

Geneva-Minorities

International and Human Rights Frameworks
and Core Rights Principles on the Rights of
Minorities to Effective Political Participation

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The right of persons belonging to minorities to fully participate in public life is generally recognized in international documents on human rights and fundamental freedoms. There are nevertheless challenges and barriers which impede or limit their participation.

1. Although the International Covenant on civil and political rights of 1966 is not stipulating it as a specific right of these persons, it is providing for the rights of all citizens, without any distinction, *inter alia* on grounds of race, colour, language, religion, national or social origin, to take part in the conduct of public affairs, directly or through freely chosen representatives, to vote and to be elected at genuine periodic elections and to have access, on general terms of equality, to public service in their country.

Similarly, the International Convention for the Elimination of All Forms of Discrimination of 1965 is committing States parties to prohibit and to eliminate racial discrimination and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, in the enjoyment of, *inter alia*, political rights, in particular the right to participate in elections-to vote and to stand for election, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.

The Committee for the Elimination of Racial Discrimination adopted in 2000 a General Recommendation on discrimination against Roma, calling upon States to take the necessary steps, including special measures, to

secure equal opportunities for the participation of Roma minorities or groups in all central and local governmental bodies, to develop modalities and structures of consultation with them, to involve Roma communities and their representatives in the development of Roma policies and programmes and to organize training programmes for them. In another General Recommendation of 2002 on descent-based discrimination, CERD asked the States concerned to take special and concrete measures to guarantee to members of such communities the right to participate in elections, to vote and stand for election on the basis of equal and universal suffrage, and to have due representation in government and legislative bodies.

Other documents stipulate also such rights in explicit terms. The UN Declaration of 1982 on the rights of persons belonging to national or ethnic, religious and linguistic minorities proclaimed that these persons have the right to participate effectively in cultural, religious, social, economic and public life and to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the region in which they live, in a manner not incompatible with national legislation. According to the UN Declaration of 2007 on the rights of indigenous peoples, these peoples have the right to participate in decision-making on questions which may concern their rights, through representatives elected by themselves in conformity with their own procedures, as well as the right to preserve and develop their own decision-making institutions.

The Durban Declaration of the World Conference against racism, racial discrimination, xenophobia and related intolerance recognised the necessity of measures to encourage equal participation of all racial and cultural, linguistic and religious groups in all sectors of society and to achieve appropriate representation in political parties, parliaments, judiciary, police, army and other civil services. The document adopted by consensus at the Durban Review Conference of Geneva in April this year is urging States to encourage political parties to work towards fair representation of national or ethnic, religious and linguistic minorities within and at all levels of their party system, to ensure that political and legal systems reflect the multicultural diversity of their societies, and to develop more participatory democratic institutions in order to avoid the discrimination, marginalization and exclusion of specific sectors of society.

It is important to underline the close relationship between the right of participation and most of other human rights; it is only by participating in public life, in decision-making processes in different forms, that persons belonging to minorities can effectively promote their human rights in a society; on the other side, in order to be able to participate, individuals have to enjoy and exercise, individually or in communities with others, most of human rights, beginning with the freedoms of expression, of association and of assembly, and of course all political rights and personal freedoms. Moreover, States have to create conditions for the exercise of many of these rights.

As to forms and means of political participation of persons belonging to minorities, they may be different from country to country and for minority groups, taking into account their size in the population of the country, whether they are living compactly or dispersed on its territory, as well as historic circumstances and traditions. The starting rule should be to guarantee full equality in the exercise of political rights and of other related rights. Beyond this, States may have to adopt special measures in order to ensure the exercise of these rights on equal terms, in favour of disadvantaged groups, including minorities, when necessary and as long as they are necessary.

2. A special regard on the situation in Europe may be useful, because on that continent there is a history and a tradition of minorities in many countries.

The 1950 Convention on human rights and fundamental freedoms, adopted within the Council of Europe, is mentioning the concept of minorities only as a ground for discrimination which is forbidden. Other regional treaties on human rights are not making any reference to minority groups. It was only in 1995 that the Council of Europe adopted, after prolong debate, the Framework Convention for the protection of national minorities, ratified now by almost 40 States.

According to article 15 of this Convention, „the Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them”. We have to note the very careful and possibly restrictive language used.

The Advisory Committee created by the Committee of ministers of the Council of Europe to survey the application of the Convention by States parties, considered two rounds of reports of these States and made recommendations to them, including on that article.

The Advisory Committee found that some States do not recognize some minorities or indigenous people, apply restrictions on ground of ethnicity or make distinctions among them, which affects their participation in political life, or that mechanisms of consultation and dialogue with them are still inadequate. In others, the appointment of members of advisory bodies of minorities is made by State bodies, not by the minorities themselves. Other States do not recognize all rights of participation and consultation to those bodies representing some minority groups or do not facilitate the creation of associations of some small minorities. In some States constituency boundaries and the territorial structures are constantly changed, which affects stability and participation of minorities in public life. Participation of persons belonging to minorities in the police, judicial and other law-enforcement bodies was also noted as insufficient in many States parties.

In most European countries the participation of Roma minorities in political life is insufficient, for many reasons, mainly lack of interest and of support of the State bodies and lack of legislation. It was noted that the participation of Roma people in political parties based on political affiliation did not produce significant results for the representation of their concerns.

In States where conflicts took place, the Committee asked the Governments to overcome the post-conflict trauma and introduce positive measures to eradicate the negative consequences of practices of curtailing the number of persons belonging to some minorities in various State bodies.

3. Limits to the participation of minorities in political life may result first of all of non-recognition of minorities, of prohibitory legislation or of a climate of intolerance. It may result also from a weak organization of the minority or difficulties of cooperation among its leaders; in order to be able to play a role in a society, in accordance with democratic principles, minorities have to be organised on the basis of democratic rules themselves.

Most of the limits and difficulties result from the policies of the States concerned. It includes first of all the non-recognition of minorities or simply ignoring their existence. Then, legislation forbidding their organisation, directly or indirectly, may lead to the absence of any form of expressing the concerns of the group as such, of promoting such concerns, of being involved in the elaboration of programmes and projects which may affect their interests. Of particular importance are programmes and projects concerning education, the use of languages and the preservation and development of culture in the country, as well as economic projects

concerning the geographic areas where minority groups, including indigenous, are living in substantial numbers.

Beyond legislation and institutional frameworks allowing for the involvement of persons belonging to minorities in public life, education of the population for tolerance, openness and cooperation is very important. This could create cooperation and understanding between the majority and minorities at grass-roots levels, including joint projects, n.g.o's and other forms of action, which may put pressure on political circles to avoid conflictual approaches when considering State issues.

4. According to the experience of many countries where minorities and indigenous peoples exist, one can enumerate some of the more common forms of participation as follows;

- political parties formed of members of minorities, irrespective of the name given to them, or participation of their members in political parties according to political affiliation;

- organisations or associations formed by their members, meant to represent the interests of the minority group and to play a role in the society;

- elaboration of political programmes and policies to promote their legitimate interests and rights;

- participation in elections, promotion of candidatures;

- allocation of places in parliament and if necessary in local elected bodies, irrespective of the results of the elections;

- participation in the government, forming coalitions with other political formations;

- representation at local levels: legislative, administrative, elected and designated;

- institution of mixed bodies-governmental and non-governmental-to consider issues of concern to minority groups;

- official or unofficial forums of representatives of minorities, involved in consultations with the government on issues of interest to minorities;

- free access to the media, in the official language and in mother tongues.

5. It is important to create the political will to consider issues of interest to minority groups and to take into account the concerns of minorities, that is to create a climate of confidence.

For that, efforts have to be made both by the minority and within the majority. The minority has to avoid pretensions which would go beyond the exercise of human rights in accordance with international standards, which

would seem as asking for privileges or putting in danger the integrity of the State. It has to place itself as part of the society, looking not only for its interests, but trying to combine them with those of the population in general.

The majority has to become aware that it is in its interest to give the adequate attention and to consider seriously the legitimate concerns of the minorities, as equal citizens of the State, taking into account that the behaviour of minorities as part of the society is important for its stability, for its development and ultimately for its security.

Briefly, facilitating and favouring different forms of organisation of minority groups and of consultation and cooperation with them, of their involvement in decision-making, as well as education and training of their members and representatives, are part of the process in a democratic society.

To bear this names and to be achieved as such, development, democracy and human rights cannot leave aside segments of the society.

