Protecting the rights of ethnic and religious minorities: addressing contemporary global challenges

Wednesday 13 – Friday 15 January 2016 | WP1442
Report

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Religious and national or ethnic diversity are two of the main components of pluralism in contemporary societies. At the same time, ethnic and religious diversity, and inadequate government protection of the rights of ethnic and religious minorities, still constitute an unresolved challenge, to varying degrees, in all parts of the world. In recent years this has been compounded by conflict and instability in the Middle East and the growth of extremism, highlighting the urgent plight of ethnic and religious minorities in the region.

The meeting brought together policy makers and practitioners, with other experts, to:

- Take stock of the implementation of international standards for the protection of the rights of ethnic and religious minorities, identifying the challenges;
- Explore how better protection for ethnic and religious minorities in current situations of concern may be provided, in particular by national governments and institutions;
- Identify how the international community should play a role in strengthening protection of the rights of religious and ethnic minorities in particular in the most urgent situations.

The meeting examined protection of the rights of ethnic and religious minorities globally, with a focus on the Middle East region.

Executive Summary

- While there are a number of human rights standards at the international and regional level addressing the rights of ethnic and religious minorities, there remains a lack of political commitment to and ownership of the concept of minority human rights protection. Many states refuse to recognise particular groups within their territories as an ethnic or religious minority and/or to recognise that a problem exists with the protection of minority rights.
- This is compounded by limited knowledge, beyond the world of experts, regarding human rights standards and mechanisms and how they can be used to protect the rights of minorities. Many minorities themselves do not recognise the

"there remains a lack of political commitment to and ownership of the concept of minority human rights protection."

In the interests of brevity, the terms ‘rights of minorities’, ‘minority rights’ will be used interchangeably when referring to the human rights of ethnic and religious minorities.
“Good governance and the rule of law are fundamental to ensuring the protection of minority rights”

"Globally, minorities are often the poorest of the poor"

benefits of the international human rights framework and in some cases of even identifying themselves as minorities.

- More work is needed to raise awareness of the rights of minorities at grassroots level and to empower local communities, leaders and non-governmental organisations (NGOs) to allow ownership of negotiations and processes that have consequences for their human rights.

- Good governance and the rule of law are fundamental to ensuring the protection of minority rights. There are a number of areas within these concepts that require particular attention: education on the true meaning of democracy, beyond the concept of elections, to ensure that groups and communities are willing to give up political power knowing that their rights will still be protected; integration strategies that focus on education at a young age promoting tolerance and inclusivity; and ensuring the visibility of minorities in all aspects of public life including law enforcement agencies. Crucially, integration strategies should not be aimed exclusively at minorities but at the whole of society and requiring action from all.

- In the context of the Middle East conflicts in Iraq and Syria the situation facing minorities must not be overlooked. Defeating the Islamic State (IS) will not stop the fleeing of minorities (e.g. Kurds, Yazidis and Christians) from the region: their persecution pre-dates IS presence and continues in areas not controlled by IS.

- The situation faced by the Rohingya Muslims in Myanmar and the Yazidis, Kurds and Christians in Iraq and Syria evidence how minorities in conflict situations require a particular response. It is vital to build political will to ensure preventive action in areas where there is a risk of conflict. Engagement with local groups is also key to ensure the response is appropriate to the situation and based on facts on the ground. When conflict does occur the ‘back of the queue’ syndrome facing minorities in the receipt of international and humanitarian aid should be addressed.

- Globally, minorities are often the poorest of the poor, therefore minority rights should be framed in terms of economic and social rights as well as civil and political. In this regard, the 2030 Sustainable Development Goals (SDGs), although with some shortcomings, have the potential to improve the situation of minorities.

- The UN’s response to the situation facing minorities has been inadequate to date. There is a lack of cooperation between the UN agencies dealing with security and with human rights, with a failure to integrate and mainstream human rights throughout the UN system. This has a particular impact in conflict and post-conflict areas where peace and justice including human rights protection are not seen as inextricably linked. There is also a noticeable lack of diversity amongst UN personnel with limited representation from national and religious minorities.

- However, it is important not to undervalue the progress that has been made to date at the international level and to consider ways to maintain the momentum. The Human Rights Up Front initiative at the UN which will make human rights training mandatory for all UN personnel is a positive development. The displacement of peoples as a result of the conflict in Syria has also led to a greater understanding of minorities.

**Context**

1. At the global level, Article 27 of the International Covenant on Civil and Political Rights (ICCPR) provides for the protection of the rights of ethnic, religious and national minorities to enjoy their culture, to profess and practice their religion, or to use their
own language in community with other members of their group. In addition, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities provides a comprehensive, although non-binding, framework for protecting the rights of minorities. The Universal Periodic Review (UPR) at the UN Human Rights Council also provides a relevant and important mechanism for addressing the rights of minorities. At the regional level, there is the Council of Europe’s Framework Convention for the Protection of National Minorities (FCNM). The Organisation for Security and Co-operation in Europe (OSCE) has published the Ljubljana Guidelines on Integration of Diverse Societies and The Hague Recommendations Regarding the Education Rights of National Minorities.

2. However, the rights of minorities continue to be much neglected not only in the Middle East but throughout the world. There are shocking images of entire communities being targeted. It seems that no one – Sunni Shi’ite, Protestant or Catholic – is immune.

3. It is important to consider whether the non-inclusivity or persecution of minorities is state-driven as the result of lack of will and/or resources; driven by non-state actors; or if it is a fragile or failed state suffering conflict in which minority rights are not being protected. Tools and scenarios to assist minorities in each of these situations differ and there is a need to separate out the appropriate responses.

4. The lack of institutional attention to the problems faced by minorities particularly at the UN is a serious problem. The situation of minorities today is a reflection of political and institutional failure at the global level, indicative of a lack of education within states and across multi-lateral bodies. Minorities are often the first victims in times of conflict and the least able to take advantage of development.

Challenges and barriers to effective implementation of international standards

5. There is a general lack of understanding of the international human rights framework regarding the protection of minorities, beyond the community of experts. This framework is often perceived as Euro-centric and although the scope has expanded, it is often regarded as irrelevant to people living outside Europe.

6. Even where there is an awareness of the mechanics, the traditional human rights system since 1945 may be seen as an ineffective lever, which may be triggered but to limited or no effect.

7. Many minorities do not want to be identified as such because of negative connotations. In some countries minorities are not recognised or permitted to refer to themselves in these terms. For example, the Dalits in India. On the other hand, it is important for minorities to be realistic about what can be achieved and for this to be grounded within the framework of international human rights law.

8. In a number of countries there is a serious disconnect between policy makers within governments and the experience of minorities. A ‘parallel universe’ exists where the experience of discrimination is not believed by government officials and the majority population.

9. There is a notable lack of data around minorities and their situation. Departments at the national level charged with collating data on minorities are often understaffed and under-resourced particularly at senior level. In some cases, good laws and action plans may be in place but are not deployed effectively due to the lack of people working at a high enough level to ensure implementation.

10. At international fora there are many discussions about the lessons learned from countries emerging from civil conflict such as Rwanda and Sri Lanka but it is proving difficult to translate this learning to other jurisdictions.

11. The challenge is not solely that of poor legislation or no legislation. There is a need to
address racist attitudes and the way in which minorities are used as scapegoats.

12. With regard to the Middle East, it seems that there is a profound misunderstanding of the role of IS and the situation of minorities. Discrimination against and persecution of minorities is a reality even without the presence of IS. In Iraq, over half the Christian population had left before IS emerged. In Syria, Christians are fleeing from areas not IS controlled. It is therefore a mistake to believe that the defeat of IS will stop the movement of people fleeing persecution.

13. People often flee not only because of immediate danger but because they see no future for themselves in that environment. This is the case with minorities in Syria and Iraq where relations with the majority community have broken down and are now characterised by suspicion and mistrust. There are specific examples of Sunni Muslims telling IS that their neighbours are Yazidi knowing they will be tortured or killed. Reconciliation of communities following the persecution experienced by Yazidis will be extremely difficult and challenging in any post-conflict situation.

14. There is an overarching problem within the UN where human rights are not integrated and mainstreamed throughout its agencies. The United Nations Development Programme, for example, does not regard human rights as part of its mandate. Furthermore, in post conflict areas there is much investment in military strategies for peace keeping which do not include human rights.

15. The role of minorities requires particular attention in post-conflict situations. Too often peace negotiations and peace processes exclude them.

16. While the challenges are many there are also opportunities that could be seized to raise awareness of and strengthen minority rights protection. This includes the increasing accessibility and use of social media as a tool for mobilising people. The conflict in the Middle East that has led to the current migration crisis could trigger a discussion in Europe on the importance of protecting minority rights. However, it is important to target the right audience to raise awareness; this should include policy makers at national and local level as well as children and young people. It is also important to note that social media, whilst raising awareness of the situation facing minorities can also be used to spread hate speech. Human rights organisations and governments need to improve their use of social media in order to mitigate against the harm caused by negative messages.

Recommendations

17. There is a real need to engage at grassroots level and spread awareness of the international and regional system at the UN, Council of Europe and OSCE, in particular how these bodies can assist when mechanisms and frameworks are not available within the country.

18. Minorities should be encouraged to identify as such and to use the language and framework of rights in advancing their position.

19. More psychological studies are needed to understand what lies behind racism and the apparent need of people to use others as scapegoats.

20. The media often contributes to a disturbing narrative that uses minorities as scapegoats. Training for journalists could encourage a more responsible approach to the promotion of positive and constructive messages about minorities. The development of guidelines for the media warrants further attention and exploration.

21. Governments need to play a stronger and more regulatory role regarding the use of social media while being careful not to stifle freedoms.
Building inclusive societies: good governance and the rule of law

22. The rule of law is a pre-condition for the protection of minorities and good governance should take communities into account.

23. When organisations, such as the OSCE, are assisting countries it is important to understand the nature of the state. For example, is it a civic society or is it ethno-centric. There is a need to create a sense of belonging in countries and this can be difficult for minorities in an ethno-centric or nationalistic one where there are often problems of discrimination. States emerging from the break-up of the Soviet Union and the former Yugoslavia tried to build an identity through the promotion of nationalistic and ethno-centric attitudes and it has become difficult for minorities to integrate in this context. In assisting states, the OSCE works to introduce integration strategies but it is important to stress that these are not aimed exclusively at minorities. These holistic strategies engage all members of society, and are thereby distinct from assimilation policies. Further considerations regarding integration are outlined below:

- Societies that express xenophobia and use minorities as scapegoats often do so because a community afraid of losing power attempts to retain it by exerting undue and improper influence over others. This can be challenged through an understanding that everybody, in some context, is a minority, so should be ready to lose power. States need checks and balances in place to ensure that communities do not lose all standing even if their power declines. These could include institutions such as inter-ethnic councils and greater responsibility for local authorities to engage with minority languages. For example, electoral laws should allow campaigns and related materials to be available in minority languages. Some states have introduced quotas or thresholds for minorities in local authorities or at the national level. Where this is the case it is crucial that membership of political parties is not restricted by ethnicity or religion.

- Education is vital in promoting good governance and the rule of law. Without a properly structured education system the minority culture will die. History lessons in schools should not be deployed for political purposes, and should desist from using only one narrative of the past. The promotion of linguistic diversity and multilingual education are key to ensuring that young people are widely informed and exposed to the full spectrum of a functioning society.

- Globally, minorities are often the poorest of the poor and as such are most likely to be disaffected. The reluctance of policy makers to frame the issue of inclusivity in terms of economic rights needs to be addressed. A welfare oriented approach alone is not enough. Inclusive societies and good governance require anti-discrimination laws to be applied to both the public and private sectors.

- Too often, the building of monuments and the display of symbols only take into account the majority culture and experience.

- Segregated living patterns, access to justice, trust and presence in law enforcement and the visibility and inclusion of minorities in public life all need to be addressed. Acknowledging different levels of powers and ensuring accountability mechanisms for the military as well as politicians are also key components. With regard to living patterns, states should exercise caution to ensure that changes to habitation are done in a way that enhances integration rather making life more difficult or are used in a punitive way.

- An acknowledgement of the multiple and changing identities within minority communities is needed, along with an acceptance of the principle of self-identification.

24. The role of kin states is important. In an ideal world, minorities would be well integrated in the society in which they are living and have peaceful relations with the kin state if they have one. However, this is rarely the case. Often minorities are seen as
separatist, and there may be a perception that the kin state is attempting to influence them to engage in violence and recruiting them for terrorist purposes. The challenge is to ensure that checks and agreements are in place so that both kin and host state accord with international law.

25. Working with religious minorities and in particular religious leaders can bring its own challenges. It is sometimes difficult to effect change within religious communities whose leaders have some interest in maintaining the status quo. However, all minorities need to be integral to any transition process and it is therefore important to work with minorities in developing skills and understanding.

**Recommendations**

26. It is important to educate people about the concept of democracy. For example, following the ‘Arab Spring’ the international community promoted an approach to democracy which prioritised free elections with the dangers of populism being overlooked. Democracy is not solely about numbers with the majority making decisions for the minority or where one party can outnumber and dominate the other if they get into power. Too often the organisation of elections is a way of testing the ‘quality’ of democracy in a country. Systems also need to ensure accountability mechanisms in between elections. Democracy and good governance should equate to inclusive governance. The protection and promotion of minority languages, and autonomy through local elections should also be part of the democratisation process.

27. There should be consideration of smaller minorities who will never win a significant electoral advantage other than through the introduction of special measures such as quotas. However, this can also lead to problems where ethnic representatives might become intolerant of other groups. There is evidence of this happening in Bosnia.

28. An effective approach might be to work with younger emerging leaders particularly within religious communities. Despite the difficulties of working with some religious groups, it is crucial not to ignore religion in building inclusive societies. By doing so there is a risk it is misused and politicised by ‘the bad guys’.

29. It is vital to build a ‘business case’ for promoting diversity and inclusivity. This would illustrate that prevention is more efficient than peace-keeping and conflict and dispel the notion that structures for protecting minorities can only be provided if the state has money. There is some evidence to show that the protection of minorities increases prosperity, however more research is needed in this area.

30. The gender aspect of integration measures should not be overlooked and should be integral to any evaluation.

**Conflict affected societies and the protection of minority rights**

31. This aspect of the discussion focused on the situation in Myanmar, with a particular concentration on the situation in Rakhine, and the conflicts in Iraq and Syria.

32. Myanmar has suffered over 60 years of conflict. This has involved 16 major ethnic groups alongside smaller groupings and militias seeking protection of their ethnic rights. There are particular difficulties engendered by the military approach to the conflict rather than a political one. At the end of 2015, 8 of the 16 groups signed a peace agreement and it is hoped that others will sign in 2016.

33. The difficulties in Rakhine state are complex. It is the second poorest of the 14 states in Myanmar. Both Buddhist and Rohingya live in poverty and have grievances against the central government. The Buddhists take the view that the government has denied them autonomy and suppressed their language and culture. They have perceptions of Rohingya demands on Buddhist land and increasing Islamisation of Rakhine. The Buddhist community are relatively isolated and it is difficult to challenge their
34. The narrative of hatred against the Rohingya Muslims pre-dates the violence that erupted in 2012. For many years, the leadership of Myanmar propagated that a number of other Buddhist lands such as Malaysia and India had been lost to Muslims. Furthermore, that polygamy was rife within the Muslim Rohingya community leading to a high birth rate leading in turn to demand for Buddhist land. The 2012 spate of violence against the Rohingya was sparked by a false accusation on social media that a woman had been raped by three Rohingya men. This led to a Buddhist group attacking a group of Muslim Rohingya and then entire villages, with the government unable to enforce the rule of law.

35. At present, the Muslims want Rohingya to be recognised as a distinct ethnicity, stated on their identity cards. The President does not accept Rohingya as an ethnic identity and has publicly stated that there are no Rohingya in Myanmar.

36. Some commentators have referred to an over-reaction of the international community to the situation of the Rohingya Muslim in Rakhine. In some instances, the persecution has been referred to as ethnic cleansing or genocide. However, this view is problematic within the framework of international law. The international community needs to act preventively and to look at the risk factors in doing so. It is always difficult to prove genocidal intent because there will rarely, if ever, be a stated policy or statement for genocide. The term therefore should be used with caution. The failure of a state to protect could be sufficient to warrant action.

37. It is ironic that a successful intervention to prevent genocide could be regarded as an over-reaction. Genocide is not only identified by deliberate killings but can also be exercised through the denial of aid. The expulsion of the international NGO ‘Doctors without Borders’, which was delivering vital medical aid to the Rohingya and the cutting off of food supplies in 2012 should also be taken into account in evaluating the reaction of the international community. In addition, the UN Special Rapporteur specifically referred to ‘crimes against humanity’ in describing the violence against the Rohingya.

38. In Iraq and Syria many of the humanitarian protection measures for minorities are interim or short-term. While these are essential in saving lives, there is nonetheless a tendency to wait until the conflict situation is so severe that crisis measures are the only response. For example, the violence in Syria has reached a point that the only option for the Kurds, to avoid being killed, is to relocate. This drive to relocate minorities creates serious demographic problems with large territories being, what might be termed as, ‘ethnically cleansed by means of humanitarian aid’.

39. The problems are compounded by the ‘back of queue’ syndrome whereby large multilateral agencies may provide aid to the majority in the first instance, consigning minorities to receive whatever is left. This also occurs in response to other social and economic needs including education, health care and employment opportunities. There are some communities who have no aid because they are under siege.

40. Action to prevent the escalation of violence should have been taken at an earlier stage. There is now a real danger that minorities will lose their identity altogether. There are further vulnerabilities to be addressed within minority communities, for example the Kurds in the context of Iraq and Syria. Many women and older people are physically unable to get to safe places from where they can be relocated. Protectionist measures that deal with minority communities as a homogenous group and do not take into account these inter-sectionalities are extremely problematic.

41. Alignment with dictators and perpetrator driven protection does not work, as has been demonstrated through the relationship with Saddam Hussein. This is an important lesson to draw on in any dealings with Bashar Assad. All peace negotiations should take into account the timing and sequencing of justice.

42. Conflicts which are religious by nature are often more difficult to resolve than those
based on ethnicity, particularly during peace processes. While the latter can often be addressed through economic resources and political power it is more difficult to change hearts and minds. The deployment of political leadership and civil society contributions are therefore particularly important in overcoming religious conflicts.

43. The unintended consequences of intervention can be problematic. In some contexts, UN agencies inadvertently strengthen the majority in conflict situations as their intervention requires negotiation with those in power. It is important to consider who will benefit from international support and who will benefit most from peace and further opportunities.

44. It is often difficult to get early accurate information. Often security organisations within the international system do not share critical information with human rights organisations.

45. An international presence in conflict areas can be crucial. Special Rapporteurs, for example, can access conflict areas and sometimes even a ‘thin’ presence of an international actor can save lives. International scrutiny through existing mechanisms such as the UPR and the treaty examining process and the application of the ‘responsibility to protect’ principle are further instruments for the promotion and protection of human rights.

46. The displacement of peoples following conflict creates enormous challenges and the will of national governments to ‘do the right thing’ should be encouraged and supported. Local and national communities can do much to mobilise and create social movements aimed at enhancing protection of displaced peoples.

Recommendations

47. There is a lack of analytical material on how to identify a crisis and more work is required in this area.

48. Smaller groups with a common understanding of what needs to be achieved can often work together fast and effectively. The concept of ‘mini-lateralism’ as opposed to ‘multi-lateralism’ warrants more attention.

49. There is further scope to bridge gaps between early warning mechanisms and early action when considering conflict areas. This may assist in clarifying the spectrum for action: from sending in troops to doing nothing. Connecting early warning mechanisms to local NGOs and creating a demand for early preventive actions at the national level is an important way forward.

50. There is a need to bridge the gap between the security organs of the international system and the human rights organisations.

51. Better communication across the different bodies in the international system would be enhanced by conflict analysis from a grass roots perspective. The engagement of local organisations and knowledge, and the support of local initiatives including media would do much to align international involvement with local protection strategies. Real change will invariably come from within the society and international actors can do much to amplify the voices of local leaders. This should specifically incorporate the knowledge and views of women.

The 2030 sustainable development goals

52. Minority groups and indigenous peoples are the most vulnerable in societies and deserve special attention by the SDGs. As a result of structural entities they are often trapped in a cycle of exclusion and underdevelopment which differs from the poor in majority communities. Minorities face discrimination and unequal outcomes in education, health and employment impacting the confidence that success is possible.
53. There are many positive measures in the SDGs. Throughout the negotiation and drafting process there was strong engagement from development, human rights and climate change professionals. It is significant that the SDGs are explicitly grounded in the Universal Declaration of Human Rights (UDHR) and the UN human rights treaties.

54. The SDGs pledge to ‘leave no one behind’ and to reach out to the ‘furthest behind first’, committing to advance the bottom 40% of each society more rapidly than the rest, on the basis of income. They aspire to be a transformable set of objectives. In addition, a number of the 17 Goals speak to the problems faced by minorities, including Goal 5 on the equality of women, Goal 10 on equality within and among countries and Goal 16 on the rule of law and peaceful societies.

55. However, accountability regarding their implementation is not sufficiently addressed and the absence of robust oversight mechanisms may limit their application.

56. Similarly, while Goal 16 makes explicit reference to fundamental freedoms there is no accompanying text to explain what these freedoms are, such as, the right to freedom of expression or freedom of religion or belief.

57. Another key problem with the SDGs is that there is no requirement on states to collate and share disaggregated data. Yet countries for which disaggregated data is available, such as the UK, show disparities that reveal how minorities are seriously disadvantaged.

58. The discussion on agreeing Indicators for the SDGs is currently ongoing. However, statisticians working on these Indicators do not necessarily understand how to ensure human rights standards are an integral component.

59. It is a particular concern that minorities are not specifically mentioned in the text of the SDGs. This indicates that the issue of minorities needs more political support from states at the UN along with high level representation of minorities in the Cabinet of the Secretary.

**Recommendations**

60. There is a need for accountability mechanisms at the local and national level even if these are not formal. NGOs could work to set up informal mechanisms through social audits and similar mechanisms.

61. The role of private businesses in protecting human rights and in delivering on the SDGs should be acknowledged. This could go beyond the concept of corporate responsibility to ensure that human rights considerations are integral to business practice.

**The role of international community**

62. The conflict in Syria illustrates the difficulties sometimes inherent to the articulation of an ‘international community’. Countries such as Saudi Arabia, Iran, the US and Russia are all bearing on the conflict in very different ways. It may be more helpful to identify the powerful actors and how to influence them. However, one should not underestimate the positive leverage and influence of an ‘international community’ when countries do act in accord.

63. It is important to acknowledge that progress has been made with respect to the international framework and minority rights. The creation of a UN Special Rapporteur on Minority Issues and a Minority Forum has done much to promote discussion of a number of substantive issues relating to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Human Rights Up Front initiative at the UN which will make human rights training mandatory for all UN personnel is another positive development.

64. In addition, the OSCE has recognised the intersection between prevention of conflict
and human rights. At the Council of Europe the Framework Convention on the Protection of National Minorities is a legally binding treaty ratified by 39 member states.

65. The situation in the Middle East has created an opportunity for reflection as well as concern. It is timely to consider ways in which minorities can be brought to the forefront of the current discourse in a positive way. The Paris attacks, for example, highlighted the need for more concerted efforts to tackle radicalisation by addressing racism and xenophobia within the general population. However, this should be done with caution to ensure that discussion on the protection of minorities does not become conflated with the narrative of violent extremism.

**Recommendations**

Ways forward could include:

- Monitoring the situation at the national, regional and international level in order to respond to the specific challenges facing minorities
- Recognising fundamental freedoms of expression, thought, religion or belief as powerful tools for preventing radicalisation, extremism and embracing diversity as an integral part of our cultures and traditions.
- Raising compliance issues with legal obligations under international law more regularly and at the highest political levels.
- Working to end impunity through strengthening existing accountability mechanisms, not only to ensure justice for victims of human rights violations but also to provide a guarantee for upholding the rule of law and ensuring public trust in the justice system.
- Working toward reinforcing a tolerant and open society through awareness raising, education and intercultural and inter-religious dialogues.
- Working at a cross-regional and international level towards a renewed commitment to the protection of the rights of minorities.

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