

## UN Forum on Minority Issues, 16<sup>th</sup> Session, 2023

### Session 3 – Legal and Structural Approaches to More Inclusive Societies

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Thank you, Chair, for the invitation to speak today. I would like to focus on global governance and the role of the UN in providing legal and structural approaches to more inclusive societies. This has been a major focus of my research. International law and global policy frameworks often influence the direction of national law and policy. The UN can model good structures and practices for Member States. Minorities can use global policy to support their own national level advocacy work.

Presently, the UN's legal mechanisms for minorities are very limited and minorities are one of the few groups without a specific treaty. There is also a fundamental *structural* problem at the UN regarding spaces for minority participation. The UN's only dedicated space for national, ethnic, religious and linguistic minorities, and groups affected by work and descent-based discrimination, including caste-based discrimination, is this 2-day annual thematic Forum. This is in contrast to similar fora for Indigenous peoples and People of African descent that consist of Forums of 10 days and 4 days respectively, plus dedicated Working Groups for Indigenous peoples and people of African descent.

There is simply not enough structural space at the UN for meaningful engagement of minorities. Research conducted by myself, Dr Anna-Mária Bíró and the Tom Lantos Institute, shows that the 2-day agenda leaves space for on average 75 interventions by NGOs.<sup>1</sup> The format focuses on a single theme, despite minorities coming to the Forum with a very wide range of legitimate concerns. Many minorities that come here with constructive ideas for social cohesion are not heard.

Why do we give so little space to minorities at the UN? What impact does this have on constructive policy development?

At the national level, we see some examples of good practice. We see countries creating minority councils, designated legislative seats for minorities, specific ministerial portfolios on minority rights, NHRIs with dedicated mandates on minority rights, and forms of political and cultural autonomy. These structures can ensure appropriate legislation is created or implemented and can also inform the development of socio-economic policies. They can also look to international law and global policy that is inclusive of minorities to guide national level practice.

Here, a non-discrimination approach to legislation and policy is not enough for social cohesion. We also need to consider other aspects of minority rights, in particular cultural rights and participation rights. Many cultural differences are relevant to socio-economic outcomes and policy design. When minorities participate in policy development, the policies are more impactful because they have support from minorities and they respond to their stated needs. For example, a health inclusion programme needs to take account of cultural practices that impact on health and needs the support of minority groups to be implemented effectively.

Presently, we do not hear these concerns of minorities enough at the UN level. The absence of a treaty is one barrier. The drafting of treaty would raise the profile of minority rights within the UN system and it would provide a structure, in the form of a treaty body with broad expertise and regional knowledge, to engage in comprehensive and constructive dialogue with states.

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<sup>1</sup> Based on the average number of statements made by NGOs in the first 15 sessions of the Forum. The range was a low of 36 (2009) to a high of 105 (2022). The median figure is 77 statements. Source: MinorityForum.Info.

This lack of UN space for minorities also impacts on policy development. For example, the 2030 Agenda for Sustainable Development mentions Indigenous peoples six times but does not mention minorities even once. Indigenous Peoples constitute one of the so-called Major Groups with a structural platform to engage with the High-Level Political Forum on the SDGs. Minorities do not constitute a Major Group, despite specific measures in article 9 of the UN Declaration on Minorities for UN agency action. With Major Group status, Indigenous peoples have provided strong policy guidance on SDGs implementation.<sup>2</sup> There is a direct connection between strong structures for participation and inclusion in global policy.

The UN is mobilising now around a 'Summit for the Future' to be held in 2024. The UN is using the Major Groups as a platform for civil society input. With no Major Group for minorities, minorities could be left out of the planned outcome document, the 'Pact for the Future'. The same summit will consider the UN Secretary-General's Roadmap for Digital Cooperation, which prioritises ensuring 'digital inclusion for all'. The Roadmap specifically mentions many groups, including Indigenous peoples, but not minorities. Digital inclusion is vital for cultural rights, combating hate speech and equal economic opportunities for minorities. The plan for a Global Digital Compact should reflect these minority issues.

These examples show that the absence of structures for minorities at the UN are impacting negatively on their inclusion across many crucial areas of global governance. This can decrease the opportunities for minorities to be involved in legislation and policy development at the national level that follow these global initiatives.

What can be done to change this?

First, this Forum can be strengthened. The former Special Rapporteur and minority groups have called for reform during the 30<sup>th</sup> anniversary of the Declaration on Minorities in 2022.<sup>3</sup> Minorities should participate in planning the next steps. My first recommendation would be to conduct a review of the modalities of the Permanent Forum on Indigenous Issues and of the Permanent Forum on People of African Descent that could be adopted in a future reform of this Forum. Particular consideration can be given to the representation of minorities in the Forum and how the Forum networks with other work of the UN on development and conflict prevention.

Second, we have seen since 2020 an increased coordination among UN agencies under the UN Network on Racial Discrimination and Protection of Minorities. My second recommendation would be for the Network to facilitate the creation of a Major Group platform for minorities.

My final recommendation would be to ensure that legislation and policy development names minorities and moves beyond a narrow focus on non-discrimination, to incorporate also measures on cultural rights and the rights of minorities to participate in decision-making. Thank you.

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<sup>2</sup> See, for example, the work of the UN Permanent Forum on Indigenous Issues on the SDGs. See also, Jérémie Gilbert and Corinne Lennox (2019) 'Towards new development paradigms: the United Nations Declaration on the Rights of Indigenous Peoples as a tool to support self-determined development', *The International Journal of Human Rights*, 23:1-2, 104-124.

<sup>3</sup> See Human Rights Council, *Strengthening and mainstreaming the protection of the rights of minorities at the United Nations: an assessment of the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; Report of the Special Rapporteur on minority issues, Fernand de Varennes*, UN Doc. A/HRC/52/27 (26 January 2023).