

Concept note

Regional consultations on the draft guidelines on the effective implementation of the right to participate in public affairs

Economic Commission for Latin America and the Caribbean (ECLAC)
Santiago, Chile

13 and 14 June 2017

I. Introduction

1. Human Rights Council resolution 33/22 on “Equal participation in political and public affairs” requests the Office of the High Commissioner for Human Rights (hereafter OHCHR) “to prepare **concise and action-oriented draft guidelines** as a set of orientations for States on the effective implementation of the right to participate in public affairs, as set out in article 25 of the International Covenant on Civil and Political Rights and as further elaborated on in other relevant provisions under international human rights law, and to present the draft guidelines to the Human Rights Council at its thirty-ninth session in order to allow the Council to take a decision on the way forward”.
2. Resolution 33/22 also requests OHCHR “to **facilitate open, transparent and inclusive elaboration of the draft guidelines through consultations** with States and with the participation of relevant United Nations agencies, funds and programmes, intergovernmental organizations, the Human Rights Committee and other treaty bodies, special procedures, regional human rights mechanisms, national human rights institutions, civil society organizations, academia and other relevant stakeholders, **including through informal consultations with States and other stakeholders at the regional level**”.
3. In order to implement resolution 33/22, OHCHR will organize five regional consultations in each of the following regions: the Americas; Africa; Middle East and North Africa; Asia Pacific; and Western Europe, Eastern Europe and Others.

II. Background

4. As stated in article 25 of the International Covenant on Civil and Political Rights, the right to participate encompasses the rights of the individual to take part in the conduct of public affairs, to vote and be elected; and to have access to public service. Other international human rights treaties contain similar provisions, which complement the Covenant.¹

¹ See the Universal Declaration of Human Rights (art. 21); the International Covenant on Economic, Social and Cultural Rights (art. 8); the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (c)); the Convention on the Elimination of All Forms of Discrimination Against Women (arts. 7 and 8); the Convention on the Rights of the Child (art. 15); the Convention on the Rights of Persons with Disabilities

5. Participation in political and public affairs cannot be considered in a vacuum; it underpins the realization of all human rights and is also inextricably linked to them. For example, the respect and full exercise of the rights to freedoms of opinion and expression, association and peaceful assembly and the rights to information and education are “among the essential conditions for equal participation in political and public affairs”, as recognised, *inter alia*, by the Human Rights Council in its resolution 33/22.
6. Resolution 33/22 further recognizes that, despite progress made towards the full implementation of the right to participate in public affairs worldwide, many individuals continue to face obstacles, such as discrimination in the enjoyment of their right to participate in public affairs.²

III. Regional Consultation for the Americas

a. Date and Venue

7. The regional consultation for the Americas will be held on 13 and 14 June 2017 in Santiago, Chile, at the Economic Commission for Latin America and the Caribbean (ECLAC) (room Celso Furtado).

b. Objectives of the consultation

8. The main objectives of the regional consultation are (i) to seek the views of stakeholders in the Americas regarding the content of the draft guidelines and (ii) to gain a better understanding of laws, jurisprudence, policies and good practices in the region with regard to the effective implementation of the right to participate in public affairs. The discussions held during the consultation should assist OHCHR in the preparation of the draft guidelines.

c. Participants

9. Experts from the region, including current or former Human Rights Treaty Bodies members and Special Procedures mandate holders, representatives and experts of regional human rights mechanisms, national human rights institutions, civil society organizations and academia, taking into account gender and geographic balance and

(arts. 4 (3), 29, 33 (3)); the International Convention on the Protection of All Migrant Workers and Members of Their Families (arts. 41 and 42); the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (art. 2 (2)); the United Nations Declaration on the Rights of Indigenous Peoples (arts. 5 and 18); the Durban Declaration and Programme of Action (art. 22); the Declaration on the Rights to Development (arts 1.1, 2 and 8.2); and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (art. 8). At the regional level, equal political rights are protected in several instruments, including Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (art. 3), the American Convention on Human Rights (art. 23) and the African Charter on Human and Peoples' Rights (art. 13).

² See Report on factors that impede equal political participation and steps to overcome those challenges” (A/HRC/27/29), and “Study on best practices, experiences and challenges and ways to overcome them with regard to the promotion, protection and implementation of the right to participate in public affairs in the context of the existing human rights law” (A/HRC/30/26) and “Summary of the discussions held during the expert workshop on the right to participate in public affairs” (A/HRC/33/25).

their areas of expertise, will be invited to attend. The meeting will also be open to participation from State representatives and other relevant stakeholders from the region to allow for an open, inclusive and transparent consultation process.

d. Issues to be discussed

i. Scope of the right to participate in public affairs

10. The right to participate in public affairs encompasses the rights of the individual to vote and to be elected, to take part in the conduct of public affairs and to have access to public service.³
11. The Human Rights Committee has interpreted “the conduct of public affairs” in article 25 (a) of the International Covenant on Civil and Political Rights as “a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels.”⁴ Discussions will address all dimensions of the right to participate in public affairs,⁵ including in all phases of the electoral process, and between elections.

ii. Framework for meaningful and equal participation in public affairs

12. To ensure effective and equal participation in political and public affairs, participatory mechanisms and processes should conform to certain principles, such as non-discrimination, inclusiveness, openness and accessibility. Discussions will focus on these and other principles that should guide the effective implementation of the right to participate in public affairs.
13. Ensuring meaningful and equal participation in public affairs requires a safe and conducive environment. Discussions will focus on the rights that should be promoted and protected as a precondition to the exercise of the right to participate in public affairs, and on the normative and institutional framework which contributes to guaranteeing and enabling the right to participate in public affairs.
14. Good practices in the region allowing for different levels of participation in the exercise of legislative, executive and administrative powers, including the elaboration of legislation and the formulation and implementation of policy at the national,

³ Human Rights Committee, General Comment No 25, para 1.

⁴ Human Rights Committee, General Comment No 25, para 5. In addition to the Human Rights Committee, a number of international human rights mechanisms acknowledged public participation as a “broad concept” that encompasses the rights of all people to be fully involved in and to effectively influence public decision-making processes that affect them, to be consulted at each phase of legislative drafting and policymaking, to voice criticism and to submit proposals aimed at improving the functioning and inclusivity of all governmental bodies engaged in the conduct of public affairs. See, inter alia, CEDAW, General Comment No. 23 (1997); the Committee on Economic, Social and Cultural Rights, General Comment No21 (2009); the United Nations Declaration on the Rights of Indigenous people, article 19; the Declaration on the Rights of Persons Belonging to National, or Ethnic, Religious and Linguistic Minorities, art. 2 and relevant reports of the Special Rapporteur on Minority Issues.

⁵ Cf. HRC resolution 33/22, para. 10(b)

regional and local levels will be discussed, as well as remedies when the right to participate is not complied with. The importance of ensuring the right to participate in public affairs at the regional and international level, including within international organizations, has been increasingly recognized and will also be discussed.⁶

15. New emerging forms of participation, in particular through information and communication technology and social media, will also be discussed.

e. Outcome

16. OHCHR will prepare a summary of the discussions held during the consultations. Such document will be made available on the OHCHR web page devoted to the consultation process.

⁶ See for example, Sustainable Development Goal target 16.7 that aims to “Ensure responsive, inclusive, participatory and representative decision-making at all levels”. See also, “Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned”, Report of the United Nations High Commissioner for Human Rights, A/HRC/32/20