

Statement of
Gay J. McDougall
United Nations Independent Expert on Minority Issues
Hearing of the Commission on Security and Cooperation in Europe
(U.S. Helsinki Commission)
“Racism in the 21st Century:
Understanding Global Challenges and Implementing Solutions”

Washington, D.C.
July 16, 2008

In 2005 I was appointed to serve as the first United Nations Independent Expert on Minority Issues. The terms of reference of the mandate are provided in Commission on Human Rights resolution 2005/79, which includes to “promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.” Additionally, a central part of my mandate is the enforcement of the right to non-discrimination based on race as protected by the International Convention on the Elimination of all forms of racism, racial discrimination, xenophobia and other forms of intolerance.

My methods of work include: diplomatic engagement with governments through country visits to assess the general situation in the country and written communications about specific concerns; consultations with civil society, non-governmental organizations and victims groups; in-depth studies on thematic issues like the denial of citizenship to targeted minority groups; reports and recommendations to the U.N. Human Rights Council and the provision of technical assistance to facilitate reform efforts. I work closely with the Special Rapporteur on racism, the Special Rapporteur on religion and the Special Rapporteur on migrants. I have also worked with the OSCE High Commissioner on National Minorities.

One of the lessons that I have learned over the period that I have carried out my mandate is that racism is ubiquitous; it’s a global phenomenon. The victims differ in language and culture, but the experiences of exclusion, subordination, violence and discrimination are remarkably similar

in every region of the world. This is an observation that is certainly reflected in the OSCE countries.

I have also learned that it is difficult to fully appreciate how racial discrimination manifests in a country without taking that measurement from the ground. So what I would like to do today is to first identify the most common manifestations of racism that I have found throughout the OSCE countries (of Europe). Then I want to describe what I found a few months ago when I did a mission to France, a prominent OSCE country.

General Indicators of Racism in the 21st Century

Below I have listed, with limited commentary, a number of the contemporary characteristics of racism and racial discrimination that can be identified in countries in all regions of the world, including the OSCE countries.

- Denial by government and majority populations that racial discrimination exists in their country, leading to a lack of political will to address the problem.
- A profound level of skin color prejudice that inter-links with fear of an invasion of different cultures that could rob countries of their “national identity.”
- Extreme, and widely uncontested, bigotry toward Roma/Travellers that has been undiminished over many decades.
- Disproportionate levels of poverty in minority communities that have been targets of discrimination and exclusion, marked by great disparities in access to quality education, extremely high levels of unemployment, inadequate health care and the denial of equal access to housing.
- An increasing number of political party platforms based on racism, xenophobia and doctrines of racial superiority that in some countries are permeating mainstream politics.
- Asylum seekers, refugees and immigrants, particularly those who are “visible minorities,” face acute levels of racism with high incidences of physical and verbal violence against them. Increasingly governments are adopting policies and enacting legislation to restrict the rights of persons belonging to these groups.

- Increased intolerance and violence against persons because of their religion, including Islamophobia and Anti-Semitism. This includes an increase in insulting and offensive expressions targeting religious beliefs, which constitute incitement to racial or religious hatred.
- Full enjoyment of citizenship or civil status is being denied to minorities or impaired by restrictive, exclusionary notions of national identity.
- With respect to certain minority groups, women are particularly caught in a net of state policies that confuse issues of culture, religion and fundamental human rights. This confusion is exemplified in the euphemistically termed “head scarf policies” in OSCE countries, but those policies do not represent the most dangerous in the category.
- Increase in racial profiling, particularly in the context of counter terrorism policies and practices.
- An inadequate legal framework that fails to: address institutional racism; extend protections to cover discriminatory activities by private sector actors in addition to public institutions; establish penalties for violations that are effective enough to be a deterrent for future violations; reach de facto in addition to de jure discrimination; fails to empower civil society to initiate mechanisms of recourse and redress; and does not establish a broad legislative platform for affirmative action programs.

Mission to France

In September, 2007, I carried out a country mission in France, in pursuance of my mandate. During my visit I traveled to Paris, Marseilles and Strasbourg and environs, where I held consultations with civil society groups, religious leaders, academics and others working in the field of minority issues, anti-discrimination and gender issues. I visited communities living in suburbs of Paris and Marseilles described as urban “ghettos” or “sensitive” suburbs, including Bobigny and La Courneuve, which were affected by urban upheavals in 2005 and those that took place just weeks after my mission. I talked directly to community members about their lives, issues and concerns. I was also given broad access to senior government officials.

While there are other minorities facing discrimination in France, I chose to focus primary attention on the experiences of French citizens and long-term residents of immigrant heritage, particularly those of North African and Sub-Saharan origin, Muslims, and those from overseas departments (e.g. the Caribbean) and territories who are resident in mainland France. Persons belonging to these groups--primarily people of color described as "visible minorities"--typically experience serious discrimination and are grossly underrepresented in State and political institutions. Racism (including Islamophobia), discrimination, alienation and lack of social mobility for persons belonging to these groups were contributing factors to the violent urban upheavals that occurred in French cities in 2005.

The particular problems faced by people in "sensitive" suburbs are a direct consequence of racial discrimination and consequently require policy initiatives to address the special circumstances they face. Discrimination against minorities manifests itself in such areas as the allocation of housing, access to employment, quality of education, and grossly inadequate levels of political participation. Issues of identity are central in the discourse and mind-sets regarding exclusion. Members of minority communities described the extreme pressure they feel to alter their cultural and religious identities as a precondition for immigration and full inclusion and acceptance in French society.

My visits to minority communities revealed high levels of frustration. I found that young people from minority communities feel their hopes and dreams are being denied; they see no possibility of upward mobility because of their skin color, religion, surname or address (in the ghettos). People who have worked hard, played by all the rules and truly believe in the principles of the French Republic are trapped in socially and geographically isolated urban ghettos, with unemployment over 40 per cent in some areas. They feel discriminated against and rejected by rigid notions of French national identity to which they do not conform.

I found that there is a general climate of suspicion and negativity against those believed to be of immigrant origin, generated in part by public debates over immigration policies, the announcement of quotas for deportations and questions of DNA testing. Much more must be done to establish an acceptance of cultural diversity. There is a widespread feeling within the

community of visible minorities—many of whom are second or third generation French--that to become a citizen of France is not sufficient for full acceptance; that acceptance will be granted only with total assimilation that forces them to reject major facets of their identities. Only when they find a way to shed the color of their skin and hide the manifestations of their religion or the traditions of their ancestors will they be accepted as truly French. The message that they take from the name of the new Ministry of Immigration, National Identity, Integration and Co-development seems to be that the presence and increasing numbers of people of immigrant heritage is a threat to the national identity of France; that it is a problem that must be solved.

Minority women voiced specific additional concerns, including the rights and protection of minority women in abusive relationships; concerns over access to social services and protection mechanisms; access to justice; the legal status of women of immigrant origin in cases of divorce, encompassing the right to remain in France after divorce and the execution by French courts of foreign divorce judgments based on gender-biased laws; the rights of minority women relating to inheritance, housing and property; specific issues relating to the education of girls of Muslim faith; security issues and the high incidence of rape of women in disadvantaged minority communities in suburbs; and the lack of access to political participation of minority women.

There are some recent positive anti-discrimination initiatives, including the 2004 Anti-discrimination Law and the establishment of the Independent High Authority for Equality and Against Discrimination (HALDE), an independent body with powers to mediate or refer discrimination cases for prosecution, conduct studies and promote non-discrimination programs and activities. But, while welcoming the role of HALDE and civil society organizations in prosecuting discrimination on a case-by-case basis, this cannot be a substitute for targeted and more robust approaches that are necessary to achieve a deeper and far-reaching impact on the persistent discrimination experienced by minorities. At the least, penalties for acts of racial discrimination should be sufficiently severe to act as a deterrent to future violations.

Given the level and nature of inequalities in France, focusing solely on the more limited obligation of refraining from discriminatory actions is not sufficient. The State is under a positive obligation to guarantee that minorities enjoy equality in fact. Robust affirmative action

policies in the field of employment could help to transform the ranks of the civil service, the police, and other public and private institutions so that they fully reflect the broad diversity within French citizenry. The government must show greater leadership in reforming its own institutional employment structures.

France has historically rejected the recognition of minority groups or collective rights as incompatible with the French Constitution and the principles of the Republic, which prioritize individual rights, equality, unity and universalism. This has been an obstacle to the adoption of policy initiatives that by their nature must acknowledge the reality of discrimination against specific population groups within French society. It has prevented any serious consideration of affirmative action programs or the collection of statistical data concerning the socio-economic status of population groups that can be disaggregated by ethnicity or religion. These kinds of government measures, rather than being considered to violate the Constitution, should be seen as essential to achieving a true vision of “Liberté, Egalité, and Fraternité”. The acknowledgement of differences of race, ethnicity, religion or heritage should not be considered to threaten the principles of unity and equality that are the foundation of French society.

I also received information regarding the situation of the Gypsy/Travellers, the Jewish community and linguistic minorities including the Breton, Basque, Catalan and Occitan communities. Further details related to these communities can be found in my full report.

Thank you.