



**UNITED NATIONS HIGH COMMISSIONER  
FOR HUMAN RIGHTS**



**Panel Discussion**

14 December 2010

**“Towards Effective Participation of Minorities in Economic Life”**

***Addressing Economic, Social and Cultural Rights and  
the application of the Minorities Declaration***

Room XXIV, Palais des Nations, 13:00 to 15.00

**Report**

On the occasion of the third session of the United Nations Forum on Minority Issues dedicated to “Minorities and Effective Participation in Economic Life”, the Indigenous Peoples and Minorities Section organised a panel discussion entitled Towards Effective Participation of Minorities in Economic Life: Addressing Economic, Social and Cultural Rights and the application of the Minorities Declaration

The event brought together a panel of four experts. Two panellists (including the Independent Expert on extreme poverty and Human Rights, Ms Sepulveda Carmona) focused on international legal human rights framework, specifically focusing on the protection of economic, social and cultural rights as a way to protect specific minority identities. With the view of finding a balance between presenting international standards and progress and realities on the ground the other two speakers presented the situation of Afro-descendants in Brazil and the MDG Achievement Fund project focusing on enabling the economic participation of ethnic minorities in China. The experts were asked to also address the extent to which the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in being utilized in the debate and concrete efforts on minority protection.

The opening address was given by Ms. Mona Rishmawi, Chief of the Rule of Law, Equality and Non-Discrimination Branch, and the panel was chaired by Mr. Antti Korkeakivi, Chief, Indigenous Peoples and Minorities Section.

The panel was composed of the following experts:

- **Ms. Magdalena Sepúlveda Carmona**, Independent Expert on human rights and extreme poverty
- **Ms. Julie Ringelheim**, Researcher with the Belgian Fund for Scientific Research and Lecturer in human rights law at University of Louvain
- **Mr. Marcelo Jorge de Paula Paixão**, Associate Professor, Federal University of Rio de Janeiro, and Coordinator of the Laboratory of Economic Analysis, Historical, Social Statistics and Race Relations (LAES)
- **Mr. Jörn Geißelmann**, Programme Coordinator, China Culture and Development Partnership Framework, MDG Achievement Fund

### **Summary of substantive aspects of presentations**

**Ms. Magdalena Sepúlveda Carmona** spoke on the notion of the interpretation of the Minorities Declaration in connection with economic rights. She highlighted the need for a comprehensive approach and stressed that civil and political rights (in particular the right to freedom of association and the right to freedom of opinion) need to be ensured in order to guarantee effective participation in economic rights.

She touched upon her experience as the Independent Expert on human rights and extreme poverty, where she is often faced with complaints that participation of minorities and other groups is only 'pro-forma'. So-called participation processes, if hijacked by the elites, can perpetuate an unequal situation and exclude minorities. In order to allow for the true participation of minorities governments need to take proactive action to overcome linguistic, geographic, economic and other obstacles to participation faced by minorities. This process must be designed so that all involved know how and why they participate in the process as well as what is the aim of their participation.

The Independent expert also stressed that participation should never be limited solely to gathering information. Affected minority groups and the public at large need to be notified in advance and receive (easy to understand) information on the consultation process. Minority groups must have the opportunity to express themselves and they also need to understand their role in the processes. Symmetries of power need to be taken into account and any decisions undertaken must be justified.

**Ms. Julie Ringelheim** spoke on the two pillars of the discourse on minorities in international law that are progressively becoming intertwined: (i) prohibition of exclusion, and (ii) protection of specific identity. For instance: The issue of access to employment and social security used to be approached through the lens of formal equality – there is a need to treat all the same, not to undertake action to preserve different identities. This means that identity protection measures are not addressed by affirmative action.

Until the 90s, the enjoyment of economic, social and cultural rights (apart from the right to education) was neglected and left to non-discrimination experts. Since then the

connections between economic, social and cultural rights and identity protection are increasingly highlighted in the following ways:

- a) increasing recognition that some economic activities can be part of an identity of a minority;
- b) increasing recognition that cultural differences need to be taken into account in the interpretation of economic, social and cultural rights;
- c) recognition that non-discrimination cannot be limited to an obligation to apply identical treatment to all.

*Ad a)* As shown by the UN work on Article 27 of the ICCPR, case law, comments on state reports, general comment on Article 27 etc and especially on access to land and natural resources and specific practices. It is a part of the recognition that culture manifests itself in many forms, therefore also in specific economic activities. This in turn leads to the recognition that protection of specific economic activities can serve towards the protection of communities and their identity.

*Ad b)* This is connected to the notion of cultural appropriateness. Economic, social and cultural rights must be implemented in a way that is respectful to culture and identity of groups, including minority groups. Culture is therefore seen as an aspect of economic, cultural and social rights.

*Ad c)* Dominant definition of non-discrimination was for a long time limited to an obligation to apply identical treatment to all (including those living in different situations). In connection with this, two notions are important: indirect discrimination (similar treatment resulting in factual discrimination; a norm that is seemingly neutral but has adverse consequences on group/s) and reasonable accommodation (Canada; this notion points out the solutions that should be implemented additionally and brings with it the possibility of different treatment for minority groups).

**Mr. Marcelo Jorge de Paula Paixão** addressed the situation of Afro-descendants in Brazil. With 40 million Afro-descendants, Brazil is home to the second largest Afro-descendant population in the world and the largest in Americas. 50.6 percent of Brazilian population are Afro-descendants and one of the trends identified is also the growth in numbers of those who self-identify themselves as black. Most of the Afro-descendants in Brazil live in the least developed parts of the country and are significantly worse off.

For instance, unemployment for Afro-descendant women is 40% higher than unemployment of white women. Illiteracy among Afro-descendants is twice as high as the rest of the population. There is a significant gap in the years spent in education between Afro-descendants and whites. 29% of Afro-descendants need health care but do not seek it. Maternal mortality and homicide mortality are higher for Afro-descendants. These statistics have implications for the possibility of Afro-descendants to participate effectively in economic life and also represent the government policy towards former slaves that did not address their needs.

Affirmative action is needed and the speaker especially highlighted it in the area of access to universities. Government designed and promoted a family work-study cash transfer called bolsa familia, intended to benefit the poorest Brazilians. 66.4% of the programme's beneficiaries are Afro-descendants.

To improve measures and design effective policies the need for reliable statistics is of paramount importance. Access to data is also very important as it gives visibility to existing problems.

**Mr. Jörn Geißelmann** presented the China Culture and Development Partnership Framework which brings together eight UN agencies, Chinese government and NGOs working together with the aim to improve the inclusion of ethnic minorities. The three year programme has directly benefited 5,000 members of ethnic groups, within it in-depth research is conducted, and policy recommendations on minorities are prepared for the government's new five-year programme.

China officially recognizes 55 ethnic minorities with the estimated population of over 100 million. Members of minorities mostly fare worse than the majority population and there is a gap in achieving the MDGs on economic and health indicators for minorities. There are some concessions for minorities: the one-child policy is not implemented as strictly for members of minorities, they can enter universities with a lower score achieved, laws provide for the elimination of discrimination in employment and their implementation is supported by ILO and UNESCO.

Among substantive areas of the project are: protection of agricultural heritage, craft sector development, cultural tourism, inclusive governance and the role of the civil society, development of local tourism, and basic education.

### **Discussion**

Following the presentations, limited time was available for discussions. During the question and answer session that ensued, the following points were made:

1. There are often great disparities between the international and national standards and the realities on the ground and the need was highlighted to change existing practices of governments.
2. Restricting activities of the NGOs is a major issue impeding the participation of minorities in the decision-making processes.
3. Minorities are often several times invisible, that is why the need for desegregated data is extremely high.
4. Minorities have to be taken into account from the very start of any policy development and creation of measures.

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