

Statement on proposed Toolkit on Integration with Diversity in Security, Policing and Criminal Justice

The Working Group has in recent sessions focused attention on the need for integration with diversity as an alternative to the various forms of autonomy for minorities and indigenous peoples. This approach seems particularly appropriate for policing, security and criminal justice for a number of reasons:

- * the police and security forces are typically composed almost exclusively of members of majority or dominant communities;
- * there are often serious problems of oppressive conduct in their dealings with members of minorities;
- * there are typically similar problems of discrimination and oppressive treatment in the criminal justice system – in most systems a higher proportion of minority communities end up in prison;
- * anti-terror laws are often disproportionately and indiscriminately used against minority populations.

As a result there is likely to be a vicious circle: members of minorities feel oppressed by and antagonistic to the police; they are therefore reluctant to join, even if they would be accepted; so the exclusive nature of the police and army is perpetuated.

To break this vicious circle it is obviously important to encourage members of minorities to join and play an important part in the policies and practice of policing and security in minority areas. This is accepted in the international human rights community. A key principle in the United Nations Code of Conduct for Law Enforcement Officials is that

“... like all agencies of the criminal justice system every law enforcement agency should be representative of and responsive and accountable to the community as a whole.”

But this is not always easy to achieve. This working paper has been prepared following the call by the Working Group on Minorities to receive substantive and specific papers for its consideration on issues relevant to the implementation of the Declaration. It is focused on practical measures which might help representatives of minorities and international field workers in their discussions with national governments to make progress on the issue. The objective is to focus on examples of good practice and the advantages to national governments of achieving better representation in the police and army rather than only to complain of discrimination and human rights violations. That is probably the best way of achieving real change in powerful and closed institutions which typically react defensively to allegations of human rights violations. It may be more productive to focus on introducing new measures to ensure that all those involved are accountable for their actions in the future rather than focusing exclusively on past allegations of abuses. That has certainly been our experience in Northern Ireland.

This is not the time and place to attempt a detailed summary of the draft toolkit. The objective of presenting it as a working paper is to encourage members of the Working Group and representatives of minorities to make comments and criticisms of the draft and to suggest some more and better examples of good practice that might be included. But a few general comments may be appropriate.

- * It is usually not sufficient in this area to rely on the prohibition of discrimination; experience in most jurisdictions is that positive action to increase minority representation is needed, for example by removing barriers to recruitment, by setting targets and timetables for achieving and in some cases, as in Northern Ireland, by setting quotas for new recruitment in order to achieve balance over time.
- * This kind of positive action to eliminate patterns of past discrimination and exclusion is fully in accord with international human rights standards – the draft includes detailed extracts from the relevant human rights conventions and instruments.
- * Effective programmes for reform are unlikely to be achieved without continuing consultation with representatives of minorities both at national and local levels.
- * It is also necessary to focus on the practicalities of implementing policies of this kind and on the dangers that may result from attempting to move too quickly; for example an attempt to move quickly in removing police or security personnel suspected of involvement in human rights violations may create a security and policing vacuum of the kind that has emerged in Iraq and some other cases of international intervention; it may also lead to those dismissed resorting to criminal or paramilitary activity.
- * As a result programmes for achieving progress in this area are likely to take years rather than months; it is all the more important to set realistic targets and to include provision for regular monitoring and reviews of progress.

In conclusion I am conscious that my experience in this area is limited and that the current draft relies too heavily on Irish and European examples. I hope that members of the Working Group and all those attending this session will be able to study the draft and to make their comments and criticisms and suggestions for a wider international spread of examples of good practice and of potential problems to the Minorities Secretariat. I also hope that it may be possible for the Independent Expert in association with the Office of the High Commissioner to organize a working meeting of those most actively involved in these matters to work on the text and examples and to produce a better and more generally acceptable toolkit for eventual publication.

TH 9 August 2006