

The role of the UN, and other human rights and development actors in advancing the participation of minorities in poverty reduction and development strategies in South East Asia

Regional Consultation
Bangkok, 25-26 September 2012

REPORT

Summary

The regional consultation in Bangkok (Thailand) organized by OHCHR was the second in a series of regional consultations commemorating the 20th anniversary of the adoption of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UN Minorities Declaration). The seminar focused on the role of the UN, and other human rights and development actors in advancing the participation of minorities in poverty reduction and development strategies in South East Asia. It brought together representatives of human rights and specialized agencies and other organizations of the UN system working in the South East Asia region, development actors and some representatives from the academia and minority groups.

Consistent with the view to strengthen implementation of the Declaration, participants examined challenges faced by minorities in the region and reflected on how to mainstream minority issues and minority rights in country poverty reduction and development strategies in order to address the exclusion of minorities in South East Asia experience with respect to benefits emanating from development programmes.

In addition, participants explored how they could facilitate the full, effective and meaningful participation of persons belonging to minority groups including minority women, in the country strategy development processes in order to ensure that development and poverty reduction programmes respond to the real needs of minority communities.

This report summarizes the presentations and discussions of the panelists and a number of findings and recommendations made.

Background

Within the context of the 20th Anniversary of the Adoption of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, IPMS has organized various activities including regional consultations on minority rights issues with a view to identify gaps to be addressed and good practices to be replicated while securing stronger implementation of the Declaration.

The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities is clear in establishing that persons belonging to minorities have the right to participate effectively in economic life. Additionally, the Declaration highlights in its article 4 that States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country. The Declaration also calls in its article 9 for the specialized agencies and other organizations of the United Nations system to contribute to the full realization of the rights and principles set forth in the Declaration.

As the High Commissioner for Human Rights, noted in her opening remarks during the 3rd session of the Forum on Minorities Issues¹, minorities are frequently excluded from full and effective participation in economic life, even more so in times of economic hardship. While the experiences of different minorities are diverse, the impact of that economic exclusion is nearly always devastating.

Minority groups in all regions of the world commonly experience higher than average and disproportionate levels of poverty. Poverty is often the result of the cycle of marginalization, social exclusion and discrimination affecting minority populations and is a cause, manifestation and consequence of a wide range of economic, social and cultural rights violations. The poorest communities in almost any region tend to be minority communities that have been targets of long-standing discrimination, violence or exclusion. Equally, poor communities are generally less able to participate effectively in political decision-making or to access mechanisms of justice when their rights are violated. Greater effort is needed to ensure that minorities who are living in extreme poverty benefit fairly from national and international obligations to reduce poverty². Disaggregated data that reveals inequalities is not collected in most countries. Equally, minority communities are rarely consulted over the design of policies or programmes meant to alleviate poverty³.

In South East Asia, economic disparity continues and has proven to be a driving force of ethnic tension. In many areas, majorities have traditionally dominated political and economic life while poverty is concentrated in rural areas and among ethnic groups. The remote rural regions in which minorities live and their high reliance on rural agriculture pose special challenges to poverty alleviation. Ethnic minorities, frequently experience much less benefits from development programs than the main ethnic groups. They may be concentrated in remote regions, where quality of soil is poor, infrastructure is weak, and the reach of government programs in social sectors is inadequate. They may depend heavily on subsistence agriculture. In some countries, government policies and natural resource management regimes may have contributed toward undermining their access to resources, reduced food sufficiency, and brought about “new poverty” and marginalization. Their declining situation is reflected in the increasing proportions of minorities among the poor. In particular, transition to a modernized market-based economy can increasingly marginalize the position of ethnic minorities and women in the economy, as market measurements undermine the value of their roles and livelihood practices.

The Human Rights Committee has expressed its concern about the structural discrimination against minority communities in countries in the region including with regard to the protection of their way of life. Equally, the UPR examinations of some countries noted that some ethnic minorities are excluded from receiving subsidies and support.

Participation

The Bangkok consultation was attended by 25 participants, comprising of representatives of various United Nations entities including the OHCHR Regional Office for South East Asia, UNICEF, UNHCR, UNDP, IOM, UNFPA, UNESCAP, ILO, UN Women and a UN Resident Coordinator Specialist from the Vietnam Office. Included among the participants were representatives from: the UK Department for International Development, the Asia Human Rights Commission, Minority Rights Group International, the National Human Rights Commission of Thailand, and the Asia Pacific Refugee Rights Network. Opening remarks were delivered by Ms. Matilda Bogner, OHCHR Regional Representative for South East Asia and Mr. Luc Stevens, UN Resident Coordinator, Thailand. The first day of the consultation was chaired by Ms. Heisoo Shin, member of the CESCR. Ms. Elvira Dominguez Redondo, a minority rights specialist from Middlessex University of the UK chaired the second day. Matilda Bogner closed the consultation.

¹ Geneva, 14 December 2010.

² A/HRC/FMI/2010/2.

³ Poverty Reduction Strategy papers, Minorities and Indigenous Peoples, an Issues Paper. MRG International 2005.

The sessions

The agenda of the consultation was organized around five sessions which addressed the following topics: Scope of minority rights protection and the right to effective participation; Identifying barriers to minorities participation in development: Root causes of poverty; Mainstreaming minority rights in country poverty reduction strategies and policies; Effective and meaningful participation of minorities in country strategy development process: role of NHRIs and civil society actors; Securing land rights for minorities: role of the Government and participation of minorities in land related decision-making; Effective participation of minority women in development processes and the role of the UN system in building capacity on minority issues at the national level.

Scope of minority rights protection: The right to effective participation

The discussions began with issues connected to identification as a minority (no legal definition under international human rights law) and the overlapping in belonging to more than one marginalised group through self-identification.

Regarding the scope of protection of the rights of minorities under international human rights law, following OHCHR/IPMS's presentations from Ms. Michèle Buteau and Ms. Belén Rodríguez de Alba, discussions were held on the mandate of the Independent Expert on Minority Issues, the Forum on Minority Issues, and the UN Network on racial discrimination and the protection of minorities. Coordinated by OHCHR the Network was the subject of interest on the part of many of the participants. OHCHR used the opportunity to brief the participants as to *inter alia* the role of the Network to a) develop a communications strategy to raise awareness on and promote implementation of the Minorities Declaration; and, b) develop a set of core messages to support stronger advocacy on racial discrimination.

Mainstreaming minority rights in country poverty reduction strategies and policies

Within the context of mainstreaming minority rights in country poverty reduction and strategies and policies, participants examined the different elements resulting in the marginalized not managing to reach the MDGs.

Mr. Markus Brand from UNDP highlighted how persistent inequalities across the board and obstacles to meaningful participation resulting in persons belonging to minority communities being forced to accept development policies and programmes which are disempowering. This problem is being addressed through *inter alia* national consultations on legal empowerment of the poor (in countries such as Bangladesh, Indonesia and the Philippines) which provide an entry point for legislative and policy reform actions toward achieving participation in decision making to help secure economic rights.

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; disseminating information on the MDGs to minority groups (e.g. translating MDG reports into minority languages and inviting minorities to participate in discussions about, *inter alia*, the MDGs).

Some 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 and using affirmative action policies to increase public employment opportunities for minorities.

Evidence from UNDP suggests that minorities and other marginalised only manage to reach a certain level of achievement in poverty reduction before progress stops, while the middle class continues to make progress towards reaching the MDGs. Through the UNDP Millennium Development Goals Acceleration Framework (MAF), various options are being offered at country level to accelerate progress towards the MDGs. The MAF

is based on four steps: i) what needs to happen to reach a particular MDG target; ii) why this is not happening; iii) how it can be made to happen; and, iv) formulating action plans among development partners to make it happen.

Systematic discrimination in access to, ownership and control of land by the marginalised including minorities results in non-participation in decision making at all levels in development issues which in turn fuels land grabbing. This rampant problem found throughout the region of South East Asia affect minority women in particular. Some solutions are found not only in participation in decision-making but also through programmes that improve institutional capacity and facilitate access to legal identity and ownership documents.

Mr. Bijaya Rajbhandari from UNICEF gave an overview of the many interventions they have in the field working with minority communities especially in far South Asia and highlighted that six out eight MDGs are related to children. Suggestions were made as to the need for the Post MDGs agenda to be inclusive; build on the MDGs but to address the short fall-unfinished agenda; increased inter-agency work and civil society; well managed and sustained investment in people specially children and most disadvantaged yield greater results; development need to be universal-all societies and people regardless of where they live; data collection should be adapted according the context through desegregation, language, and political sensitivity; set up national data systems for the collection of child rights indicators; help governments, in partnership with other UN agencies, to develop data collection systems and analytical mechanisms for child rights.

With respect to participation, the UNICEF Representative recommended that children and young people be in the centre of discussion on minority issues: opportunities for their voice/expression, participation in decision making and supporting their actions; ensure meaningful and ethical participation of children and young people that promotes respect for culture and preserves identity; promote gender and inclusion with focus on girls and disabled children; promote inclusion and respect for diversity through active and meaningful participation of minority children and young people.

Other recommendations were as follows: investing in women and girls have been described as the breakthrough strategy for achieving all MDGs; the ability to access education and information in their own language is vital for the empowerment of women; education of girls and boys using bilingual methods and multi-lingual approaches will result in better learning and performance, fewer drop outs and greater family support; improving adult women education by designing instruction their own language; ensuring basic information in local languages, and recruiting ethnic minorities to work in public improves minorities' access to services like health, protection, education and other services; adoption to local culture and conditions of conventional western medicine based- MCH practices (e.g safe TBA assisted delivery at home; incorporating selected local cultural contents and practices in official MCH services; sensitization and capacity building of health staff on local health and medical facilities.

Effective and meaningful participation of minorities in country strategy development process: role of NHRIs and civil society actors

With respect to the role of national human rights institutions and civil society actors in the effective and meaningful participation of minorities in country strategy development process, one of the presenters, Ms. Answer Styannes from the Asian Human Rights Commission, a Hong Kong based NGO, gave a brief overview of the situation of minorities in Indonesia. There is no law recognising and protecting minorities in Indonesia and there is a misunderstanding about who minorities actually are. Although an anti-discrimination law exists, the discussion on discrimination is still only at the level of direct discrimination.

She stated that in order to engage minorities effectively in the development process, there is a need for representation in government bodies, establishment of advisory or consultative bodies involving minorities,

equal access to public sector employment, substantial influences and legitimate and empowered representatives. She further considered that members of minority groups should have the ability and resources to exercise their right to participate; and through participation mechanisms to be continuously reviewed and, when necessary, adjusted.

How can civil society be a help? The speaker identified several layers of problems, namely public and government insensitiveness, problems in law and regulation on development planning, problems in laws implementing development plans and problems in implementation.

To address those problems, she enumerated the following actions by civil society actors: relevant legal action, minorities' capacity building and empowerment, challenging the relevant laws and regulations (constitutional or judicial review, proposing new draft), understanding the current development planning process – the need for exchange of knowledge between development and human rights NGOs and co-operation between them, identifying problems in the current mechanism and proposing alternatives for development planning that are more inclusive – special measures for minorities.

Recommendations were made as to developing the understanding on minorities and their rights in accordance with international human rights standards; more attention should be given on how development policies are shaped and a better co-operation should be ensured between NGOs on development and human rights (transfer of knowledge, coalition).

Securing land rights for minorities: role of the Government and participation of minorities in land related decision-making

Mr. Pijush Barman, representing Community Health Care Project, a DIFD funded project, highlighted that land grabbing, force eviction and arson attack are the common issues against minority groups in Bangladesh.

The traditional and customary land rights are not recognized in Bangladesh, and thus this land grabbing by the majority often occurred against minority groups. The major and gross human rights violations such as killing, arbitrary arrest, detention, false cases, false land record documents, sexual harassment, looting, firing on houses and eviction committed and occurred very frequently against minorities due to non-recognition of the traditional and customary land rights.

Minority groups face force eviction in the name of eco-parks, national parks, social forestation, industrialization etc, and in most of the cases, the powerful institutions involve land grabbing. Population transfer or internal migration to the land of minority communities are taking place, further changing the territorial characteristics of the traditional region and demography.

Recommendations were made as to the need to establish a minority affairs ministry to look after minority issues and to arrange reserved seats in the national parliament for minorities. Additionally, the UN agencies should undertake programs for government agencies as well as other concern actors to raise awareness on minority issues and to provide training, on minority land rights for minorities to both government and minority groups.

Ms. Nicole Girard, from Minority Rights Group International, addressed the loss of land and livelihood and its impact on minority communities. She stated that minority communities and natural resource development should be consensual and respectful of minority rights. She gave an overview of the situation of land rights for minorities in the region. The Philippines is the only country that has legal protection of land rights although the challenge remains at the level of the harmonization of laws and in the implementation. In Indonesia, it is impossible for foreigners to own land resulting in minorities not having the same land rights. In Laos, the

Government has refused to support minority groups as they claim everybody is equal. The development policy is to force resettlement.

Effective participation of minority women in development processes

Ms. Heisoo Shin, Expert of the Committee on Social, Economic and Cultural Rights explained that minority women face multiple forms of discrimination both as women and as minority when it comes to economic and land rights, violence against women, reproductive rights, participation in decision making or policy making, gender role stereotypes and women rights vs. culture.

The development strategies for women should have a two track approach: mainstreaming gender perspectives in the development strategies – gender impact analysis; and projects targeted for women – with consideration on how to change the existing gender inequality and gender role stereotypes.

The correct approach to minority women's issues should be that different ethnic groups have different ways of life and the work with women's NGOs should be strengthened and supported.

The role of the UN system in building capacity on minority issues at the national level

Ms. Anne Harmer from UNFPA explained that population data face the constraint of politicization by governments. However, there are opportunities such as advocate for inclusion of questions on minorities in census, have disaggregated data by ethnicity for planning purposes, use of data on minorities to support work of partner agencies and analysis of demographic trends.

The presenter gave an overview of the constraints faced by minorities with respect to reproductive health. Ethnic minorities often live in remote, inaccessible areas with limited or no access to services and where services exist, user fees are often a barrier; linguistic barriers and lack of education (especially for women) result in limited access to information; traditional belief systems sometimes counter 'modern' practice; difficulties in engaging with minority communities and negative service provider attitudes and discrimination.

Opportunities exist when governments commit to equal access and affirmative policies, when there is partnership with civil society partners, when schemes are put in place to train minorities as service providers and when campaigns and materials are developed in minorities languages and guided by minority users.

The presenter highlighted some guiding principles to ensure that minority rights to health are addressed: disaggregate health data by ethnicity, gender, socio-economic status, cultural or tribal affiliation and language; actively involve minority peoples in design, implementation and monitoring of health programmes; ensure health services and health-related information available in local languages; ensure availability of targeted health services in minority communities and train minority health workers to conduct outreach service; train non-ethnic health professionals to be culturally sensitive; develop and implement strategies that encourage minorities to become health professionals and establish monitoring and accountability mechanisms in minority communities.

Finally, Mr. Marco Roncarati from UNESCAP explained how ESCAP mainstreams inclusion of minorities into his work. He stated that the UN Declaration on Minorities informs ESCAP objective of achieving an inclusive and sustainable development in Asia-Pacific through building an inclusive society for all; Protection, Empowerment and Equality; cross-cutting principles of rights-based approaches and good governance pre-suppose inclusion of minorities; both social protection and enabling measures can be a means of inclusion for minorities and awareness of multiple deprivations.

Findings and recommendations

All along the discussions, participants stressed the following issues:

- ❖ The scope and limits of the existing international and national legal framework for minorities but the lack of a legal definition for minorities and the importance of self-identification as the key element.
- ❖ There are no disaggregated data in most of the countries in the South East Asia region and minorities are rarely consulted over the design of policies and programmes affecting them. Data collection should be adapted according the context through desegregation, language, and political sensitivity.
- ❖ Discrimination and exclusion undermine efforts to achieve poverty reduction, MDGs, democratic governance, environmental sustainability and conflict prevention. At the same time, effective participation of minorities enriches decision making, and helps us plan, implement and monitor sustainable and effective solutions to development challenges.
- ❖ It is critical in this region to take a holistic approach to programme identification and solution findings given the complexities at the local levels in this region concerning overlapping identities, marginalization within identified groups as well as political sensitivities.
- ❖ Investing in women and girls has been described as the breakthrough strategy for achieving all MDGs.
- ❖ The ability to access education and information in their own language is vital for the empowerment of minorities and in particular minority women.
- ❖ Education of girls and boys using bilingual methods and multi-lingual approaches will result in better learning and performance, fewer drop outs and greater family support
- ❖ Improving adult women education by designing instruction their own language.
- ❖ Ensuring basic information in local languages and recruiting ethnic minorities to work in public improves minorities' access to services like health, protection, education and other services.
- ❖ Sensitization and capacity building of health staff on local health and medical facilities
- ❖ The UN should see minorities very much as partners, rather than purely as beneficiaries
- ❖ Participation in decision-making must be undertaken through a bottom-up, decentralized process owned by the right-holders.
- ❖ Indicators should be developed at the national level to measure economic inequality within populations and communities and between men and women.
- ❖ States must ensure that minority women have access to and control over productive resources including land, sustainable energies, finance in addition to education and health care.
- ❖ "Promoting human rights" is one of the pillars of a governance strategy to ensure the MDGs are met. Human rights mechanisms such as the mandate of the IE and the Forum can contribute to ensure that the Goals are pursued in an equitable and sustainable manner benefitting minority communities by conducting studies and making recommendations to States and other stakeholders as to action which

could be undertaken to create conditions for effective participation and respect for civil and political rights. Such actions include steps towards ensuring that rights are enforceable, and that accountability mechanisms are into place. Action is being undertaken and should continue to be undertaken by the minority rights mechanisms and treaty bodies through the support of the OHCHR Secretariat including IPMS.

- ❖ Meaning to be attached to “effective participation” of minorities can be cosmetic. Advocacy work on the effective participation of minorities should insist on participation at all stages of the process including the design, implementation and monitoring of the strategy set into place. Women are to be included and accountability mechanisms are to be put into place. OHCHR should ensure that Governments are always reminded of their human rights treaty obligations and that UPR reports incorporates the importance of the right to effective participation of minorities and other marginalized groups.