramaka People v. Suriname*, Judgement of 28 November 2007; paragraph 86.

[84] Inter-American Court of Human Rights, *Case of López-Álvarez v. Honduras*, Judgement of 1 February 2006. See especially Chapter IX, paragraphs 157-174. The excerpt is from paragraph 171.

Turkomen in Iraq, Palestinians (who constitute minorities in several States), numerous religious groups, and migrant workers, principally from South Asia. There are also some groups that constitute a numerical majority but remain among the most marginalised. Forms of caste-based discrimination reportedly are practiced against the *Al-Akhdam* community in Yemen.[85]

Minorities in some cases experience discrimination, in particular in access to employment in the public services. Religious minorities are sometimes restricted in their freedom of religion. Some minority groups (particularly religious minorities) have successfully exercised their rights to establish their own educational institutions. Many groups struggle to maintain their cultural traditions in the face of the overwhelming influence of the majority group(s); the government of Morocco, for example, has included schooling in the *Tamazight* language and teacher training to help remedy this problem. Many marginalised minority groups remain excluded from public participation, while in other cases individuals from minority groups have held positions of high political office. Several inter-communal conflicts have also occurred in the region. Disputes over territory and autonomy of minorities have sometimes been the source of these conflicts, including in Kurdish inhabited areas and in the Western Sahara inhabited by the indigenous *Saharawis* people.

12.3.1 Standards and Mechanisms of the League of Arab States:

Protection for minorities is contained in the Arab Charter on Human Rights and general human rights treaties (such as the ICCPR, ICERD and CRC) that have been ratified. The League of Arab States has not elaborated any specific minority rights treaties.

The **Arab Charter on Human Rights** is the newest regional instrument on human rights, adopted under the auspices of the League of Arab States. The revised text came into force in January 2008. **The Charter establishes a monitoring body - the Arab Human Rights Committee – to examine state compliance with its principles**.

The Charter prohibits discrimination on the grounds of "race, colour, sex, language, religious belief, opinion, thought, national or social origin, wealth, birth or physical or mental disability" in the enjoyment of rights in the Charter.[86] Article 25 provides that "Persons belonging to minorities shall not be denied the right to enjoy their own culture, to use their own language and to practice their own religion. The exercise of these rights shall be governed by law".

The Charter does not define which minority groups are entitled to the rights under article 25. However, the preamble to the Charter reaffirms the principles in international standards including the ICCPR and in article 43 states:

Nothing in this Charter may be construed or interpreted as impairing the rights and freedoms protected by the domestic laws of the States parties or those set force in the international and regional human rights instruments which the States parties have adopted or ratified, including the rights of women, the rights of the child and **the rights of persons belonging to minorities**. *(Emphasis added)*

Article 30.1 of the Charter provides that "everyone has the right to freedom of thought, conscience and religion and no restrictions may be imposed on the exercise of such freedoms except as provided for by law". Article 30.2 provides:

The freedom to manifest one's religion or beliefs or to perform religious observances, either alone or in community with others, shall be subject only to such limitations as are prescribed by law and are

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85 UN Doc. CERD/C/YEM/CO/16 (17 August 2006).

86 League of Arab States, Revised Arab Charter on Human Rights, May 22, 2004, reprinted in 12 Int'l Hum. Rts. Rep. 893 (2005), entered into force March 15, 2008, Article 3.1 http://www1.umn.edu/humanrts/instree/loas2005.html?msource=UNWDEC19001&tr=y&auid=3337655 (accessed 9 August 9, 2009).

necessary in a tolerant society that respects human rights and freedoms for the protection of public safety, public order, public health or morals or the fundamental rights and freedoms of others.

12.4 MINORITIES IN ASIA AND THE PACIFIC:

Minorities and indigenous peoples can be found throughout Asia and the Pacific. Indeed, the largest proportion of the world's minorities live in this region. Many countries exhibit a high level of ethnic, religious and linguistic diversity. The identification of groups as indigenous or minorities can be difficult, in part because many States have rejected the term 'indigenous peoples' and, to a lesser extent, 'minorities'. This presents challenges for groups seeking to claim rights under international standards on indigenous and minority rights.

The distinct regions within Asia and the Pacific, including South Asia, Southeast Asia, Northeast Asia and the Pacific, constitute differing patterns of minority communities but with similar tendencies when it comes to the situation of minorities and recognition of their rights. Minorities across the region have poor access to basic social services such as education, health and housing. In some cases, the provision of these services is not appropriate to the needs or sensitive to the culture of minority communities. Many minority groups are also poorly represented in aspects of public life, including in legislatures, the judiciary, police and civil service. Discriminatory restrictions on access to citizenship have been a problem for some minority groups, particularly those that are historically migrant groups.

Ethnic, religious and linguistic identity has played a role in many conflicts in the region. Many of these conflicts have roots in long-term inequality experienced by minority groups or the perceived economic dominance of numerical minorities. Inter-communal violence has been widespread. Freedom of religion is restricted for some groups and persecution of religious minorities is a problem in several States.

Despite the fact that many Asian and Pacific States reject the concept of 'indigenousness', many minority communities are asserting their identities as indigenous peoples (Sibbel 2005). This includes the hill tribes of Thailand, the scheduled tribes of India, and the peoples of the Chittagong Hill Tracts of Bangladesh. It is estimated that some two-thirds of the world's indigenous population resides in Asia. In some cases, States have identified these groups as ethnic minorities and have made efforts to establish some specially targeted measures for development and/or political representation. The traditional livelihoods of these communities, such as the practice of shifting cultivation, often have been restricted due to false perceptions that such practice is damaging or due to conflicting state interests in the land use. Minority communities frequently face involuntary resettlement measures (Asian Development Bank 1998).

The situation of the *Dalits* (the so-called 'untouchables' of the caste system) has gained greater international attention in recent years. There are an estimated 240 million *Dalits* in Asia, including in the States of India, Nepal, Pakistan, and Bangladesh. Despite some important government affirmative action programmes in States such as India and Nepal, many *Dalits* remain marginalised.

There are also large minority diaspora communities in the Asia and Pacific region, including Chinese, Indian and Nepali economic migrants. These migrants can face discrimination or even violence, even where they form economically strong communities.

Although in the Pacific many island States have considerable linguistic and cultural uniformity, the Pacific region is very ethnically diverse, with nations made up of numerous minority groups, as well as resettled peoples and internal migrants. At independence, Pacific States faced serious issues about the protection of minorities in post-colonial constitutions and disputes about minority land rights, which were often viewed

as conflicting with those of indigenous groups. These issues subsequently became major focal points for political conflict and instability.

The civil society of minorities across the region is mixed. In some countries, there is very little space for civil society organization and minorities consequently have not organized into CSOs. Regionally, the networks of *Dalits* and indigenous peoples are particularly strong.

12.4.1 Standards and Mechanisms in the Association of South East Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC):

Asia has two key sub-regional inter-governmental bodies: the Association of South East Asian Nations and the South Asian Association for Regional Cooperation. Neither have specific standards for minorities but both endorse cultural diversity.

Standards and Mechanisms of the Association of South East Asian Nations (ASEAN):

In November 2007, ASEAN member States signed the ASEAN Charter, which sets out the purposes and principles of the Association. The Charter is not a human rights treaty but does recognize among the purposes and principles of ASEAN to "promote and protect human rights and fundamental freedoms" (article 1.7 and 2.2(i)). There is no specific reference to minorities in the Charter but ASEAN's principles include "respect for the different cultures, languages and religions of the peoples of ASEAN, while emphasizing their common values in the spirit of unity in diversity" (article 2.2 (l)).

Article 14 of the Charter calls for the **establishment of a human rights body of ASEAN**. A High Level Panel was appointed in mid-2008 to being the process for establishing the human rights body. In 2009, the new body was named as the **ASEAN Intergovernmental Commission on Human Rights** and was approved by member States (AICHR). The AICHR has overall responsibility for the promotion and protection of human rights in ASEAN.

Standards and Mechanisms of the South Asian Association for Regional Cooperation (SAARC):

The SAARC aims to promote economic growth and development in the region but the SAARC Charter does not mention human rights. A number of **SAARC treaties address human rights** related issues, however, and in 2004 SAARC signed a Social Charter. The principles, goals and objectives of the Social Charter indicate that States should "ensure tolerance, non-violence, pluralism and non-discrimination in respect of diversity within and among societies" (article 2.2 (vii)) and "ensure that disadvantaged, marginalised and vulnerable persons and groups are included in social development" (article 2.2 (xi)).

12.5 MINORITIES IN CENTRAL AND EASTERN EUROPE (CEE) AND THE COMMONWEALTH OF INDEPENDENT STATES (CIS)

The concept of minorities is widely accepted in CEE and mostly in the CIS. In the post-Communist era, minorities have been freer to express their ethnic, religious and linguistic identities. However, minorities are among the groups that have lost the most as a result of conflict and transition.

The transition process has left many minority groups excluded from full and equal political and economic participation. Minorities are usually poorer than the majority, often live in remote areas, and commonly experience problems of discrimination in access to employment, education, health care, and development in their regions. The Roma remain the most socially and economically marginalised minority group across the region and their situation on the whole has worsened since the transition (Ringold, et al 2005).

Europe has the strongest regional protection system for minorities. The establishment of this protection system has largely been in response to the historical division of national communities across borders. Some so-called 'kin states' have supported minority rights protection for groups in neighbouring States that share their national or ethnic origins. Disputes over minority autonomy, cultural rights and inequality have frequently resulted in instability or conflict in the region. In some cases, national minorities have made claims to secession. Conflict prevention efforts often have focused attention on securing cultural rights and social, economic and political inclusion of minorities to promote integration of minority communities.

Another key development in minority protection in Europe has been the requirement for EU accession countries that they ensure 'respect for and protection of minorities'. This is one component of the EU's accession criteria (the so-called 'Copenhagen criteria').[87] As a result, all of the accession countries have made changes to the legal and regulatory framework in their countries to reflect minority rights standards. The third wave accession countries are making similar efforts. Some critics have noted that the changes are institutional only and have not been assessed from the perspective of implementation, which they claim remains weak (e.g. Hughes and Sasse 2003).

Although many countries in CEE and the CIS have laws on non-discrimination and some official recognition of minority groups, there remains in many countries a low level of commitment to enforcement of non-discrimination and to adopting positive measures to protect minority identities and promote their public participation.

The civil society of minorities is strong in CEE. Many national minorities, in particular, have gained seats in parliament or forms of local and regional autonomy. Roma still struggle with equal access to political participation but there are numerous CSOs created and led by Romani actors. Minority CSOs in CIS are weaker and can suffer from government opposition to their activities. Opportunities for meaningful dialogue between civil society, including minorities, and authorities are insufficient.

12.5.1 Standards and Mechanisms in CEE and the CIS

Several of Europe's regional inter-governmental organizations have elaborated standards and mechanisms for the protection of minorities.

12.5.2 Council of Europe (CoE)

The Council of Europe has two treaties on minority rights: the Framework Convention for the Protection of National Minorities and the European Charter on Regional and Minority Languages. The CoE also oversees the key human rights instrument for the region, the European Convention on Human Rights. The European Court of Human Rights has made several important judgements pertaining to the protection of minorities.

European Convention on Human Rights and Fundamental Freedoms (ECHR):

The main human rights instrument of the Council of **Europe is the European Convention on Human Rights and Fundamental Freedoms (ECHR)**. There is no minority specific article in the convention. However, article 14 provides protection against discrimination: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status". Protocol 12 of the Convention strengthens the provision of non-discrimination by extending

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[87] For full details of the Copenhagen Criteria, see http://europa.eu/scadplus/glossary/accession_criteria_copenhague_en.htm (accessed 9 August 2009).

it to "any right set forth by law" (article 1.1) and to any act by a public authority. However, only 17 States have ratified Protocol 12, in contrast to the 47 States that are party to the ECHR.

The European Court of Human Rights examines cases of alleged violations of the European Convention on Human Rights. Rulings of the Court are enforced by the Committee of Ministers of the CoE. The Committee receives a report of each ruling and responds with a resolution indicating the type of reform required to change domestic law to satisfy the Court's judgment. At future meetings of the Committee, the State will need to report on the measures it is taking. Should a State fail to act, the Committee will adopt interim resolutions outlining the State's failings.

Minorities have taken cases to the European Court of Human Rights. A recent landmark case on indirect discrimination concerned segregation of Romani children in schools in the Czech Republic.[88] In **D.H. and Others v the Czech Republic**, the applicants were Roma from the town of Ostrava where a disproportionate number of Romani children were placed in 'special schools' for persons with psychosocial disabilities. More than half of Roma children were sent to 'special schools' compared to 1.8% of non-Romani children and a Romani child was 27 times more likely to be sent to a 'special school' than a non-Romani child. The Court ruled that it is not necessary to prove discriminatory intent on the part of the government to find that the effects of an official policy are unlawfully discriminatory. Where a policy appears neutral, it is very difficult to prove discrimination and the court clarified that "when it comes to assessing the impact of a measure or practice on an individual or group, statistics which appear on critical

examination to be reliable and significant will be sufficient to constitute… *prima facie* evidence" of indirect discrimination.[89]

In the case of **Nachova and Others v. Bulgaria**,[90] the applicants were family members of two Roma who had been killed by the authorities who were trying to re-arrest them after they escaped. The Court found that excessive force had been used since neither man was armed nor had ever committed a violent act. The Court stated:

When investigating violent incidents and, in particular, deaths at the hands of state agents, state authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events. Failing to do so and treating racially induced violence and brutality on an equal footing with cases that have no racist overtones would be to turn a blind eye to the specific nature of acts that are particularly destructive of fundamental rights.[91]

In this case, the Court found that the authorities had failed to investigate whether racial dimensions played a part in the shootings as was claimed by eyewitnesses. The Government informed the Committee of Ministers that it had notified the Ministry of Defence and the military authorities that Bulgaria's obligations under the Convention could be met by drawing up "instructions for the attention of prosecution authorities indicating their obligation to investigate possible racist motives in similar cases" and that instructions had been given to the military police to prevent future similar violations.

These two cases reflect the capacity of the Court to make judgements that impact positively on minority rights. Although the two cases noted here pertain to Romani minorities, the principles

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[88] *DH & Others v. Czech Republic*, Application no. 57325/00, Judgement 13 November 2007.

[89] Further details on the significance of the case can be found at European Roma Rights *Centre* (ERRC): http://www.errc.org/cikk.php?cikk=2945 (accessed 9 August 2009).

[90] *Nachova and others v. Bulgaria*, Applications nos. 43577/98 and 43579/98, Judgement of 26 February 2004

[91] *Nachova and others v. Bulgaria*, paragraph 158.

on non-discrimination and combating racism are relevant to all minority groups. Further information on jurisprudence of the European Court of Human Rights pertaining to minorities can be found at Moucheboeuf (2006) (see Annex IV of this Guide).

Framework Convention for the Protection of National Minorities (FCNM):

The CoE has promulgated minority specific standards. The Framework Convention for the Protection of National Minorities (FCNM) is the first legally-binding minority instrument. 39 States of the CoE are party to its provisions. It contains mainly programme-type provisions – setting out principles and objectives – and it represents minimum standards for minority protection. States are expected to implement the FCNM through their national legislation and policies. For example, the FCNM states in article 5, "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". The emphasis is on national minorities exercising their individual rights in community with others. There is a collective element to the implementation of the rights. However, the rights are rights of individuals. The Advisory Committee will also apply the provisions of the FCNM separately to groups as appropriate. For instance, article 6 on tolerance, non-discrimination and inter-cultural dialogue makes no mention of national minorities *per se* and has been considered in connection with relevant migrant groups.

The FCNM is monitored by an Advisory Committee that assesses state compliance with the Convention by examining State and NGO reports and by visiting the countries under examination. The Advisory Committee produces an 'Opinion'. The State will comment on the Opinion and both documents are then examined by the Committee of Ministers of the CoE, which produces a resolution in consultation with the State concerned. Resolutions have been based largely on the Advisory Committee's Opinions. However, some governments have sought to dilute the criticism they face. Resolutions are debated *in camera*, which means the public and representatives of minorities are unable to take part in or monitor the debate. Minority CSOs can nevertheless submit 'alternative reports' on state implementation of the FCNM for consideration by the Advisory Committee.

The FCNM does not define a 'national minority'. Although States determine the scope of application of the convention, the Advisory Committee has expressed concern over non-recognition of some minority groups that States have excluded from the protection of the FCNM. The Advisory Committee has included in its Opinions language on the margin of appreciation States have. However, it stresses that States must not make arbitrary decisions on the groups to which the Convention applies. That decision must be made on the basis of objective criteria and must take into account the right to self-identification. It is important to note also that article 2 of the FCNM requires States to apply the Convention "in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States".

The FCNM covers areas including self identification, full and effective equality, development of culture and intercultural dialogue, religious belief and practice, freedom of association, media, use of minority names and languages, minority education, participation in public affairs, participation in economic and cultural life, protection against altering population proportions in minority areas and cross border contacts. The wording is frequently flexible to take into account different circumstances and to provide States a certain scope to decide how to implement the provisions, provided these are pursued in good faith and in conformity with international law. The Advisory Committee also

has drafted thematic commentaries on education and on participation in economic, social and cultural life by minorities that give helpful discussions on good practice in the application of FCNM standards.

European Charter on Regional and Minority Languages:

The European Charter on Regional and Minority Languages in designed to protect and promote the minority languages which are a threatened part of Europe's cultural heritage and to enable speakers of those languages to use them in public and in private. The Charter came into force in 1998 and currently has 23 States parties.

The Charter includes protection for languages which are "traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population; and different from the official language(s) of that State" (article 1 (a)). It excludes languages that are dialects of the official languages of the State and the languages of recent immigrants.

In addition to the principles, Part 3 of the Charter contains 68 specific measures on the promotion of regional and minority languages in public life. States must select at least 35 measures to apply to each regional language. This gives States the flexibility to take different measures depending on the situation of each language. States are encouraged to increase the number of measures they take as their legal situation changes or financial resources increase. The specific measures relate to the following areas: education, judicial authorities, administrative authorities and public services, media, cultural activities and facilities, economic and social life and trans-frontier exchanges.

A committee of independent experts monitors State implementation of the Charter. States submit reports to the Committee of Experts, which considers them, visits the States and prepares its evaluation including proposals for recommendations. The report is submitted to the Committee of Ministers, which takes the final decision on whether to make the report public and on what recommendations to make to the State. Minority CSOs report that the recommendations made by the Committee of Experts are good. However, there is a lack of knowledge and awareness of the Charter at the national level that impedes implementation of these recommendations.

European Commission against Racism and Intolerance (ECRI)

ECRI is a statutory body of the Council of Europe providing independent monitoring and evaluation of state practice in the area of combating racism, xenophobia, anti-Semitism and intolerance. It prepares regular country reports on all CoE member States in a 4-5 year cycle. Significantly, the independent experts of ECRI undertake country visits in preparation for the final report, giving a wider scope for engagement with minorities locally. ECRI also adopted several General Policy Recommendations focusing on broad themes and specific communities, including **General Policy Recommendation No. 3: Combating racism and intolerance against Roma/Gypsies** in 1998 and **General Policy Recommendation No. 5 Combating intolerance and discrimination against Muslims** in 2000.

12.5.3 European Union (EU)

The EU has different minority protection requirements for existing member States and for States wishing to join the EU. In 1993, the EU established a set of criteria that accession States must meet in order to join – the 'Copenhagen criteria'. These criteria include "respect for and protection of minorities". In addition, since 1997, for States in the Western Balkans there is another set of membership requirements that include the State's "credible commitment to democratic reforms and progress in compliance with the generally recognized standards of human and

minority rights".[92] The conditionality in these criteria is country specific and the EU has to varying degrees emphasised minority protection in its political accession criteria. The regular reports produced to monitor state compliance with accession criteria include information about minority protection. In practice, documents external to the EU have been used to provide the framework for examining minority protection in accession States. How States implement the FCNM has become a major indicator, making FCNM ratification a key consideration for accession States. Other documents referred to include reports of the OSCE High Commissioner on National Minorities, ECRI and national legislation.

The EU has extensive non-discrimination provisions. Two key EU Directives were adopted in 2000: Directive 2000/43/EC "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" (the "Racial Equality Directive"); and Directive 2000/78/EC "establishing a general framework for equal treatment in employment and occupation" (the "Employment Equality Directive"). Directives are binding on member States (i.e. they must be transposed into national law) but States may decide on the most suitable means of implementing them. The Directives define direct and indirect discrimination and apply to both the public and private sectors.

The Racial Equality Directive prohibits discrimination on racial or ethnic grounds in areas including employment, training, education, social protection and access to goods and services. The **Employment Equality Directive** prohibits discrimination on the grounds of religion or belief, age, disability and sexual orientation in the areas of employment and vocational training. Importantly, both Directives provide for a shift in the burden of proof, which means that once an alleged victim has established a difference in treatment it is for the respondent to prove that the difference was not due to discrimination. All EU member States are required to ensure their national legislation complies with the Directives. The Directives also allow for associations or NGOs to take action on behalf of victims through the national courts. The Racial Equality Directive provides for the establishment of equalities bodies in member States with a mandate to provide independent support for victims.

States, within a set timeframe, communicate to the European Commission the measures they have taken to transpose the Directives into national law. Where States fail to do this, the Commission may start 'infringement proceedings' which can include referral to the European Court of Justice. In the case of the Race and Employment Directives, a number of States were slow in informing the Commission of their transposition and, in December 2004, the Commission took five States to the European Court of Justice for failure to implement the Directives (i.e. Austria, Finland, Germany, Greece and Luxembourg).

The separate Equality Directives for race, gender, religion and age make it more challenging to pursue a case involving discrimination on multiple grounds. Since the Directives provide for individual remedies only, some argue they are less suited for tackling institutional discrimination and deep-rooted inequalities.

The EU Agency for Fundamental Rights (FRA) (formerly the European Monitoring Centre on Racism and Xenophobia) is an independent agency of the EU. Among its thematic areas of work of relevance for minorities are: "racism, xenophobia and related intolerance"; "discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities"; and "asylum, immigration and integration of

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[92] Council Conclusion on the application of conditionality governing the development of the European Union's relations with certain countries of south-east Europe, *EU Bulletin* (4) 1997.

migrants". The FRA does not examine individual cases but is responsible for producing policy research, data collection, monitoring, awareness raising and advising EU member States and agencies.

12.5.4 Organization for Security and Cooperation in Europe (OSCE):

The Organization for Security and Cooperation in Europe aims to provide early warning and conflict prevention, crisis management and post-conflict reconstruction. It regularly deals with human rights and minority rights issues in this capacity, including under the auspices of several OSCE bodies, such as the office of the High Commissioner on National Minorities (HCNM) and the Contact Point on Roma and Sinti Issues.

High Commissioner on National Minorities (HCNM)

The position of the High Commissioner on National Minorities was created by the OSCE in 1992 to provide **"early warning' and, as appropriate, 'early action' […] in regard to tensions involving national minority issues that have the potential to develop into a conflict."** The mandate specifically states, "The High Commissioner will not consider national minority issues in situations involving organized acts of terrorism". The mandate also excludes the HCNM from considering allegations of violations from individuals.

The HCNM examines the situation and gives advice to governments in confidence and has developed an approach focusing mainly on using quiet diplomacy rather than public statements. The aim of this confidentiality is to gain more acceptance of the role of the HCNM among governments, to avoid escalation of tensions between groups and to encourage parties involved in disputes to be more cooperative and adopt moderate positions since they know discussions with the HCNM will not be made public.

The HCNM has produced thematic recommendations on aspects of minority rights. These include the:

- Hague recommendations on the education rights of national minorities;
- Oslo recommendations on the linguistic rights of national minorities;
- Lund recommendations on the effective participation of national minorities in public life;
- Warsaw recommendations to assist national minority participation in the electoral process;
- Report and recommendations on the Situation of Roma and Sinti in the OSCE Area;
- Guidelines for the use of minority languages in the broadcast media;
- Recommendations on policing in multi-ethnic societies.

The HCNM's recommendations are not legally binding but are based upon expert opinions of minimum standards of good practice in each thematic area. The lack of a formal monitoring mechanism means that it is difficult to know the extent to which States have amended national laws to implement the recommendations.

Office for Democratic Institutions and Human Rights (ODIHR):

Within the OSCE, the Office for Democratic Institutions and Human Rights is the institution which specialises in dealing with elections, human rights, and democratization. Its mandate includes assisting States with implementing their commitments on non-discrimination and it

supports state efforts to tackle hate crimes, incidents of racism, anti-Semitism, and other forms of intolerance. ODIHR has established a **Contact Point for Roma and Sinti Issues** to address discrimination against Roma and Sinti across the OSCE area. The Contact Point conducts activities within the framework of the the 2003 OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area.[93] The Action Plan makes specific recommendations to participating OSCE States and to OSCE institutions and structures in the areas of improving political participation, tackling discrimination and racial violence and improving the social conditions of Roma and Sinti.

12.5.5 Decade for Roma Inclusion:

The Decade for Roma Inclusion (2005-2015) is a major transnational initiative to secure improvements in the economic and social position of Roma. The Decade has participation from eleven States: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Hungary, Montenegro, Romania, Serbia, Slovakia and the former Yugoslav Republic of Macedonia. It is supported both financially and technically by several international organizations, including the founding members the World Bank, Open Society Institute, UNDP, Council of Europe, and the OSCE; the European Commission joined subsequently. Romani leaders are also participants in the Decade institutions. The OSI has funded the creation of "Roma Civic Alliances", which are national coalitions of Roma and pro-Roma NGOs in five of the Decade countries (Bulgaria, Macedonia, Romania, Serbia and Slovakia). Several regional Romani organizations are also engaged, including the European Roma and Travellers Forum, the European Roma Information Office, the ERRC and the Roma Education Fund, the latter developed specifically in the context of the Decade. An institutional structure to oversee the Decade has been created, including an International Steering Committee in which governments, international organizations and Roma organizations participate; a Secretariat in Budapest; and an annually rotating Presidency held by participating States. Decade Action Plans have been drafted by each State and each participating State is required to, *inter alia*, "Ensure […] the financial commitment necessary for the implementation of the national Action Plans".[94]

Substantively, the Decade focuses on four sectors - education, employment, health and housing - as well as three cross-cutting issues - discrimination, poverty and gender. **The focus sectors correspond with targets for the Millennium Development Goals (MDGs). The Decade can be understood as a regional effort to achieve priority MDGs for Roma.**

Romani actors have been closely involved in the monitoring and implementation process. A key principal of the Decade is 'for Roma, by Roma' with a view to maximizing their role in all stages of the programme of work. In addition to the participation in the International Steering Committee, Romani NGOs have produced an evaluation of progress to date in the Decade. The first report, *Decade Watch: Roma Activists Assess the Progress of the Decade of Roma Inclusion 2005-2006*, was published in 2007. The report is a good monitoring tool (even with the methodological difficulties presented by low levels of data on Roma) and provides detailed information on the progress each State has made institutionally and in terms of policy and programmes on each of the four priority areas of the Decade. States are ranked according to their performance in implementing the Decade's objectives and this ranking is made publicly available. However, additional monitoring tools evaluating outcomes and impacts of programmes and projects are needed to make objective statements about the progress of Roma inclusion.

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[93] For more information see: http://www.osce.org/odihr/18148.html (accessed 9 August 2009).

[94] Decade of Roma Inclusion, *Terms of Reference*, (2 February 2005): paragraph A.4, p. 4.

DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

(Adopted by General Assembly resolution 47/135 of 18 December 1992)

The General Assembly,

Reaffirming that one of the basic aims of the United Nations, as proclaimed in the Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

Reaffirming faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

Desiring to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations,

Inspired by the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,

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,

Emphasizing that the constant promotion and realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States,

Considering that the United Nations has an important role to play regarding the protection of minorities,

Bearing in mind the work done so far within the United Nations system, in particular by the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Taking into account the important work which is done by intergovernmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Recognizing the need to ensure even more effective implementation of international human rights instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Proclaims this Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities:

Article 1

1. 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.

2. States shall adopt appropriate legislative and other measures to achieve those ends.

Article 2

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

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. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 3

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as community with other members of their group, without any discrimination.

2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration.

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.

3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions. language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

Article 5

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

Article 6

States should cooperate on questions relating to persons belonging to minorities, *inter alia*, exchanging information and experiences, in order to promote mutual understanding and confidence.

Article 7

States should cooperate in order to promote respect for the rights set forth in the present Declaration.

Article 8

1. Nothing in the present Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.

2. The exercise of the rights set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.

3. Measures taken by States to ensure the effective enjoyment of the rights set forth in the present Declaration shall not *prima facie,* be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.

4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

Article 9

The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence.

SELECTED CONCLUSIONS AND RECOMMENDATIONS ON MINORITY RIGHTS FROM UN TREATY BODIES

Protection and recognition of existence:

The Human Rights Committee has often expressed concerns that States deny the existence of minorities in their territory (e.g. in 2000 in relation to Kuwait) or ignore protection of minorities under the pretext that minorities are integrated (e.g. in 2004 in relation to the Dominican Republic), while CESCR has also expressed concerns about lack of recognition of minorities in some countries (e.g. in 2001 in relation to France):

*The Committee cannot accept the statement of the Delegation that there are no minorities in Kuwait. Given the wide diversity of persons in the State's territory and subject to its jurisdiction, it is clear that, in fact, there are persons in **Kuwait** who belong to ethnic, religious and linguistic minorities whose rights under art 27 ICCPR should be ensured and protected. (CCPR/CO/69/KWT, paragraph 14)*

*The Committee expresses concern over the lack of information on the protection of the rights of ethnic, religious and linguistic minorities in the **Dominican Republic**. The delegation's explanation that minorities are so integrated into the country's culture that they cannot be considered as such is not sufficient. (CCPR/CO/71/DOM, paragraph 20)*

*The Committee expresses its concern about the lack of recognition of minorities in **France**. While the French tradition emphasises the unity of the State and the equality of all French citizens, and while there is a commitment on the part of the State party to respect and protect equal rights for all, the Committee is of the opinion that the fact that all individuals are guaranteed equal rights in the State party and that they are all equal before the law does not mean that minorities do not have the right to exist and to be protected as such in the State party. The Committee emphasises that equality before the law is not always adequate to ensure the equal enjoyment of human rights, and in particular economic, social and cultural rights, by certain minority groups in a country.* (E/C.12/1/ADD.72, paragraph 15).

The Human Rights Committee also identifies gaps in State reporting and requests information about minority communities who have been neglected by the State (e.g. in relation to the Romani community in Brazil in 2005):

*The Committee is concerned about the lack of information on the **Roma** community and allegations that this community suffers discrimination, in particular with regard to equal access to health services, social assistance, education and employment (arts. 2, 26 and 27). The State party should provide information on the situation of the Roma community and the measures taken to ensure their practical enjoyment of rights under the Covenant.* (CCPR/C/BRA/CO/2, paragraph 20).

Education Rights:

CRC and CESCR have often recommended educational measures aimed at a greater integration of minorities in various States (e.g. in 2003 in relation to the Libyan Arab Jamahiriya and in 2001 in relation to Japan):

*The Committee … is concerned that the aims of education outlined in article 29 of the Convention, including the development of and respect for human rights, tolerance, and equality of the sexes and religious and ethnic minorities, are not explicitly part of the curricula. The Committee recommends that [**Libya**] the State party: (a) Taking into account the Committee's general comment No. 1 on the aims of education, include human rights education, including children's rights, in the curricula of all primary and secondary schools, particularly with respect to the development of and respect for human rights, tolerance, and equality of the sexes and religious and ethnic minorities; religious leaders should be mobilized in this regard.* (CRC/C/15/ADD.209, paragraphs 39 and 40)

*The Committee expresses its concern about the fact that there are very limited possibilities for children of minorities to enjoy education in their own language and about their own culture in public schools [in **Japan**]. The Committee is also concerned about the fact that minority schools, such as **Korean** schools, are not officially recognized, even when they adhere to the national education curriculum, and therefore neither receive central government subsidies nor are able to provide qualification for university entrance examinations. …. The Committee strongly recommends that mother-tongue instruction be introduced in the official curricula of public schools enrolling a significant number of pupils belonging to linguistic minorities. The Committee further recommends that the State party officially recognize minority schools, in particular Korean schools, when they comply with the national education curriculum, and consequently make available to them subsidies and other financial assistance, and also recognize their school leaving certificates as university entrance examination qualifications.* (E/C.12/1/ADD.67, paragraphs 32 and 60)

Right to Participation:

CERD has often called for measures to ensure appropriate representation of all ethnic communities in public services (e.g. in 2003 in relation to Fiji):

*The Committee expresses concern about the under representation of **Indo-Fijians** and other ethnic minorities in the police, the army and other public services in general, and recommends that specific programmes be adopted to ensure appropriate representation of all ethnic communities in these services. The Committee requests that updated statistics on poverty, unemployment and education, disaggregated between and within ethnic groups, be elaborated and included in the next periodic report. It also requests the State party to inform it of the results of all its affirmative action programmes, in particular those relating to poverty alleviation.* (CERD/C/62/CO/3, paragraph 18)

Cultural rights:

CERD has also recommended that States fully respect various cultural rights of minorities (e.g. in 2005 in relation to Turkmenistan):

*The Committee is concerned about information that persons belonging to national and ethnic minorities [in **Turkmenistan**] are impeded from exercising their right to enjoy their own culture. In particular, it is concerned about the reported closure of minority cultural institutions and of numerous schools teaching in minority languages, in particular Uzbek, Russian, Kazakh and Armenian languages, and the reduced possibilities for the use of minority languages in the media (arts. 2 and 5). The Committee recommends that the State party fully respect the cultural rights of persons belonging to national and ethnic minorities. In particular, the State party should consider reopening Uzbek, Russian, Kazakh, Armenian and other minority language schools. The Committee suggests that the State party reconsider the requirement that students belonging to national or ethnic minorities wear Turkmen national dress, and to provide more information on this issue. The State party*

should ensure that members of national and ethnic minorities are not discriminated against in their access to the media and have the possibility of creating and using their own media in their own language. (CERD/C/TKM/CO/5, paragraph 15)

Right to Non-discrimination:

CERD has also addressed issues of discrimination in a variety of fields, including health and HIV (e.g. in 2006 in relation to South Africa):

*While acknowledging the State party's programmes for the prevention and treatment of HIV/AIDS [in **South Africa**], the Committee is concerned at the high rate of HIV/AIDS among persons belonging to the most vulnerable ethnic groups (art. 5 (e)).The Committee recommends that the State party strengthen its programmes in the field of health, with particular attention to minorities, bearing in mind their disadvantaged situation resulting from poverty and lack of access to education, and encourages the State party to take further measures to combat HIV/AIDS.* (CERD/C/ZAF/CO/3, paragraph 20)

CEDAW has frequently recommended that States enact temporary special measures in order to eliminate discrimination against minority women in fields of political participation, education, employment and health (e.g. in 2005 in relation to Israel):

*The Committee encourages the State party to take sustained measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, and to establish concrete goals and timetables so as to accelerate the increase in the representation of women, including Israeli Arab women, in elected and appointed bodies in all areas of public life …[and] to reduce the drop-out rates of **Israeli Arab** girls and increase the number of Israeli Arab women at institutions of higher education. The Committee requests the State party to take effective measures to eliminate discrimination against Bedouin women and to enhance respect for their human rights through effective*

and proactive measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, in the fields of education, employment and health. (A/60/38(SUPP), paragraphs 252, 256 and 260).

CEDAW has also expressed concerns about discrimination against women within minority communities, resulting from non-application of individual human rights law (e.g. in 2007 in relation to Greece):

*The Committee expresses concern about the non-application of the general law of **Greece** to the Muslim minority on matters of marriage and inheritance, as Muslim communities can choose to be governed by Sharia law. The Committee is concerned that this situation leads to discrimination against Muslim women, in contravention of the Greek Constitution and article 16 of the Convention. The Committee notes with concern the continuing phenomenon of early marriage and polygamy in the Muslim community notwithstanding the fact that they are in conflict with the Greek constitutional order and the Convention. The Committee urges the State party to increase efforts to raise the awareness of Muslim women of their rights and of remedies against violations, and to ensure that they benefit from the provisions of Greek law on marriage and inheritance.* CEDAW/C/GRC/CO/6 (paragraph 33 and 34)

CAT has also frequently denounced racial violence and advocated stricter measures to deal with it (e.g. in 2007 in relation to Russia):

The reported rise in violent attacks because of the race, ethnicity or identity of the victim, including forced evictions in the Kaliningrad area [of Russia], and the alleged absence of effective investigations into such crimes: the State party should ensure that all officials are instructed that racist or discriminatory attitudes will not be permitted or tolerated and that any official who is complicit in such attacks will be prosecuted and suspended from his/her post pending resolution of the case or, if there is a

danger of recurrence, transferred to a post which does not enable him/her to come into direct contact with potential victims. The State party should ensure prompt, impartial and effective investigations into all such acts of violence. (CAT/C/RUS/CO/4, paragraph 23).

Access to Justice:

CAT has recommended taking measures to prevent the high incidence of deaths in custody among members of minorities, including through increasing the representation of minorities in police forces (e.g. in relation to Guyana in 2006):

*While taking note of the efforts made by the State party in addressing the issue of the ethnic composition in the **Guyana** Police Force, the Committee is concerned at the reduced presence of persons of Indo-Guyanese origin in the police force, which would appear to be among the underlying causes of the high number of deaths in custody of persons of Indo Guyanese origin. The State party should continue its efforts to diversify the ethnic composition of the Guyana Police Force and take appropriate measures to prevent the incidence of deaths in custody.* (CAT/C/GUY/CO/1, paragraph 9)

The CRC has drawn attention to the protection of minorities in relation to the process of post-war reconciliation (e.g. in 2005 in relation to Bosnia and Herzegovina):

*The Committee recommends that the State party take effective measures to protect the full enjoyment of the rights of children belonging to ethnic minority groups [in **Bosnia and Herzegovina**] and undertake special measures to stimulate a process of reconciliation and confidence building, including wide-ranging educative and awareness-raising campaigns.* (CRC/C/15/Add.260, paragraph 76).

Minority Rights Cases in Individual Complaints Mechanisms:

Four of the international human rights treaties (those dealing, respectively, with civil and political rights, racial discrimination, women's rights, and torture) have **individual complaint mechanisms** through which members of minorities (among others) can seek protection of their rights. Complaints can be considered under these optional petitions procedures where the State has accepted the First Optional Protocol of ICCPR, Optional Protocol to CEDAW, Article 22 of CAT and Article 14 of ICERD.

The successful use of these mechanisms by persons belonging to minorities is illustrated through the following examples:[95]

In Waldman v. Canada *(communication No. 694/1996), the author (a father of two children enrolled in a private school) claimed that the legislation entitling solely the Roman Catholic minority in the Province of Ontario with the right to receive **public funding for religious education**, was in breach of articles 2, 18, 26 and 27 of ICCPR. The CCPR Committee held that the Covenant does not create any obligation upon the States parties to fund schools established on a religious basis. On the other hand, it noted that when a State party chooses to publicly fund religious schools, it should make the funding available without discrimination. According to the Committee, any discrimination should be justified on the basis of reasonable and objective criteria. The Committee held that the criteria presented by the Government to justify the preferential treatment of the Roman Catholic minority, such as the historical basis of such preferential measures and their constitutional legislative basis, could not be considered as reasonable and objective. As a result, Canada was found in breach of Mr. Waldman's right to be afforded equal and effective protection against discrimination (art. 26, ICCPR).*

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[95] The case summaries are taken from E/CN.4/Sub.2/AC.5/2006/4. The full text of these cases can be found on the Office of the United Nations High Commissioner for Human Rights website (www.ohchr.org) in the treaty bodies database, jurisprudence section.

Ignatane v. Latvia (communication No. 884/1999) concerned a Latvian citizen of Russian ethnic origin who was standing as a candidate in the local elections and was struck off her party's list by a decision of the Riga Election Commission on the grounds that she did not have the required **proficiency of the official language**. The author argued that this decision violated articles 2 and 25 of ICCPR. She had been previously awarded a language-aptitude certificate stating that she had the highest level of proficiency in Latvian. In reaching its views, the CCPR Committee took into account the existence of the previous language certificate, which had been issued by a board of Latvian language specialists, and the fact that the Elections Commission had decided to strike Ms. Ignatane off the list on the decision of a single inspector. It stressed that: "The annulment of the author's candidacy pursuant to a review that was not based on objective criteria and which the State party has not demonstrated to be procedurally correct is not compatible with the State party's obligations under article 25 of the Covenant." It also found that the author suffered "a specific injury in being prevented from standing for the local elections in the city of Riga in 1997, because of having been struck off the list of candidates on the basis of insufficient proficiency in the official language". It thus concluded that Ms. Ignatane was a victim of a violation of article 25 in conjunction with article 2 of the Covenant. Nevertheless, the CCPR Committee did not pronounce on whether the preconditions of the electoral law itself were discriminatory. It rather looked at the particular circumstances of the case and the way that the law was implemented.

Koptova v. Slovakia (communication No. 13/1998) concerned two resolutions issued by the Municipal Council of Rokytovce and the Municipality of Nagov in June and July 1997, which **forbade Roma citizens who used to live there from entering the villages or settling there.** The author of the communication was also a Roma and the director of the Legal Defense Bureau for Ethnic Minorities of the Good Romany Fairy Kesaj Foundation in Kosice. She challenged one of the resolutions before the Constitutional Court. The author did not enter the villages while the resolutions were in force because she was scared that as a person of Roma ethnicity she would be threatened with violence. The resolutions were revoked in April 1999. The author argued that by maintaining the resolutions in force, the State party violated articles 2, paragraphs (a) and (c); 3; 4, paragraph (c); 5, paragraphs (d) and (i); and 6 of CERD. The Committee held that Ms. Koptova belonged to a group of the population directly targeted by the resolutions in questions and rejected the State party's argument that the author could not be considered a "victim" within the meaning of article 14, paragraph 1, of CERD. On the merits of the communication, the Committee held that while the wording of the resolutions referred explicitly to Roma previously domiciled in the concerned municipalities, the context of their adoption indicated that other Roma would have been equally prohibited from settling there, and thus found a violation of article 5, paragraphs (d) and (i) of CERD (right to freedom of movement and residence). Furthermore, while the Committee noted that the contested resolutions were rescinded in April 1999, it recommended that Slovakia should take the necessary measures to ensure that practices restricting the freedom of movement and residence of Roma under its jurisdiction were fully and promptly eliminated.

In recent years, the CERD Committee has examined communications concerning claims of **racial discrimination against persons of Roma ethnicity** in areas such as housing, freedom of movement and residence, and access to public places.

Ms. L.R. et al. v. Slovakia (communication No. 31/2003) concerned a complaint of **housing discrimination against Roma** in the municipality of Dobsina. In 2002, following a petition by the Dobsina Chairman of the Real Slovak Party, the municipal council cancelled an earlier decision to construct low-cost housing for the Roma inhabitants of the town. The District Prosecutor and the Slovak Constitutional Court refused to examine the application of the Roma inhabitants requesting an investigation of the council's actions. The

Committee reiterated that the definition of racial discrimination in article 1 expressly extends to measures that are discriminatory in face and effect (i.e. indirect discrimination). The Committee found the State party in violation of its obligations under article 2, paragraph 1 (a) of CERD, which obliges States parties to engage in no act of racial discrimination and to ensure that all public authorities act in conformity with this obligation. The Committee also found that Slovakia failed in its obligation to guarantee the right of everyone to equality before the law in the enjoyment of the right to housing (article 5, paragraph (e) (iii)). Finally, it held that the failure of the Slovak courts to provide an effective remedy disclosed a violation of article 6 of CERD.

Several communications concerning the ill-treatment of members of ethnic minorities, such as the Roma, while in **police custody** have been examined by the CAT Committee. Persons belonging to minorities who face refusal of their **refugee claim,** expulsion to their country of origin and the risk of death, torture or ill-treatment upon return, have filed complaints under the Convention invoking article 3 of CAT. The CAT Committee also has examined communications concerning attacks against persons of Roma ethnic origin and their property.

For example, **Hajrizi Dzemajl et al. v. Serbia and Montenegro** (communication No. 161/2000) concerned **attacks against the residents and the houses of a Roma settlement** in the Danilovgrad village, and the subsequent demolition and destruction of the houses by a mob of non-Roma residents. While police authorities were present, they failed to act and did nothing to protect the Roma residents or their property. The Committee found that the burning and destruction of the Roma houses constituted acts of cruel, inhuman or degrading treatment or punishment. It also underlined that the nature of those acts was further aggravated by the fact that some of the complainants were still hidden in the settlement when the houses were burnt and destroyed and the fact that those acts were committed with a significant level of racial motivation. It held that the acts referred to by the complainants were committed with the acquiescence of public officials and constituted a violation of article 16, paragraph 1, of the Convention. It was also held that the investigation conducted by the authorities failed to satisfy the requirements of article 12 because, despite the participation of several hundred of non-Roma residents in the events and the presence of the police forces during the events, no person nor any member of the police forces had been tried by the domestic courts. The Committee held that the investigation conducted by the authorities did not satisfy the requirements of article 12. It also found that the absence of an investigation and the authorities' failure to inform the complainants of the results of the investigation constituted a violation of article 13. Finally, it held that the failure of the State party to enable the complainants to obtain redress and to provide them with a fair and adequate compensation violated article 16.

Annex

III

Listing of papers of the former UN Working Group on Minorities and the present Independent Expert on minority issues, and the pamphlets in the UN Guide for Minorities, by theme, by country/region as well as the major studies or reports of the former UN Sub-Commission on Human Rights.

A. THEMES

1. Basic tools/documents

2001 Version of UN Guide for Minorities	**UN Declaration on** the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
E/CN.4/Sub.2/AC.5/2005/2	**Commentary on the UN Declaration** on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, as a Commentary of the Working Group as a whole
E/CN.4/Sub.2/AC.5/2006/3	**Minority Profile and Minority Matrix** on the Human Rights Situation of Minorities
E/CN.4/Sub.2/AC.5/2006/WP.1	Toolkit/Guidance note on **Integration with diversity in security, policing and criminal justice**

2. Existence and recognition/definition/differentiation of minorities

E/CN.4/Sub.2/AC.5/2005/WP.3	Report of the **African Commission** on Human and Peoples' Rights **Working Group of Experts on Indigenous Populations/Communities**
E/CN.4/Sub.2/2000/10	Working paper on the **relationship and distinction between the rights of persons belonging to minorities and those of indigenous peoples:** working paper submitted by **Ms. Erica-Irene A. Daes and Mr. Asbjörn Eide** in accordance with Sub-Commission resolution 1999/23
E/CN.4/Sub.2/AC.5/2000/WP.2	**Existence and recognition** of minorities, working paper prepared by Mr. Bengoa
E/CN.4/Sub.2/AC.5/1997/WP. 1	Working paper on the **definition** of minorities, prepared by Mr. Chernichenko
E/CN.4/Sub.2/AC.5/1996/WP. 1	Working paper on the **definition** of minorities, prepared by Mr. Chernichenko
E/CN.4/Sub.2/AC.5/1996/WP. 2	Working paper on the **classification of minorities and differentiation in minority rights**, prepared by Mr. Eide

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3. Self-determination and autonomy and participation in public life

E/CN.4/Sub.2/AC.5/2005/WP.5	**Towards a General Comment on Self-determination and Autonomy**, paper submitted by Marc Weller, Director, European Centre for Minority Issues
E/CN.4/Sub.2/AC.5/2004/WP.1	Minorities and **self-determination** (presented by Mr. José Bengoa)
E/CN.4/Sub.2/AC.5/2002/WP.1	**Report of an International Seminar on Autonomist and Integrative Approaches** to Minority Protection: Danish Centre for Human Rights (Copenhagen, 3-4 April 2002)
E/CN.4/Sub.2/AC.5/2001/WP.3	Study on the use of **autonomy approaches in the Russian Federation:** paper prepared by Mr. Vladimir Kartashkin and Prof. A.X. Abarhidze
E/CN.4/Sub.2/AC.5/2001/WP.4	**Cultural autonomy and territorial democracy:** a recipe for harmonious group accommodation?: paper prepared by Mr. Asbjørn Eide
E/CN.4/Sub.2/AC.5/2001/WP.5	Examples of **autonomy in Finland: the territorial autonomy of the Aland Islands and the cultural autonomy of the indigenous Saami people:** paper prepared by Mr. Lauri Hannikainen, Director of the Northern Institute for Environmental and Minority Law, Arctic Centre, University of Lapland, Finland
E/CN.4/Sub.2/AC.5/2001/WP.6	**Integrative approaches to the accommodation of minorities:** Paper prepared by Tom Hadden, Professor, The Queen's University of Belfast and Ciarán O Maoláin of The Queen's University of Belfast
E/CN.4/Sub.2/AC.5/2001/CRP.9	Appendix to the working paper (E/CN.4/Sub.2/AC.5/2001/WP.6) on integrative approaches to the accommodation of minorities - prepared by Tom Hadden: Professor, The Queen's University of Belfast and Ciarán O Maoláin
E/CN.4/Sub.2/AC.5/2001/WP.7	**"Lund Recommendations on the Effective Participation of National Minorities in Public Life"** submitted by John Packer, Director, Office of the High Commissioner for National Minorities, Organization for Security and Co-operation in Europe
E/CN.4/Sub.2/AC.5/2001/CRP.1	**Autonomy in the 21st century:** through theoretical binoculars: paper prepared by Tim Potier, Assistant Professor in Law, Law Programme Coordinator, Intercollege, Nicosia
E/CN.4/Sub.2/AC.5/2001/CRP.2	**Autonomy, self-determination and the requirements of minimal justice in South Asia:** paper prepared by Ranabir Samaddar, Director, Peace Studies Programme, South Asia Forum for Human Rights
E/CN.4/Sub.2/AC.5/2001/CRP.5	**Autonomy and minority groups** - a legal right in international law?: paper prepared by Geoff Gilbert, Professor of Law, Human Rights Centre, University of Essex
E/CN.4/Sub.2/AC.5/2001/CRP.6	**The participation of minorities in decision-making:** expert study authored by J.A. Frowein and Roland Bank, of the Max Planck Institute, and submitted by Antti Korkeakivi, Administrator, Secretariat of the Framework Convention on National Minorities, Directorate General of Human Rights, Council of Europe

3. Self-determination and autonomy and participation in public life (cont'd)

E/CN.4/Sub.2/AC.5/2001/CRP.10	**Minority Self-Government in Hungary: a framework for cultural autonomy:** paper submitted by Mr. Csaba Györffy, Deputy Head of the Department of Human Rights and Minority Law, Ministry of Foreign Affairs, Budapest
E/CN.4/Sub.2/AC.5/2000/CRP.4	The **Sri Lankan Government's** proposals for power-sharing, conference room paper prepared by Mr. Jayampathy Wickramaratne, Attorney at law, Consultant, Ministry of Justice, Constitutional Affairs, Ethnic Affairs and National Integration, Sri Lanka
E/CN.4/Sub.2/AC.5/1999/WP.4	**Towards effective participation of minorities**, report prepared following meeting organized with the European Centre for Minority Issues
E/CN.4/Sub.2/AC.5/1998/WP.4	Towards effective **political participation** and representation of minorities: working paper prepared by Mr. Fernand de Varennes

4. Conflict prevention and resolution

E/CN.4/Sub.2/AC.5/2006/2	Report of Workshop on Minorities and **Conflict Prevention and Resolution**, held in Palais des Nations Geneva in 2005
E/CN.4/Sub.2/AC.5/2000/CRP.3	Minority rights and the **prevention of ethnic conflicts**, conference room paper prepared by Mr. Fernand de Varennes, Director, Asia-Pacific Centre for Human Rights and the Prevention of Ethnic Conflict, Perth, Australia
E/CN.4/Sub.2/AC.5/2001/CRP.3	**The peace process in Northern Ireland:** paper prepared by Tom Hadden, Professor, Centre for International and Comparative Human Rights Law, The Queen's University of Belfast
2001 Version of UN Guide for Minorities Pamphlet No. 9	**The High Commissioner on National Minorities** of the Organization for Security and Cooperation in Europe

5. Education

E/CN.4/Sub.2/AC.5/2000/WP.4	Montreal International Seminar on Intercultural and Multicultural **Education**
E/CN.4/Sub.2/AC.5/1999/WP.5	Multicultural and intercultural **education** and protection of minorities, prepared by Mr. Mehedi
E/CN.4/Sub.2/AC.5/1997/WP.3	Working paper on **education rights** and minorities: the Hague Recommendations, prepared by Mr. Guillaume Siemienski
E/CN.4/Sub.2/AC.5/1997/WP.5	Report of the seminar on multicultural and intercultural **education**
E/CN.4/Sub.2/AC.5/1996/WP.3	Working paper on **education** and minorities, prepared by Mr. Bengoa

6. Religious minorities/Education

E/CN.4/Sub.2/AC.5/1997/CRP.1	Treatment of **religious minorities in educational systems** throughout the world, prepared by Mr. Roman Kroke

7. Linguistic rights

E/CN.4/Sub.2/AC.5/1997/WP.6	Working paper on the rights of **linguistic minorities**, "To speak or not to speak", prepared by Mr. Fernand de Varennes

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8. Culture	
E/CN.4/Sub.2/AC.5/2001/WP.3	Study on the use of **autonomy approaches in the Russian Federation:** paper prepared by Mr. Vladimir Kartashkin and Prof. A.X. Abarhidze
E/CN.4/Sub.2/AC.5/2001/WP.4	**Cultural autonomy and territorial democracy:** a recipe for harmonious group accommodation?: paper prepared by Mr. Asbjørn Eide
E/CN.4/Sub.2/AC.5/2001/WP.5	Examples of **autonomy in Finland: the territorial autonomy of the Aland Islands and the cultural autonomy of the indigenous Saami people:** paper prepared by Mr. Lauri Hannikainen, Director of the Northern Institute for Environmental and Minority Law, Arctic Centre, University of Lapland, Finland
E/CN.4/Sub.2/AC.5/1997/WP.7	Working paper on the right of persons belonging to minorities to **enjoy their own culture**, by Ms. Schulte-Tenckhoff
9. Media	
E/CN.4/Sub.2/AC.5/1998/WP.3	Expert seminar on the role of **the media** in protecting minorities -recommendations for the United Nations Working Group on Minorities: working paper prepared by the International Service for Human Rights and the Minority Rights Group
E/CN.4/Sub.2/AC.5/1998/WP.3	Working paper on the rights of minorities and the role of the **media**, prepared by Mr. Khalil
10. Development, Participatory Budget Schemes	
A/HRC/4/9/Add.1 and Corr.1	Report of the Independent Expert on minority issues, Gay McDougall - **Achieving the Millennium Development Goals (MDGs) for minorities:** A review of MDG country reports and poverty reduction strategies and Corrigendum
E/CN.4/Sub.2/AC.5/2005/WP.4	"The **Millennium Development Goals: Helping or Harming Minorities?**", paper submitted by Minority Rights Group International
E/CN.4/Sub.2/AC.5/2004/WP.5	An Examination of **Approaches by International Development Agencies** to Minority Issues in Development, presented by the Minority Rights Group International
E/CN.4/Sub.2/AC.5/2002/WP.6	**Minority rights and development:** overcoming exclusion, discrimination and poverty by Minority Rights International
Background paper to meeting in La Ceiba, Honduras (21-24 March 2002)	**Participatory Budgets** in Brazil: Democracy is built with participation: prepared by Ivanir dos Santos
2001 Version of UN Guide for Minorities Pamphlet No. 13	The Organization for Economic Cooperation and Development **(OECD)'s Development Assistance Committee**
11. Policing, Justice, Security	
E/CN.4/Sub.2/AC.5/2006/WP.1	Toolkit/Guidance note on **Integration with diversity in security, policing and criminal justice**

12. Jurisprudence – international and regional

E/CN.4/Sub.2/AC.5/2006/4	Note of the Secretariat submitting a future pamphlet of the UN Guide for Minorities on **Minorities & individual complaint procedures** under the UN treaties
E/CN.4/Sub.2/AC.5/2002/WP.2	**Jurisprudence of the European Court and Commission on Human Rights in 2001** and minority groups by Prof. Geoff Gilbert, Department of Law and Human Rights Centre, University of Essex
E/CN.4/Sub.2/AC.5/2001/CRP.4	**Jurisprudence of the European Court and Commission of Human Rights in 2000** and Minority Groups: prepared by Geoff Gilbert, Professor, Department of Law and Human Rights Centre, University of Essex
E/CN.4/Sub.2/AC.5/2000/CRP.1	**Jurisprudence of the European Court and Commission of Human Rights in 1999** and minority groups, conference room paper prepared by Prof. Geoff Gilbert, Department of Law and Human Rights Centre, University of Essex

13. Non citizens/citizenship/domicile and residence

E/CN.4/Sub.2/AC.5/1999/WP.3	**Citizenship and the minority rights of non-citizens**, prepared by Mr. Eide
E/CN.4/Sub.2/AC.5/1997/WP.9	Working paper on some aspects of **citizenship** under international law, prepared by Mr. Ali Khan
E/CN.4/Sub.2/AC.5/1996/WP.4	Working paper on **domicile and residence** concerning minorities and migrant groups, prepared by Mr. Ali Khan

14. Racism

2001 Version of UN Guide for Minorities Pamphlet No. 14	The **European Union:** Human Rights and the **fight against discrimination**
E/CN.4/Sub.2/AC.5/2001/WP.8	The **relationship between racism and the protection of the rights of persons belonging to minorities:** notes for a possible statement for the World Conference against Racism, prepared by Mr. Asbjørn Eide
E/CN.4/Sub.2/AC.5/2000/WP.6	**Contribution of National Institutions to the World Conference against Racism:** recommendations for the Working Group on Minorities, working paper prepared by Mme. Sambuc, Vice President of the Swiss Federal Commission against Racism

15. National Human Rights Institutions

E/CN.4/Sub.2/AC.5/2005/3	**Minorities** and the work of **National Human Rights Institutions** for the Promotion and Protection of Human Rights, future Pamphlet of the United Nations Guide for Minorities
E/CN.4/2002/92	**Report of the International Seminar on Cooperation for the Better Protection** of the Rights of Minorities (Durban, South Africa, 1, 2 and 5 September 2001)

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16. Discrimination based on work and descent	
A/HRC/11/CRP.3	Final Report of Mr. Yozo Yokota and Ms. Chin-Sung Chung, Special Rapporteurs on the topic of Discrimination Based on Work and Descent, including the **Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent**
E/CN.4/Sub.2/2004/31	Expanded working paper by Mr. Asbjørn Eide and Mr. Yozo Yokota on the topic of discrimination based on work and descent
E/CN.4/Sub.2/2003/24	Discrimination based on work and descent: Expanded working paper submitted by Mr. Asbjørn Eide and Mr. Yozo Yokota
E/CN.4/Sub.2/2001/16	Discrimination based on work and descent - Working paper by Mr. Rajendra Kalidas Wimala Goonesekere
17. Independent Expert on minority issues	
A/HRC/4/9	Annual report of the Independent Expert on minority issues, Ms. Gay McDougall
E/CN.4/2006/74	Annual report of the Independent Expert on minority issues, Ms. Gay McDougall
A/HRC/4/9/Add.1 and Corr.1	Report of the Independent Expert on minority issues, Gay McDougall - **Achieving the Millennium Development Goals (MDGS) for minorities:** A review of MDG country reports and poverty reduction strategies and Corrigendum
A/HRC/7/23	Report of the Independent Expert on minority issues, Gay McDougall – **Minorities and the Discriminatory Denial or Deprivation of Citizenship**
A/HRC/10/11/Add.1	Report of the Independent Expert on minority issues, Gay McDougall - **Recommendations of the Forum on Minorities Issues: Education**
A/HRC/10/11	Annual Report of the Independent Expert on minority issues, Gay McDougall
A/HRC/4/9/Add.2	Report of the Independent Expert on minority issues, Gay McDougall - **Mission to Hungary**
A/HRC/4/9/Add.3	Report of the Independent Expert on minority issues, Gay McDougall - **Mission to Ethiopia**
A/HRC/7/23/Add.2 (en) (fr)	Report of the Independent Expert on minority issues, Gay McDougall - **Mission to France**
A/HRC/7/23/Add.3 (en) (sp)	Report of the Independent Expert on minority issues, Gay McDougall - **Mission to the Dominican Republic**
A/HRC/10/11/Add.2	Report of the Independent Expert on minority issues, Gay McDougall - **Mission to Guyana**
A/HRC/10/11/Add.3	Report of the Independent Expert on minority issues, Gay McDougall - **Mission to Greece**

18. Cooperation for better protection of minority rights

E/CN.4/Sub.2/AC.5/2006/4	Note of the Secretariat submitting a future pamphlet of the UN Guide for **Minorities on Minorities & individual complaint procedures** under the UN treaties
E/CN.4/2002/92	**Report of the International Seminar on Cooperation for the Better Protection** of the Rights of Minorities (Durban, South Africa, 1, 2 and 5 September 2001)
2001 Version of UN Guide for Minorities (Pamphlet No.12)	Protection of Refugees who belong to Minorities: The United Nations High Commissioner for Refugees **(UNHCR)**
2001 Version of UN Guide for Minorities (Pamphlet No.11)	The Protection of the Rights of Minorities and **UNESCO**
2001 Version of UN Guide for Minorities (Pamphlet No.10)	Minorities and the **ILO**
E/CN.4/Sub.2/AC.5/1998/WP.2	Working paper on best practices in the area of minority protection
E/CN.4/Sub.2/AC.5/1997/WP.8	Working paper on the **implementation of the rights** of persons belonging to minorities, prepared by Mr. Gudmundur Alfredsson

19. Regional mechanisms and other relevant reports

E/CN.4/Sub.2/AC.5/2005/WP.3	Report of the **African Commission** on Human and Peoples' Rights **Working Group of Experts on Indigenous Populations/Communities**
E/CN.4/2002/92	**Report of the International Seminar on Cooperation for the Better Protection** of the Rights of Minorities (Durban, South Africa, 1, 2 and 5 September 2001)
2001 Version of UN Guide for Minorities (Pamphlet No.12)	Protection of Refugees who belong to Minorities: The United Nations High Commissioner for Refugees **(UNHCR)**
2001 Version of UN Guide for Minorities (Pamphlet No.11)	The Protection of the Rights of Minorities and **UNESCO**
2001 Version of UN Guide for Minorities (Pamphlet No.10)	Minorities and the **ILO**
2001 Version of UN Guide for Minorities (Pamphlet No. 8)	The Council of **Europe's Framework Convention** for the Protection of National Minorities
2001 Version of UN Guide for Minorities (Pamphlet No.7)	Minority Rights under the **European Convention** on Human Rights
2001 Version of UN Guide for Minorities (Pamphlet No.6)	Minority Rights under the **African Charter** on Human and Peoples' Rights
2001 Version of UN Guide for Minorities (Pamphlet No.5)	Protection of Minority Rights in the **Inter-American** system
2001 Version of UN Guide for Minorities (Pamphlet No. 4)	Human Rights **Treaty Bodies and Complaint** Mechanisms
2001 Version of UN Guide for Minorities (Pamphlet No. 3)	The **Charter-based system** of the United Nations

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19. Regional mechanisms and other relevant reports (cont'd)

2001 Version of UN Guide for Minorities (Pamphlet No. 1)	Minorities, the United Nations and Regional Mechanisms
E/CN.4/Sub.2/AC.5/1999/WP.6	Universal and regional mechanisms for minority protection, prepared by Mr. Vladimir Kartashkin

B. REGIONAL/COUNTRY PAPERS

AFRICA

E/CN.4/Sub.2/AC.5/2004/WP.8 (French / Spanish)	Intégration et autonomie des minorités en **Côte d'Ivoire** (presented by Mrs. Adrienne Blay Botau)
E/CN.4/Sub.2/AC.5/2003/WP.10	Ethnic Minority Groups in **Nigeria** by Abdul Raufu Mustapha,
E/CN.4/Sub.2/AC.5/2003/WP.4	Minorities in **Ghana** by E. Gyimah-Boadi & Richard Asante,
E/CN.4/Sub.2/AC.5/2003/WP.19	Political Participation **in Arab Countries** by Mustapha Kamel Al-Sayyid, background paper prepared as input for the Arab Region Development Report
E/CN.4/Sub.2/AC.5/2002/2	Report on the visit by the Working Group to **Mauritius**
E/CN.4/Sub.2/AC.4/2002/4	Report of the third workshop on multiculturalism in Africa: peaceful and constructive group accommodation in situations involving minorities and indigenous peoples (**Gaborone, Botswana**, 18-22 February 2002)
2001 Version of UN Guide for Minorities (Pamphlet No.6)	Minority Rights under the **African Charter** on Human and Peoples' Rights
E/CN.4/Sub.2/AC.5/2001/3	Report of the second seminar on multiculturalism in Africa: peaceful and constructive group accommodation in situations involving minorities and indigenous peoples (**Kidal, Mali**, 8-13 January 2001)
E/CN.4/Sub.2/AC.5/2001/WP.2	**Peoples' rights in Africa**: towards the recognition and protection of ethnic, religious and linguistic specificities?: paper prepared by Ms. Samia Slimane
E/CN.4/Sub.2/AC.5/2000/WP.3	Report of the seminar on multiculturalism in Africa: peaceful and constructive group accommodation in situations involving minorities and indigenous peoples (**Arusha, United Republic of Tanzania**, 13-15 May 2000)

ASIA	
E/CN.4/Sub.2/AC.5/2005/4	Report on the Sub-Regional Seminar on Minority Rights: Cultural Diversity and Development in **South Asia**, held in Kandy, Sri Lanka, from 21 to 24 November 2004, Ms. Asma Jahangir, Mr. M.C.M. Iqbal and Mr. Soli Sorabjee, Co-Chairpersons-Rapporteurs
E/CN.4/Sub.2/AC.5/2005/WP.6	Summary of presentations to the Sub-Regional Seminar on Minority Rights: Cultural Diversity and Development **in South Asia**, held in Kandy, Sri Lanka, from 21 to 24 November 2004, Ms. Asma Jahangir, Mr. M.C.M. Iqbal and Mr. Soli Sorabjee, Co-Chairpersons-Rapporteurs
E/CN.4/Sub.2/AC.5/2003/WP.13	Minorities in **South Asia**, by I. A. Rehman,
E/CN.4/Sub.2/AC.5/2003/WP.2	Statement of Principles on Minority and Group Rights in **South Asia**, submitted by International Centre for Ethnic Studies, Sri Lanka
E/CN.4/Sub.2/AC.5/2001/CRP.2	**Autonomy, self-determination and the requirements of minimal justice in South Asia:** paper prepared by Ranabir Samaddar, Director, Peace Studies Programme, South Asia Forum for Human Rights
E/CN.4/Sub.2/AC.5/2001/CRP.7	**Sri Lanka National Review:** study submitted by the International Centre for Ethnic Studies, Colombo
E/CN.4/Sub.2/AC.5/2001/CRP.8	Reply of the Government of **Sri Lanka** to the paper (E/CN.4/Sub.2/AC.5/2001/CRP.7) submitted by the International Centre for Ethnic Studies
E/CN.4/Sub.2/AC.5/2000/CRP.4	The **Sri Lankan Government's** proposals for power-sharing, conference room paper prepared by Mr. Jayampathy Wickramaratne, Attorney at law, Consultant, Ministry of Justice, Constitutional Affairs, Ethnic Affairs and National Integration, Sri Lanka
E/CN.4/Sub.2/AC.5/2005/5	Conclusions and recommendations of the Sub-Regional Seminar on Minority Rights: Cultural Diversity and Development in **Central Asia**, held in Bishkek, 27 to 30 October 2004, Mr. Alisher Sabirov, Kyrgyz Republic, Chairperson and Ms. Zumrat Salmorbekova, Kyrgyz Republic, Deputy Chairperson
E/CN.4/Sub.2/AC.5/2005/WP.2	Summary of the discussion at the Sub-Regional Seminar on Minority Rights: Cultural Diversity and Development in **Central Asia**, held in Bishkek, from 27 -30 October 2004, Mr. Alisher Sabirov, Chairperson, Ms. Zumrat Salmorbekova, Vice-Chairperson
E/CN.4/Sub.2/AC.5/2003/WP.8	Ethnic and Religious Minorities in the Islamic Republic of **Iran** by Nazila Ghanea-Hercock,
E/CN.4/Sub.2/AC.5/2003/WP.9	Minorities and participation in public life: **Kazakhstan**
E/CN.4/Sub.2/AC.5/2003/WP.6	**Kyrgyzstan** by Ainur Bekkulovna Elebaeva
E/CN.4/Sub.2/AC.5/2003/2	Regional Seminar on Minority Rights: Cultural Diversity and Development in **Southeast Asia**, Chiang Mai, Thailand (Conclusions and recommendations)

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ASIA (cont'd)

E/CN.4/Sub.2/AC.5/2003/WP.14	Regional Seminar on Minority Rights: Cultural Diversity and Development in **Southeast Asia** (Chiang Mai, 4 to 7 December 2002): Ms. Julia Kam (Institute Dayakologi, Indonesia), Mr. Sem Karoba (Koteka Tribal Assembly for Rights, Peace and Justice in West Papua, Indonesia), Co-Chairpersons [E - F - S]
E/CN.4/Sub.2/AC.5/2003/WP.15	The Quest of the Indigenous Communities in **Mindanao, Philippines:** Right to Ancestral Domain, by Linda Burton
E/CN.4/Sub.2/AC.5/2003/WP.12	Minorities and the State in **Malaysia and Singapore** by Lily Zubaidah Rahim,
E/CN.4/Sub.2/AC.5/2003/WP.11	Inclusion of Minorities in Public Life in **Laos, Thailand and Vietnam** by Vatthana Pholsena,
E/CN.4/Sub.2/AC.5/2003/WP.5	Minority Rights in **Fiji and the Solomon Islands** by Jon Fraenkel,
E/CN.4/Sub.2/AC.5/2003/WP.19	Political Participation **in Arab Countries** by Mustapha Kamel Al-Sayyid, background paper prepared as input for the Arab Region Development Report

EASTERN AND WESTERN EUROPE AND NORTH AMERICA

A/HRC/Sub.1/58/AC.5/2006/CRP.1	A **Regional Perspective on Afrodescendant Quality of Life**, a conference room paper submitted by representatives of All for Reparations and Emancipation (AFRE)
E/CN.4/Sub.2/AC.5/2003/WP.7	Minorities in the **South Caucasus** by Anna Matveeva,
E/CN.4/Sub.2/AC.5/2002/WP.3	Report of Montreal Seminar on Afro-descendants
E/CN.4/Sub.2/AC.5/2002/WP. http://www.unhchr.ch/huri-docda/huridoca.nsf/(Symbol)/ E.CN.4.SUB.2.AC.5.2003.WP.18. En?Opendocument4	Information provided by the Romanian Government
E/CN.4/Sub.2/AC.5/2002/WP.5	Information provided by the Hungarian Government
2001 Version of UN Guide for Minorities (Pamphlet No. 9)	**The High Commissioner on National Minorities** of the Organization for Security and Cooperation in Europe **(OSCE)**
E/CN.4/Sub.2/AC.5/2001/WP.3	Study on the use of autonomy approaches in the **Russian Federation:** paper prepared by Mr. Vladimir Kartashkin and Prof. A.X. Abarhidze
E/CN.4/Sub.2/AC.5/2001/WP.4	**Cultural autonomy and territorial democracy:** a recipe for harmonious group accommodation?: paper prepared by Mr. Asbjørn Eide
E/CN.4/Sub.2/AC.5/2001/WP.5	Examples of **autonomy in Finland:** the territorial autonomy of the Aland Islands and the cultural autonomy of the indigenous Saami people: paper prepared by Mr. Lauri Hannikainen, Director of the Northern Institute for Environmental and Minority Law, Arctic Centre, University of Lapland, Finland

EASTERN AND WESTERN EUROPE AND NORTH AMERICA (cont'd)

E/CN.4/Sub.2/AC.5/2001/CRP.10	**Minority Self-Government in Hungary:** a framework for cultural autonomy: paper submitted by Mr. Csaba Györffy, Deputy Head of the Department of Human Rights and Minority Law, Ministry of Foreign Affairs, Budapest
E/CN.4/Sub.2/AC.5/2001/CRP.6	**The participation of minorities in decision-making:** expert study authored by J.A. Frowein and Roland Bank, of the Max Planck Institute, and submitted by Antti Korkeakivi, Administrator, Secretariat of the Framework Convention on National Minorities, Directorate General of Human Rights, **Council of Europe**
E/CN.4/Sub.2/AC.5/2001/CRP.3	The peace process in **Northern Ireland:** paper prepared by Tom Hadden, Professor, Centre for International and Comparative Human Rights Law, The Queen's University of Belfast
E/CN.4/Sub.2/AC.5/2000/CRP.2	Proposition pour l'élaboration des régimes d'autonomie pour résoudre la question des communautés minoritaires **de l'Europe centrale et balkanique, conference room paper prepared by Mr. Gyula Csurgai**
E/CN.4/Sub.2/AC.5/1998/CRP.1	Presidential roundtable on **minorities in Estonia:** successes and failures prepared by Mr. Aleksei Semjonov
E/CN.4/Sub.2/AC.5/1998/CRP.2	The **role of bilateral treaties** in the protection of national minorities in Central and Eastern Europe: prepared by Ms Kinga Gal

LATIN AMERICA AND CARIBBEAN

E/CN.4/2006/23	Report of the Regional Workshop on **Afro-descendants in the Americas, (Chincha, Peru** 2-4 November 2005): entitled "Strategies for the inclusion of people of African descent in programmes to reduce poverty, especially to achieve Millennium Development Goal 1"
A/HRC/Sub.1/58/AC.5/2006/CRP.1	A **Regional Perspective on Afrodescendant Quality of Life**, a conference room paper submitted by representatives of All for Reparations and Emancipation (AFRE)
E/CN.4/Sub.2/AC.5/2003/WP.18	Persons of African Descent in **South America** prepared by Ana Chalá, Federacion de Comunidades Negras de Imbabura y Carchi and unofficially translated by Fausto Padilla
E/CN.4/Sub.2/AC.5/2003/WP.17	The **Rom in the Americas**, by Jorge Bernal
E/CN.4/Sub.2/AC.5/2002/WP.3	Report of Montreal Seminar on Afro-descendants
E/CN.4/Sub.2/2002/40	Report of the **Regional Seminar on Afro-descendants in the Americas (La Ceiba, Honduras**, 21-24 March 2002)
Background paper to meeting in La Ceiba, Honduras (21-24 March 2002)	Participatory Budgets in **Brazil:** Democracy is built with participation: prepared by Ivanir dos Santos

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C. MAJOR STUDIES/REPORTS BY THE SUB-COMMISSION

E/CN.4/Sub.2/384 (20 June 1977) E/CN.4/Sub.2/384/Add.1-7 E/CN.4/Sub.2/384/Rev.1 (Sales No. E.78XIV.1, New York: United Nations, 1979)	Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities: **Mr. Francesco Capotorti**
E/CN.4/Sub.2/1985/31 (14 May 1985) E/CN.4/Sub.2/1985/31/Corr.1	Proposal concerning a definition of the term 'Minority', submitted by **Mr. Jules Deschênes**
E/CN.4/Sub.2/1989/43	Working paper, prepared by **Ms. Claire Palley**, on possible ways and means to facilitate the peaceful and constructive resolution of situations involving racial, national, religious and linguistic minorities,
E/CN.4/Sub.2/1990/46	**Preliminary report** submitted by the Special Rapporteur **Mr. Asbjorn Eide, on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities:**
E/CN.4/Sub.2/1991/43 E/CN.4/Sub.2/1991/43/Corr.1 (29 June 1992)	**Progress report** submitted by the Special Rapporteur **Mr. Asbjorn Eide**, on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities,
E/CN.4/Sub.2/1992/37 (1 July 1992) E/CN.4/Sub.2/1992/37/Add.1 (29 June 1992) E/CN.4/Sub.2/1992/37/Add.2 (23 June 1992)	Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities. **2nd progress report: prepared by Mr. Asbjorn Eide**
E/CN.4/Sub.2/1993/34 (10 August 1993) E/CN.4/Sub.2/1993/34/Add.1 (19 July 1993) E/CN.4/Sub.2/1993/34/Add.2 (16 July 1993) E/CN.4/Sub.2/1993/34/Add.3 (3 August 1993) E/CN.4/Sub.2/1993/34/Add.4 (11 August 1993)	Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities: **final report prepared by Mr. Asbjorn Eide**
E/CN.4/Sub.2/1994/36 (6 July 1994) E/CN.4/Sub.2/1994/36/Corr.1 (18 July 1994)	Working Paper containing suggestions for a **comprehensive programme for the prevention of discrimination and protection of minorities** by Asbjorn Eide

E/CN.4/Sub.2/1995/33 (14 June 1995) E/CN.4/Sub.2/1995/33/Add.1 (20 June 1995) E/CN.4/Sub.2/1995/33/Add.2 (20 July 1995)	Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities. Report of the Secretary-General prepared pursuant to Sub-Commission resolution 1994/4
E/CN.4/Sub.2/1995/34 (21 July 1995)	**Enclaved groups**. Working paper prepared by Mr. Asbjørn Eide pursuant to Sub-Commission decision 1994/113
E/CN.4/Sub.2/1996/30 (25 July 1996)	Towards a **comprehensive programme** for the prevention of discrimination and protection of minorities, including proposals for the examination of thematic issues relating to racism, xenophobia, minorities and migrant workers: some suggestions: Working paper submitted by Mr. Asbjørn Eide
E/CN.4/Sub.2/2000/10 (19 July 2000)	Working paper on the **relationship and distinction between the rights of persons belonging to minorities and those of indigenous peoples:** working paper submitted by **Ms. Erica-Irene A. Daes and Mr. Asbjörn Eide** in accordance with Sub-Commission resolution 1999/23
E/CN.4/Sub.2/2003/21	**Progress report on the update to the study on peaceful and constructive approaches to situations involving minorities submitted by Mr. Asbjørn Eide** in accordance with Sub-Commission resolution 2002/16

Annex **IV**

FURTHER READING ON MINORITY ISSUES

Alfredsson, G. and E. Ferrer. Updated and revised by K. Ramsay. *Minority Rights: A Guide to United Nations Procedures and Institutions,* London: MRG 2004.

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Wolff, S. and M. Weller (eds.), *Institutions for the Management of Ethnopolitical Conflicts in Central and Eastern Europe,* Strasbourg: ECMI Handbook Series, 2008.

OSCE HIGH COMMISSIONER ON NATIONAL MINORITIES:

Recommendations on Policing in Multi-Ethnic Societies, 2006

Recommendations to encourage and facilitate the adoption by States of specific measures to alleviate tensions relating to national minorities.

Guidelines on the use of Minority Languages in the Broadcast Media, 2003

Practical guidance for States in developing policy and law to facilitate minority language use in the broadcast media, in line with internationally agreed standards and drawing on examples of good practice.

Warsaw guidelines, 2001

Recommendations to assist national minority participation in the electoral process, elaborating on the Lund Recommendations.

Lund Recommendations, 1999

Recommendations on effective participation of national minorities in public life.

Oslo Recommendations, 1998

Recommendations regarding the linguistic rights of national minorities with explanatory note.

Hague Recommendations, 1996

Recommendations on the education rights of national minorities.

Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations, 2008

The Bolzano/Bozen Recommendations provide representatives of States, national minorities and international organizations with advice on how to address questions concerning national minorities that arise in the context of inter-State relations in a way that protects and promotes the rights of persons belonging to national minorities, prevents conflict, maintains inter-ethnic harmony and strengthens good neighbourly relations.

OSCE, *Media in Multilingual Societies: Freedom and Responsibility,* 2003.

V

WEB SOURCES ON MINORITY ISSUES

Minority Rights Group International:
http://www.minorityrights.org/

(Minority Rights Group International (MRG) campaigns worldwide with around 130 partners in over 60 countries to ensure that disadvantaged minorities and indigenous peoples, often the poorest of the poor, can make their voices heard. Through training and education, legal cases, publications and the media, MRG supports minority and indigenous people as they strive to maintain their rights to the land they live on, the languages they speak, to equal opportunities in education and employment, and to full participation in public life).

World Directory of Minorities and Indigenous Peoples:
http://www.minorityrights.org/3/home/ mrg-directory-homepage.html

(The World Directory of Minorities and Indigenous Peoples is the internet's leading information resource on minorities around the globe. The Directory is produced and updated by MRG. It also provides contact details for minority CSOs).

Minorities at Risk project based at the University of Maryland, USA:
http://www.cidcm.umd.edu/mar/

(The Minorities at Risk (MAR) Project is a university-based research project that monitors and analyzes the status and conflicts of politically-active communal groups in all countries with a current population of at least 500,000. The project is designed to provide information in a standardized format that aids comparative

research and contributes to the understanding of conflicts involving relevant groups. Selected project materials are available on more than 284 groups).

International Crisis Group:
http://www.crisisgroup.org/home/index.cfm

(The International Crisis Group is an independent NGO with some 135 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict).

MINELRES – Minority Electronic Resources:
http://www.minelres.lv/

(A directory of resources on minority human rights and related problems of the transition period in Eastern and Central Europe).

Minority Rights Information System:
http://dev.eurac.edu:8085/mugs2/index. jsp?TopBarItem=Home

(The aim of the Minority Rights Information System (MIRIS) database is to promote the development of minority rights standards by providing easily accessible information about the implementation of minority rights. The MIRIS database includes the most important legal texts relating to minority rights by concentrating upon relevant national legislation and case-law. The MIRIS System is bilingual with texts provided in both English and the official language of the State concerned. Geographically, all member States of the Council of Europe are included).

European Stability Initiative:
http://www.esiweb.org/

(ESI is a non-profit research and policy institute, created in recognition of the need for independent, in-depth analysis of the complex issues involved in promoting stability and prosperity in Europe).

The Project on Ethnic Relations:
http://www.per-usa.org/

(The Project on Ethnic Relations (PER) is dedicated to preventing ethnic conflict in Central and Eastern Europe, the Balkans and the former Soviet Union. PER conducts programmes of high-level intervention and dialogue and serves as a mediator in several major disputes in the region. PER also conducts programmes of training, education, and research at international, national, and community levels).

European Centre for Minority Issues:
http://www.ecmi.de/

(European Centre for Minority Issues (ECMI) conducts practice-oriented research, provides information and documentation, and offers advisory services concerning minority-majority relations in Europe. The early monitoring, study and resolution of ethnic tension and potential conflict in all regions of Europe –East and West– provides one of the major focal points for the activities of the Centre).

Council of Europe work on minorities:
http://www.coe.int/t/dghl/monitorings/minorities/default_en.asp

(Information hub for the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM)).

OSCE High Commissioner on National Minorities:
http://www.osce.org/hcnm/

(The post of the OSCE High Commissioner on National Minorities was established in 1992 to identify and seek early resolution of ethnic tensions that might endanger peace, stability or friendly relations between OSCE participating States).

OSCE-ODIHR Tolerance and Non-Discrimination Information System:
http://tandis.odihr.pl/

(The OSCE Office for Democratic Institutions and Human Rights (ODIHR)'s Tolerance and Non-Discrimination information system was created to serve as a collection point for information related to tolerance and non-discrimination received from the participating States, civil society and intergovernmental organizations. Provides information by theme and by country for OSCE participating States.)

VI

Annex

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