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

Analysis of Information from Governments relating to Prevention of
Discrimination and Protection of Minorities

1. The Economic and Social Council adopted on 9 August 1950 resolution 303 F (XI) which requested the Secretary-General:
 - (a) to invite Governments, Members and non-members of the United Nations,
 - (i) to furnish examples of legislation, judicial decisions, and other types of action which have been found to be especially useful in that country in preventing discrimination in one or more of the fields covered by the Universal Declaration of Human Rights;
 - (ii) to furnish full information regarding the protection of any minority within their jurisdiction by legislative measures and in the light of the Universal Declaration of Human Rights; and
 - (iii) to furnish such information as could serve as a basis for defining the term "minorities"; and
 - (b) to distribute the above information to the members of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities.
2. Pursuant to point (a) of the resolution, the Secretary-General addressed a note (SOA 317/3/03) to Governments, Members and non-members of the United Nations. At the request of the Economic and Social Council (E/AC.7/SR.141), a copy of the tentative definition of the term "minority" suggested by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/358) was enclosed in the note.

3. In accordance with the request expressed in point (b) of the resolution, the Secretary-General is distributing to the members of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities the information received from Governments in response to the above note. The information received will be found in documents E/CN.4/Sub.2/122 and Adds. 1 to 28. Additional information received will be reproduced as addenda to document E/CN.4/Sub.2/122.

4. The following analysis is presented in the hope that it may assist the Sub-Commission in their study of the replies of governments, if the information so received is placed before them in a systematic form.

5. Replies from 29 countries have been received and circulated:

Afghanistan (E/CN.4/Sub.2/122/Add.27), Argentina (E/CN.4/Sub.2/122/Add.17), Belgium (E/CN.4/Sub.2/122/Add.7), Byelorussian S.S.R. (E/CN.4/Sub.2/122/Add.21), Ceylon (E/CN.4/Sub.2/122/Add.1), Colombia (E/CN.4/Sub.2/122/Add.3), Denmark (E/CN.4/Sub.2/122/Add.28), Finland (E/CN.4/Sub.2/122/Add.20), France (E/CN.4/Sub.2/122/Add.26), Honduras (E/CN.4/Sub.2/122/Add.4), Hungary (E/CN.4/Sub.2/122/Add.14), Iceland (E/CN.4/Sub.2/122), India (E/CN.4/Sub.2/122/Add.16), Ireland (E/CN.4/Sub.2/122/Add.10), Jordan (E/CN.4/Sub.2/122/Add.11), Lebanon (E/CN.4/Sub.2/122/Add.5 and Corr.1), Liechtenstein (E/CN.4/Sub.2/122/Add.13), Luxembourg (E/CN.4/Sub.2/122/Add.8), Monaco (E/CN.4/Sub.2/122/Add.25), the Netherlands (E/CN.4/Sub.2/122/Add.19), Norway (E/CN.4/Sub.2/122/Add.2), Pakistan (E/CN.4/Sub.2/122/Add.22), the Philippines (E/CN.4/Sub.2/122/Add.6), El Salvador (E/CN.4/Sub.2/122/Add.18), Saudi Arabia (E/CN.4/Sub.2/122/Add.12), Switzerland (E/CN.4/Sub.2/122/Add.24), Union of Soviet Socialist Republics (E/CN.4/Sub.2/122/Add.15), United States of America (E/CN.4/Sub.2/122/Add.9), Yemen (E/CN.4/Sub.2/122/Add.23).

6. In the present analysis the replies have been classified in accordance with the three sub-paragraphs (i), (ii) and (iii) of point (a) of resolution 303 F (XI). However, in most cases it has been considered superfluous to reproduce the constitutional, legislative or other texts quoted, in extenso in the reply or attached thereto. Where these texts have not been reproduced an appropriate reference to the document in which they may be found is made in a footnote.

Section I

Examples of legislation, judicial decisions, and other types of actions which have been found to be especially useful in the country concerned in preventing discrimination in one or more fields covered by the Universal Declaration of Human Rights

7. The replies of the following four countries, Afghanistan, Iceland, Pakistan and United States of America, do not contain any direct reference to the question dealt with in sub-section (i) of point (a) of the resolution.

8. While referring simultaneously to points (a) (i) and (a) (ii) of the resolution, the reply of The Netherlands gives information pertaining only to point (a) (ii) (see paragraphs 11 and 13 in Section II).

9. The replies of the following 16 countries state either that the problem of preventing discrimination does not arise, or that constitutional or legislative provisions have established the principle of equality. These replies do not mention relevant court decisions but include, in certain cases, the statement that the principle is enforced by the courts:

Argentina^{1/}, Belgium, Ceylon^{2/}, Colombia^{3/}, Denmark^{4/}, Honduras^{5/}, India^{6/}, Ireland^{7/}, Jordan^{8/}, Liechtenstein, Luxembourg^{9/}, Monaco, Norway, El Salvador^{10/}, Saudi Arabia, Switzerland.

^{1/} For text of Article 28 of the Constitution of Argentina, see E/CN.4/Sub.2/122/Add.17.

^{2/} For text of Section 29 (2) of the Ceylon (Constitution and Independence) orders in Council, 1946 and 1947, see E/CN.4/Sub.2/122/Add.1.

^{3/} For text of Articles 11 and 16 to 54 of the Constitution of Colombia, see E/CN.4/Sub.2/122/Add.3, pp. 2 to 10.

^{4/} For text of paragraphs 70, 74 and 79 to 86 of the Constitution of Denmark, see E/CN.4/Sub.2/122/Add.28, pp. 2-3.

^{5/} For text of Article 30 of the Constitution of Honduras, see E/CN.4/Sub.2/122/Add.4, p. 2.

^{6/} For text of Articles 25 to 30 of the Constitution of India, see E/CN.4/Sub.2/122/Add.16, pp. 3-4.

^{7/} For text of Articles 40 to 44 of the Constitution of Ireland, see E/CN.4/Sub.2/122/Add.10, pp. 3-8.

^{8/} For text of Articles 6, 16 and 33 of the Constitution of Jordan, see E/CN.4/Sub.2/122/Add.11, p. 2.

^{9/} For text of Articles 11, 12 to 17, 19, 20 and 24 to 28 of the Constitution of Luxembourg, see E/CN.4/Sub.2/122/Add.8, pp. 2-4.

^{10/} For text of Articles 1, 2, 22, 23, 150 to 158, 163, 173 and 174 of the Constitution of El Salvador, and of Articles 52 and 55 of the Civil Code, see E/CN.4/Sub.2/122/Add.18, pp. 2-3.

10. The replies of the following 6 countries: Byelorussian SSR, Finland, France, Hungary, Lebanon and Union of Soviet Socialist Republics, contain, in addition to reference to constitutional provisions, other information relevant to the question dealt with in sub-paragraph (i) of point (a) of the resolution.

(i) Byelorussian SSR^{1/}

Extract from the 1928 Criminal Code of the Byelorussian Soviet Socialist Republic

Article 84

(a) Propaganda or agitation aimed at stirring up national or religious hatred or discord and likewise the dissemination or preparation and keeping of literature of such a nature shall be punished by:

Deprivation of liberty for a term not exceeding two years.

(b) The same acts in war-time or during mass disturbances shall be punished by:

Deprivation of liberty for a term of not less than two years with confiscation of property in whole or in part, the penalty to be increased in especially aggravating circumstances up to the highest measure of social defence, namely, shooting, together with confiscation of property.*

(* The death penalty was abolished by decree of the Presidium of the Supreme Council of the USSR on 26 May 1947.)

(ii) Finland^{2/}

Article 1

According to the Finnish form of government and other Finnish legislation, Finnish citizens are equal before the law.

^{1/} For text of Articles 98 and 99 of the Constitution of the Byelorussian SSR, see E/CN.4/Sub.2/122/Add.21.

^{2/} References are to the articles of the Universal Declaration of Human Rights.

Article 2

1. According to the Form of Government and the Language Law based on it, Finnish citizens have the right to use their native language, Finnish or Swedish, on equal grounds by the administrative authorities. The State is bound to provide for cultural and economic needs of the Finnish-speaking and the Swedish-speaking parts of the population on equal grounds. There is no problem of race, colour or sex, and the first paragraph of article 2 in the Universal Declaration of Human Rights is in conformity with the Finnish legislation.

2. The inhabitants of the Aaland Islands have been granted extensive self-government and autonomy in the Law on the Autonomy and the Law of Guarantee, which can be modified and abrogated with the consent of the Aaland Islands' local Parliament only, the procedure prescribed for the alterations of the Constitution.

Article 3

The Finnish Form of Government grants to every Finnish citizen inviolability of life, honour and personal freedom.

Article 4

Slavery is and always has been unknown in Finland.

Article 5

The principle that persons arrested for examination and prisoners must be treated humanely appears from the Penal Law and the decrees on the execution of penalties and on the institutions for the keeping of prisoners, as well as from other legislation falling under this article. These prescriptions guarantee that no person is treated contrary to the principles expressed in the article. No person may be condemned to death, except when the country is in a state of war.

Article 6

From the Form of Government it is apparent that the sixth article of the Declaration does not conflict with Finnish legislation.

Article 7

The Form of Government grants equality before the law to all Finnish citizens without any distinction.

Article 8

The prescriptions on the Supreme Court are contained in the Constitution, whereas the functions of other courts are regulated by ordinary law. The Form of Government prohibits the creation of exceptional courts. Every person, the prisoners not excepted, is granted, by law, the right of prosecution. Every person has the right to enter an action in matters of civil law as assignee and as dominus litis.

Article 9

The right to execute arrest and to detain is strictly limited by law. No person can be condemned to exile.

Article 10

The Form of Government guarantees the independence of the tribunals and the irremovability of the judges. A judge may be removed from this office only if a tribunal has decided it on ground of a crime or incapacity to work. Every person shall be tried by no other court than that which has jurisdiction over him.

Article 11

1. The Finnish Code of Judicial Procedure expresses the principle that the plaintiff or the prosecutor must prove his plaint or accusation. If he cannot do it, the respondent is freed. The accused is formally presumed to be innocent, until his guilt has been proved in a public trial. The Code of Judicial Procedure states further that the accused shall not be condemned without being heard, that a person lacking means shall be provided with free legal assistance, that, in matters in which an agreement between the parties is not allowed, the admission of a fact in justice is not always considered as a full proof, that the judgment shall be motivated and that the points of law on which it is founded shall be mentioned, and that the judge shall give his decision on all the facts which have been presented by the defendant against the accusation, without neglecting any of them.

2. The Finnish law observes the principle that a penal offence shall be judged according to the law which was in force when the offence was committed. It is only as a matter of reasonableness (equity) that the legislator has allowed the new penal law, which contains punishments of lesser severity than the old, to be applied to offences committed under the old law. Concerning

/the law of

the law of judicial procedure, the principle is observed, that it is applied in all the lawsuits begun after that the new law came into force. This principle is incontrovertibly accepted in the Finnish legislation, though there is no explicit and general prescription about it in the law.

Article 12

According to the Form of Government, the domicile of Finnish citizens is inviolable. His honour and reputation are protected by law. The conditions under which domiciliary searches may be ordered and carried out are determined by law. The secrecy of postal, telegraphic and telephonic communication is inviolable, unless exceptions are provided by law.

Article 13

According to the Form of Government, every Finnish citizen has the right of sojourn in his country, of freely choosing his place of residence here, of travelling from one place to another, of leaving the country and of returning to it, unless exceptions are provided by law.

Article 14

According to the law on the extradition of criminals, a person guilty of a political offence cannot be extradited.

Article 15

The acquiring and losing of Finnish citizenship are regulated by law. According to the Form of Government, every person born of Finnish parents is a Finnish citizen.

Article 16

Every Finnish citizen, man and woman, has a right on equal grounds to contract a marriage. A foreigner's right to contract a marriage in Finland is determined, if exceptions are not provided by special agreements, by his own country's laws. The publication of the banns and the conclusion of the marriage take place, however, in the form prescribed by Finnish law.

Husband and wife have equal rights, and marriage does not limit their right to make contracts, except for the limitations mentioned in the law, ensuing from the one part's matrimonial right on the other part's property. Neither does marriage limit the husband's or the wife's right to appear in justice as plaintiff or as defendant.

Marriage cannot be concluded but with the full and free consent of both spouses.

Article 17

According to the Form of Government, the property of Finnish citizens is protected. Expropriation of property for public need for full compensation shall be ordered by law.

Article 18

According to the Form of Government, Finnish citizens have freedom of speech and the right to worship in public and in private, upon condition that the law or good morals are not offended. The rights and duties of Finnish citizens do not depend upon the fact whether they belong to a religious community or to no such community.

Article 19

According to the Form of Government, Finnish citizens have the right of publishing by print writings and literary products, nobody being allowed to prevent it.

Article 20

No official authorization is needed for the forming of an association, except for certain cases expressly mentioned in the law, and Finnish citizens have the right to meet, without any previous permission authorization, to discuss public matters or for any other legitimate purpose.

2. It appears from the Association Law that the entering and the leaving of associations are free.

Article 21

1. According to the Form of Government, sovereign power in Finland belongs to the nation, represented by their delegates assembled in Parliament.
2. The grounds on which the promotions to public offices are made are ability, capacity and proved civic virtue.
3. The parliamentary form of government is prescribed in the Finnish Constitution. Cabinet members shall enjoy the confidence of the Parliament, and they have both parliamentary and juridical responsibility to it. Parliament has legislative power, the right to raise taxes, the right of control and the right of interpellation.

Parliamentary elections are free, periodic, direct, proportional and secret. Everyone who has the right of vote is eligible without consideration of domicile, except for persons who are in active military service.

Article 22

The Form of Government and an extensive social legislation guarantee the rights mentioned in article 22 of the Declaration.

/Article 23

Article 23

According to the Form of Government, the labour of Finnish citizens is under the special protection of the State. There are further in Finnish legislation numerous prescriptions providing for the protection of workers and persons with small means in general, as well as for the protection of workers against professional dangers. The protection of children, young persons and women is the object of special laws. The freedom of association comprises also the right to form trade unions as well.

Article 24

The working hours are regulated in several fields by absolute legal prescriptions. The law of eight hours' work was given in 1917. In general there are, in every field of work, fixed holidays with pay.

Article 25

1. The Legislation on the National Insurance, on the insurance of workers against accidents and on the persons working for the State and for the communes grants security in the event of lack of livelihood in circumstances beyond the control of the interested person.
2. Motherhood is granted care from public means, and every mother is paid a subsidy. Children born in and out of wedlock enjoy the same social protection.

Article 26

Elementary education is free and compulsory in Finland. Everyone has the possibility to attend complementary education in high schools, and technical or professional institutes according to his merits. Parents have in the first place the right to choose the quality of education given to their children.

Article 27

1. The practice of sciences and arts is free in Finland, and everyone is free to participate in it, as well as in the cultural life of the community.
2. The rights mentioned in article 27, paragraph 2, of the Declaration are granted by the law on the rights of author and by international conventions.

Article 28

Legal juridic order prevails in Finland, which is protected by the State by the means it has on disposal. The State thus protects the rights and liberties mentioned in the Declaration, which are granted by Finnish law.

(iii) France

The struggle for the equality of human beings before the law is part of the French tradition. The principle of prohibition of any discrimination therefore constitutes one of the foundations of the legislative and administrative provisions in force in all the territories of the Republic. In view of the universality of the principle, it does not seem desirable for the French Government to recall all the texts which invoke and imply it, since this would mean drawing up a limitative enumeration.

Nevertheless, the Government of the Republic feels called upon to draw attention to certain texts, the inclusion of which in national institutions and legislative codes would seem to constitute a highly important measure likely to ensure the effective protection of the rights proclaimed in the Declaration of Human Rights of 10 December 1948. These texts are the following:

1. The Ordinance of 9 August 1944, which recalled the great principle of non-discrimination at the time of the liberation of France and the purpose and effect of which was to abolish all discrimination enacted or imposed by the enemy in favour of the Hitlerite occupation.
2. The French Constitution of 27 October 1946, which solemnly confirmed this principle and provided an unprecedented guarantee for its application by proclaiming the supremacy of international law in its preamble and in Article 28, the texts of which are attached herewith.
3. Article 32 of the Act of 29 July 1881 which is at present in force, in the text given below (Decree of 21 April 1939, Ordinances of 24 November 1943 and 6 May 1944) and which, with a view to the more effective prohibition of any attempt at discrimination for political and ideological ends, provides for the punishment of incitement to hatred among citizens and inhabitants:

"Slander against a group of persons who are not referred to in Article 31 of this Act, but who belong, by origin, to a particular race or religion, shall be punishable by imprisonment for one month to one year and a fine of 10,000 to 10 million francs, if the purpose of such slander is to foment hatred among the citizens or inhabitants."

(iv) Hungary^{1/}

Recent Hungarian legislation and practice give wide protection to human rights and the rights of minorities. Under Law X of 1946 civil servants who in the exercise of their functions violate those natural and inalienable rights of man which are guaranteed by Law I of 1946, are guilty of crime and may be punished by imprisonment for a term of 5 years.

Law XIX of 1946 provides for the repeal of previous laws and regulations which were likely to be prejudicial to the individual freedom, equality and human dignity of the toiling masses.

By virtue of Law XII of 1946 women have equal rights to be admitted to high schools and universities.

Law XXV of 1946 emphatically stigmatized the discrimination of Jews as exercised before 1945 by fascist governments and provides for their complete economic, political and cultural rehabilitation.

Under Law XXX of 1946 illegitimate children are granted equal status with legitimate children. According to paragraph 1 of the said law, it aims at the complete realization of the great ideals of human equality in respect of the legal status of children. Discrimination between legitimate and illegitimate children is abolished accordingly.

Prior to 1945, under Hungarian law, a distinction was drawn between religious confessions recognized by laws and those admitted by decrees. This discrimination is abolished by Law XXXIII of 1947.

Under Law XLIII of 1948 women are granted full equality with men in respect of public service.

By decree 1200/1946. V.K.M. and 2100/1948. V.K.M., in villages where the number of children, of minority origin, exceeds 15, they will be taught in their native tongue.

Discrimination as between minorities, religions, etc. is punished according to Law XLVIII of 1948.

^{1/} For text of Section 8 of the Constitution of Hungary, see E/CN.4/Sub.2/122/Add.14, pp. 2 and 3.

(v) Lebanon

(After a reference to constitutional provisions^{1/} and to a study on the subject by Senior President Cardahi in the Yearbook on Human Rights for 1946 (pp. 177 to 182), the reply gives the following information):

... Two points should, however, be made clear.

First, political representation in the Lebanon is based on the existence and official recognition of these communities.

In other words, this representation is based on religious faiths (see law of 10 August 1950, annex 11), each community being entitled to a number of representatives in proportion to its size and chosen from among its members. The principle is, however, tempered by the fact that in each electoral district the persons elected are chosen by the electorate as a whole, irrespective of the religious denomination of the electors.

The second point concerns legislation safeguarding the principles of human rights.

This legislation has not been amended except with regard to the press, for which a new law was enacted on 2 September 1948.

This law contains the provision that any person intending to publish a periodical shall submit a declaration to the Ministry of Information. A provisional receipt shall be issued, which has the effect of an authorization to publish (article 10). Final authorization shall be granted within two months; in the event of refusal, the applicant may resort to the State Council on grounds of action ultra vires. The emergency procedure shall then be applied (article 13).

The Appeals Court is the competent organ, in the first as in the last instance, in matters involving offences committed by organs of the press.

With regard to suspension by administrative action, such action may only be taken for publication of libellous statements against the President of the Republic, and even then it may not apply for more than three days.

The time-limit may, however, be prolonged where the Minister has submitted the case to the Courts, and a legal decision has been taken in the Council Chamber providing for such extension.

The reply of Lebanon further quotes the following Articles of the Penal Code:

^{1/} For text of Articles 7 to 15 of the Constitution of Lebanon, see E/CN.4/Sub.2/122/Add.5, pp. 1 and 2.

Article 473 - Any person publicly blaspheming against the name of God shall be punished by a term of imprisonment varying from one month to one year.

Article 474 - Any person, who in any of the ways defined in article 203 grievously insults or brings into contempt any of the publicly professed religions, shall be punished by a term of imprisonment varying from two months to two years.

Article 475 - The following shall be punished by a term of imprisonment of one year.

1. Any person disturbing religious worship or ceremonies and practices thereto pertaining, or impeding such worship by deed or threat.

2. Any person destroying, mutilating, defacing, desecrating or defiling buildings dedicated to religious purposes, or images and other objects venerated by members of a religious faith or by a section of the population.

(vi) Union of Soviet Socialist Republics^{1/}

Codex of Laws and Regulations of the Workers' and Peasants' Government

1917-1918 No. 1 Article 18

Declaration of Rights of the Peoples of Russia

Summary

Article 18

Stating that the workers and peasants were freed from serfdom by the October Revolution. Soldiers and sailors were freed from the power of autocratic generals, as henceforth generals would be elected and removable. The inequality of the peoples of Russia was also abolished. The Congress of Soviets proclaimed the right of the peoples of Russia to self-determination. The Council of People's Commissars laid down the principles governing their

^{1/} For a summary of Articles 123 and 124 of the Constitution (Fundamental Law) of the Union of Soviet Socialist Republics, see E/CN.4/Sub.2/122/Add.15.

activity in the matter of the nationalities of Russia. These principles included equality, self-determination and the right to secede, the abolition of all national privileges and restrictions, and the right to free development.

Extract from the Criminal Code of the RSFSR 1926

Article 59

Summary

Stating that propaganda, or agitation to arouse national or religious enmity, as well as the dissemination, preparation or possession of literature of that nature, shall be punishable by deprivation of freedom for a term not exceeding two years.

Similar actions in war time or during mass disturbances shall be punishable by deprivation of freedom for not less than two years; in particularly aggravating circumstances, by shooting.*

(* The death penalty in peace time was abolished by decree of the Presidium of the Supreme Council of the Union of Soviet Socialist Republics on 26 May 1947.)

Section II

Information regarding the protection of any minority within the jurisdiction of the country by legislative measures and in the light of the Universal Declaration of Human Rights

11. The replies of the following 19 countries state either that there are no minorities within their jurisdiction or that the question of their protection does not arise:

/Afghanistan,

Afghanistan, Argentina, Belgium, Colombia, France, Honduras, Iceland,
Ireland, Jordan, Lebanon^{1/}, Liechtenstein, Luxembourg, Monaco,
the Netherlands^{2/}, Norway, El Salvador, Saudi Arabia, Switzerland^{3/},
Yemen^{4/}

1/ The reply of the Lebanon reads as follows:

"The problem of minorities arises wherever it is necessary for persons of different race, religion or language to live side by side under the authority of a single State.

This remark, made by the late Professor Le Fur, appears to sum up the question.

There therefore exists on the one hand an objective element, ethnical, religious or linguistic in nature, and on the other a subjective element: the restrictions imposed upon a minority group compelled to live under the authority of a foreign State.

Viewed in this light, the question of minorities does not arise in the Lebanon where the minorities, although numerous, are eager to live together in harmony, notwithstanding the fact that the Lebanese State was only recently established.

There are a large number of religious faiths in Lebanon, both Christian and Moslem; indeed it can be stated, taking account of the objective elements only, that the country consists solely of minorities benefiting equally from all the necessary safeguards consistent with the principles set forth in the Universal Declaration of Human Rights".

See also the reply of Lebanon on the question in sub-paragraph (i) of point (a) of the resolution above.

2/ In respect of the Metropolitan territory of the Netherlands in Europe and the Netherlands Antilles. For Surinam see paragraph 13 below.

3/ The reply of Switzerland reads as follows:

"The question of ... the protection of minorities is not of any practical importance in Switzerland ... Articles 49 and 50 of the Federal Constitution guarantee the freedom of conscience and religion. Since the languages spoken in Switzerland are also recognized as the national languages (Article 116 of the Federal Constitution) the expression 'ethnic, religious or linguistic minorities' as used by the United Nations, clearly does not apply in the case of Switzerland."

4/ The reply of Yemen reads as follows:

"Concerning the question of 'Minorities': in Yemen there are no minorities neither under, nor without a foreign Government's control. There was a Jewish minority but it left Yemen despite the fact that it enjoyed all the benefits of the Yemeni citizens and could not be called 'Minority' as understood internationally".

12. The reply of Denmark also states that "Danish law does not contain special provisions concerning the protection of minorities, as the general civil and criminal legislation applies to all citizens". The reply mentions, however, that the Danish Penal Code of 15 April 1930 was amended in 1939 by the inclusion of a new paragraph (266 b) in order to protect special groups of the Danish population against persecution for reasons of faith, descent or citizenship.^{1/}

13. The reply of the Netherlands, after stating that the Netherlands Government cannot give any data as regards the Realm in Europe nor as regards the Netherlands Antilles as in these territories there are no minorities in the sense of the tentative definition suggested by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, contains the following information:

In order to meet the wishes of the Indonesian and Hindustani minorities in Surinam, legislation respecting Asiatic marriages has been enacted (Surinam Official Gazette 1940 Nos. 149 and 150) which gives these immigrants, and their descendants, who profess Hinduism and Islamism an opportunity of concluding marriage according to their own rites. For the rest the legislation in Surinam is the same for all existing population groups.

14. The replies of the following 3 countries: Byelorussian Soviet Socialist Republic, Ceylon and the Union of Soviet Socialist Republics do not refer specifically either to sub-section (i) or to sub-section (ii) of point (a) of the resolution. These replies will be found in Section I above.

15. The replies of Finland and Hungary ~~refer simultaneously to the question~~ in sub-section (i) and in sub-section (ii) of point (a) of the resolution and have been reproduced in Section I above. It has been deemed useful, however, to reproduce again such parts of the replies which contain information pertaining to the protection of one or several minorities:

^{1/} For text of paragraph 266 (b) of the Danish Penal Code, see E/CN.4/Sub.2/122/Add.28.

(i) Finland

Article 2^{1/}

1. According to the Form of Government and the Language Law based on it, Finnish citizens have the right to use their native language, Finnish or Swedish, on equal grounds by the administrative authorities. The state is bound to provide for cultural and economic needs of the Finnish-speaking and the Swedish-speaking parts of the population on equal grounds. There is no problem of race, colour or sex, and the first paragraph of article 2 in the Universal Declaration of Human Rights is in conformity with the Finnish legislation.

2. The inhabitants of the Aaland Islands have been granted extensive self-government and autonomy in the Law of the Autonomy and the Law of Guarantee, which can be modified and abrogated with the consent of the Aaland Islands' local Parliament only, with the procedure prescribed for the alterations of the Constitution.

Article 18^{2/}

According to the Form of Government, Finnish citizens have freedom of speech and the right to worship in public and in private, upon condition that the law or good morals are not offended. The rights and duties of Finnish citizens do not depend upon the fact whether they belong to a religious community or to no such community.

(ii) Hungary

Recent Hungarian legislation and practice widely provide for the protection of ... the rights of minorities. Under Law X of 1946 "civil servants who in the exercise of their functions violate those natural and inalienable rights of man which are guaranteed by Law I of 1946, are guilty of crime and may be punished by imprisonment" for a term of 5 years.

Law XXV of 1946 emphatically stigmatized the discrimination of Jews as exercised before 1945 by Fascist governments and provides for their

^{1/} Reference to Article 2 of the Universal Declaration of Human Rights.

^{2/} Reference to Article 18 of the Universal Declaration of Human Rights.

complete economic, political and cultural rehabilitation.

.....
Prior to 1945, under Hungarian law, a distinction was drawn between religious confessions recognized by laws and those admitted by decrees. This discrimination is abolished by Law XXXVIII of 1947.

.....
By decrees 1200/1946.V.K.M. and 2100/1948.V.K.M., in villages where the number of children, of minority origin, exceeds 15, they will be taught in their native tongue.

Discrimination as between minorities, religions, etc. is punished according to Law XLVIII of 1948.

.....
The relevant parts of the Constitution read as follows:

Section 8:

.....
"Discrimination of any kind against any citizen on grounds of sex, religion, or nationality is a severely punishable offence."

"The Hungarian People's Republic ensures to all nationalities living within its borders the possibility of education in their native tongue and the possibility of developing their natural culture."

.....
16. The replies of the following 4 countries: India, Pakistan, the Philippines and the United States of America, contain information regarding the protection of one or several minorities within their jurisdiction:

(1) India

There are ... special provisions in the Constitution whereby the cultural, educational, and religious rights of all minorities whether based on religion or language, have been fully guaranteed and protected. These special provisions which are meant for safeguarding the interests of the minorities and some backward groups and tribes of people, are scattered through the entire Constitution - Articles 25, 26, 27, 28, 29, 30, 46, 244 and Fifth and Sixth Schedules, Article 325, Part XVI (especially Articles 331, 335, 336, 337, 338) and Article 347 of the Constitution refer.^{1/}

^{1/} For text of these provisions see E/CN.4/Sub.2/122/Add.16, pages 3 to 7.

(ii) Pakistan

... the minorities in Pakistan are Hindus, Adibasis, Scheduled castes, Buddhists, Christians, Parsis and the Hill Tribes of East Bengal. The Objectives Resolution passed by the Constituent Assembly of Pakistan, which provides the Basic Principles for the Constitution of Pakistan (now in the making), guarantees in unequivocal terms full freedom, rights and opportunities to minorities. The relevant portions of the resolution read as follows:

"This Constituent Assembly representing the people of Pakistan resolves to frame a Constitution for the sovereign independent State of Pakistan:

.....

"Wherein adequate provision shall be made for the minorities freely to profess and practice their religions and develop their cultures:

.....

"Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes."

A special Sub-Committee consisting of representatives of various minorities has been set up by the Constituent Assembly of Pakistan to recommend special measures for safeguarding the rights of the minorities in the new Constitution.

Declarations guaranteeing protection and generous treatment of minorities in Pakistan have been publicly made from time to time by the late Quaid-e-Azam, the present Governor-General and the Prime Minister. There are also certain enactments which provide special safeguards for the minorities; some of them are given in the enclosed list.

In addition to the above measures, there is special reservation of seats for minorities in the Legislatures, both Provincial and Central. A certain percentage of vacancies has also been reserved for minorities in the services both of the Central and the Provincial Governments.

Annex

The Arya Marriage Validation Act, 1937

The Parsi Marriage and Divorce Act, 1936

The Hindu Women's Rights to Property Act, 1937

The Caste Disabilities Removal Act, 1850

The Church of Scotland Kirk Sessions Act, 1899

/The Divorce

The Divorce Act, 1869
The Foreign Marriage Act, 1903
The Hindu Disposition of Property Act, 1916
The Hindu Gains of Learning Act, 1930
The Hindu Inheritance (Removal of Disabilities) Act, 1928
The Hindu Law of Inheritance (Amendment) Act, 1929
The Hindu Widows' Remarriage Act, 1856
The Christian Marriage Act, 1872
The Amend Marriage Act, 1909
The Native Converts' Marriage Dissolution Act, 1866
The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946
The Marriage Disabilities Removal Act, 1946
The Pakistan Penal Code, 1860 - Sections 153A; 295, 295A, 296, 297, 298
The Estate Duty Act, 1950 - Sections 4A and 41
The Government of India Act, 1935 - Section 298

(iii) The Philippines

"The only minority group worthy of mention in this jurisdiction is the so-called 'non-Christians'. The term 'non-Christian', as defined in Article 2576 of the Administrative Code, includes Mohammedans and pagans. The Philippine Supreme Court has, however, held that the term 'non-Christian' should not be given a literal meaning or a religious signification, but that it was intended to relate to a degree of civilization. It does not refer to religious belief but, in a way, to geographical area and more directly to natives of the Philippines of a low grade of civilization. (Rubi v. Provincial Board of Mindoro, 39 Phil. 660; de Palad v. Saito, 55 Phil. 831.)

"Philippine legislation and judicial decisions have given special treatment to non-Christians, not necessarily to prevent or create discrimination against them or to protect this group against the majority of Christian Filipinos, but more precisely in order to give due recognition to their relative state of backward civilization and to prepare them gradually so that they may eventually be governed by the same rules applicable to the rest of the people of the Philippines. Among such statutes may be mentioned the following:

"1. Sections 701 to 705 of the Administrative Code of 1917, Act No. 2711, providing for the Bureau of Non-Christian Tribes which exercised supervision and control over the provinces, municipalities

/and other

and other political subdivisions inhabited by non-Christians. It was directed to be a special duty of this bureau to work for the advancement of the regions inhabited by non-Christian Filipinos and to foster by all adequate means and in a complete manner the moral, material, economic, social and political development of those regions always having in view the aim of rendering permanent the mutual intelligence between the complete fusion of all the Christian and non-Christian elements populating the provinces of the Philippine Archipelago. These provisions of the Administrative Code, however, were repealed by Commonwealth Act No. 75, approved on October 24, 1936, which transfers the functions and duties of the Bureau of Non-Christian Tribes to the Secretary of the Interior.

"2. Act No. 1639 which prohibits the sale or other disposal of any intoxicating liquor, other than native wines and liquor, to any member of a non-Christian tribe. This law was repealed by Commonwealth Act No. 476 approved on June 18, 1939.

"3. Section 2114 of the Revised Administrative Code of 1917 which creates a special non-Christian inhabitants' fund in the treasury of every regularly organized province, which fund is available exclusively for expenditures for the benefit of the non-Christian inhabitants of the provinces.

"4. Section 120 of the Public Land Law, Commonwealth Act No. 141 which provides that sales or transfers by non-Christians of public lands shall not be valid unless approved by the Commissioner of Mindanao and Sulu.

"5. Section 160 of Act No. 2590 entitled, "An act for the protection of game and fish," as amended, creates special hunting privileges in favor of non-Christian tribes who are dependent upon the flesh of wild birds and mammals for their subsistence.

"6. Article 78 of the New Civil Code of the Philippines, Republic Act No. 386, approved on June 18, 1949, provides special rules for marriages between Mohammedans or pagans who live in the non-Christian provinces, which marriages may be performed in accordance with their customs, rites, or practices without the necessity of complying with the formal requirement of securing a
/marriage license.

marriage license. However, it is also provided that twenty years after the approval of the Code, such marriages shall be performed in accordance with the general provisions applicable to all Filipinos.

"7. Article 26 of the New Civil Code of the Philippines which provides that every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons. Vexing or humiliating another on account of his religious beliefs, lowly station in life, place of birth, physical defect, or other personal conditions, shall produce a cause of action for damages, prevention and other relief.

"8. Republic Act 394. - An Act authorizing for a period of twenty years divorces among Moslems (Mohammedan Filipinos) residing in non-Christian provinces in accordance with Moslem customs and practices. This is a recent act, approved on June 18, 1949.

"The following judicial decisions reflect the same tendency:

"1. Rubi et al. (Manguianes), plaintiffs, v. The Provincial Board of Mindoro, defendant, 39 Phil. 660, which upheld that the fundamental objective of governmental policy is to establish friendly relations with the so-called non-Christians, and to promote their educational, agricultural, industrial, and economic development and advancement in civilization. In so far as the Manguianes themselves are concerned, the purposes of the Government are to gather together the children for educational purposes, and to improve the health and morals--in fine, to begin the process of civilization.

"2. The people of the Philippine Islands, plaintiff and appellee, v. Dimulon and Bimusao, defendants and appellants, 47 Phil. 745, wherein the Supreme Court considered the customs and the ignorance of the so-called head-hunting tribes of the Philippines, in relation with the crimes committed in their so-called inter-tribal wars, and their lack of knowledge of governments by civilized peoples, in modifying the penalties for crimes committed in an inter-tribal war."

(iv) United States of America

STATEMENT

In response to Resolution 303 F (XI) adopted by the Economic and Social Council on August 9, 1950, inviting the submission of information with respect to types of action which have been found to be especially useful in the United States to prevent discrimination and with respect to the protection of minorities, the United States calls attention to the material already submitted to the Secretary-General by the United States for inclusion in the Yearbook on Human Rights for the years 1946, 1947, 1948 and 1949 and to the enclosed copy of a statute generally referred to as "The Indian Reorganization Act" which was enacted by the Congress of the United States and approved on June 18, 1934 (United States Statutes, Vol. 48, page 984).^{1/}

Section III

Information which could serve as a basis for defining
the term "minorities"

17. The replies of the following 12 States do not contain any reference to the definition of the term "minorities":

Afghanistan, Argentina, Byelorussian S.S.R., Colombia, Finland, Hungary, Iceland, Liechtenstein, Monaco, El Salvador, Union of Soviet Socialist Republics, United States of America.

18. The replies of the following 8 States contain a reference to the definition of the term "minorities" as embodied in the resolution of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities without any comment other than, in some cases, a statement to the effect that no contribution can be made towards the definition of the term:

Belgium, Ireland, Jordan, Luxemburg, Norway, Saudi Arabia, Switzerland, Yemen.

19. The reply of Honduras contains the following statement:

We have nothing to report in this connexion, but we agree with the definition given in the memorandum attached to your note No. 8055.

20. The reply of France contains the following statement:

The French Government has followed with interest the work of the

^{1/} For text of the Indian Reorganization Act, see E/CN.4/Sub.2/122/Add.9.

Sub-Commission on Prevention of Discrimination and Protection of Minorities and appreciates the Commission's effort to establish a definition of minorities on the basis of the structures of States. It considers that this effort should be continued, and is prepared to give careful attention to the studies and activities of the Sub-Commission.

21. The replies of Denmark, India, Lebanon and the Netherlands contain the following comments:

(i) Denmark

"In principle the Danish government associates itself with the resolution on 'definition of minorities for purposes of protection by the United Nations' as adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its third session (par. (4), resolution III, doc. E/CN.4/358). However, the Danish government is of the opinion that in the definition it should be clearly stated that national minorities are included. It is therefore suggested that the word 'national' be inserted after the word 'ethnic' in paragraph (4), sub-paragraph (a).

"Furthermore the Danish Government is of the opinion, that the provisions in paragraph (4), sub-paragraph (c), that members of minorities must be loyal to the state of which they are nationals, does not really concern the definition of the concept 'minorities', wherefore my Government suggests that the said sub-paragraph should be omitted.

"The Danish Government, however, fully agrees with the opinion, that members of minorities ought to be loyal to the state of which they are nationals, an obligation which on the other hand does not ipso facto restrict the minorities' natural rights to cultivate in a democratic way and to promote by democratic means their ethnic, national, religious or linguistic aspirations."

(ii) India^{1/}

The word "Cultural" may be added to paragraph 4 (a) of the tentative definition.

(iii) Lebanon^{2/}

The problem of minorities arises wherever it is necessary for persons of different race, religion or language to live side by side under the authority of a single state.

^{1/} For India see also paragraph 22 below.

^{2/} For Lebanon see also paragraph 22 below.

This remark, made by the late Professor Le Fur, appears to sum up the question.

There therefore exists on the one hand an objective element, ethnical, religious or linguistic in nature, and on the other a subjective element: the restrictions imposed upon a minority group compelled to live under the authority of a foreign state.

(iv) The Netherlands

As regards point a (iii), the Netherlands Government can in principle agree with the tentative definition of the term "minority" suggested by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and think it particularly right, for the purpose of defining the term "minorities", to start not only from the possession of certain characteristics and the size of the group but also from the need for special protective measures. Should this principle not be adhered to, certain groups might claim the benefit of such protective measures to exploit them as a privilege.

22. The replies of the following 5 States: Ceylon, India, Lebanon, Pakistan, the Philippines, contain elements for the definition of "minorities" within the jurisdiction of these States:

(i) Ceylon

Ceylon (Constitution and Independence) orders in Council, 1946 and 1947:
"Section 29(2) - No such law shall -

.....

"(b) make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable; or

"(c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions;

.....

(ii) India^{1/}

The fundamental rights contained in Part III of the Constitution, are available to each and every citizen of India irrespective of his race, religion, language or culture and can be enforced through the courts... There are also special provisions in the Constitution whereby the cultural, educational and religious rights of all minorities whether based on religion

^{1/} For India see also paragraph 21 above.

/or language,

or language, have been fully guaranteed and protected. These special provisions... are meant for safeguarding the interests of the minorities and some backward groups and tribes of people.

.....
In India ethnic groups do not necessarily form a minority.

(iii) Lebanon

... the question of minorities does not arise in the Lebanon where the minorities, although numerous, are eager to live together in harmony, notwithstanding the fact that the Lebanese State was only recently established.

There are a large number of religious faiths in Lebanon, both Christian and Moslem; indeed it can be stated, taking account of the objective elements only,^{1/} that the country consists solely of minorities benefiting equally from all the necessary safeguards consistent with the principles set forth in the Universal Declaration of Human Rights.

(iv) Pakistan

... the minorities in Pakistan are Hindus, Adibasis, Scheduled Castes, Buddhists, Christians, Parsis and the Hill Tribes of East Bengal.^{2/}

(v) The Philippines

The only minority group worthy of mention in this jurisdiction is the so-called "non-Christian". The term "non-Christian", as defined in Article 2576 of the Administrative Code, includes Mohammedans and pagans. The Philippine Supreme Court has, however, held that the term "non-Christian" should not be given a literal meaning or a religious signification, but that it was intended to relate to a degree of civilization. It does not refer to religious belief but, in a way, to geographical area and more directly to natives of the Philippines of a low grade of civilization. (Rubi v. Provincial Board of Mindore, 39 Phil. 660; de Palad v. Saito, 55 Phil. 831.)

^{1/} For Lebanon, see also paragraph 21 above.

^{2/} See the list of enactments concerning the minorities in the Annex to the reply of Pakistan, E/CN.4/Sub.2/122/Add.22 reproduced in Section II above.