



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for the Human Rights Council 4<sup>th</sup> Session

### **Reports of the Independent Expert on Minority Issues<sup>1</sup>**

#### **Mandate Holder**

Gay McDougall

#### **Mandate**

The mandate of the Independent Expert was established by the Commission on Human Rights pursuant to resolution 2005/79 in order 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; 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; apply a gender perspective in his or her work; to cooperate closely, while avoiding duplication, with existing relevant United Nations bodies, mandates, mechanisms as well as regional organisations; take into account the views of non-governmental organisations on matters pertaining to his or her mandate.

#### **Activities**

- Annual Report;
- Thematic report on Minorities and Poverty/ Millennium Development Goals (MDGs);
- Mission to Hungary from 25 June to 4 July 2006;
- Mission to Ethiopia from 28 November to 12 December 2006.

#### **Annual Report<sup>2</sup>**

#### **Key conclusions**

- The Independent Expert concluded that in every region of the world there are minorities that are the poorest of the poor facing long standing discrimination, exclusion, violence, and other denials of their basic rights. Women and girls from disadvantaged minority groups experience multiple and intersectional forms of discrimination based on both their minority status and their gender.
- The Millennium Declaration establishes an overarching commitment in Goal 8 to “develop a global partnership for development”. Developed countries and the international community have a shared responsibility to address the structural issues of developing countries in

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<sup>1</sup> Summaries prepared by Jumi Rahayu, Intern, ISHR; edited by Elodie, Intern, ISHR, and Gareth Sweeney, Information Program, ISHR.

<sup>2</sup> A/HRC/4/9, 2 February 2007. Full length report available at <http://www.ohchr.org/english/bodies/hrcouncil/docs/4session/A-HRC-4-9.doc>

eradicating poverty in general and disproportionate poverty among neglected and excluded minorities in general.

**Key recommendations:**

- The Independent Expert recommends that States give greater attention in designing development policies regarding **high levels and disproportionate poverty** of persons belonging to minorities. States should assess their obligations under human rights treaties and customary law within the wider framework of a **human rights-based approach (HRBA)** to development, the rights to non-discrimination, to participation in decision-making and to protection of cultural identity. The **intersection of discrimination on the basis of gender and minority identity** should be considered systematically in the reform of policies aimed at poverty elimination.
- The Independent Expert recommends that States:
  - (a) Gather **data on key economic and social indicators** concerning the human development of persons belonging to minorities, and the result should be publicly available.
  - (b) Establish **mechanisms for dialogue** with representatives of minority communities, including establishing a statutory body composed of representatives of minorities mandated to review and monitor government policy as it may affect minorities.
  - (c) Ensure that **legal and regulatory framework** on remedies and procedures in discrimination cases should be readily accessible.
  - (d) Adopt targeted **affirmative action** policies in the private and public sector to address social exclusion of minorities.
  - (e) Ensure that the **MDG Country Reports and PRSPs** (Poverty Reduction Strategy Papers) systematically reflect the situation of minorities, and that all review procedures monitor the impact of policies on minorities.
- States should consider specific measures in **key areas of poverty reduction for minorities**, which are:
  - (a) **Education:** addressing situations that result in segregation of minority children into different classrooms or facilities on the basis of their identity; increased access to education in mother-tongue languages; consideration of targeted financial assistance, or reserved places in secondary and higher education; curriculum development to reflect human rights education, minority cultures, and contributions of minorities to wider society.
  - (b) **Employment:** targeted skills training, investment in regions where minorities live, robust enforcement of anti-discrimination laws, penalties for violations of such laws that are sufficiently harsh to be a deterrent, targeted credit schemes and other support for small businesses.
  - (c) **Land and property rights:** Governments should adopt and enforce laws that safeguard the equal rights of minorities to land and property, also recognize a variety of forms of ownership, both individual and collective.
  - (d) **Participation in decision-making:** minorities' rights to participate effectively in decision-making on local or national issues and development plans should be supported; such as through reserved seats in governance or dedicated consultative institutions.
- The Independent Expert recommends that **international development agencies** should:
  - (a) Adopt policy guidelines on minority issues which specifically address indigenous peoples.
  - (b) Build institutional capacity and knowledge on the situation of minorities, particularly in respect to poverty and other human development indicators.
  - (c) Undertake dialogues with minorities on development priorities, including through the establishment of minority advisory groups.
  - (d) Support States in the preparation of MDG Country Reports, PRSPs and all review procedures.

- (g) Further research on the impact of development and poverty reduction strategies on minorities and ensure that country strategy papers for development cooperation reflect the situation of minorities and are published in minority languages.
- (h) Establish budget lines to support work on minority issues in development and to monitor the budgetary support.
- **The United Nations, regional and national human rights institutions** are recommended to:
  - (a) Provide necessary technical support on the drafting, implementation and enforcement of laws on non-discrimination and on laws and standards to protect the rights of minorities including the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities.
  - (b) Integrate consideration of minority rights into research, dialogue and training on the human rights-based approach to development.
  - (c) Ensure that efforts to establish human rights-based indicators of human development include the elaboration of indicators with relevance to minorities.
- The 2003 Guidance Note on Country Reporting on the MDGs of the United Nations Development Group should be revised to clearly reflect a requirement for the collection and inclusion of disaggregated data by race, ethnicity and religion, and guidelines in this regard.

### **Thematic Report on Minorities and Poverty/ Millennium Development (MDGs)<sup>3</sup>**

*[Not available 24 hours prior to presentation of independent expert to the fourth session of the Human Rights Council]*

### **Mission to Hungary<sup>4</sup>**

#### **Scope:**

The Independent Expert visited Hungary from 25 June to 4 July 2006. Her findings were based on numerous consultations in Budapest, a visit to Roma communities in the Pecs region and to other groups. She conducted visits to kindergarten, schools and community centres, local cultural institutions and to Roma housing rehabilitation scheme. There are 13 national and ethnic minorities in Hungary: Armenian, Bulgarian, Croatian, German, Greek, Polish, Roma, Romanian, Rutherian, Serbian, Slovak, Slovenian and Ukrainian. The report pays special attention to the Roma communities because as it is the largest minority group (about 600,000 people).

#### **Summary and key conclusions:**

- Hungary already have a set of best practices on minority issues, such as:
  - (a) The minority self-government system based on the 1993 Act on the Rights of National and Ethnic Minorities.
  - (b) The Parliamentary Commissioner for the National and Ethnic Minorities Rights (Minority Ombudsman) to investigate complaints regarding abuses of minority rights.
  - (c) An advisory body on Roma women's issues to the Ministry of Social and Labour Affairs.
  - (d) Act No. CXXV on Equal Treatment and the Promotion of Equal Opportunities adopted by Parliament on 2003 which requires all entities with over 50% State ownership and over 50

<sup>3</sup> A/HRC/4/9/Add.1

<sup>4</sup> A/HRC/4/9/Add.2, 4 January 2007. Full length report available at

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/100/83/PDF/G0710083.pdf?OpenElement>

employees to adopt Equal Chances Plan. The enforcement of this Act is monitored by the Equal Treatment Authority (ETA).

- The Roma communities, especially Roma women, have been the most deprived group with respect to education, employment, health, housing and extreme poverty. It has also been most affected by Hungary's transition period from socialism to a market-based economy.
- Hungary also has suffered Anti-Semitism, such as hostility against Jews, neo-Nazi marches and vandalism of cemeteries.
- The Independent Expert welcomes the Government's initiative on education for disadvantaged students, such as the "Sure Start" programme to support Roma and other disadvantaged students from the earliest age, afternoon schooling, and the Roma scholarship scheme.
- The Government's policy to restructure its previous constitutional focus on Roma issues, including dedicated departments in a network of the most relevant ministries, will lead to an erosion of the progress made to date on Roma issues.

### **Key recommendations:**

- The minority self-government system should not be seen as a mechanism through which municipal governments may evade responsibility to guarantee fundamental social and economic rights for all.
- The Government should seek to adopt measures to ensure the effective political participation of underrepresented minorities, including Roma, in the Parliament. It should also recruit Roma professionals into key government posts relating to Roma issues and policy.
- Concerning the extreme poverty issue faced by the Roma population, the Government should establish an institution that is responsible for coordinating the work of different ministries and institutions in order to ensure coherent and coordinated approaches to poverty reduction.
- The Government should review and reverse its policy of institutional reform and restructuring of government departments, which is diminishing the focus of attention on Roma issues in key ministries.
- The Equal Treatment Authority should be fully independent from the Government. It must also be empowered to impose specific corrective actions and punitive damages upon entities found in the violation of the Equal Treatment Act, and to undertake affirmative action programmes in all public and private sectors. It should ensure compliance with the Equal Chance Plan and offer technical and financial assistance.
- The Government must initiate a system of compulsory independent monitoring of schools to ensure that national policies with respect to desegregation are fully implemented at the municipal level.
- The Government should abolish the practice of labelling Roma children as mentally disabled without justification based on the child's intellectual capabilities, and legal sanctions should be brought against authorities that still conduct the system. Culturally and linguistically appropriate assessment of learning abilities should be developed by nationally recognized professionals.
- The Government should address the current shortfall in kindergarten places for Roma children, particularly in isolated rural settlements, and assist them to complete secondary education.
- Roma communities should be encouraged through public awareness campaigns to realize their obligations in educating both boys and girls and to encourage school attendance.
- Teachers should receive training on pedagogical approaches for ethnically diverse student bodies, including how to work with children from disadvantaged backgrounds and how to help non-minority children overcome racial prejudice and resentment.
- The Government should extend the provision of the Equal Treatment and Promotion of Equality Act not just to government offices and public organizations but also to all private and foreign owned organizations.
- On Roma housing, the Government funded rehabilitation program should be continued, including community rehabilitation initiatives and provision of contracts for Roma businesses.

- The Government should remedy gaps in legislation relating to housing rights violations against minorities by ratifying relevant international standards, including the revised European Social Charter. Domestic law should also recognise the right to adequate housing and improve domestic law protection to tenants, in particular against forced eviction.
- Regarding other social services, the Government should:
  - (a) undertake an independent investigation into the functioning of child protection services
  - (b) ensure adequate coverage by general medical practitioners
  - (c) undertake adequate provision of a network of qualified social workers, including via recruitment and training of Roma and those experienced in Roma issues
  - (d) conduct a Government sponsored public campaign
- The collection of data disaggregated by ethnic groups as well as along gender lines is recommended to reveal the full extent of social and economic problems experienced by different ethnic groups, and to assisting in the development of appropriate and effective policy and practice.

## **Mission to the Federal Democratic Republic of Ethiopia<sup>5</sup>**

### **Scope**

The Independent Expert visited Ethiopia, particularly Addis Ababa and the Gambella region from 28 November to 12 December 2006 in pursuance of her mandate. This report resulted from numerous consultations with Government officials from federal and State level, civil society, academics, political opposition groups, students and minority communities as well as UN agencies operating in Ethiopia.

### **Summary and key conclusions:**

- The Constitution of Ethiopia established the system of ethnically-based federalism and provides for a comprehensive foundation of rights, freedoms and equality, as well as the rights of all ethnic communities to political representation. However, discrimination still exists and tends to be politicised. The equal and effective participation of minority ethnic groups within a system of democratic decision-making is not yet fulfilled. Some groups have been excluded from public life of the regions where they live as they are not recognized as native to the region or do not speak official local languages.
- There has been continuing inter-ethnic and intra-ethnic conflicts caused by land, water and resource issues, or due to political factors. There are also tensions between Christian and Muslim communities.
- Smaller communities in Ethiopia might have disappeared due to environmental, social and political pressures, and processes of assimilation.
- The Ethiopian National Defence Forces (ENDF), which should assist the regional government to address anti-peace elements, has committed serious human rights violations, including killing and rape in rural areas. However, their presence is still considered necessary by the Government for security in the region.
- There have been reports on arbitrary arrest, detention and imprisonment of opposition leaders, journalists, students, human right defenders and minorities (largely of Anuak ethnicity) that represent a breach of trust between the Government and citizens.

### **Key recommendations:**

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<sup>5</sup> A/HRC/4/9/Add.3, 28 February 2007. Available at <http://www.ohchr.org/english/bodies/hrcouncil/docs/4session/A.HRC.4.9.Add.3.pdf>

**The government both at the federal and State level should:**

- Address the ongoing inter-ethnic tensions and conflict and take measures to depoliticize ethnicity and promote policies of inclusion, shared power and cooperation.
- Ensure the existence of small minority groups. It should also grant land title in the recognition of historic usage, and include the protection of the use of land by pastoralist groups, individual and collective ownership arrangements.
- Build confidence in democratic processes; ensure good governance, human rights and fundamental freedoms, including freedom of religious communities, through a process of national dialogue and reconciliation.
- Ensure that civil society groups, particularly those representing the interest of marginalized or disadvantaged communities, are free to function without interference. It should also guarantee the safety and independent functioning of human rights defenders.
- Undertake awareness raising and training initiatives to educate public officials and the judiciary for the implementation of international instruments. It should also be ensured that regional State Constitutions and laws, including traditional customary religious law and practices conform to the federal Constitution and international human rights law.
- Maintain the principle of free choice of language education, as well as the opportunity to study and be instructed in both the mother tongue and the official national working language of Ethiopia at the regional level.
- Establish a law on non-discrimination and equal treatment applicable in public and private spheres. It should also establish a statutory body with the authority to receive complaints and to issue legally binding decisions in cases of discrimination. Special attention must be given to multidimensional discrimination experienced by minority women.
- Ensure the political representation and participation of migrants, minorities, particularly for women, the House of Federation, and federal government bodies.

**The Federal Government in particular should:**

- Ensure checks and balances on the democratic functioning of the federal system to guarantee the rights of disadvantaged communities experiencing political, social and economic inequality.
- Treat arbitrarily detained persons in accordance with international law and standards.
- Address the urgent needs of historically marginalized ethnic groups in the least developed regions, such as infrastructure, schools, hospitals, electricity and other services which would contribute to peace and stability.
- Ensure that the ENDF should be deployed in border areas only and not utilized for policing functions.

**The Human Rights Commission of Ethiopia** should conform to the Paris Principles, and accredit itself to the International Coordinating Committee for National Institutions for the Promotion and Protection of Human Rights. The Commission and the human rights ombudsman should give dedicated consideration to minority issues.

**The international community** should make efforts to supply technical assistance and cooperation in human rights, development and security to the Government of Ethiopia.