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**WORK OF THE OFFICE OF THE UNITED NATIONS HIGH
COMMISSIONER FOR HUMAN RIGHTS AND HUMAN
RIGHTS BODIES WITH REGARD TO MINORITIES
AND THE RIGHT TO EFFECTIVE PARTICIPATION**

Note by the Secretariat*

I. INTRODUCTION

1. The present paper provides an overview of the work that the Office of the United Nations High Commissioner for Human Rights (OHCHR) and United Nations human rights bodies have carried out on the theme of minorities and the right to effective participation. The aim of the paper is to contribute to the second session of the Forum on Minority Issues, which will focus on minorities and effective political participation. In addition to outlining the related provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the paper gives an overview of the work that has been carried out on this theme by special procedures mandate holders, including the independent expert on minority issues in the universal periodic review and in the Durban process. Selected conclusions of human rights treaty bodies are also highlighted. The final section of the paper concentrates on thematic advice, capacity-building and field engagement by the OHCHR, aimed to advance the right to participate in decision-making.

* Late submission.

II. DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

2. The main United Nations point of reference in relation to minorities, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in its resolution 47/135 on 18 December 1992, contains four provisions that refer specifically to participation rights of minorities: articles 2.2 (cultural, religious, social, economic and public life), 2.3 (decision-making), 4.5 (economic progress and development) and 5.1 (national programmes and policies).

3. The understanding and application of the Declaration on Minorities was elaborated in the commentary of the Working Group on Minorities (E/CN.4/Sub.2/AC.5/2005/2). In relation to participation rights, the Working Group pointed out that, while the Declaration did not grant minorities group rights to self-determination or autonomy, the duties of the State to protect the identity of minorities and to ensure their effective participation might, in some cases, be best implemented by arrangements for autonomy with regard to religious, linguistic or broader cultural matters. Should States wish to establish autonomy arrangements, the Working Group advises that they can be organized and managed by associations set up by persons belonging to minorities in accordance with article 2.4 of the Declaration.

4. In relation to article 2.2, the Working Group defined public life in the same broad sense as in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, that is, inclusive of rights relating to election and to being elected, the holding of public office, and other political and administrative domains. The Working Group linked this right to other rights in the Declaration by stating that the ways to ensure participation included the use of minority associations (already cited in article 2.4) and free contacts both inside the State and across borders (art. 2.5). Article 2.3 deals specifically with participation in decision-making on matters affecting the minority or the region where it lives. The Working Group emphasized the crucial importance of the phrase “participate effectively”, which implies that representatives of persons belonging to minorities should be involved from the initial stages of decision-making in order to be able to make a difference.

5. In the commentary, the Working Group aimed to not only set out the minimum rights under article 2.3 of persons belonging to minorities, but also to provide a list of good practices which may be of use to Governments and minorities in finding appropriate solutions to issues confronting them. The Working Group found that:

(a) Effective participation can serve as a means of dispute resolution and ensuring stability in a diverse society;

(b) The absolute minimum for effective participation boils down to minorities having the right to have their opinions heard and fully taken into account before decisions that concern them are adopted;

(c) The most appropriate ways to create conditions for effective participation depend on the composition, needs and aspirations of different types of minorities;¹

(d) Effective participation requires representation in legislative, administrative and advisory bodies, and more generally in public life.

6. With regard to point (d), the Working Group elaborated by noting that establishing political parties along ethnic lines was an option that should be available for minorities and, in areas where minorities are concentrated territorially, single-member districts may be used to provide sufficient minority representation. In addition, it suggested other options, including proportional representation systems, some form of preference voting, decentralization of powers based on the principle of subsidiarity, and advisory or consultative bodies or round tables involving minorities within appropriate institutional frameworks. The Working Group emphasized, however, that public institutions (be they at the local, regional or national level) should not be based on ethnic or religious criteria. Instead, there should be equal access to public sector employment across the various ethnic, linguistic and religious communities.

7. With regard to article 2.3, the Working Group pointed out that citizenship was an important condition for full and effective participation. Barriers to the acquisition of citizenship for members of minorities should thus be reduced and forms of participation by resident non-citizens (including local voting rights after a certain period of residence and inclusion of elected non-citizen observers in municipal, regional and national legislative and decision-making assemblies) should be developed.

8. Addressing article 4.5, the Working Group pointed out that, under that article, the Declaration required steps to be taken to prevent minorities from being excluded, marginalized or neglected in the economic life of the society. At the same time, however, it aimed to prevent minorities being made into museum pieces by misguided requirement that they remain at their traditional level of development while the members of the surrounding society experience significant improvements in their standard of living. To that end, the article calls for the integration of everyone in the overall economic development of society as a whole, in ways which allow minorities to preserve their own identity. In terms of facilitating this task, the Working Group suggested that it should be facilitated by the existence of active and free associations of minorities that are fully consulted with regard to all development activities that affect, or can affect, their minority.

9. The Working Group then linked articles 4.5 and 5.1, stating that the former could be achieved only if the latter was also implemented (that is interests of minorities are taken into account in the planning and implementation of national policies and programmes). Article 5.1 goes further than article 4.5 because it does not concentrate only on economic aspects. The Working Group pointed out that “due regard” (that is, reasonable consideration when compared with other legitimate interests) should be given to the interests of the minorities in the planning of, for example, educational, health, public nutrition, or housing and settlement policies.

¹ For example, dispersed v. compact, small v. large, old v. new, religious v. ethnic, or a combination thereof.

10. The Working Group also drew extensively on the recommendations that it adopted at its fifth session (E/CN.4/Sub.2/1991/21), at which it dealt with the issue of effective participation by minorities at great length. It based its discussions on two working papers: one on the question of citizenship and minority rights (E/CN.4/Sub.2/AC.5/1999/WP.3) and the other (E/CN.4/Sub.2/AC.5/1999/WP.4) on the recommendations of the regional seminar on effective participation organized by the European Centre for Minority Issues in Flensburg. A number of additional papers dealing with minorities and the right to effective participation and related issues were considered by the Working Group between 1997 and 2006 (see annex).

III. MANDATE OF THE INDEPENDENT EXPERT ON MINORITY ISSUES

11. The mandate of the independent expert on minority issues has also prioritized participation rights of minorities. Ensuring effective participation of members of minorities in public life, especially with regard to decisions that affect them, is one of the four broad areas of concern relating to minorities around the world that the current mandate holder has identified as priorities for her mandate. The full and effective participation of minorities in policies and decisions that affect them is a guiding principle of all of the independent expert's thematic work.

12. In her focus on minority communities in the context of poverty alleviation, development and the Millennium Development Goals (A/HRC/4/9/Add.1) the independent expert has highlighted the need to work with States and all other development actors, including minorities themselves, to promote programmes, policies and activities that take into account fully the needs and rights of minorities. Her focus on increasing the understanding of minority issues in the context of promoting social inclusion and ensuring stable societies has concentrated also on the inclusion of the political voice of minorities.

13. In terms of mainstreaming the consideration of minority issues within the work of the United Nations and other important multilateral forums, the independent expert seeks to ensure that minorities are consulted and are able to participate effectively in decisions that affect them in the planning and implementation of programmes of work. Finally, her thematic focus on minorities and the discriminatory denial or deprivation of citizenship have highlighted the deliberate denial of citizenship as a tool for excluding minorities from political processes, consequences of which are experienced over generations (see A/HRC/7/23).

14. In terms of country visits, the independent expert has been studying good practices at the local and national levels in relation to the political participation of minorities, and has often identified the lack of effectiveness of participation measures at the local level and underrepresentation of minorities in political bodies in all regions of the world.² Detailed recommendations regarding effective participation by minorities can be found, for example, in the report on her visit to Hungary (A/HRC/4/9/Add.2). These relate to, inter alia, ensuring Romani representation in the national parliament, emphasizing that primary responsibility for meeting the social welfare needs of minority communities rests with municipal majority governments, strengthening the recruitment of Romani professionals into key government posts

² See reports on her visits to Ethiopia (A/HRC/4/9/Add.3, para. 99) and Guyana (A/HRC/10/11/Add.2).

and public organizations, and ensuring that all efforts to increase the participation of Roma in public life are made with the gender dimension in mind.

15. In her report on the country visit to France (A/HRC/7/23/Add.2), the independent expert recommended that political parties should seek ways to increase the chances of persons belonging to minorities to be elected to national, regional and local government structures. She also urged the Government of France to facilitate the full and effective participation of minorities in decision-making and policy and programme planning by establishing consultative bodies of persons belonging to minorities. In her report on the country visit to Greece (A/HRC/10/11/Add.3), the independent expert observed that the appointment by the Government of religious officials infringed on the right of persons belonging to the Muslim minority to participate effectively in the decision-making processes that affected their daily lives. She also pointed out that religious leaders should be chosen by their religious communities, but must be restricted to religious duties that do not infringe fundamental rights.

IV. OTHER SPECIAL PROCEDURES

16. Other special procedures mandate holders have also addressed the issue of effective participation of minorities.³ For example, the Special Rapporteur on freedom of religion and belief pays attention to the obstacles to participation of religious minorities. In 2007, the Special Rapporteur expressed concern that, in Maldives, constitutional provisions restricted the eligibility to apply for citizenship, to vote and to hold certain public offices to Muslims only (A/HRC/4/21/Add.3, paras. 66-67). In 2008, she shared the concern of the Committee on Economic, Social and Cultural Rights that, in the United Kingdom of Great Britain and Northern Ireland, Catholic staff is underrepresented in the police service of Northern Ireland, the prison service and other criminal justice agencies. While welcoming affirmative actions strategies to ensure that these agencies could recruit a more representative workforce, she pointed out that such measures should also address adequate representation of all religious or belief communities (A/HRC/7/10/Add.3, para. 63).

V. UNIVERSAL PERIODIC REVIEW

17. The universal periodic review of the Human Rights Council is another mechanism that engages on the issues of effective participation by minorities. At its first and second sessions, of the 32 countries reviewed, outcome documents for 11 countries touched on the effective participation of minorities - namely recruitment to police forces (Czech Republic and

³ See, for example, the reports of the Representative of the Secretary-General on the human rights of internally displaced persons, on Bosnia and Herzegovina (E/CN.4/2006/71/Add.4, para. 60) and Croatia (E/CN.4/2006/71/Add.3, para. 50); the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, on Japan (E/CN.4/2006/16/Add.2, para. 86), Brazil (E/CN.4/2006/16/Add.3, para. 84) and Mauritania (A/HRC/11/36/Add.2, para. 73); the Special Rapporteur on freedom of religion or belief, on Maldives (A/HRC/4/21/Add.3, paras. 66-67) and the United Kingdom of Great Britain and Northern Ireland (A/HRC/7/10/Add.3, para. 63); the Special Rapporteur on the independence of judges and lawyers, on Ecuador (E/CN.4/2006/52/Add.2, para. 28); and the Special Rapporteur on the situation of human rights in Myanmar (A/HRC/4/14, para. 87).

Switzerland), political representation of minority women (Ecuador and the Netherlands), consultative bodies (Finland and Romania), consultation on national programmes (India) and participation in public affairs, including electoral participation and/or participation in public service (the United Kingdom, Ukraine, Switzerland, France and Pakistan).⁴ In three instances, these points were raised explicitly on the basis of recommendations made previously by treaty bodies or special procedures.⁵ In two instances, the issues were reflected in specific recommendations for action; Canada recommended that Switzerland should recruit minorities into the police, and Ghana recommended that the Netherlands should strengthen measures to increase the participation by ethnic minority women in politics.

VI. DURBAN AND THE DURBAN FOLLOW-UP PROCESS

18. The right to participation in relation to minorities has also received significant attention in the discourse on combating racism through the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the outcome document of the Durban Review Conference. The preamble of the Durban Declaration recognizes, among other things, that equal participation without discrimination in economic, social, cultural, civil and political life of peoples of the world, including in domestic and global decision-making, can contribute to a world free from racism, racial discrimination, xenophobia and related intolerance. Paragraphs 32 and 34 of the Declaration are devoted specifically to the participation rights of people of African descent and the necessity of their full participation at all levels in the decision-making process in general, and in the design, implementation and development of educational systems and programmes in particular. The Declaration also recognizes the necessity of special measures or positive actions to encourage equal participation of all racial and cultural, linguistic and religious groups in all sectors of society, including electoral reforms, land reforms and campaigns for equal participation, aimed at achieving appropriate representation in educational institutions, housing, political parties, parliaments and employment, especially in the judiciary, the police, the army and other civil services (para. 108).

19. The Programme of Action urges States to implement the provisions contained in article 2.2 of the Declaration on Minorities⁶ in order to protect minorities from any form of racism, racial discrimination, xenophobia, and related intolerance (para. 47) and to recruit actively all groups, including minorities, into public employment, including the police force and other agencies within the criminal justice system (para. 74). In relation to people of African descent, the programme urges States to facilitate their participation in all political, economic, social and cultural aspects of society and in the advancement and economic development of their countries

⁴ See A/HRC/8/33, para. 12; A/HRC/8/41, para. 16 and recommendation 11; A/HRC/8/20, para. 32; A/HRC/8/31, para. 50 and recommendation 19; A/HRC/8/24, para. 43; A/HRC/8/49, para. 55; A/HRC/8/26, para. 38; A/HRC/8/25, para. 43; A/HRC/8/45, para. 45; A/HRC/8/41, para. 24; A/HRC/8/47, paras. 18 and 37; and A/HRC/8/42, paras. 12 and 51.

⁵ The Committee on the Elimination of Racial Discrimination in the case of Ecuador, the Committee on the Elimination of Discrimination against Women in the case of the Netherlands and the independent expert on minority issues in the case of France.

⁶ Neither the article nor the Declaration is explicitly referred to, but the content is identical.

(para. 4). The programme also calls upon States to facilitate the media's efforts to encourage the participation of "Roma/Gypsies/Sinti/Travellers" (para. 43). The programme further urges States to ensure the participation of women from various disadvantaged groups (such as of African and Asian descent) in the economic and productive development of their communities (para. 50). It also recommends that States include in their periodic reports to United Nations human rights treaty bodies statistical information on participation in political life relating to individuals, members of groups and communities (para. 98). It encourages States to elaborate national plans with the aim to create conditions for all to participate effectively in decision-making (para. 99). Finally, a whole section relating to policies and practices is devoted to equal participation in political, economic, social and cultural decision-making. In this section, the programme urges States and encourages the private sector and international financial and development institutions to promote the participation of victims of racism in economic, cultural and social decision-making at all stages, particularly in the development and implementation of poverty alleviation strategies, development projects and trade and market assistance programmes, and in economic life in general (paras. 112-113). Lastly, it encourages financial and development institutions and the operational programmes and specialized agencies of the United Nations to report regularly on the participation of victims of racism within their programmes and activities (para. 190).

20. The outcome document of the Durban Review Conference urges States to strengthen measures aimed at improving access to opportunities for greater and more meaningful participation in the political, economic, social and cultural spheres of society, for persons belonging to minorities in general and people of African and Asian descent in particular (para. 70). It also calls on States to encourage political parties to work towards fair representation of minorities at all levels of their party system, to ensure that multicultural diversity is reflected in political and legal systems, and to develop more participatory and all-inclusive democratic institutions (paras. 110-111). The document also encourages States to adopt strategies, programmes and policies, including special measures, to improve access to political, judicial and administrative institutions for victims of racism, racial discrimination, xenophobia and related intolerance (para. 113). The Human Rights Council is requested "to continue promoting intercultural and interreligious dialogue with enhanced participation of all stakeholders, including from the grass-roots level" (para. 127). Lastly, the document calls on States to contribute to the trust fund for the Programme of Action for the Decade to Combat Racism and Racial Discrimination for, inter alia, the participation of people of African descent in the work of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (para. 124).

VII. TREATY BODIES

21. A number of international human rights treaties cover political participation in general and prohibit discrimination in the exercise of rights to political participation on grounds such as gender, race, colour, language, religion and national origins (for example, articles 1, 25 and 26 of the International Covenant on Civil and Political Rights, articles 1 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and article 7 of the Convention on the Elimination of All Forms of Discrimination against Women). Article 27 of the International Convention on Civil and Political Rights, which is devoted to minorities, does not explicitly refer to political participation. However, the Human Rights Committee, in its general comment No. 23 interpreting this article, states that the enjoyment of cultural rights may

require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions that affect them (CCPR/C/21/Rev.1/Add.5, para. 7).

22. Additional guidance on the topic of minorities and the right to participation is provided in other general comments and recommendations of treaty bodies. In its general recommendation No. 32 on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee on the Elimination of Racial Discrimination states that special measures include the full span of legislative, executive, administrative, budgetary and regulatory instruments at every level of State apparatus, as well as plans, policies, programmes and preferential regimes in areas such as employment, housing, education, culture and participation in public life for disfavoured groups, devised and implemented on the basis of such instruments. In its general comment No. 20 on non-discrimination in economic, social and cultural rights (E/C.12/GC/20), the Committee on Economic, Social and Cultural Rights, when referring to discrimination based on language grounds, mentions that language barriers can hinder the enjoyment of many Covenant rights, including the right to participate in cultural life, as guaranteed by article 15 of the Covenant. On 9 May 2008, the Committee also held a day of general discussion on article 15.1 (a) of the Covenant, in which the right of persons belonging to minorities to effective participation in cultural life had been given significant attention. The Committee is currently finalizing its general comment No. 21 on the right of everyone to take part in cultural life.

23. In terms of monitoring of the right to participation in public affairs, the Committee on the Elimination of Racial Discrimination has, in its examination of State party reports, often drawn attention to the underrepresentation of minorities in political institutions (and, in some cases, other State institutions, such as the police) as well as the lack of disaggregated statistical data on this subject, and recommended effective measures in this regard.⁷ At the same time, the Committee also welcomed positive developments in relation to political participation of minorities,⁸ which is recently increasingly included in State reports. For example, in 2001, Viet Nam reported significant number of representatives of minority groups in the national

⁷ For example, in relation to Crimean Tatars in Ukraine (CERD/C/UKR/CO/18, paras. 14 and 18), Roma in Croatia (CERD/C/HRV/CO/8, paras. 14 and 16), Moldova (CERD/C/MDA/CO/7, para. 16) and Slovenia (CERD/C/62/CO/9, para. 10), Indo-Fijians in Fiji (CERD/C/62/CO/3, para. 18 and CERD/C/FJI/CO/17, para. 18), Dalits in India (CERD/C/IND/CO/19, para. 17), people of African descent in Nicaragua (CERD/C/NIC/CO/14, para. 20) and Ecuador (CERD/C/ECU/CO/19, para. 15), as well as various groups in many other countries in all regions.

⁸ For example, in the case of Azerbaijan, Australia, Canada, Estonia, Fiji, Georgia, India, the Islamic Republic of Iran, Israel, Nepal, Slovakia, Slovenia, the former Yugoslav Republic of Macedonia, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela (Bolivarian Republic of) and Viet Nam.

parliament⁹ and Estonia reported the elimination of language requirements from the Election Act and the Local Government Council Election Act.¹⁰ In 2005, the Committee expressed satisfaction at recent measures taken by Georgia to strengthen participation of ethnic minorities in political institutions (CERD/C/GEO/CO/3, para. 9); in 2007, Israel informed the Committee that, for the first time, an Arab Israeli citizen had been appointed to cabinet and that affirmative action programmes to ensure better representation of minority groups in civil service and in government-owned corporations had been adopted (CERD/C/ISR/CO/13, para. 8-9). Also in 2007, the former Yugoslav Republic of Macedonia reported that it had adopted a strategy on equitable representation of members of ethnic communities in State administration and public enterprises (CERD/C/MKD/CO/7, para. 8).

24. The Human Rights Committee has also addressed the underrepresentation of minorities in public institutions (for example, in Brazil, Georgia, Germany, Israel and France) and alerted to the exclusion of minorities from enjoying political rights such as standing for elections, employment in public service and voting rights, on grounds such as non-citizenship status, adherence to religious organizations or beliefs, minority status, linguistic requirements and criminal record. For example, in 2003, considering the situation of long-term resident non-citizen Russian-speaking minorities, the Committee recommended that Estonia consider allowing non-citizens to become members of political parties (CCPR/CO/77/EST, para. 17) and that Latvia consider enabling them to participate in local elections and to ease other restrictions on their participation in public life (CCPR/CO/79/LVA, para. 17). In its concluding observations to the State report by Germany in 2004, the Committee expressed concern that adherence to certain religious organizations or beliefs constituted one of the main grounds for disqualifying individuals from obtaining employment in public service, which in certain circumstances, violated the rights guaranteed in articles 18 and 25 of the International Covenant on Civil and Political Rights (CCPR/CO/80/DEU, para. 19). In its review of Bosnia and Herzegovina in 2006, the Committee expressed concern that the State Constitution and Election Law continued to exclude persons not belonging to one of the State's "constituent peoples" from being elected to the House of Peoples and the tripartite presidency of Bosnia (CCPR/C/BIH/CO/1, para. 8). In Namibia (2004), the concerns related to the population that only spoke non-official languages being denied access to public service (CCPR/CO/81/NAM, para. 21). In the case of the United States of America in 2006, the Committee was concerned that about 5 million citizens could not vote owing to a felony conviction, and that this practice had significant racial implications (CCPR/C/USA/CO/3/Rev.1, para. 35). With regard to the situation in the former Yugoslav Republic of Macedonia, in 2008, the Committee noted with concern the allegations of irregularities during the 2005 local elections, including the inadequate supply of ballot papers to some minority groups (CCPR/MKD/CO/2, para. 18). The Committee on Elimination of Discrimination against Women also has frequently addressed the lack of minority women in public positions, for example in China, Croatia, the Czech Republic, Ecuador, Italy, Namibia, New Zealand, the Philippines, Romania, Suriname, the former Yugoslav Republic of Macedonia, Turkmenistan, Venezuela (Bolivarian Republic of) and Viet Nam.

⁹ *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 18 (A/56/18)*, para. 413.

¹⁰ *Ibid.*, para. 359.

25. Individual complaints to treaty bodies have also addressed issues related to political participation. In addition to cases dealing with indigenous peoples, the Committee has, for example, examined State language proficiency requirements for local electoral candidates as a limitation to the right to participate in public life under article 25 of the Covenant (*Ignatane v. Latvia*).¹¹

VIII. WORK OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

A. Thematic advice

26. Guided by the principles contained in the Declaration on Minorities and pursuant to paragraph 74 (a) of the Durban Programme of Action, OHCHR has started to develop a tool offering guidance on the practical application of human rights principles and provisions related to integration with diversity in policing in the form of good practices. The tool is intended to provide guidelines to assist governments, United Nations officials, non-governmental organizations and other stakeholders in ensuring that agencies of the criminal justice system and law enforcement agencies are representative of, and responsive and accountable to, the community as a whole.

27. The initiative was launched at an expert meeting on integration with diversity in policing, organized by OHCHR, in cooperation with the independent expert on minority issues, the International Labour Office and the United Nations Office on Drugs and Crime (see A/HRC/10/38/Add.1). The meeting was held in January 2008 in Vienna and brought together senior police officials from the five regions of the world in addition to representatives of several intergovernmental organizations and civil society, all of whom shared their experiences and made recommendations. The expert meeting was informed by a paper on integration of members of minorities in the agencies of police, security and criminal justice at the national and regional levels, prepared under the auspices of the former Working Group on Minorities (E/CN.4/Sub.2/AC.5/2006/WP.1).

28. As part of a series of regional and subregional consultations aiming at gathering good practices on integration of minorities into policing, OHCHR held its first subregional expert consultation in October 2009 in South Africa. Good practices were gathered at the consultation through presentations made by several high-ranking police officials from various regional countries, in addition to representatives of national human rights institutions, academic institutions and non-governmental organizations.

B. Capacity-building through minority fellowships

29. In order to increase the active participation of persons belonging to minorities in initiatives dealing with human rights and minorities at the international and country levels, in 2005, OHCHR established the Minority Fellowship Programme. The programme builds the capacity of civil society and empowers representatives of minorities to know their rights and to use United Nations human rights mechanisms. The programme consists of intensive training at

¹¹ See A/HRC/FMI/2009/3.

OHCHR headquarters and currently has two components: an English-speaking component, lasting on average three months, and an Arabic-speaking component, launched in 2007 as a two-week pilot and continued in 2008 for three weeks and in 2009 for four weeks. A total of 49 representatives of different ethnic, religious and linguistic communities from all regions of the world have benefited from the programme since its inception. In the context of the programme, the English-speaking fellows attend several briefing sessions on international human rights instruments and mechanisms, including introductions to the work of the Commission on Human Rights, the Human Rights Council and its universal periodic review mechanism, the eight treaty bodies as well as the special procedures mandates. They also observe sessions of the Council, the universal periodic review, the treaty bodies and other relevant events held in Geneva during the time of the fellowship.

30. Participants are also briefed in depth on United Nations standards and procedures specifically dealing with minority rights, including the Declaration on Minorities, the Working Group on Minorities and the Forum on Minority Issues, as well as the mandate of the independent expert on minority issues. In addition, they participate in briefings on the country-focused work of OHCHR and the practical ways of strengthening national human rights protection systems, including the work of national human rights institutions. Furthermore, they attend a two-week training session at the International Labour Organization (ILO) and are also introduced to the mandates and activities of other organizations, such as the United Nations Development Programme (UNDP), the United Nations Institute for Training and Research, the World Intellectual Property Organization, the World Health Organization, the World Bank and the United Nations Educational, Scientific and Cultural Organization. They participate in various training workshops, for example, on advocacy and the media, the human rights-based approach to development and training for trainers. The programme also comprises sessions on funding sources, including the joint OHCHR-UNDP Assisting Communities Together project, and involve several individual and group assignments, including the preparation of public statements and presentations to OHCHR and ILO staff members on human rights issues faced by the fellows' communities. Finally, since the inception of the Forum on Minority Issues, the fellows may actively participate in its sessions. The outreach of the fellowship programme is multiplied at the local level as the fellows continue training other members of their communities upon their return.

31. Two activities within the framework of the fellowship are especially worthy of mention in relation to the topic of effective participation. In 2005 and 2006, OHCHR minority fellows developed the Minority Profile and Matrix, a monitoring and learning tool on the human rights situation of minorities, which was subsequently considered by the Working Group on Minorities (E/CN.4/Sub.2/AC.5/2006/3). The tool provides a checklist of issues and measures based on the provisions and principles contained in the Declaration on Minorities and the commentary thereon. It includes, inter alia, several sections on participation rights, each of which contains a series of monitoring questions. In 2009, minority fellows completed research papers on the right to political participation in their countries using indicators from the Matrix, which then served to feed into the substantive preparations for the second session of the Forum on Minority Issues.

C. Capacity-building through community-led training

32. OHCHR also supports community-led human rights trainings to encourage former minority fellows and other representatives of minorities to use the skills acquired through their

work with OHCHR to extend their human rights knowledge to the entire community. The proposals are submitted to the Indigenous Peoples and Minorities Unit of OHCHR, which analyses their relevance and presents them to the OHCHR Grants Committee for possible funding. Community-led training is conducted at the community and grass-roots levels on the promotion and protection of human rights, with the direct involvement of minority representatives in formulation, methodology, programme implementation and evaluation.

33. Within the framework of community-led training, in December 2006, OHCHR supported a project submitted by a former minority fellow from a Romani community in Bulgaria to organize a training course in the municipality of Polski Trambesh. The project enabled his organization "Roma Together" to organize a training workshop for local Romani representatives. The workshop aimed to engage and equip the local Romani 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 participation of the Roma in official decision-making processes, especially in areas where their rights and daily lives were 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. The proposal was accepted by the mayor and head of the municipal council, who then presented the proposal to the local council members. The municipality council on ethnic and demographic issues was established, offering a forum for consultation on developing, monitoring and evaluating local programmes and strategies targeting Roma. As a result, addressing issues facing the local Romani community became a priority in municipal policy; in 2009, the municipality allocated approximately 350,000 euros for activities aimed at the integration of the Romani minority.

34. In September 2007, OHCHR supported another community-led training, for Roma in Latin America, organized by the non-governmental organization Identidad Cultural Romani de Argentina. The training session was attended by Romani human rights defenders from Argentina, Chile, Brazil, Bulgaria and Spain, and was the first-ever attempt to bring together representatives from Romani communities in various Latin American countries for the purposes of human rights training. The event also provided a much-needed networking opportunity for representatives of Romani organizations in the region, with the view to strengthening regional synergy in their work.

D. Engagement through field presences

35. With the Office increasingly operationalizing its work and enhancing its country engagement, activities relating to inter alia, minorities and the right to participation are being initiated in a number of countries, concentrating for example on strengthening dialogue between minorities and governments and building the capacity of persons belonging to minorities to participate more fully in decision-making and public life. Some examples are given below.

36. In 2008, the OHCHR country office in Nepal organized a workshop with Dalits in the Far Western Region to raise their awareness and strengthen their networks. Based on the interaction with several Dalit organizations and suggestions put forward by them, in November 2008, OHCHR produced a cartoon series on filing a first information report. The objective of the cartoon series was to raise awareness among grass-roots organizations, especially members of Dalits and marginalized communities, about their right to access to justice. It served as a tool to enhance their access to the formal justice system. OHCHR has observed that its efforts to

support and encourage minorities to enjoy and realize their human rights resulted in an increased level of awareness as well as an increased willingness on the part of the State to respect and protect the human rights of these communities. For instance, the Government and its agencies have started to introduce programmes facilitating the participation of persons belonging to minorities in public affairs. Interventions of the OHCHR country office in Nepal with local-level government officials have also led to commitments to increase the participation of marginalized communities in the development processes.

37. In 2008, OHCHR also launched preparations for a regional Andean project on the promotion of Afro-descendants' human rights in Bolivia (Plurinational State of), Ecuador and Peru. The project aims to strengthen the institutional capacity of Afro-descendant organizations in the Andean region to enable them to better defend their human rights. To this end, and on the basis of requests made by Afro-descendant organizations themselves, the project prioritizes the strengthening of regional synergy between Afro-descendant organizations from the three Andean countries. The project also seeks to improve dialogue and collaboration between Afro-descendant organizations and State representatives, leading to greater visibility of Afro-descendant issues and concerns and commitment to action to address their human rights demands. The project consists of three national workshops to promote Afro-descendant human rights through participation in the different governmental institutions, Afro-descendant organizations and the United Nations system; a regional human rights training of trainers workshop in Peru, with representatives of the Andean Network Organizations; training manuals on the human rights of Afro-descendants; and an Afro-descendant fellowship programme as a pilot experience in the region, to strengthen the capacity of young leaders. The regional project is currently being implemented by the OHCHR Bolivia country office, the United Nations human rights adviser in Ecuador and the OHCHR Regional Office in Chile.

38. OHCHR was recently involved in a number of initiatives to promote the effective participation of minorities in public life in Serbia. For example, it contributed to the opening of an outreach office in south Serbia by the Ombudsman of Serbia. Facilitating better participation of the Albanian minority in public life will be one of the focuses of the outreach office. OHCHR is currently cooperating with the Ministry of Human and Minority Rights of Serbia within the framework of the establishment of minority councils and the upcoming elections of their members. OHCHR is also supporting two human rights education projects implemented by Romani non-governmental organizations, aimed to empower members of the Romani community to participate more effectively in public life.

IX. CONCLUSION

39. **The right of persons belonging to minorities to participate effectively in cultural, religious, social, economic and public life, including in decision-making, planning, development and economic progress, is well established in the Declaration on Minorities. While the Declaration has been invoked in many contexts to advance the implementation of this right, the Declaration could be used more widely as a tool of reference with a view to enhance the protection of minorities in general, and in relation to the right to effective participation in particular.**

40. **Positive developments are discernible in the engagement of the special procedures, including the independent expert on minority issues, and the universal periodic review with**

the issue of effective participation by minorities. The review can be used as an important means towards the implementation of existing commitments regarding the right to the effective participation of minorities. In this context, some specific recommendations have been made, for example, with regard to the political participation and recruitment of minorities into the police. The Durban Declaration and Programme of Action and the Outcome Document of the Durban Review Conference also contain references to the right to participation of persons belonging to minorities in general and people of African and Asian descent in particular.

41. A number of human rights treaty bodies have increased their engagement with topics related to the effective participation of minorities. Recent developments include, for example, the drafting by the Committee on Economic, Social and Cultural Rights of general comment No. 21 on the right of everyone to take part in cultural life. The importance of effective participation is also stressed in many concluding remarks by treaty bodies. Individual complaints to treaty bodies have resulted in some important jurisprudence related to political participation, but there is a need to raise awareness of these and other human rights mechanisms further among persons belonging to national or ethnic, religious and linguistic minorities.

42. Building the capacity of representatives of persons belonging to minorities and country engagement are extremely important in this regard, including through the OHCHR fellowship programme and other initiatives aimed to ensure that persons belonging to minorities can participate effectively in both domestic and United Nations forums. In this respect, OHCHR field presences have increasingly contributed to efforts to empower persons belonging to minorities and to promote their effective participation in public life.

Annex

List of working papers of the Working Group relating to self-determination, autonomy and participation in public life

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|------------------------------|---|
| 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 Åland Islands and the cultural autonomy of the indigenous Sámi 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
- 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.5/1999/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
- E/CN.4/Sub.2/AC.5/2003/WP.11 Inclusion of Minorities in Public Life in Laos, Thailand and Vietnam by Vathana Pholsena

- 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
- 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
- E/CN.4/Sub.2/AC.5/2006/WP.1 Toolkit/Guidance note on Integration with diversity in security, policing and criminal justice
- 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
- 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.5/2000/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.5/2003/WP.9 Minorities and participation in public life: Kazakhstan
- 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.4/2006/23 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"
