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COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES
Fourth session

INTERNATIONAL MACHINERY FOR THE PREVENTION OF DISCRIMINATION
AND THE PROTECTION OF MINORITIES

(Joint Proposal* of Mr. Ekstrand, Mr. Masani, and Mr. Meneses-Pallares)

The Sub-Commission on Prevention of Discrimination and Protection of
Minorities:

Recommends that the Commission on Human Rights adopt the following measures
for the prevention of discrimination and the protection of minorities:

DRAFT RESOLUTION

The Commission on Human Rights,

Considering that the Charter of the United Nations and the Universal
Declaration of Human Rights establish the principle that all human beings shall
enjoy human rights and fundamental freedoms without discrimination;

Noting that in many countries and non-self-governing territories ethnic,
national, religious or linguistic minorities live on a basis of equality of
treatment and security in law and in fact with the predominant element of the
population;

Recognizing, however, that where such is not the case the efforts of such
minorities to attain equal status, whether spontaneous within the minority or
inspired or supported from outside, have often given rise to tension and conflict,
endangering the maintenance of international peace and security and bringing
untold hardships to large numbers of peoples;

Considering it urgent that this source of tension and conflict be dealt with
in an orderly and progressive manner;

* The co-sponsors are in general agreement with the provisions of this working
paper and reserve the right to amend it when it is discussed.

Realizing that this problem is international in nature and scope, and calls for concerted international action;

Believing that the main task of the United Nations concerning the prevention of discrimination and the protection of minorities is to encourage and assist in every way possible the co-existence of minorities with the predominant element of the country or non-self-governing territory in which they live, on a basis of equality of treatment and security in law and fact;

Recommends that the Economic and Social Council arrange for the preparation of an international convention on prevention of discrimination and protection of minorities along the lines of the draft convention in Annex A of this resolution;

Recommends further that the Economic and Social Council establish a standing body of experts on prevention of discrimination and protection of minorities, appointed by the Secretary-General and responsible to the Council, containing from five to eight individuals of high qualifications and utilizing the services of expert consultants with first-hand experience, for the performance, in a manner which does not encourage subversive or hostile activities against a government, of the following tasks:

- (a) to seek a solution of urgent and important problems in these fields, which are not being dealt with by the General Assembly, the Security Council, or any body of implementation such as may be established by the proposed Covenant on Human Rights, by negotiation, mediation, conciliation, arbitration, judicial settlement, encouraging the conclusion of bi-lateral or regional agreements, or other peaceful means;
- (b) to draw to the attention of the Secretary-General of the United Nations any matter concerning the prevention of discrimination or the protection of minorities which in its opinion may threaten the maintenance of international peace and security;
- (c) to study the working of any laws, regulations, or administrative measures that may have been adopted by Member States for the prevention of discrimination and the protection of minorities;
- (d) to appoint commissioners or to set up special commissions to co-operate with the governments concerned in the evaluation of such measures;
- (e) to establish common principles, based on the study and evaluation of existing laws, for the prevention of discrimination and the protection of minorities, and to seek the co-operation of governments in giving effect to such principles;
- (f) to perform

- (f) to perform any functions assigned to it under any international agreement on prevention of discrimination or protection of minorities, such as the functions referred to in Article 20 of the draft convention in Annex A of this resolution;
- (g) to co-operate with governments, UNESCO and other inter-governmental organizations, and non-governmental organizations, in scientific and educational activities designed to correct the social outlook which makes difficult the prevention of discrimination and the protection of minorities; and
- (h) to report on its activities to the Council at least once a year.

ANNEX A

DRAFT CONVENTION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

PART I

General Provisions

Article 1

Definition of the term "Minority"

1. For the purposes of this Convention, the term "minority" shall apply to a non-predominant group of nationals of a State, residing in its territory and within its jurisdiction, which possesses and wishes^{1/} to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population, and which includes a number of individuals sufficient to maintain such traditions or characteristics.
2. The provisions of Articles ____, ____, and ____ of this Convention shall not apply to members of minorities who:
 - (a) have proclaimed their allegiance or loyalty to another State, or have shown by their conduct such allegiance or loyalty; or
 - (b) have been declared criminal under Article 9 of the London Charter of the International Military Tribunal;
3. The rights established in Articles ____, ____, and ____ of this Convention may not be invoked by persons or groups genuinely prosecuted for non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 2

General obligations

Every member of a minority has the same rights and duties to the State as any other national.

^{1/} This article may be broadened to include additional groups by substituting the phrase "may or may not wish" for the word "wishes" if the Sub-Commission feels that groups which wish to be assimilated should also be protected by this draft convention.

Article 3

Prior rights or benefits

Nothing in the present convention may be interpreted as limiting or derogating from any of the rights and freedoms to which the present convention refers which may be guaranteed under the laws of any Contracting State or any conventions to which it is a party.

Article 4

Co-existence and assimilation

1. Each Contracting State undertakes to safeguard the co-existence of minorities with other elements of the population within its territory and subject to their jurisdiction on a basis of equality of treatment and security in law and in fact. Each Contracting State shall however make every effort to facilitate the assimilation in the general population of minorities which so desire.
2. Each Contracting State shall grant the opportunity to minorities and predominant elements of the population to become familiar with the language, traditions and characteristics of other elements in order to promote the growth of mutually beneficial contacts.

Article 5

Nationality

No one shall be denied recognition of his nationality, or be deprived of his nationality, solely because he is a member of a minority.

PART II

Article 6

Prevention of discrimination

1. No Contracting State shall discriminate, or assist in discriminating, in particular through its courts or administrative authorities, against a minority or any of its members on grounds of race, colour, language, religion, political or other opinion, national or social origin, property, birth, or other status.
2. Each Contracting State shall endeavour to prevent, by all available means such as legislation, administration and education, discriminatory practices

/against

against a minority or any of its members on account of race, colour, language, religion, political or other opinion, national or social origin, property, birth, or other status.

3. Each Contracting State undertakes to make discriminatory practices by public officials criminal offences.

Article 7

Participation in government

1. Each Contracting State shall accord to members of minorities the same treatment as is accorded generally to any other nationals in the same circumstances with respect to:

- (a) the right to vote in all elections;
- (b) the right to be elected or appointed to public office;
- (c) the right to exercise all public functions of every nature.

2. When it is not possible for a party to the present convention to implement this obligation immediately because of the opposition of public opinion or the insufficiently advanced state of certain minorities, each Contracting State undertakes to introduce, as a temporary measure, methods of safeguarding the right of minorities to be equitably represented in the government and in public services to the full extent compatible with the requirements of good administration.^{2/}

Article 8^{3/}

Freedom of movement and residence

Each Contracting State shall accord to members of minorities the right to choose their place of residence and to travel freely within their territory, subject only to such regulations as may be applicable to nationals generally in the same circumstances.

^{2/} The Sub-Commission may wish to consider adding to this article the phrase, "such as establishing a quota of posts at all levels of administration to be reserved for members of minorities."

^{3/} This article may be considered unnecessary, as a duplication of Article 8 of the present draft International Covenant on Human Rights.

Article 9

Freedom of peaceful assembly

Each Contracting State shall recognize the right of peaceful assembly of such associations, professional groups, and trade unions as may be composed principally of members of minorities. No restrictions shall be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary to ensure national security, public order, the protection of health or morals, or the protection of the rights and freedoms of others.

Article 10

The right to choose a spouse, to marry,
and to found a family

1. Each Contracting State shall afford to members of minorities of full age the same right to choose a spouse, to marry, to found a family, and to dissolve a marriage as is accorded generally to other nationals in the same circumstances.
2. No Contracting State shall establish or enforce legal or administrative barriers to, or restrictions on, the right of men and women of full age to marry and to found a family without any limitation due to race, nationality or religion.

Article 11

The right to earn a living

1. Each Contracting State shall accord to members of minorities the same treatment as is accorded generally to other nationals in the same circumstances with respect to the award of government contracts, the granting of licenses, the entry into business, profession, vocation or employment, or opportunities for training for them.
2. Each Contracting State shall accord to members of minorities the same treatment as is accorded generally to other nationals in the same circumstances as regards the right to engage in professional work, agriculture, industry, handicrafts, and commerce, and to establish commercial and industrial enterprises.

/Article 12

Article 12

Movable and immovable property

Each Contracting State shall accord to members of minorities the same treatment as is accorded generally to other nationals in the same circumstances as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 13

Right to public services and facilities

1. Each Contracting State shall accord to members of minorities the same treatment as is accorded generally to other nationals in the same circumstances with respect to the enjoyment of public facilities and services provided wholly or in part by the State or other public authorities, such as educational or cultural activities, housing, health, public relief or assistance, and other similar facilities and services.^{4/}

Article 14

Labour legislation and social security

1. Each Contracting State shall accord to members of minorities the same treatment as is accorded generally to other nationals in the same circumstances in respect of the following matters:

(a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities; remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum

^{4/} The Sub-Commission may wish to consider adding to this Article a text along the following lines:

"In cases where a minority is not as well developed educationally, culturally or socially as other elements of the population, each Contracting State shall, as a temporary measure, provide public services and facilities for minorities on a more abundant scale than is provided for other elements of the population, in order to assist the minority to develop to the general educational, cultural and social level of those other elements."

age for employment, apprenticeship and training, women's work, and the work of young persons, and the enjoyment of the benefits of collective bargaining and compensation for employment injury or occupational disease;

(b) Social security (legal provisions in respect of employment injury, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency, which according to national laws or regulations, are covered by a social security scheme).

Article 15

Facilities for travelling abroad

Each Contracting State shall accord to members of minorities the same facilities as are accorded generally to other nationals in the same circumstances for travelling outside the territory of the State, and for consular protection when abroad.

Article 16

Education against discrimination

1. Each Contracting State undertakes to include in its educational programmes material designed to encourage the suppression of all incitement to racial and other hatred, and to promote understanding, tolerance and friendship among all nations, racial, ethnic, or religious groups.

2. Each Contracting State undertakes to co-operate with governments, UNESCO and other intergovernmental organizations, and non-governmental organizations working toward the attainment of these objectives.

PART III

Article 17

Protection of minorities

Each Contracting State shall accord to minorities the right to develop and enjoy their own culture, to profess and practice their own religion, to use their own language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings, and to participate in political activities.

/Article 18

Article 18^{5/}

Linguistic facilities

Each Contracting State shall accord to members of linguistic minorities adequate facilities for the use of their own language, either orally or in writing, before the courts and before public administration bodies, central or local.

Article 19

Education

1. Each Contracting State shall accord to members of minorities the same facilities for public education as are accorded generally to other nationals in the same circumstances.
2. In towns and districts where a linguistic minority exists, and as such requests that instruction in the primary schools be in the language of the minority, each Contracting State shall provide such instruction but will not thereby be prevented from making the teaching of an official language compulsory in such schools.
3. In towns and districts where a linguistic or religious minority exists, and as such requests permission to establish its own educational, scientific and cultural institutions, to manage and staff them, to prepare their curricula in accordance with the normal standards required by the State, or to give instruction in the language or religion of the minority, each Contracting State shall give favourable consideration to such requests and to the granting to such institutions of an equitable share of the available financial and technical aid.
4. Nothing in this article shall be construed in such a manner as to grant any minority as such, or any member of a minority, the right to foster through education a spirit of isolation from the general population of the State, or to neglect the common traditions of the people of the State as a whole.

5/ Mr. Ekstrand feels that Article 19 should precede Article 18, as Article 19 is more general in nature

PART IV

Implementation and final clauses

Article 20

Co-operation with the United Nations

1. Each Contracting State undertakes to co-operate with any agency or bureau charged by the United Nations with the prevention of discrimination or the protection of minorities, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the appropriate agency of the United Nations to make reports to the competent organs of the United Nations, each Contracting State undertakes to provide them in the appropriate form with any data, statistics, and information requested concerning:

- (a) the condition of minorities;
- (b) the implementation of this Convention;
- (c) legal measures taken for the prevention of discrimination or the protection of minorities, and the extent and result of their application;
and
- (d) measures for eliminating the economic and social causes of discrimination, including educational measures, and their results.
