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In 2005, the first UN independent expert (IE) on minority issues, Gay McDougal, received a broad and general mandate. Given the global scope of the mandate, the complex problems minorities and indigenous peoples are facing worldwide, and the limited financial and human resources available to exercise this mandate, one could be forgiven for expecting the IE to narrow the focus of her work. Surprisingly, however, all developments point in the opposite direction: the IE has chosen a holistic approach towards minority issues and her working field is constantly growing and expanding. This article will describe how the IE’s mandate makes for a large measure of flexibility and adaptability, how this results in a continuously expanding working field and how, consequently, the risk of differential standards in the IE’s work is reduced by such a holistic approach.

1. Introduction

The UN independent expert on minority issues is a special procedures mandate created by the UN Commission on Human Rights in 2005. On 29 July 2005, the High Commissioner for Human Rights announced the appointment of Gay McDougall (United States of America) as the independent expert on minority issues (hereafter: the IE), initially for two years. The IE’s mandate is broadly formulated, enabling her to complement the mandates of other UN and regional minority rights mechanisms and, thus, to address the ‘protection gap’ that exists with regard to minority rights.

A broad and general mandate makes for a large measure of flexibility and adaptability to all possible issues concerning minorities and indigenous
peoples. However, such a general mandate also carries the danger of creating an unfocused minority mechanism, filling the gaps left by other mechanisms and, consequently, dealing with specific minority issues in an arbitrary manner. Moreover, given the global scope of the mandate, the complex problems minorities and indigenous peoples are facing worldwide, and the limited financial and human resources available to exercise this mandate, a focused operational scope and the application of differential standards seem unavoidable.

In this article, the IE’s work will be analysed in order to find out where the focus lies and whether there are specific groups or problems receiving particular attention. Section 2 contains a description of the mandate; Section 3 discusses the content of the mandate and how it has been extended to other areas of concern and priorities; Section 4 describes the IE’s ‘toolkit’ or working methods; Section 5 analyzes how the gender perspective is reflected in the IE’s work; and Section 6 contains the conclusions and the answers to the question to what extent and how the IE limits and focuses the scope of her work. The analysis presented in this paper will show whether and how the IE succeeds in avoiding the risk of applying differential standards in her work.

2. The Broad Mandate

At first glance, the initial mandate as formulated by the Commission on Human Rights in its Resolution 2005/79 seems to concern mainly the IE’s working methods. The practical side of the mandate consists of the following activities:

(a) Consultations with governments;
(b) Identification of best practices and possibilities for technical cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR);
(c) Close cooperation while avoiding duplication, with existing relevant United Nations bodies, mandates, mechanisms as well as regional organizations; and
(d) Taking into account the views of non-governmental organizations;

In 2008, the Human Rights Council extended the IE’s mandate for a period of three years.\(^4\) This mandate added to the above-mentioned activities:

(e) Guidance of the work of the Forum on Minority Issues; and

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