

# briefing

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## Conflict, Structural Discrimination & Minorities: Towards A Road-Map for Inter-Agency Cooperation<sup>1</sup>

Joshua Castellino





Minara, a Rohingya refugee in Camp 4, Kutupalong refugee settlement, Bangladesh, 2017. Credit: Abul Kalam.

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# Conflict, Structural Discrimination & Minorities: Towards A Road-Map for Inter-Agency Cooperation

## 1 Introduction

In opening the 77th UN General Assembly in September 2022 Secretary-General António Guterres stated:

*Geostrategic divides are the widest they have been since at least the Cold War. They are paralyzing the global response to the dramatic challenges we face. Our world is blighted by war, battered by climate chaos, scarred by hate, and shamed by poverty, hunger, and inequality. Conflicts and unrest continue to rage.*

Emphasizing how the pandemic had ‘supersized’ inequalities against the backdrop of the climate crisis, the Secretary-General had already called for renewed attention to the surge in mistrust and misinformation in polarizing and paralysing societies in opening the 76th General Assembly. He captured the essence of the frustration that continues to reverberate in many parts of the world, stating:

*When people see promises of progress denied by the realities of their harsh daily lives... When they see billionaires joyriding to space while millions go hungry on earth... The people we serve and represent may lose faith not only in their governments and institutions — but in the values that have animated the work of the United Nations for over 75 years.*

The loss of faith in governance the Secretary-General refers to and the urgent need to rebuild a social contract anchored in human rights prioritized in his report entitled *Our Common Agenda* is heightened by current geo-political realities that emphasize persistent and systemic governmental failures in tackling the deeply entwined agendas of the environment, sustainable development, peace & security and human rights. The growth in scapegoat politics is fostering internal fragmentation in many countries, heightening the risk of physical conflict against minorities while forming a distracting drumbeat to pressing issues that require urgent attention. The link between minorities and conflict is the focus of the Special Rapporteur of minority issues’ latest report,<sup>2</sup> which builds on those of his predecessors who emphasized how the protection of minorities can assist conflict prevention,<sup>3</sup> while also documenting the disproportionate impact on minorities of the humanitarian crises that emanate from conflict.<sup>4</sup> The UN system itself is deeply aware of the potential of how ethno-religious conflict can rapidly escalate into crimes against humanity, war crimes and even

genocide, as captured in the mandate and work<sup>5</sup> of the UN Office on Genocide Prevention and Responsibility to Protect. This awareness is also reflected in the thinking of the World Bank<sup>6</sup> and UNDP<sup>7</sup> which recognize the link between intensive marginalization and conflict, and is captured in the UN Human Rights Council’s resolution on minorities which notes, with concern, how:

*...disregard for the identity of persons belonging to national or ethnic, religious and linguistic minorities, their political and socioeconomic marginalization, hate speech and the denial of their human rights often precede violence and should therefore serve as early warning signs of a risk of serious crimes and conflict.<sup>8</sup>*

The exploding inequalities within and across countries and growing wealth disparities have enabled very wealthy individuals to gain control over large segments of the world’s media; these serve as conduits to sow mass polarization among disenfranchised people. In a significant number of States the ‘scapegoats’ are people of different ethnic, religious, linguistic backgrounds, indigenous peoples, racialized groups and migrants. Wanton greed has generated poverty, conflict and destruction of circular economies by overexploitation of nature, while enabling the building of significant monopolistic businesses housed in established or fast emerging powerful countries.

The unleashing of political forces designed to capture votes by sowing hatred against a population segment (most usually ethnic or religious minorities) is generating artificial majorities and enabling the emergence of regimes often closely connected with the billionaires the Secretary-General refers to above. Closely aligned with large corporate interests including within extractive industries, these governments have little motivation to seriously tackle environmental or development questions; exponentially raising the risks posed by climate change or mega-development projects. Their preference lies in system preservation with minor tweaks, while far greater emphasis is placed on nurturing identity politics to polarize and paralyze societies craving radical system change. Some have invested in rewriting histories to back their narrative, while others have never contemplated the bias and inaccuracies of their officially disseminated histories.

While there are ample and articulate treatises exploring the problems of these times of crisis, there are fewer articulations of a vision for what the world could be, and even fewer that discuss pathways to it. From the perspective of the entities that form the UN, this presents a significant dilemma on how to proceed from critique to re-

construction. This brief paper is offered to mark the 30th Anniversary of the *United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* (henceforth the Declaration). It seeks to animate dialogue within the UN about the extent to which existing frameworks and plans can be sharpened to combat racial discrimination and protect minorities against looming threats to international peace and security. This is framed in response to the vision articulated by the Secretary-General of addressing the challenges of racial discrimination through the protection of minorities, most specifically in the UN peace, security and humanitarian responses to conflict. This is backed by the Human Rights Council resolution on minorities which explicitly calls on States to undertake initiatives to implement the rights contained in the Declaration in designing, developing and implementing measures to realize the full, effective and equal participation of minorities.<sup>9</sup> Finally, this is also fully in line with the central promise of the key UN framework for the Decade of Action (2020-2030), the 2030 Agenda and its pledge to not only reach those who are being left behind, but to prioritize reaching those furthest behind first - who all too often belong to minorities. Towards this aim the paper ends with a set of potential avenues for effective change to stimulate greater internal debate and collective action at the United Nations.<sup>10</sup>

## 2 Accepting Failures and Adopting Corrective Measures

Dramatic institutional failures of the UN at protecting marginalized communities while maintaining peace and security are regularly highlighted by others but have also been acknowledged in places as diverse as Myanmar,<sup>11</sup> Sri Lanka,<sup>12</sup> Bosnia & Herzegovina<sup>13</sup> and Rwanda<sup>14</sup> in recent decades. In Myanmar, an independent consultant's report that was accepted by the Secretary-General as valid in 2019 and explored activities from 2010-2018, stated:

*Since 2012, and especially since August of 2017, the world has witnessed a wrenching spectacle of human rights violations on a massive scale. The statelessness and extreme deprivation of some 1.4 million Rohingya people, not to mention the grave abuses wrought on them and other Muslim minorities in Myanmar, are totally unacceptable and nothing less than an offence to humanity. Clearly, the main responsibility for this belongs to the Government of that country; sadly, in this it seems to count with the solid support of most of its population. Further, the human rights abuses are undermining an otherwise positive albeit imperfect political process of gradual democratization and (paradoxically) reconciliation. The UN System, despite the advocacy efforts from the Secretary-General's personal involvement as well as that of the most senior*

*officials down to members of the country team, has been relatively impotent to effectively work with the authorities of Myanmar to reverse the negative trends in the area of human rights and consolidate the positive trends in other areas.<sup>15</sup>*

Under a section that discussed the 'foundations of systematic and structural shortcomings' concerning the UN's presence in Myanmar, the following were highlighted as key: (a) insufficient inter-governmental support; (b) the absence of a clear and unifying strategy; (c) the weakness of the nodal point for coordination; (d) dysfunctional actions at the level of the Country Team; and (e) shortcomings of systematic and unified analysis from the field. While some of these difficulties could be overcome, notably (c) and (d), others are unlikely to change, most significantly (a) in garnering intergovernmental support, especially for actions that may be against the short-term national interest of the powerful states in the international community. The issues particularly worthy of focus here are (b) and (e).

The somewhat technical ten recommendations at the end of the Myanmar report contained four elements that stand out as general lessons to be imbibed in providing context for the changed approach this paper advocates. The assumption of responsibility by the Secretariat in a 'proactive stance' taking advantage of the UN Charter article 99 prerogatives was emphasized to solicit support within the Security Council and other Member States in responding to situations where 'threatened human rights violations... morph into threats to international peace and security'. In articulating recommendation 7, the consultant admitted reluctance among certain members of the Security Council for such a discussion but emphasised the importance of finding such solutions, 'in getting Myanmar's political process back on track, and that inevitably requires finding a solution to the situation of the Rohingya people and of that of other Muslim minorities'. A separate recommendation highlighted the need for partnerships to address challenges, including a call on civil society, while attention was drawn to the need for coherence, sustained engagement and coordination between UN organs. The report went on to state:

*This is another way for calling once again for a reversal of the extreme fragmentation in which the United Nations has fallen over the years, to the detriment of a more effective and coherent response in situations like Myanmar.*

The final recommendation was cognisant of the importance of the sovereign State in addressing the gross human rights violations taking place in its territory - clearly the single biggest reason for the ensuing disaster. However, the report stressed that the UN has the capacity to '... engage the host Government in simultaneously undertaking initiatives to provide development and

humanitarian assistance, while also taking the host Government to task for what are generally perceived as violations of international laws and norms regarding the protection of human rights'. The final sentence of the report is most salient in terms of what is being addressed in this paper:

*The UN possesses the capabilities to pursue both goals simultaneously, given its multiplicity of mandates and areas of expertise; it is a matter of calibration of these different components of the Organization to achieve what admittedly is a difficult balancing act.*<sup>16</sup>

In articulating the need for system change at the UN, the Secretary-General listed five interconnected crises that needed to be addressed simultaneously. He stressed that outdated multilateral frameworks were failing to protect critical global goods and seemed incapable of delivering on globally agreed aspirations for sustainable development, peace and human rights. Addressing the UN General Assembly on 21 January 2022, he showed the interconnection between the five crises and how they fed off each other to worsen unrest:

*Inequity and injustice in tackling the pandemic. A global economic system rigged against the poor. Insufficient action on the existential climate threat. A wild west digital frontier that profits from division.*<sup>17</sup>

This analysis is echoed in *Our Common Agenda*, which puts forward 'leave no one behind' as one of its 12 key commitments and highlights the need for a renewed social contract anchored in human rights as a key action. The Agenda also speaks to how the UN needs to adapt and transform to ensure it can deliver the ambitious change agenda ahead.<sup>18</sup> It is argued here that the state of minorities, indigenous peoples and racialized groups in these contemporary times forms the true litmus test of whether the response to the Agenda is progressing towards inclusive solutions that leave no one behind, or whether the commentary is merely another articulate enunciation of the problem.

### 3 Why Minorities?

With the widespread nature of contemporary crises it would be fair to question why minorities ought to form a litmus test for the UN system's transformation. It may be argued that the UN ought to pay heed to *all* populations in need of protection and development. In seeking to express the case for explicit support for minorities, four key elements need to be highlighted.

First, there has long been an awareness that to protect and promote world peace it is imperative to ensure that minorities are protected from the tyranny of majorities. It

is no accident that minority rights as a focus of international consciousness is older than what is recognized as the commencement of international law itself. Conversely, the evidence of how brutal societies can be is often narrated through episodic and systemic violence and exclusion of communities based on their identity, creating deep divisions between communities and hegemony. The Secretary-General explicitly identified the need to shore up trust as a key anchor to renewing the social contract grounded in human rights.<sup>19</sup> Of course the inclusion, protection and participation nexus identified as another specific driver, would be meaningless if it excluded minorities. It is not by accident that the foundation of the UN itself was in response to the genocide perpetrated during World War Two, which brought States together to determine that a system was needed to save succeeding generations from the scourge of warfare. In today's parlance, while 'All Lives Matter' is a truism, emphasizing the lives that are most vulnerable in any given context and consolidating protection measures geared towards them adds bite to the human rights argument and can drive the push to overcome systemic and structural discrimination. It is also a policy imperative for the UN system stemming from the Shared UN System Framework for Action on leaving no one behind, noting that the UN has a standing legal mandate and central duty to promote and encourage respect for the principles of equality and non-discrimination. As rising inequalities in opportunities, wealth and power are a threat to peace and security given that they can incubate violence, insecurity and injustice, improving the UN's efforts across the organization including on issues relating to minorities, is crucial to reducing the risk of conflict and humanitarian crises.<sup>20</sup>

Second, while decolonization may yet prove to be the UN's grandest success – creating the framework and legitimacy for the transfer of power from colonial rulers, many of whom were architects themselves of the UN system – it also resulted in the solidification of sovereign States on the grounds of problematic boundaries, a significant majority of which are of dubious historical value. Drawing on tools of international law developed in Roman law, pre-existing and emerging members of the club of States recognized existing colonial boundaries, some extremely recent, as sacrosanct, effectively crystalizing lines that had been drawn by colonial rulers to demarcate territory in a bid to designate exclusive rights for themselves *vis-a-vis* a competing colonial power.<sup>21</sup> This generated entities whose first challenge was to carve out their own legitimacy, using tools of *nation-building* derived from western political thought, which inevitably mapped the dominance of specific ethno-religious or linguistic groups for posterity within the newly created boundaries. While human rights guarantees – specifically the founding notion of the equal and inherent dignity and worth of every individual – could act as a bulwark, its deterioration has left space for the construction of artificial majorities,

including through scapegoating specific communities as ‘foreign’, questioning their legitimacy and loyalty to the State which is painted as being omni-present in history books that, already inaccurate in failing to recognize women’s contributions to society, are now being actively rewritten based on modern political expediencies. This has built onto and sometimes enhanced deep underlying structural schisms within States, which have become ossified. As a result, racism, intolerance and discrimination are often systemic rather than episodic experiences and feature among the root causes of conflict and insecurity. In line with the articulation of *Our Common Agenda* tackling the legacy of structural discrimination is a further crucial anchor to revitalizing the push toward all human rights for *all* in operationalizing the principle of leaving no one behind. In a world where persons belonging to minorities are not only being left behind but are being ‘pushed further behind’ either actively or through inaction and inadequate or discriminatory policies, the UN should be the leading voice for meaningful change and a more just and safer future.

Third, the bulwark of human rights is being dismantled despite its incorporation into legal systems of States which are proving inadequate in arresting the hollowing out of democratic institutions. With human rights laws written in elitist language beyond comprehension of most of society, the battles over minutiae in courts of law and legislative assemblies are lost in translation to the general public, with the communities that dominate the media space in prime position to ‘interpret’ these battles as providing rights to people who are portrayed as undeserving, carefully picking enemies that are sufficiently different to stir up mass hatred and consensus. The manner in which human rights language has been articulated and developed has not immediately made it palatable to mass movements. If the Secretary-General’s *Call to Action* under the Key Proposals across 7 thematic areas encompassing 12 commitments is to be heeded, this element of public participation and the civic space will prove a crucial lynchpin.

Finally, the prevalence of an ambiance of real and perceived scarcity in terms of access to natural resources, finance and land, driven by the climate emergency atop the collapse of speculation-based financial systems, has provided significant thrust for forces of competition. Policy choices are often presented as a *zero-sum* game where a limited pie is distributed among ever more people, some with claims deemed ‘legitimate’, and others whose claims are actively questioned. The idea has become entrenched in the public discourse in many countries that providing specific rights to one group will come at the cost of other groups. This ploy, often deliberate, to mobilize majorities through scapegoating, is contrary to evidence that shows how recognizing greater society-wide human rights protections prove beneficial to all. Galvanizing a political movement on this basis has proven easy through social media, with data collected through overreliance on web-based services considerably augmenting its impact.

## 4 Legal Obligations to Protect Minorities

The protection of minorities has evolved and strengthened considerably over the preceding eight centuries as discussed elsewhere.<sup>22</sup> The UN Declaration on Minorities which celebrates its thirtieth anniversary may be among the weakest in terms of its ability to bind state parties, but it sits atop an intricate network of sophisticated legally binding regimes at international, regional and domestic levels. This diverse range of regimes includes structures developed to protect against the crime of crimes i.e. genocide, and the evolving regime to hold power to account for ethnic cleansing, war crimes and the crime of aggression through a specific international criminal court; to measures on non-discrimination that form the bulwark of every legal system on the planet which aspire to guarantees of effective equality. This offers an interlocking combination of peremptory norms that are among the strongest in public international law and domestic law with wide and consistent usage in state practice and *opinio juris* over centuries that has begun to come under pressure recently in the crossfire of the undermining of human rights. This undermining and backsliding on the rule of law is fiercely contested despite the shrinking of civic space and the magnitude of harassment human rights defenders face.

The thirtieth anniversary of the Declaration highlights a specific obligation to act for UN entities which fits well with the renewed call for action in times of crisis. Thus article 9 states:

*The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence.*

The essence of this is clear. There is increasing global strife driven by inequality which is raising the propensity of threats to international peace and security. Identity politics is, in many instances becoming the main focal point for political mobilizations that are hastening fragmentation and insecurity. Pragmatism built from time-honed longitudinal analyses of societies coupled with moral suasion has yielded a series of legal regimes to safeguard societies from a descent into violence through the tyranny of majorities. These are coming under pressure through populist politics based on scapegoating often driven by hate speech. This is reflected in the *United Nations Strategy and Plan of Action on Hate Speech*. In its Foreword the Secretary-General emphasizes how:

*[P]ublic discourse is being weaponized for political gain with incendiary rhetoric that stigmatizes and dehumanizes minorities, migrants, refugees, women and any so-called ‘other’.*

Civil society and democratic institutions are fighting a rear-guard action against backsliding on the rule of law through actions designed for political expediency by striving to hold governments accountable. The nature of exclusion faced by minorities, indigenous peoples and racialized groups is such that even civil society organizations leading the fight are under-represented with members of these communities. If the UN is to contribute meaningfully to this fight, responding to the explicit obligation encompassed in article 9 of the Declaration is becoming a key imperative. A response of this nature would also be in line with the statements made by the Secretary-General and agencies in understanding the difficulties with response mechanisms and the need for change.

## 5 Understanding the Nature of Protection Gaps

The need for a coordinated response to maintain international peace and security, ensure the achievement of the 2030 Agenda and its sustainable development goals, protect human rights and respond to the climate emergency is deeply interconnected with protecting minorities. The lack of explicit acknowledgment of this stems from four systemic gaps that hinder effective response.

Gaps related to *global politics* and their foundations are at the forefront of these. Even governments whose legitimacy stems from a majority of their populations' wishes are liable to ignore creating norms and protection regimes for minorities at a global level. Thus, marginalized voices are ignored, while powerful interests no matter how small, disproportionately dominate the policy agenda. This is true of a significant proportion of the States that are members of the UN. Further, while standards have been agreed upon at more progressive moments the weakness of the General Assembly to initiate, foster and maintain a push for change on key questions including colonial crime and reparations shows how system preservation is closely interconnected with persisting injustice that appears unable to address the vulnerability. The evolution of human rights despite the limitation it places on State sovereignty is remarkable; however, the contemporary weaknesses of the UN *Human Rights Council* and the ease through which it can be undermined underscores the nature of the political gap on general human rights, especially in raising issues pertaining to minorities.

*Knowledge gaps* contribute significantly as a system-oriented factor at national and international levels. Historical narratives remain deeply flawed, including of political domination of post-colonial States by specific communities often hand-picked to replace departing colonial powers, who operated within territorial dimensions based on colonial interests. They underline the nexus between historians and the dominant men who took over post-colonial societies, affording themselves a

disproportionate place in the narrative at the cost of others. When this history is disseminated through generations of learning it skews and marginalizes some at the cost of aggrandizing others. At the UN level the classification of countries displays an overtly European lens on global politics in the categorizations of continents. Despite obvious drawbacks of an approach towards a globe consisting of five continents where one, 'Asia' accounts for over half of the global population, the Pacific is further appended to the continent making closer scrutiny even more difficult. Understanding the world through sub-regional perspectives will not only provide greater clarity about diverse communities and the challenges they face but may also foster key aims contained within Chapter Eight of the Charter on regional development. Viewing a world as consisting of 17 regions rather than five continents may significantly alter the way in which some communities that are marginalised in one country can be seen in their broader regional context, or if drawn within a different regional boundary.<sup>23</sup>

The reports assessing the failures referred to above point to the existence of *co-ordination gaps* in how UN entities operate. Thus, security-oriented agencies rely on conflict data collected by UNHCR and other agencies usually at the outbreak of hostilities. Humanitarian agencies appear to respond to specific incidents, then make scarce resources stretch as far as they can in response mode while not being able to draw on the foresight that more preventative oriented agencies may collect. The introduction of minorities as a general category to both the threat and prevention related indicators could lead to significantly greater visibility and preparation. Specialized agencies that work on themes (e.g. development, prevention of genocide) or identity groupings (e.g. women, children, refugees) have their focus on those collecting key insights that are not effectively fed into the wider narrative of human insecurity. The result is a confusing array of data, some of which sits at UN Headquarters, some at UN sites and some at Country Offices. Coordinating these information-gathering activities to arrive at a coherent response which includes engaging with States at a political level appears to be fraught with difficulty. Addressing a streamlined source of data and intelligence flow could assist, but only if that data flow relies on multiple sources and is not dominated by inherent biases which could prejudice issues.

It must be acknowledged that the primary responsibility for maintaining peace and security, ensuring all-inclusive development, protecting civilians and guaranteeing human rights at all times and focusing on the climate agenda lies with States. Groups of such States have come together to agree on standards through negotiation and consensus, with these notionally binding upon themselves. However, their failure to prioritize the *implementation and monitoring* eventually lies at the heart of these crises. In this context the UN's role is at best cast as a supporting one to States in the best spirit of networked, inclusive and effective

multilateralism, with the ability of specialized agencies and the organization as a whole to respond to crises hampered by political interference, lack of access, the weakness of enforcement and review mechanisms, the inability to call States out on accountability of violations, and the ease of manipulation of the limited monitoring systems. Despite these difficulties, UN agencies have carved out competencies that have enabled them to function. It is argued here that selecting minorities, indigenous peoples and other racialized groups as one such ground and coordinating cross-agency efforts may yield better outcomes on the overall challenges that the UN was mandated to address, acknowledged as ‘inclusive multilateralism’ in *Our Common Agenda*.

## 6 Sites of Coordination

Four sites of coordination offer prospects for enhanced insight to guide collective responses from specialized agencies.

First, finding a way to overcome the reluctance to *name minorities* as a specific site of vulnerability. While there is increased awareness, due to climate change, of the specificities of indigenous peoples, and while racialized groups have been more in focus, they and minorities remain at the bottom of the agenda. This signals a failure to understand the disproportionate impact of violations on these communities, especially when this intersects with gender and other forms of disadvantage such as rural location, poverty or statelessness. While there may be a political reluctance to name minorities as a category, finding proxies to overcome this deficiency is key if mitigation and resolution approaches are to be sharpened. This is increasingly imperative when a lack of clarity over minorities has allowed Russia to justify its invasion of Ukraine on the basis that it is ‘protecting Russian minorities’. That lurking threat, of a State using the presence of a kin population within a neighbour as an excuse to justify invasion needs direct contestation, not pretence that States are homogenous and that minorities do not exist. As *The Highest Aspiration: A Call to Action for Human Rights* articulates:

*A common approach begins with a culture that is people-centred, and especially conscious of the specific needs of women and girls. Minorities and indigenous peoples must be protected and treated as equals in their societies, while recognizing the right of all peoples to be different. A common agenda for protection must deliver concrete services to those most often excluded, to the most vulnerable and those with specific needs. Our focus must be on preserving human dignity, preventing human rights violations and responding promptly and effectively when such violations occur.<sup>24</sup>*

The lack of *disaggregated data* is inevitably a second site where coordination is vital. Many States remain reluctant

to collect data on such communities, disrupting analyses of situations and ignoring a key impediment to public life. Varying justifications are offered for this lack of disaggregation of data, and it is also true that many dangers exist that disaggregated data collected by States can be misused. However, from the perspective of inter-agency cooperation the lack of such data blind-sides the extent to which preparation and response are possible. Working in closer harmony, with a ‘deepened sense of solidarity’<sup>25</sup> across agencies to collect and share data and analyses over issues affecting minority, indigenous and other racialized communities, especially focussing on intersectionalities could leave agencies better placed to fulfil their mandates, enhancing systemic resilience and response capacities.

The 2030 *Agenda for sustainable development*, repeatedly highlighted by the Secretary General, UN principals, and the UN’s highest policy-making bodies as the key blueprint for the future, is the third point of coordination.

Discussions about making the UN fit for purpose often focus on how to better equip the UN system to deliver on the 2030 Agenda. In this context, it is crucial to note that the 2030 Agenda remains a rights-based agenda. It explicitly invokes the *Universal Declaration of Human Rights* and international treaties, while calling for implementation in a manner consistent with the rights and obligations of States under international law. Furthermore, the 2030 Agenda seeks to realize the human rights of all and leaves no doubt as to the importance of its central promise – to leave no one behind and reach those furthest behind first. Additional efforts need to be undertaken by the UN to ensure that leaving no one behind is not a mere empty phrase used by authorities to create the appearance of tackling human rights issues while hiding inaction. Underscoring the need to ensure that the activities of each agency adhere to this principle is the only way of ensuring the reach and impact of each agency, in accordance with the UNSDG guidance on operationalizing the principle of leaving no one behind.<sup>26</sup> In addition, the coordination of activities under this heading could yield data that if collectively collected and shared could support overall coordination and cohesion.

Finally, the fact that much of the global history currently taught has been developed and disseminated by men from majority communities signals a *deep lack of understanding of the state of the world’s minorities*. The exclusion, marginalization and deliberate ignoring of such communities, their near universal portrayal as victims or losers when finally the focus of attention, and the inherent biases against them born of centuries of prejudice form significant barriers. The lived experiences of such communities testify to access barriers to agencies making it imperative that there is a reach-out from agencies toward such communities. Such a reach-out must be on the basis of respect, rather than one that is patronizing and condescending. Greater staff awareness on notions of inherent bias and privilege is crucial for fairness of

operation, but also a key imperative that when translated to each work context can significantly enhance the quality of the output and reach of every agency.

## 7 Potential Routes to Better Protection

To conclude, this paper would like to support discussion inside and outside the UN as to specific actions that may galvanize more effective responses by the UN system to threats caused by the violations of minority rights, including systemic discrimination. The intent of the recommendations that follow is to form a baseline for future action and to stimulate a response to current threats in many parts of the world. The recommendations each endeavour to articulate a broad area where action can and should be improved, followed by details as to concrete steps which might be taken in the near term.

### a) An improved legal basis, including potentially a Convention on the Rights of Minorities with a new treaty-monitoring body of independent experts

On this, the 30th anniversary of the UN Declaration on Minorities, it has been a common theme of consultations, that the current international legal basis supporting the rights of minorities is in urgent need of updating. Since 1992 the UN system has adopted a detailed Declaration on the Rights of Indigenous Peoples (2007), which has opened a gap in protection between minorities and indigenous peoples, and in some cases served to erode solidarity between these groups. At the same time a far-reaching Convention on the Rights of Persons with Disabilities has been adopted, illuminating possibilities for articulating the rights of particular groups threatened with discrimination. By contrast, the Declaration on Minorities now manifestly needs revisiting. While many interlocutors for this paper cautioned at the danger of endeavouring to re-open normative questions in the current polarized geopolitical environment, others point out that the current legal basis is weak and that risks of damaging it may be overstressed. The widespread commitment to the implementation of the 2030 Agenda and its pledge to leave no one behind within and outside the UN system open opportunities for advancing and enriching understanding of minority rights and minority inclusion, while heightening solidarity among the broad range of groups which should find shelter under the minority protection umbrella. UN agencies and the UN system as a whole have roles to play to advance these discussions. The many statements made by States at the High-Level Discussion to commemorate the 30th Anniversary of the Declaration at the General Assembly

also show that States share the value of a strengthened normative framework.<sup>27</sup> In keeping with the levels of threat minorities face it is imperative that any attempt to establish new binding norms should not backslide on existing if unincorporated standards. A Convention on the Rights of Minorities should include the establishment of a Committee of independent experts to consider State Party reports, consider complaints and conduct inquiries (also drawing upon the experiences of for example the CERD Committee's early warning and urgent procedures), and make recommendations. Another and complementary approach could be to step up advocacy for universal ratification of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and to urge States to develop an Optional Protocol that would set up a Committee of independent experts to monitor implementation and make recommendations.

### b) Improving systemic UN responses to threats to minorities while addressing the perception that the UN system is insufficiently responsive to minority concerns

The establishment of an independent accountability mechanism may assist in ensuring this aim. Interlocutors in the development of this paper – including those working within the UN system – were sufficiently sceptical that, on the basis of the existing public record, the UN was capable in and of itself in responding effectively to concerns at the human rights situation of minorities worldwide. Instead, a proposal emerged to establish an independent accountability mechanism (i.e. independent of the UN system), which would review regularly the UN's performance and effectiveness in response to the situation of minorities and would articulate concrete and tangible recommendations for improvement. The UN would need to commit to engaging with such a mechanism and acting sincerely on its recommendations.

### c) Improving the UN security architecture's response to and action on minority protection

Within the UN system a new Agenda for Peace (30 years after the 1992 one) is being developed, as signalled in *Our Common Agenda*, and is expected to be launched at the Summit for the Future in 2024.<sup>28</sup> These two agendas have in common the centrality of the human rights system as a framework that could help to address many of the underlying drivers of conflict facilitating use of tools like dialogue and mediation to face challenges to protection and peace. Peace-making and human rights approaches have many commonalities - both are grounded in

principles of national ownership, inclusivity/non-discrimination, and participation/empowerment. Both facilitate dialogue and resolution of social tensions and conflict. This is also in line with the above-mentioned *Pathways for Peace* study published by the UN and the World Bank, which identified unaddressed grievances, inequalities, exclusion and lack of participation in decision-making among key factors that drive conflicts.<sup>29</sup> The rights of minorities and combating discrimination are central to all of these factors and should feature prominently in the new Agenda for Peace. It would be useful to consider, for example, embedding staff with minority rights expertise in Special Envoy Offices, and to ensure that such expertise exists in the Department of Political and Peacebuilding Affairs' Standby Team of Senior Mediation Advisors or within the Mediation Support Unit. As recommended by the Secretary-General in *Our Common Agenda*, consideration could also be given to expanding the role of the *UN Peacebuilding Commission* to more geographical settings while addressing more cross-cutting issues affecting minorities from a prevention or peacebuilding perspective.<sup>30</sup>

UN Security Council resolutions on women, peace and security, and on the rights of persons with disabilities, have become flagship statements by the UN's peace and security architecture of commitments to these groups. The UN system should consider working toward a Security Council resolution on minority protection, including by fostering discussion and convening to address this lacuna.

At the same time, work should be undertaken to advance the explicit naming of minorities in country-specific and other thematic resolutions by the Security Council and to consider the possible specific impact on minorities when thematic issues are discussed by the Security Council (e.g. food or energy security).

In Security and in Prevention, system response should be de-coupled from the quest for hard statistical data, in recognition of the fact that in many contexts, there will be no data available on minorities under severe threat. Indeed, the higher the level of threat, the more likely it is that data will be unavailable. In this regard, both Security and Prevention should adopt the standards of credible and reliable information used, for example, in the Universal Periodic Review and the use of a 'reasonable grounds to believe' standard as captured in the OHCHR Manual.<sup>31</sup> This usually pertains to data gathered by OHCHR using credible and reliable information provided by relevant stakeholders including civil society, national human rights institutions and regional human rights organizations.<sup>32</sup>

#### **d) Data and credible and reliable information**

The collection of disaggregated data is crucial to ensure specific attention to minorities in conflict-affected areas. Important data gaps exist in the failure to specifically name and collect pertinent data on the communities named in

this paper. More systematic data disaggregation is key to achieving the 2030 Agenda and the SDGs. Nonetheless, the risks associated with data collection for the protection of the rights of minorities cannot be denied: including in context of conflicts and tensions where data may be used to target specific communities; and in democratic countries through compromising and manipulating electoral systems. A human-rights-based approach to data collection can improve the practice of data collection in alignment with international human rights standards. OHCHR has developed a Guidance Note to Data Collection and Disaggregation, entitled *A Human Rights-Based Approach to Data: Leaving No One Behind in the 2030 Agenda for Sustainable Development*, that may be used in that regard.<sup>33</sup>

Nonetheless, data on minority communities affected by conflicts are unlikely to be available under certain circumstances, including in conflict situations, where they suffer high levels of threat and entrenched discrimination. Peace and security efforts, including prevention efforts, should thus rely on a combination of various sources to fill the statistical data gap, including by considering documents by UN human rights mechanisms, inputs from field-based teams, information by independent and reliable research centres or universities, and credible information from local communities and community leaders themselves.

In contexts where statistical data is missing or cannot be collected – contexts which at present and for the foreseeable future likely include all or most places at risk of serious harms resulting from conflict – the UN system should rely on credible and reliable information, including non-statistical information to document facts and risks in pre-conflict, conflict and post-conflict situations. This standard is used in UN processes such as the Universal Periodic Review and provides reliable information in places where a dearth of statistical data is unlikely to be rectified in the near-term.

#### **e) Great attention and analysis to identifying and acting upon threats to minorities and to minority concerns**

From initial discussions it would seem that there is a lack of the naming of minorities in data analyses processes at country level, thematic and programme level. Two further difficulties need to be factored in. First, the scope of the term 'minorities' can be contested in local contexts, and second, the principle of self-identification, though important in moving the issue of voice forward, also provides challenges to third parties where such identification is contested. However, where such data is not readily available, every effort should be made to identify possible proxies that could be used to assist in filling in potential gaps.

With minorities generally facing disproportionate risk of marginalization in all areas of life, specific and systematic

attention must be paid, at the programmatic and country level, to those individuals and groups that are at risk of being left behind. The leave no one behind framework is largely depoliticized and constitutes a transversal, UN system-wide framework that may be easily used in coordination by different UN agencies.

#### **f) Specific attention to minorities within workflow programmes (cross-cutting)**

It would be important to understand how each agency views the data gaps that exist by a failure to specifically name and collect pertinent data on the communities named in this paper. Could the naming of minorities at agency headquarter level assist workflows and coordinated responses? Could the capture of data on the vulnerability of such communities to conflict, development gaps, human rights deficiencies and impact from climate change be useful in addressing bespoke work-strands towards prevention, mitigation and/or effective response?<sup>34</sup> In this author's opinion, the naming of marginalised groups, such as women, indigenous peoples and persons with disabilities, has already proven to be an effective prompt for UN staff to pay particular attention to their needs. The same must surely be true of minorities as well, in any context where they have yet to be explicitly listed in the same way.

#### **g) Tighter link between prevention and response mechanisms**

Could a focus on minorities, especially taking intersectionalities into account, become a key site of coordination and solidarity, as a fulcrum for coordination between agencies in assessing the extent to which the UN as a whole is able to be better prepared and more effective in responding to crises? Understanding the exclusion of racially marginalized communities and minorities as a risk factor for social tension and conflict, while emphasizing such situations in conflict prevention strategies - with response mechanisms reflecting outcomes of risk analyses using disaggregated data on minorities, would enhance the overall protection of peace, security and human rights.

#### **h) UN prevention and response efforts and mechanisms should ensure that specific attention is systematically paid to minorities at the country and local levels**

Established as an internal system for consideration of countries facing deteriorating situations and heightened risks of conflict, the Regional Monthly Reviews (RMRs) have emerged as an important forum for system-wide efforts to raise early-warning alerts and endorse courses of preventive actions in deteriorating situations. In the course of the RMR, specific attention should be paid to the situation of

minorities in the country under consideration, including by disaggregated data and, when and where not available, relying on views from field-based staff, including OHCHR, Resident Coordinators and UN Country Teams. The emphasis in this regard is on acknowledgment, recognition and naming of minorities and minority concerns.

#### **i) Nuanced training of UN personnel and peer-to-peer learning with communities**

With the recent emphasis on the need to combat structural discrimination built from exclusion and marginalization over centuries, could a greater engagement with these issues from the lens of the communities under consideration in this paper provide a key programme that tackles this issue?<sup>35</sup> Such peer-to-peer learning could help implement the recommendation of the Forum on Minority Issues (2021), which encouraged States, the UN, international and regional organizations and civil society 'to work closely in supporting the positive contributions of faith-based actors, including through the promotion of the Beirut Declaration and the faith for rights toolkit'.<sup>36</sup>

#### **j) Emphasis on field presence and reach**

When viewed as a whole, the UN has a varied involvement through humanitarian, political, peace and security, and development-oriented presences in a significant part of the world albeit located in capital cities and closer to domestic sources of power and influence. While such involvement is often achieved against the backdrop of non-interference, is there a possibility for the strengthening of the remit of such offices in terms of engagement and outreach with communities? Could such offices also serve as key nodes in the accumulation of local, national and regional insights vis-à-vis marginalized communities? Such physical offices and the work they do needs to be cognisant of the potential of the digital divide and how it impacts communities that are farther from sites of information flow.<sup>37</sup>

#### **k) A changed sub-regional approach: rearticulating, modernizing and decolonizing understandings of global regions**

While the regional subsidiary principle is well established in UN practice and guides significant decision-making, the approach is often innately European/Westernized, dwarfing other regions, or placing huge tracts of land masses and populations within regions that are incoherent. The domination of thinking of the world through the lens of the current five continent model obscures closer scrutiny and dilutes the presence of significant communities that could often come under palpable threat.

Viewing the world as 17 sub-regions based on shared histories, movements and interactions of cultures and peoples over centuries, and common environmental challenges will yield analyses and thinking more responsive to challenges. Such an approach would be in line with the aim of maintaining sub-regional peace and security, would be better for harnessing sustainable trade and overcoming regional rivalries in a spirit of collaboration. Could the strengthening of an approach based on sub-regions, broadly identified as The Pacific, East Asia, Southeast Asia, South Asia, Central Asia, Iran and the Levantine States, the Gulf Countries, East Africa and the Horn, the Maghreb, Central Africa, Southern Africa, ECOWAS countries, Central & Eastern Europe (including Russia), Western Europe, North America, Central America and South America provide greater insight? This must surely be the case and certainly preferred over e.g. the current grouping together of billions of people, and a myriad of cultures, religions and languages in the catch-all of 'Asia'.

**l) Enhance the inclusion and participation of minorities in UN efforts aimed at addressing root causes of conflicts, including at the country level**

Peace and security efforts require the involvement of those affected by discrimination, including minorities and

individuals facing intersectional discrimination, to ensure that such efforts are acceptable, adjusted, and efficient. However, looking at the naming and involvement of other marginalised groups, for instance through the major groups' structure of the High-level Political Forum (HLPF) on Sustainable Development, the fact that minorities are not named as a major group or a constituency means that their voices risk being silenced at a number of key UN settings, such as the HLPF. At the country level, it could be relevant to replicate UN Moldova's efforts to advance greater inclusion of minorities within the UN system and to tackle representation gaps, including the creation of Diversity Internships, or the inclusion of a diversity clause and the valorization of minority languages among the language requirements in job announcements.<sup>38</sup> The OHCHR *Minority Fellows* Programme is also a step in the right direction giving the UN's greater visibility around issues that are often obscured by the marginalization of sub-state entities. The creation of the *UN Voluntary Fund for Minorities* would also be relevant to ensure greater participation of minority representatives and individuals in relevant UN bodies and mechanisms, including to ensure that their views on topics relating to conflicts, peace and security are heard and taken into account by the UN.<sup>39</sup>

# Notes

- 1 This paper was presented and developed through interventions and consultations with the *UN Network on Racial Discrimination & Protection of Minorities and the Office of the High Commissioner for Human Rights*.
- 2 Report of the UN Special Rapporteur on Minority Issues, *Conflict Prevention Through the Protection of Human Rights of Minorities*, UN Doc. A/HRC/49/46, 15 March 2022.
- 3 Report of the UN Independent Expert on Minority Issues, *On the role of the protection of minority rights in promoting stability and conflict prevention*, 16 December 2010.
- 4 Report of the UN Special Rapporteur on Minority Issues, *On the human rights of persons belonging to national or ethnic, religious and linguistic minorities, where they find themselves in situations of humanitarian crises*, 29 July 2019.
- 5 See e.g. United Nations *Framework of Analysis for Atrocity Crimes: A Tool for Prevention* (2014).
- 6 United Nations & World Bank Group, *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflicts* (2018).
- 7 UNDP, *Marginalized Minorities in Development Programming: a UNDP Resource Guide & Toolkit* (May 2010).
- 8 UN Doc. A/HRC/49/L.23/Rev.1.
- 9 UN Doc. A/HRC/49/L.23/Rev.1 para. 5.
- 10 While many discussions surround the definition of minorities this paper is framed on common understanding of minorities as disadvantaged ethnic, national, religious, linguistic or cultural groups, usually fewer in number than the majority, who may wish to maintain and develop their identity. For a discussion see Joshua Castellino 'Fostering Inclusion for Ethnic and Linguistic Minority Communities' in *Untapped Power: Leveraging Diversity and Inclusion for Conflict & Development* [Carla Koppell ed.] (OUP, 2022) 237-241.
- 11 Gert Rosenthal, *A Brief and independent inquiry into the involvement of the United Nations in Myanmar from 2010 to 2018* (29 May 2019).
- 12 *Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka* (31 March 2011).
- 13 *The Fall of Srebrenica and the Failure of U.N. Peacekeeping* (Human Rights Watch Vol.7 No. 13 1995).
- 14 See UN Deputy Secretary General's comments on the 20th anniversary of the Rwandan genocide available at: <https://news.un.org/en/story/2014/04/466342-rwanda-genocide-security-council-told-failure-political-will-led-cascade-human>. Also Linda Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide* (Zed Books, 2009).
- 15 Gert Rosenthal, *A Brief and independent inquiry into the involvement of the United Nations in Myanmar from 2010 to 2018* (29 May 2019).
- 16 *Ibid.*
- 17 See 'Five Urgent Needs for Global Governance' address to UNGA 21 January 2022.
- 18 See United Nations, *Our Common Agenda*. Report of the UN Secretary General (September 2021).
- 19 *Ibid.* 24.
- 20 See *Leaving No One Behind: Equality & Non-Discrimination at the Heart of Sustainable Development* (UN System Chief Executives Board for Coordination, New York, 2017).
- 21 Joshua Castellino, 'Territorial Integrity and the "Right" to Self-Determination: An Examination of the Conceptual Tools' 33 (2) *Brooklyn Journal of International Law* (2008) 503-568.
- 22 The discussion on the application of the laws of armed conflict especially to minorities has been well developed. Also see Li Ann Thio, 'Developing a Peace and Security Approach towards Minority Problems' 52(1) *International & Comparative Law Quarterly*, (2008) 115-150.
- 23 These regions would be: The Pacific, East Asia, Southeast Asia, South Asia, Central Asia, Iran and the Levantine States, the Gulf Countries, East Africa and the Horn, the Maghreb, Central Africa, Southern Africa, ECOWAS countries, Central & Eastern Europe (including Russia), Western Europe, North America, Central America and South America.
- 24 *The Highest Aspiration: A Call to Action for Human Rights* (2020) 6.
- 25 United Nations, *Our Common Agenda*, 14.
- 26 See *Leaving No One Behind: UN SDG Operational Guide for UN Country Teams* (2022).
- 27 Pursuant to General Assembly resolution 76/168, the President of the General Assembly convened a High-level meeting commemorating the 30th anniversary of the adoption of the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* on Wednesday, 21 September at UN Headquarters in New York webcast live on UN WebTV in all six official languages of the UN.
- 28 United Nations, *Our Common Agenda*, <https://www.un.org/en/content/common-agenda-report/>.
- 29 United Nations & World Bank, *Pathways for Peace: inclusive Approaches to Preventing Violent Conflict* (March 2018).
- 30 United Nations, *Our Common Agenda*, 61.
- 31 OHCHR, *Manual on Human Rights Monitoring* (OHCHR, 2011).
- 32 OHCHR & UPR Info, *Universal Periodic Review: A Guide for Civil Society for the Fourth Cycle*.
- 33 OHCHR, *A Human Rights-Based Approach to Data: Leaving No One Behind in the 2030 Agenda for Sustainable Development*.
- 34 The call towards this is also articulated in para. 10 of the HRC resolution on minorities UN Doc. A/HRC/49/L.23/Rev.1.
- 35 This is acknowledged explicitly in the *Hate Speech Strategy* p. 5 but goes beyond that specific issue.
- 36 A/HRC/49/81, para. 58. See also Human Rights Council resolution 49/9 on prevention of genocide, A/HRC/RES/49/9, operative para. 22.
- 37 This has been highlighted in *Thematic Review on Local Peacebuilding* (UN Peacebuilding Fund, May 2022).
- 38 See the UN Moldova case including details about the Diversity Internship. Also see job advertisements with diversity clauses and language requirements.
- 39 Recommended by the 14th session of the UNFMI, as reported to the Human Rights Council by the UN Special Rapporteur on minority issues. UN Doc. A/HRC/49/81 para. 18.

# working to secure the rights of minorities and indigenous peoples

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## Conflict, Structural Discrimination & Minorities: Towards A Road-Map for Inter-Agency Cooperation

This paper was commissioned under the auspices of the UN Inter-Agency Network on Racial Discrimination & Protection of Minorities co-hosted by the Office of the High Commissioner for Human Rights. Responding to the call made by UN Secretary General António Guterres as part of his 2021 initiative, *Our Common Agenda*, it was developed through multiple interventions and consultations with members of the Inter-Agency Network. It was launched at a meeting hosted at the United Nations University of Peace in Costa Rica in December 2022, commemorating the 30th anniversary of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. It seeks to identify a series of urgent actions, including passage of a Security Council Resolution on Minorities, and a number of other key steps to galvanise coordinated actions within the United Nations in what the paper identifies is likely to be the most violent quarter of the century since the United Nations was founded.



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