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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION
OF MINORITIES

Third session

SUGGESTED STUDIES OF THE PROBLEM OF MINORITIES

Memorandum submitted by the Secretary-General

INTRODUCTION

1. In resolution 217(III)C, on the Fate of Minorities, the General Assembly requested the Economic and Social Council "to ask the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to make a thorough study of the problem of minorities, in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities."
2. At its eighth session the Economic and Social Council, by resolution 191(VIII), transmitted resolution 217(III)C to the Commission on Human Rights and to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities "for the action contemplated therein."
3. The Commission on Human Rights, at its fifth session, in revising the terms of reference of the Sub-Commission, requested the Sub-Commission "to undertake studies, particularly in the light of the Universal Declaration of Human Rights, and to make recommendations to the Commission on Human Rights concerning ... the protection of racial, national, religious and linguistic minorities" (document E/1371, paragraph 13).
4. The Commission on Human Rights at the same time resolved:

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"to refer to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities the text submitted to the General Assembly by the Delegations of Denmark, the Union of Soviet Socialist Republics and Yugoslavia on the subject of minorities contained in document A/C.3/307/Rev.2 for its consideration in the light of the discussion of this subject by the

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General Assembly at its third session, by the Commission on Human Rights at its fifth session, and by the latter's Committee on Prevention of Discrimination and Protection of Minorities; and

(b) to defer its own consideration of that subject until it has received the report of the Sub-Commission's study" (document E/1371) paragraph 13).

5. The Sub-Commission already has considered, at its first and second sessions, some phases of the problem of minorities. At the request of the Chairman of the Sub-Commission, the Secretary-General presents here a suggested programme of further studies, which may serve as a basis for discussion.

SUGGESTED STUDIES

A. Survey of existing minorities

6. The Sub-Commission may wish to consider whether or not a general survey of existing minorities is required, and if so, by what procedure it could be undertaken. In recent years new States have been formed, old minorities have disappeared, and new ones have come into existence. There is available at present no over-all survey of the geographical location of existing minorities, their nature, or their numerical strength. Such a survey, if prepared, would constitute a general register of existing minorities.

7. However, many delicate problems having political significance would be involved in such a survey, chief among them the task of indicating which groups are, and which are not, to be considered as minorities. It is possible that the Sub-Commission's study of "the Definition and Classification of Minorities", which appears as an item on the agenda of its third session, will clarify certain questions which would arise in connexion with a general survey of minorities.

8. It should be pointed out that the Sub-Commission already has initiated two requests for related studies: the first of these calling for "all information that it may require in order to distinguish between genuine minorities and spurious minorities which might be created for propaganda purposes" (E/CN.4/52, page 16), was not approved by the Economic and Social Council; the second, calling upon the Secretary-General "to request the various governments to furnish him with full information regarding legislative measures for the protection of any minority within their jurisdiction, and regarding the status of such minorities in the light of the provisions of the Universal Declaration of Human Rights" (E/CN.4/351, paragraph 22), has not yet been considered or acted upon by the Commission on Human Rights.

9. Because of the political nature of the judgments required in establishing a register of minorities, the Sub-Commission may wish to prepare this register itself, either through the co-operation of all its members or through a small sub-committee. The Sub-Commission or its sub-committee would, of course, be assisted by such technical facilities as are available in the Secretariat. As an alternative, the Sub-Commission may wish to recommend that a study along these lines should be undertaken by one or more specified learned societies. These societies would also be assisted by such technical facilities as are available in the Secretariat.

10. The Sub-Commission may wish to express an opinion as to the geographical scope which such a register of minorities should encompass, and particularly as to whether or not it should extend to Non-Self-Governing and Trust Territories.

B. Study of international instruments for the protection of minorities

11. The Sub-Commission may also wish to undertake a study of international conventions, declarations, and agreements for the protection of minorities. Such a study might include (a) instruments under the League of Nations, and (b) instruments adopted following World War II. With regard to (a), the Sub-Commission will note that pursuant to resolution 116(VI)C of the Economic and Social Council, the Secretary-General has been preparing a study on the question whether and to what extent the treaties and declarations concerned should be regarded as being still in force, and that the report on the results of the study will be presented to the next session of the Commission on Human Rights.

C. Survey of constitutional and legislative provisions, court decisions, and administrative regulations concerning the protection of minorities

12. In its earlier resolution on information on the status of minorities (E/CN.4/551, paragraph 22), the Sub-Commission recommended that the Commission on Human Rights call upon the Secretary-General to request the various governments to furnish him with full information regarding the legislative measures for the protection of any minority within their jurisdiction. As noted above, this resolution, adopted at the second session of the Sub-Commission, has not yet been considered or acted upon by the Commission on Human Rights. Compliance by governments with the request contained in this resolution would provide a general survey of the protection of minorities by States which have introduced into their law provisions giving members of minorities certain rights, facilities or privileges, whether or not required to do so by international obligation.

/13. The Sub-Commission

13. The Sub-Commission may wish to consider whether governments should not also be asked to furnish to the United Nations information concerning administrative regulations and court decisions relating to rights and facilities granted to minorities or to members of minorities. There is no doubt, however, that the collection of information concerning administrative regulations and court decisions would create a very difficult task both for governmental authorities furnishing it and for the United Nations organs called upon to collate and to analyze it.

14. It should also be borne in mind that governments might find it difficult to supply requested information unless the Sub-Commission indicates by way of example what are the types of rights and facilities concerning which information is requested.

D. The rights of minorities, and the methods of protecting them

15. The Sub-Commission may further wish to make an analysis of the rights of minorities and of the methods of protecting these rights. Such an analysis would be based upon the information obtained as a result of the surveys outlined above, and might enable the Sub-Commission to arrive at conclusions in regard to the protection of minorities.

PUBLICATION OF STUDIES

16. Finally, the desirability of publishing the studies suggested above, either in the first edition of a Yearbook on Minorities, or in some other form, might be considered by the Sub-Commission.
