**Input to the Draft Guidelines on Equal Participation in Political and Public Affairs: Focus on the effective implementation of the right to participate in public affairs for minorities**

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**12 February 2018**

I am providing the following response to the call for inputs to the OHCHR draft guidelines on the effective implementation of the right to participate in public affairs, to be prepared pursuant to Human Rights Council (HRC) resolution 33/22.

The initiative to address the gap in implementation of the right to participate in public affairs is timely and highly welcomed.

This submission highlights relevant standards defining the norm to participation in public affairs, specifically applicable to minorities. It is important to note that as far as minorities are concerned, public participation opportunities need to be ‘effective’;[[1]](#footnote-1) going beyond legal symbolism and ensuring that minorities have meaningful opportunities to take part in the decisions affecting them. This submission comes as a response to the HRC’s resolution 33/22 paragraphs 2, 6(b) and 6(e), that urge special attention to minorities.[[2]](#footnote-2) The recommendations set forth are based on existing documents promoting effective public participation for minorities. I hope that this submission can inform further development of the draft guidelines by the OHCHR.

1. Participation in decision-making

Participation in decision-making forms the first component of the norm of effective public participation for minorities. This can be realised both on national and local levels. Arrangements at central government level can range from special representation through reserved number of seats, establishment of relevant ministries, and special measures for minority participation in civil service including facilitation of public services in the language of the minority.[[3]](#footnote-3)

National elections should be conducted without discrimination and with the consideration of establishing electoral systems that encourage minority representation and influence either through single-member districts in areas where minorities are concentrated, proportional representation, preference voting, lowered numerical thresholds and/or redrawing of geographic boundaries of electoral districts.[[4]](#footnote-4)

Language proficiency requirements have been considered to hinder circumstances that enable effective participation in public affairs for minorities. Therefore, if a State aims to implement effectively the right to participation in public affairs, the State should eliminate language proficiency requirements for minorities wishing to vote and stand as candidate for national and local elections; and lowering language proficiency requirements for public administration posts is also strongly advised. [[5]](#footnote-5) Additionally, the right to freely use minority languages orally and in writing, in private and in public, as well as in relations with administrative bodies; is a significant factor enhancing the participation of minorities in public affairs. This is particularly advised in areas where minorities live traditionally and in substantial numbers.[[6]](#footnote-6)

Another important element is the promotion of awareness and representation among political parties of the diversity of the society/communities that they represent.[[7]](#footnote-7) Similar efforts can be implemented on a local level.[[8]](#footnote-8) Central and regional governments should adopt policy statements that recognise the diversity within their respective societies and reflect it as widely as possible in public institutions, civil service, the police and the judiciary.[[9]](#footnote-9)

‘Veto-type’ rights over draft legislation directly affecting minorities can be given to members of national legislation representing minorities. These measures have been encouraged by the Advisory Committee on the Framework Convention for the Protection of National Minorities from the Council of Europe (CoE).[[10]](#footnote-10)

Another important effort can be the establishment of advisory and consultative bodies that are able to raise issues that affect minorities directly and indirectly with decision-makers. Such bodies can take the form of special purpose committees.[[11]](#footnote-11) However, governments need to listen to these advisory bodies, provide adequate funding, encourage transparency, independence from government influence and accessibility for minorities.

1. Self-governance arrangements

Self-governance opportunities form the second component of the norm of effective public participation for minorities. This can be implemented in the form of adequately funded territorial and non-territorial arrangements or a combination of both.[[12]](#footnote-12) While issues of defence, foreign affairs, immigration and monetary affairs can be exercised by the central government; other functions relating to minority language, education, culture and religion can be managed by non-territorial governance bodies, otherwise known as cultural autonomy arrangements.[[13]](#footnote-13) Additionally, areas of language, culture, education, environment, local planning, natural resources and other services can be administered by territorial governance bodies.[[14]](#footnote-14)

While citizenship is considered to be a legitimate limitation on who can participate in public affairs; certain flexibility can be adopted to include non-citizens to vote, stand as candidate in local elections and access cultural autonomy arrangements.[[15]](#footnote-15) The inclusion of non-citizens in participating in public affairs can promote the spirit of tolerance and inter-cultural dialogue.[[16]](#footnote-16)

1. Guarantees

Guarantees are the final essential component of the norm to effective public participation for minorities. Guarantees can be ensured in legal, constitutional and dispute resolution arrangements. While previously discussed self-governance arrangements should be established by law and not be subject to change in the same manner as ordinary legislation; arrangements promoting participation of minorities in decision-making may be determined by law and other appropriate means. Dispute resolution mechanisms can take form of impartial judiciary and/or ombudsman for national minorities, which give due consideration to minority views.[[17]](#footnote-17)

1. Participation of minorities in institutions of global governance

After discussing the measures that promote effective implementation of the right to participate in public affairs for minorities on a national level, it is important to highlight the gap in promoting participation of minorities and marginalised groups in global governance structures.

The area of global governance is particularly important because public participation opportunities can be limited or ineffective at a domestic level for minorities and their representatives.[[18]](#footnote-18) Therefore, minorities use international spaces that allow further engagement in political dialogue with their own host-state, international organisations and other relevant actors.[[19]](#footnote-19) In these international spaces, discriminatory barriers experienced by minorities are less entrenched and opportunities for consultation with state actors can be more accessible for minorities, who otherwise are not capable of raising their voice meaningfully within national spaces of governance.

Within the UN, there has been a weak emphasis on considerations of minority issues. While the UN Voluntary Fund for Indigenous Peoples receives annually around US$700,000;[[20]](#footnote-20) there has been no funding efforts for minorities that resemble the efforts made in regard to indigenous people. The UN Voluntary Fund for Indigenous Peoples enables mobility and presence of relevant indigenous peoples’ actors in international spaces, which minority actors also require.

It should be acknowledged that since its establishment in 2013, under the HRC decision 24/118 of 27 September 2013, the *Special Fund for the Participation of Civil Society in the Social Forum, the Forum on Minority Issues and the Forum on Business and Human Rights* has contributed to enabling participation of civil society actors during the Forum on Minority Issues. However, it receives considerably less funding. In 2014, the Special Fund received a total of approximately US$63,000.[[21]](#footnote-21) This is only around 10 per cent of what the Voluntary Fund for Indigenous Peoples received. More funding means that the UN Permanent Forum on Indigenous Issues can meet for a longer period that, consequently, enables indigenous people to participate more effectively in global governance structures. The UN Forum on Minority Issues meets for only 2 working days, while the UN Permanent Forum on Indigenous Issues meets for 10 working days per year.

Therefore, in this final section, I would like to offer recommendations on enhancing effective implantation of the right to participation in public affairs for minorities in the space of global governance:

1. Mechanisms of global governance should further engage with minority groups and promote minority rights ensured in the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM). UNDM includes the provision on effective participation in public affairs for minorities.[[22]](#footnote-22) Therefore, under Article 9 UNDM UN agencies and other organisations should contribute to full realisation of this right and others ensured in the text of UNDM.
2. Relevant treaty bodies and special procedures are encouraged to pay further attention to the effective public participation of minorities and involve them in all stages of the monitoring and implementation process of international obligations.[[23]](#footnote-23)
3. States should provide adequate resources to the *Special Fund for the Participation of Civil Society in the Social Forum, the Forum on Minority Issues and the Forum on Business and Human Rights*; and encourage creation of international spaces for minority participation and rights implementation monitoring bodies in other relevant structures at regional level such as: EU, OAS, ASEAN, CIS, SAARC, and OSCE.

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1. Conference on Security and Co-operation in Europe (CSCE) ‘Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE’ (29 June 1990) para 35. [↑](#footnote-ref-1)
2. HRC ‘Resolution adopted by the Human Rights Council on 30 September 2016 33/22. Equal Participation in political and public affairs’ (6 October 2016) UN Doc A/HRC/RES/33/22 paras 2, 6(d) and 6(e). [↑](#footnote-ref-2)
3. OSCE High Commissioner on National Minorities (HCNM) ‘Lund Recommendations on the Effective Participation of National Minorities in Public Life’ (September 1999) para 6. [↑](#footnote-ref-3)
4. ibid paras 7-10. [↑](#footnote-ref-4)
5. Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) ‘Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and Public Affairs’ (adopted 27 February 2008) paras 102 and 126. [↑](#footnote-ref-5)
6. ibid para 160. [↑](#footnote-ref-6)
7. HRC ‘Recommendations of the second session of the Forum on Minority Issues on minorities and effective political participation, 12 and 13 November 2009’ (2 February 2010) UN Doc A/HRC/13/25 para 30. [↑](#footnote-ref-7)
8. Lund Recommendations (n 3) para 11. [↑](#footnote-ref-8)
9. ibid para 11. [↑](#footnote-ref-9)
10. ACFC Commentary No.2 (n 5) para 97. [↑](#footnote-ref-10)
11. Lund Recommendations (n 3) paras 12-13. [↑](#footnote-ref-11)
12. ibid para 14. [↑](#footnote-ref-12)
13. ACFC Commentary No.2 (n 5) para 135. [↑](#footnote-ref-13)
14. Lund Recommendations (n 3) paras 17-21. [↑](#footnote-ref-14)
15. ACFC Commentary No.2 (n 5) para 101. [↑](#footnote-ref-15)
16. ibid para 100. [↑](#footnote-ref-16)
17. Lund Recommandations (n 3) paras 22-24. [↑](#footnote-ref-17)
18. Corinne Lennox, ‘Agenda Item 4: Conditions required for effective political participation’ (UN Forum on Minority Issues, 12 November 2009) < http://www.ohchr.org/Documents/HRBodies/HRCouncil/MinorityIssues/ItemIV/Participants/Corinne%20Lennox.pdf> accessed 11 February 2018. [↑](#footnote-ref-18)
19. ibid. [↑](#footnote-ref-19)
20. ‘UN Voluntary Fund for Indigenous Peoples: 30 years of empowering indigenous peoples to claim their rights’ (OHCHR, 2016) 32 <http://www.ohchr.org/Documents/Issues/IPeoples/Fund/BookletVoluntaryFund.pdf> accessed 11 February 2018. [↑](#footnote-ref-20)
21. ‘Funds Administered by the OHCHR’ (OHCHR, 2014) 103 <http://www2.ohchr.org/english/OHCHRReport2014/WEB\_version/allegati/7\_Funds%20administered\_OHCHR\_2014.pdf> accessed 11 February 2018. [↑](#footnote-ref-21)
22. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (adopted 18 December 1992) UNGA Res A/RES/47/135 art 2(2). [↑](#footnote-ref-22)
23. Recommendations of the Second Session of the Forum on Minority Issues (n 7) para 38. [↑](#footnote-ref-23)