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the protection of minorities
1919 - 1951

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TREATIES AND INTERNATIONAL INSTRUMENTS CONCERNING
PROTECTION OF MINORITIES 1919-1951

A. INTRODUCTION

1. The present Memorandum attempts to collect in a summary form the chief types of provision relating to the protection of minorities, which are found in treaties and other instruments made since World War I. In some cases provisions which are no longer in force will be referred to. The question of the validity of minorities treaties has been discussed in another Memorandum by the Secretary-General (Document E/CN.4/367 and Add.1).

B. MINORITIES TREATIES AND OTHER INTERNATIONAL INSTRUMENTS
FOLLOWING WORLD WAR I

(a) General character

2. The treaties and instruments entered into for the protection of minorities in the years following upon the conclusion of World War I for the most part follow the same main lines. Many of the Articles contained in them use identical language. They deal with the problem of minorities both by proclaiming a general principle of non-discrimination between the nationals of the states concerned, in particular as regards racial, national, linguistic, or religious minorities, and by the acceptance of certain expressly stated rights and privileges to be enjoyed by those minorities, notably as regards freedom of religion, the use of language, education or social or cultural institutions.

(b) Position of minorities agreements as regards national law

3. A stipulation expressly asserting the priority of the minority provisions over the ordinary national laws or regulations was normally inserted in the treaties following the conclusion of peace after World War I.

4. Thus Article 62, forming part of Part III, Section V (Protection of Minorities) of the Peace Treaty of St. Germain-en-Laye between Austria and the Allied and Associated Powers provides:

"Austria undertakes that the stipulations contained in this section shall be recognized as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them."

5. Undertakings to a similar effect as regards the protection of minorities provisions are found in Article 49 of the Peace Treaty of Neuilly 1919 with

/Bulgaria;

Bulgaria; Article 54 of the Peace Treaty of Trianon 1920 (Hungary); Article 37 of the Peace Treaty of Lausanne 1923 (Turkey); and in the minorities treaties of Versailles (Poland), 1919, Article 1; St. Germain-en-Laye (Czechoslovakia), 1919, Article 1; St. Germain-en-Laye (Serb-Croat-Slovene), 1919, Article 1; Paris (Roumania), 1919, Article 1; and Sèvres (Greece), 1920, Article 1.

6. In Articles 65 and 73 of the Convention relating to Upper Silesia both Germany and Poland undertook a similar guarantee.

7. Articles 1 of the Declarations made before the Council of the League of Nations concerning the Protection of Minorities by Albania on 2 October 1921, by Lithuania on 12 May 1922 and by the Kingdom of Iraq on 30 May 1932 repeat, with minor differences in language, the same provision as regards the stipulations contained in those Declarations.^{1/}

(c) International status of minorities agreements

8. An Article found in most of the minorities treaties expressly excludes the contention that the provisions concerning minorities are matters of purely domestic concern, and recognizes the jurisdiction of international organs.

9. Articles expressly recognizing the jurisdiction of the Council of the League of Nations and of the Permanent Court of International Justice over questions arising from the provisions of the respective minorities agreements appear in identical or closely similar terms in the Peace Treaty of St. Germain-en-Laye, 10 September 1919 with Austria (Article 69), the Peace Treaty of Neuilly 1919 with Bulgaria (Article 57), the Peace Treaty of Trianon 1920 with Hungary (Article 60), the Peace Treaty of Lausanne 1923 with Turkey (Article 44), the Treaty of Sèvres 1920 with Greece (Article 16), the Treaty of Versailles 1919 with Poland (Article 12), the Treaties of St. Germain-en-Laye 1919 with the Serb-Croat-Slovene State (Article 11), and with Czechoslovakia (Article 14); the Treaty of Paris, 9 December 1919 with Roumania (Article 12), the German Polish Convention concerning Upper Silesia (Article 72), the Declarations concerning minorities made by Albania 2 October 1921, (Article 7) and by Lithuania 12 May 1922 (Article 9), and by Iraq 30 May 1932 (Article 10).

10. An illustration of the standard form of these Articles is provided by Article 60 of the Treaty of Trianon 1920 with Hungary as follows:

^{1/} The texts of all these instruments made prior to 1924 will be found in League of Nations Doc. C.L.117.1927.I Annex.

"Hungary agrees that the stipulations in the foregoing articles of this Section, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The Allied and Associated Powers represented on the Council severally agree not to withhold their assent from any modification in these Articles which is in due form assented to by a majority of the Council of the League of Nations.

"Hungary agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

"Hungary further agrees that any difference of opinion as to questions of law or fact arising out of these Articles between the Hungarian Government and any one of the Allied and Associated Powers or any other Power, a Member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Hungarian Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant."

11. With these provisions may be compared the less definite provisions contained in Article 7 of the Declaration of Finland concerning the Åland Islands, 27 June 1921, and the procedure envisaged in the Declaration concerning Minorities made by Esthonia to the Council of the League on 17 September 1923 (CL.110. 1927, I Annex p. 14) and by Latvia on 7 July 1923 (ibid. p. 32).

12. The German-Polish Convention concerning Upper Silesia established in its Division III (Articles 147-158) a special procedure concerning the Right of Petition and Methods of Appeal to the League of Nations. (For details see Document E/CN.4/Sub.2/126).

/(d) Grants

(d) Grants of local autonomy

13. A few of the treaties or instruments protecting minorities envisage the grant of some degree of local autonomy.

14. The arrangements entered into by Finland with regard to the Aaland Islands establish the Islands as an autonomous community with guarantees for the preservation of their language, culture and local Swedish traditions. The Swedish language is placed in a privileged position, and special provisions are inserted with regard to acquisition of real property, rights of citizenship and taxation to assist the Islanders to maintain their separate character. Finland undertook to insert in the near future the following guarantees in the Law of 7 May 1920 respecting the Autonomy of the Aaland Islands:

"The Landsting and the Communes of the Aaland Islands shall in no circumstances be obliged to maintain or to subsidise any schools other than those in which Swedish is the language of education. In the State educational establishments, instruction will also be given in the Swedish tongue. The Finnish language shall not be taught in the primary schools which are maintained or subsidised by the State or by the Communes, without the consent of the Commune concerned.

"Whenever real estate situated in the Aaland Islands is sold to a person who is not legally domiciled in the province, any person who is legally domiciled there, or the Provincial Council, or the Commune in which the real estate is situated, shall be entitled to repurchase the said real estate at a price which shall be fixed, if an agreement cannot be reached, by the Court of First Instance (Hardastatt), having due regard to the current price.

"A special law shall be enacted laying down precise details in regard to the procedure for repurchase, and in regard to priority when there are several offers of purchase.

"This law may not be modified, interpreted, or abrogated except under the same conditions as the Law of Autonomy.

"Persons immigrating into the Aaland Archipelago who possess the rights of citizenship in Finland, shall not acquire the right to Communal and Provincial suffrage in the Islands till they have been legally domiciled there for five years.

/"Persons who

"Persons who have been legally domiciled in the Aaland Islands for the five preceding years shall not be regarded as immigrants.

"The Governor of the Aaland Islands shall be appointed by the President of the Finnish Republic in agreement with the President of the Landsting of the Aaland Islands. If it is not possible to reach an agreement, the President of the Republic shall select the Governor from a list of five candidates, nominated by the Landsting, and possessing the qualities necessary to ensure the good administration of the Islands and the security of the State.

"The Province of Aaland shall be entitled to use for its own requirements 50% of the revenue from the land tax, in addition to the revenue provided for in Article 21 of the Law of Autonomy.

"The Council of the League of Nations will see that the guarantees provided above are duly observed. Finland shall transmit to the Council of the League of Nations, together with its own observations, any complaints or claims by the Aaland Landsting in regard to the application of these guarantees, and the Council may, in case the question shall be of a legal nature, consult the International Court of Justice."

15. More limited provisions for measures of local autonomy appear in a few other treaties.

16. The Minorities Treaty of St. Germain-en-Laye entered into by Czechoslovakia contains four Articles providing for a special régime in Ruthenia.

The Ruthene territory South of the Carpathians within delimited frontiers was to be constituted as an autonomous unit with the fullest degree of self-government compatible with the unity of Czechoslovakia (Article 10).

This territory was to possess a special Diet, with powers of legislation in all linguistic, scholastic and religious questions, in matters of local administration, and in other questions which the laws of the Czechoslovak State might assign to it. It was to have a Governor appointed by the President of Czechoslovakia but responsible to the Ruthene Diet (Article 11). Officials in the Ruthene territory were to be chosen as far as possible from the inhabitants of the territory (Article 12), and the territory was to have equitable representation in the legislative assembly of the Czechoslovak republic (Article 13).

17. By Article 11 of the Treaty of Paris 1919 concerning minorities "Roumania agrees to accord to the communities of the Saxons and Czecklers in Transylvania local autonomy in regard to scholastic and religious matters, subject to the control of the Roumanian State."

18. By Article 12 of the Treaty of Sevres 1920, Greece agreed to accord to the communities of the Valachs of Pindus local autonomy, under the control of the Greek State, in regard to religious, charitable, or scholastic matters. And by Article 13 of the same Treaty, Greece undertook to recognize and maintain the traditional rights and liberties enjoyed by the non-Greek monastic communities of Mount Athos under Article 62 of the Treaty of Berlin of 13 July 1876.^{1/}

(e) Protection of life and liberty for all and guarantee of freedom of exercise of religion

19. The treaties and other instruments under consideration all include an article providing in general terms that all inhabitants of the state concerned without distinction of birth, nationality, language, race, or religion shall have full and complete protection of life and liberty, as well as the free exercise of their religions or beliefs.

20. Thus Article 50 of the Peace Treaty of Neuilly 1919 with Bulgaria read as follows: "Bulgaria undertakes to assume full and complete protection of life and liberty to all inhabitants of Bulgaria without distinction of birth, nationality, language, race or religion. All inhabitants of Bulgaria shall be entitled to the free exercise, whether public or private, of any creed, religion or belief, the observance of which shall not be inconsistent with public order or public morals."

21. The following treaties contained similar provisions:

Peace treaty of St. Germain-en-Laye 1919 (Austria) Article 63

Peace treaty of Trianon 1920 (Hungary) Article 55

Peace treaty of Lausanne 1923 (Turkey) Article 38

Treaty of Versailles 28 June 1919 (Poland) Article 2

Treaty of St. Germain-en-Laye 1919 (Czechoslovakia) Article 2

Treaty of St. Germain-en-Laye 1919 (Serb-Croat-Slovene State) Article 2

^{1/} Amongst the provisions of instruments subsequent to World War II, paragraph 2 of the Austro-Italian agreement of 5 September 1946 may also be noted (see paragraph 152 below).

Treaty of Paris 9 December 1919 (Roumania) Article 2

Treaty of Sèvres 1920 (Greece) Article 2

Declaration of Lithuania, 12 May 1922, Article 2

The Declaration of Iraq, 30 May 1932, Article 2

German-Polish Convention concerning Upper Silesia 1922,
Articles 66, 83, 84-96.

22. The Statute of the Sanjak of Alexandretta adopted by the Council of the League of Nations, on 29 May 1937, contained a similar provision in its Article 25.

23. Article 2 of the Declaration of Albania, of 2 October 1921, is in identical terms, but adds to the paragraph concerning the free exercise of religion the express provision "They will have the right to change their religion."

24. The German-Polish Convention of 1922 concerning Upper Silesia in addition to the general provisions of Articles 66 and 83 dealt in greater detail with the question of freedom for the exercise of religion by minorities, a complete Chapter (Chapter XIII) consisting of 13 Articles being devoted to questions of religion or religious organizations or institutions. The relation of the State with the religious confessions (organized religions) was to be governed by the law, after hearing the competent representatives of the confessions (Article 84). All religious confessions, parishes and Jewish communities existing and recognized in the plebiscite territory were to be continued to be recognized, though they might be obliged to bring their organization into line with any laws which had been promulgated to maintain public order or public morals (Article 93). Ecclesiastics and other functionaries were to be permitted to continue their existing duties without hindrance (Article 94).

Religious confessions, parishes and Jewish communities, as well as orders and congregations were to be entitled to administer their affairs and to direct and supervise these institutions in full liberty, subject to the laws promulgated to maintain public order and public morals, and were to be free to employ the language of their choice in all affairs of internal administration, as well as in divine service, the cure of souls, and religious instruction. (Articles 86 and 87)

All the inhabitants of the plebiscite territory were to be entitled to the free exercise, whether public or private, of any creed, religion or belief

/whose practices

whose practices were not inconsistent with public order nor public morals (Article 85).^{1/}

25. Express provisions concerning religious observances were included in certain of the minorities treaties entered into by countries where there was a considerable Jewish minority.

26. Thus Article 11 of the Polish minorities Treaty of Versailles is as follows:

"Jews shall not be compelled to perform any act which constitutes a violation of their Sabbath, nor shall they be placed under any disability by reason of their refusal to attend courts of law or to perform any legal business on their Sabbath. This provision, however, shall not exempt Jews from such obligations as shall be imposed upon all other Polish citizens for the necessary purposes of military service, national defence or the preservation of public order.

"Poland declares her intention to refrain from ordering or permitting elections, whether general or local, to be held on a Saturday, nor will registration for electoral or other purposes be compelled to be performed on a Saturday."

27. The German-Polish Convention concerning Upper Silesia, Article 71, is similar, as is also Article 8 of the Declaration of Lithuania of 12 May 1922.

28. Article 10 of the Greek minorities Treaty of Sèvres 1920 contains a slightly shorter and more limited enactment of a similar character. "In towns and districts where there is resident a considerable proportion of Greek nationals of the Jewish religion, the Greek government agrees that these Jews shall not be compelled to perform any act which constitutes a violation of their Sabbath, and they shall not be placed under any disability by reason of their refusal to attend the courts of law or to perform any legal business on their Sabbath".^{2/}

1/ See also paragraphs 76-81 below concerning religious institutions.

2/ Compare also the following agreements subsequent to World War II Peace Treaties with Italy 1947, Articles 15 and 19, Austro-Italian Agreement of 5 September 1946, Permanent Statute of Free Territory of Trieste, Article 4, Peace Treaties of 1947 with Roumania (article 3), Bulgaria (article 2), Hungary (article 2) and Finland (article 6). (Section D below. Paragraphs 117, 118, 122 and 152), and Trusteeship and other non-self-governing territories agreements (paragraphs 124, 125, 127, 128, 130, 132, 141-147 below).

See further section (j) for provisions relating to religious institutions and sacred places.

(f) Equality before the law. Civil and political rights.

29. Most of the treaties and other instruments concluded after World War I contain general prohibitions against discrimination between nationals of different races, languages or religions as regards equality before the law, the enjoyment of civil and political rights, particularly as regards admission to public employments, functions or honours, or the exercise of professions and industries, and free use at all times of languages other than the official language of the country concerned.

30. Thus Article 66 of the Peace Treaty of St. Germain-en-Laye with Austria stipulates as follows:

"All Austrian nationals shall be equal before the law, and shall enjoy the same civil and political rights without distinction as to race, language or religion.

"Differences of religion, creed or confession shall not prejudice any Austrian national in matters relating to the enjoyment of civil or political rights, as for instance admission to public employments, functions and honours, or the exercise of professions and industries."

A third paragraph of this Article deals with the right of use of any language (see section (f) below).

31. Similar provisions appear in the following Treaties or instruments:

Treaty of Neuilly (Bulgaria) Article 53

Treaty of Trianon (Hungary) Article 58

Treaty of Versailles (Poland) Article 7

Treaty of St. Germain-en-Laye (Czechoslovakia) Article 7

Treaty of St. Germain-en-Laye (Serb-Croat-Slovene State) Article 7

Treaty of Paris 1919 (Roumania) Article 8

Treaty of Sèvres 1920 (Greece) Article 7

German Polish Convention relating to Upper Silesia 1922, Articles 67 and 75

Albanian Declaration on Minorities 1921, Article 4

Lithuanian Declaration on Minorities, 1922, Article 4

Iraqi Declaration on Minorities 1932, Article 4

The Statute of the Sanjak of Alexandretta 1937, Article 26

32. The Albanian Declaration also contains an express provision that an electoral system giving due consideration to the rights of racial, religious and linguistic minorities will be applied in Albania.

33. The Declaration of Iraq (Article 4) also contains a provision that "The electoral system shall guarantee equitable representation to racial, religious and linguistic minorities in Iraq."

34. Article 32 of the Statute of the Sanjak of Alexandretta provided that "Elections to the Legislative Assembly shall be held under the system of proportional representation, the details of which shall be settled by the Fundamental Law.

"Minorities shall be equitably represented in the public services to the full extent compatible with the requirements of good administration."

35. The first two paragraphs of Article 39 of the Treaty of Lausanne 1923 contained these provisions:

"Turkish nationals belonging to non-Moslem minorities will enjoy the same civil and political rights as Moslems.

"All the inhabitants of Turkey, without distinction of religion, shall be equal before the law."

By Article 45, the rights conferred on the non-Moslem minorities of Turkey were to be similarly conferred on the Moslem minority in Greece.

36. The German-Polish Convention on Upper Silesia contains a complete Chapter II, Articles 75-83, concerning questions of civil and political rights, discriminatory legislature and administrative provisions and treatment by national authorities and officials, exercise of voting rights, admission to public employments and public establishments, right of association and creation of foundations, rights as to publication, exercise of agricultural, commercial or industrial callings, establishment, control, and management of charitable, religious, cultural or social institutions and protection of life and liberty.

37. Article 75 guaranteed to all inhabitants of both portions of the plebiscite territory without distinction as to race, language, or religion, equality before the law and enjoyment of the same civil and political rights:

No legislative or administrative provisions establishing differential treatment of nationals belonging to minorities were to be permitted, more especially as regards the supply of food, fuel, paper for printing newspapers, distribution of means of transport, assignment of premises to persons, companies, or associations, measures relating to the distribution of land, or the granting of official authorizations for transfers of property and ownership. Nationals

/belonging

belonging to minorities were to receive from authorities and officials the same treatment as other nationals, and were not to be treated with contempt by such officials, nor left unprotected against punishable acts.

38. By Article 76 nationals belonging to minorities were not to be placed at any disadvantage with regard to the exercise of their voting rights. In particular, knowledge of or familiarity with the official language was not to be a requirement for these purposes.

39. By Article 77 "All nationals shall be treated on a footing of equality as regards admission to public employments, functions, and honours, including military ranks, and to public establishments, and as regards the granting of degrees, distinctions, etc."

40. Article 78 provided that as regards the right of association or meeting and the creation of foundations nationals belonging to minorities should enjoy the same rights as other nationals.

The fact that associations devoted themselves to the interests of minorities as regards their language, culture, religion, ethnical character or social relations was not to constitute a reason for prohibiting such associations or hindering their activities.

41. As regards the issue of publications and printed matter, it was provided by Article 79 that: "Subject to the general laws in force, nationals belonging to a minority shall be entitled to issue publications and printed matter of all kinds in their own language, as well as to import them from abroad and distribute them."

42. Article 80 stipulated that: "Nationals belonging to minorities shall be treated on the same footing as other nationals as regards the exercise of agricultural, commercial or industrial callings, or of any other calling."^{1/}

(g) Protection of nationality

43. All the minorities treaties contain provisions protecting members of minority groups resident in or born in the states concerned against possible loss of nationality resulting from the territorial settlement following World War I. These Articles contain some special variations due to local circumstances.

^{1/} Post World War II agreements referring to this question include the following: Peace Treaty with Italy 1947, Articles 15 and 19, Austro-Italian Agreement of 5 September 1946, Permanent Statute of Trieste Articles 4 and 5, Peace Treaties of 1947 with Roumania (Article 3), Bulgaria (Article 2) and Finland (Article 6) and the Trusteeship Agreements. (Paragraphs 119, 124, 127, 131, 132, 136-139, 152 below).

44. The provisions which are contained in Article 64 of the Peace Treaty of St. Germain-en-Laye (Austria) are as follows: "Austria admits and declares to be Austrian nationals ipso facto and without the requirement of any formality all persons possessing at the date of the coming into force of the present Treaty rights of citizenship (pertinenza) within Austrian territory who are not nationals of any other State."

45. See Article 51 of the Treaty of Neuilly (Bulgaria)

Article 56 of the Treaty of Trianon (Hungary)

Article 3 of the Treaty of Versailles (Poland)

Articles 3 and 4 of the Treaty of St. Germain-en-Laye (Czechoslovakia)

Articles 3 and 4 of the Treaty of St. Germain-en-Laye (Serb-Croat-Slovene State)

Articles 3 and 4 of the Treaty of Paris (Roumania)

Articles 3 and 4 of the Treaty of Sèvres (Greece)

Article 3 of the Declaration of Iraq 1932.

46. Article 3 of the Declaration of Albania dealt with the position of those habitually resident in Albania in a different way; but recognized that Albanian nationals in territories transferred to Greece ipso facto became Greek.

47. In Article 7 of the Treaty of Paris 1919 Roumania entered into an additional express agreement concerning the members of the Jewish minority in Roumania. "Roumania undertakes to recognize as Roumanian nationals ipso facto and without the requirement of any formality Jews inhabiting any Romanian territory, who do not possess another nationality."

48. Article 65 of the Treaty of St. Germain-en-Laye (Austria) provides as follows: "All persons born in Austrian territory who are not born nationals of another State shall ipso facto become Austrian nationals."

49. See also:

Article 52 of the Treaty of Neuilly (Bulgaria)

Article 57 of the Treaty of Trianon (Hungary)

Article 4 of the Treaty of Versailles (Poland)

Articles 4 and 6 of the Treaty of St. Germain-en-Laye (Czechoslovakia)

Articles 4 and 6 of the Treaty of St. Germain-en-Laye (Serb-Croat-Slovene State)

Articles 4 and 6 of the Treaty of Paris (Roumania)

Articles 4 and 6 of the Treaty of Sèvres (Greece)

Article 3 of the Declaration of Albania concerning minorities 2 October 1921

Article 3 of the Declaration of Lithuania, 12 May 1922.

50. The minorities treaties entered into by Bulgaria (Article 56), Czechoslovakia (Article 5), Greece (Article 5), Roumania (Article 5) and Serb-Croat-Slovene state (Article 5) contained express undertakings by the states concerned against the imposition of hindrances on the right of choice of nationality. Thus Article 5 of the Treaty of Sevres 1920 provides that "Greece undertakes to put no hindrance in the way of the exercise of the right which the persons concerned have, under the Treaties referred to in Article 3, to choose whether or not they will acquire Greek nationality."^{1/}

(h) Protection of family law or personal status

51. Most of the minorities treaties concluded after World War I which concerned the problem of relations between Moslem and non-Moslem communities contain express provisions concerning family law or personal status.

52. Thus the Treaty of Lausanne 1923, Article 42, states that: "The Turkish Government undertakes to take, as regards non-Moslem minorities, in so far as concerns their family law or personal status, measures permitting the settlement of these questions in accordance with the customs of those minorities. These measures will be elaborated by Special Commissions composed of representatives of each of the minorities concerned in equal numbers. In case of divergence the Turkish Government and the Council of the League of Nations will appoint in agreement an umpire chosen from among European lawyers."

By Article 45 similar provisions become applicable to the Moslem minority in Greece.

53. Article 10 of the Minorities Treaty of St. Germain-en-Laye entered into by the Serb-Croat-Slovene State provides that "The Serb-Croat-Slovene State agrees to grant to the Mussulmans in the matter of family law and personal status provisions suitable for regulating these matters in accordance with Mussulman usage.

"The Serb-Croat-Slovene State shall take measures to assure the nomination of a Reiss-Ul-Ulema."

^{1/} Compare the provisions concerning nationality contained in the Peace Treaty with Italy, Articles 19 and 20, the Permanent Statute of Trieste Article 6, and the Austro-Italian Agreement of 5 September 1946, paragraph 3 (e) (see paragraph 152 below).

54. By Article 14 of the Treaty of Sèvres 1920 "Greece agrees to take all necessary measures in relation to Moslems to enable questions of family law and personal status to be regulated in accordance with Moslem usage."

55. Article 2 of the Declaration on minorities made by Albania, paragraph 3 provides that "suitable provision will be made in the case of Mussulmans for regulating family law and personal status in accordance with Mussulman usage."

56. By Article 6 of the Declaration of Iraq concerning minorities 1932:

"The Iraqi Government undertakes, as regards non-Moslem minorities, in so far as concerns their family law and personal status, measures permitting the settlement of these questions in accordance with the customs and usage of the communities to which those minorities belong.

"The Iraqi Government will communicate to the Council of the League of Nations information regarding the manner in which these measures have been executed."

(1) Use of language

57. Provisions safeguarding the rights of minorities to make use of their own language in all forms of intercourse, in religious services and institutions, in social institutions, in schools and educational institutions and in the courts appear in most of the minorities treaties and instruments in the period following World War I.

(1) Use of language in general intercourse

58. Article 66 of the Peace Treaty of St. Germain-en-Laye 1919 (Austria) in its third paragraph provides as follows:

"No restriction shall be imposed on the free use by any Austrian national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind or at public meetings."

59. Similar provisions are contained in the following instruments:

Treaty of Neuilly (Bulgaria), Article 53

Treaty of Trianon (Hungary), Article 58

Treaty of Lausanne 1923 (Turkey) Article 39

Treaty of Versailles (Poland), Article 7

Treaty of St. Germain-en-Laye (Czechoslovakia) Article 7

Treaty of St. Germain-en-Laye (Serb-Croat-Slovene State) Article 7

Treaty of Paris (Roumania) Article 8

Treaty of Sèvres 1920 (Greece) Article 7

/German-Polish

German-Polish Convention on Upper Silesia 1922 - Article 67

Albanian Declaration of Minorities 1921 Article 4

Lithuanian Declaration on Minorities 1922, Article 4

Iraqi Declaration on Minorities 1932, Article 4

Statute of the Sanjak of Alexandretta 1937. Article 26.

60. Chapter V of the Part III (Protection of Minorities) of the German-Polish Convention concerning Upper Silesia contains 15 articles dealing with the question of the use of languages.

61. Article 134 stipulates that: "The Contracting Parties guarantee to the minorities the free use of their language both in their individual or economic relations and in their collective relations. No provision may limit the exercise of this freedom. The same shall apply as regards the free use of minority languages in the Press and in publications of all kinds, and at public or private meetings."

62. Five Articles deal with the official language of the administration. In verbal relations with the civil authorities, all persons were entitled to use either German or Polish (Article 135), petitions addressed to those authorities might be drawn up in either German or Polish, and the reply might be given in either language (Article 136). Official communications were to be made in the official language, with in certain cases provision for translation into the minority language (Article 137). In the various assemblies and municipal and communal councils of the territories nationals belonging to minorities might speak in their own language (Article 138). The administration of the railways and the post were to be in a special position, the language used having to follow public convenience rather than the provisions of this section of the minorities agreement (Article 139).

63. The Declaration of Iraq concerning minorities, Article 9, contains special provisions relating to the official language to be used, and the selection of officials in certain specified districts in which there was a considerable Kurdish population as follows:

"1. Iraq undertakes that in the livas of Mosul, Arbil, Kirkuk and Sulaimaniya, the official language, side by side with Arabic, shall be Kurdish in the qudhas in which the population is predominantly of Kurdish race.

/"In the qudhas

"In the qudhas of Kifri and Kirkuk, however, in a liwa of Kirkuk, where a considerable part of the population is of Turcoman race, the official language, side by side with Arabic shall be either Kurdish or Turkish.

"2 Iraq undertakes that in the said qudhas the officials shall, subject to justifiable exceptions, have a competent knowledge of Kurdish or Turkish as the case may be.

"3. Although in these qudhas the criterion for the choice of officials will be, as in the rest of Iraq, efficiency and knowledge of the language, rather than race, Iraq undertakes that the officials shall, as hitherto, be selected, so far as possible, from among Iraqis from one or other of these qudhas."

(ii) Use of language in the Courts

64. To the general provision, that no restrictions shall be imposed on the free use of any language by nationals of the states concerned in most of the minorities treaties concluded under the auspices of the League of Nations there is added a provision sanctioning the use in the courts of the language spoken by the members of a minority.

Thus Article 66, paragraph 4, of the Peace Treaty of St. Germain-en-Laye 1919 (Austria) provides that: "Notwithstanding any establishment by the Austrian Government of an official language, adequate facilities shall be given to Austrian nationals of non-German speech for the use of their language, either orally or in writing, before the Courts."

65. The following treaties grant similar rights:

Treaty of Neuilly (Bulgaria), Article 53, paragraph 4
(To Bulgarian nationals of non-Bulgarian speech)

Treaty of Trianon (Hungary) Article 58, paragraph 4
(Hungarian nationals of non-Magyar speech)

Treaty of Versailles (Poland) (Polish nationals of non-Polish
speech) (Article 12)

Treaty of St. Germain-en-Laye (Czechoslovakia) Article 7
(Czechoslovak nationals of non-Czechoslovak speech)

Treaty of St. Germain-en-Laye (Serb-Croat-Slovene State) Article 7
(Serb-Croat-Slovene nationals of other speech than the
official language)

/Treaty of Paris

Treaty of Paris (Roumania) Article 8 (Roumania nationals of non-Roumania speech)

Treaty of Sèvres 1920 (Greece) Article 7 (Greek nationals of non-Greek speech)

German Polish Convention concerning Upper Silesia 1922.
Article 67, paragraph 4. (German nationals of non-German speech in Upper Silesia, and Polish nationals of non-Polish speech in the Polish portion of Upper Silesia).

Declaration of Albania 1921. Article 4, paragraph 5.
(Albanian nationals of non-Albanian speech).

Declaration of Lithuania 1922. Article 4, paragraph 4.
(Lithuanian nationals of non-Lithuanian speech).

Declaration of Iraq 1932. Article 4, paragraph 5.

66. The Treaty of Lausanne with Turkey 1923, Article 39, limits the right given in the same form to Turkish nationals of non-Turkish speech to the oral use of their own language before the Courts.

67. The German-Polish Convention concerning Upper Silesia contains a Chapter V concerning use of languages, the first section of which is devoted to the question of the official language of the administration, the second section of which deals with language employed in legal proceedings (Articles 140-146).

68. By Article 140, in the ordinary courts of the plebiscite territory any person was entitled to use verbally or in writing either the German language or the Polish language instead of the official language. This applied also to petitions addressed to the courts, but the privilege was restricted to the parties to the proceedings and was not given to advocates or other professional representatives acting on behalf of others. That part of the proceedings which did not take place in the official language was to be translated either by a Member of the court or by an interpreter called by the court.

69. By Article 144, it was provided that the ordinary court of the plebiscite territory might decide, if it thought it necessary, and the parties, witnesses and other persons concerned understood the language sufficiently, that the Polish language should be used in the debates in a case in the German part of the territory, or German in a case in the Polish part.

(iii) Use of language in social, religious, or educational institutions

70. Practically all the treaties concluded under the auspices of the League of Nations contained the provision that members of minorities should have
/an equal

an equal right with other nationals to establish charitable, religious and social institutions, schools and other educational establishments with the right to use their own language therein. (See below paragraphs 73 - 74).

71. Most of the same group of treaties also contain Articles making provision for the teaching in the educational system of the countries concerned of the language of minorities. (See below paragraphs 89 - 92).

(j) Social and charitable institutions, religious and educational establishments

72. The same group of treaties contain also general provisions that racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other nationals of the State. This general provision is linked with a more particular provision concerning the establishment, management, and control of charitable, religious, social, and educational institutions.

73. Article 54 of the Treaty of Neuilly (Bulgaria) follows the usual form adopted in most of the treaties as follows:

"Bulgarian nationals who belong to racial, religious, or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Bulgarian nationals. In particular they shall have an equal right to establish, manage and control at their own expense charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein."

74. The provisions of the following Treaties are to the same effect:

Treaty of St. Germain-en-Laye (Austria) 1919 Article 67

Treaty of Trianon 1920 (Hungary) Article 58 (Paragraph 5)

Treaty of Lausanne 1923. Article 40 (but applying to Turkish nationals belonging to non-Moslem minorities only). By Article 45 the Moslem minority in Greece is placed in the same position.

Treaty of Versailles 1919 (Poland) Article 8

Treaty of St. Germain-en-Laye 1919 (Czechoslovakia) Article 8

Treaty of St. Germain-en-Laye (Serb-Croat-Slovene State) Article 8

Treaty of Paris 1919 (Roumania) Article 9
Treaty of Sèvres 1920 (Greece) Article 8
German-Polish Convention concerning Upper Silesia 1922.
Article 68 and Article 81
Declaration of Lithuania on minorities 1922. Article 5
Declaration of Iraq 1932, Article 5
Statute of the Sanjak of Alexandretta 1937. Article 27.

75. The Declaration of Albania 1921, Article 5, which is to the same effect, adds the stipulation that "within 6 months of the date of the present Declaration, detailed information will be presented to the Council of the League of Nations with regard to the legal status of the religious committees, churches, convents, schools, voluntary establishments and associations of racial, religious and linguistic minorities. The Albanian Government will take into consideration any advice it might receive from the League of Nations with regard to this question."

(i) Religious and charitable institutions

76. The provisions of the German-Polish Convention of 1922 concerning Upper Silesia in a chapter concerning "Religion" dealt in greater detail than other minority treaties with the position of religious institutions.

77. Included in this chapter were the following provisions: By article 86 religious confessions, parishes and Jewish communities, as well as orders and congregations were to be entitled to direct and supervise their institutions in full liberty, subject to laws concerning public order or public morals.

78. There was to be freedom of appointment of and exercise of functions by ecclesiastics and functionaries, including persons introduced from abroad (Articles 87 and 90).

79. The maintenance by religious bodies, even outside the territory of relations of a purely ecclesiastical character with a view to co-operation in regard to creed, doctrine, worship and charity, and the receipt of gifts from co-religionists abroad was to be permitted (Article 88).

80. Legal holidays allowed to members of religious confessions before the transfer of sovereignty were to continue (Article 89).

81. Religious confessions, belonging to a religious minority were to be entitled to an equitable share in any sums provided in state or municipal budgets for religious or spiritual purposes (Article 91).

/82. Article 7

82. Article 7 of the Declaration of the Government of Iraq 1932, after stipulating that full protection, facilities, and authorization be given to religious establishments, charitable works and pious foundations of minority religious communities existing in Iraq, declares that "Each of these communities shall have the right of establishing Councils in important administrative districts, competent to administer pious foundations and charitable bequests. These Councils shall be competent to deal with the collection of income derived therefrom, and the expenditure thereof in accordance with the wishes of the donor or with the custom in use among the community. These communities shall also undertake the supervision of the property of orphans, in accordance with law. The Councils referred to shall be under the supervision of the Government.

"The Iraqi Government will not refuse, for the formation of new religious or charitable institutions any of the necessary facilities which may be guaranteed to existing institutions of that nature."

83. The question of grants from state or municipal budgets for religious or charitable purposes was also provided for in most of the groups of treaties which followed World War I in the provisions set out in paragraphs 89 - 92 below.^{1/}

(11) Sacred places

84. Several minorities treaties entered into by States having a considerable Moslem population contain provisions relating to the protection of buildings used for religious purposes and of cemeteries.

85. Thus Article 42, paragraph 3 of the Treaty of Lausanne 1923 states: "The Turkish Government undertakes to grant full protection to the churches, synagogues, cemeteries and other religious establishments of the above-mentioned minorities. All facilities and authorizations will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities now existing in Turkey, and the Turkish Government will not refuse, for the formation of new religious and charitable institutions, any of the

^{1/} Amongst agreements subsequent to World War II, see also the provisions of the Austro-Italian Agreement 5 September 1946, paragraph 1 (paragraph 152 below), and the Permanent Statute of Trieste, Article 7.

cessary facilities which are granted to other private institutions of that nature."

By Article 45 a similar obligation falls on the Government of Greece as regards its Moslem minority.

6. By Article 7 of the Declaration on Minorities made by the Government of Iraq in 1932 it is laid down that full protection, facilities and authorization shall be accorded to the churches, synagogues, cemeteries and other religious establishments, charitable works and pious foundations of minority religious communities existing in Iraq.

87. Article 10, paragraph 3, of the Treaty of St. Germain-en-Laye (Serb-Croat-Slovene State) states "The Serb-Croat-Slovene State undertakes to ensure protection to the mosques, cemeteries and other Mussulman religious establishments. Full recognition and facilities shall be assured to Mussulman pious foundations (Wakfs) and religious and charitable establishments now existing, and the Serb-Croat-Slovene Government shall not refuse any of the necessary facilities for the creation of new religious and charitable establishments guaranteed to other private establishments of this nature."

88. A similar undertaking was given by Greece in Article 14, paragraph 2 of the Treaty of Sevres 1920.

(iii) Education and public grants for educational, religious, or charitable purposes

89. Most of the treaties contain an Article relating to the teaching in the educational system of the country of the languages of minorities, and concerning public grants of funds for educational, religious, or charitable purposes.

90. The usual form for such stipulations was that contained in Article 68 of the Peace Treaty of St. Germain-en-Laye, 1919, with Austria as follows:

"Austria will provide in the public educational system in towns and districts in which a considerable proportion of Austrian nationals of other than German speech are resident adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such Austrian nationals through the medium of their own language. This provision shall not prevent the Austrian Government from making the teaching of the German language obligatory in the said schools.

"In towns and districts where there is a considerable proportion of Austrian nationals belonging to racial, religious or linguistic minorities,

/these minorities

these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious or charitable purposes."

91. A provision of this nature also appears in the following treaties:

Treaty of Neuilly (Bulgaria), Article 55

Treaty of Trianon (Hungary), Article 59

Treaty of Lausanne (Turkey), Article 41, in which, however, the right is provided for only in the cases of non-Moslem minorities. By application of Article 45 of the Treaty of Lausanne, a similar obligation arises as regards the Moslem minority in Greece.

Treaty of Versailles (Poland), Article 9. This Article however provides that "The provisions of this Article shall apply to Polish citizens of German speech only in that part of Poland which was German territory on 1 August 1914."

Treaty of St. Germain-en-Laye (Czechoslovakia) Article 9

Treaty of St. Germain-en-Laye (Czech-Slovene State) Article 9, under which however, the obligation applied only to territory transferred to Serbia and to the Kingdom of the Serbs, Croats and Slovenes since 1 January 1913.

Treaty of Paris (Roumania) Article 10

Treaty of Sèvres, 1920 (Greece), Article 9, applying only to the territories transferred to Greece since 1 January 1913.

German-Polish Convention concerning Upper Silesia, 1922. Article 69.

Declaration of Albania, 2 October 1921, Article 6.

Declaration of Lithuania, 1922. Article 6.

Declaration of Iraq, 1932. Article 8.

92. In the Declaration made by Lithuania, Article 7, as well as The Treaty of Versailles with Poland, Article 10, and the German-Polish Convention concerning Upper Silesia, Article 70, there is an additional article in similar terms concerning educational facilities for the Jewish communities. Article 7 of the Declaration by Lithuania is as follows: "Educational Committees appointed locally by the Jewish communities of Lithuania will, subject to the general control of the State, provide for the distribution of the proportional share of public funds allocated to Jewish schools in accordance with Article 6, and for the organization and management of these schools.

"The provisions of Article 6 concerning the use of languages in schools shall apply to these schools."

/93. In the Treaty

93. In the Treaty of Paris with Roumania, Article 11 grants further privileges in this field to certain communities as follows: "Roumania agrees to accord to the communities of the Saxons and Czecklers in Transylvania local autonomy in regard to scholastic and religious matters, subject to the control of the Roumanian State."

94. Chapter IV of Part III (Articles 97-133) of the German-Polish Convention concerning Upper Silesia is devoted to the subject of education.^{1/}

95. Nationals belonging to minorities might establish, manage, supervise and maintain at their own expense private schools or private educational establishments and give private teaching, subject to proper provision being made for the safety of the children, and the qualifications of the teachers (Article 98).

96. The official language might only be imposed as part of the curriculum in private schools taking the place of state schools of the same category, and not imposed as the language of instruction in the private schools of linguistic minorities or in private teaching (Article 99).

97. Nationals belonging to the German or Polish minorities domiciled in Upper Silesia were not to be forbidden to attend private schools (Article 101).

98. With regard to public elementary education the needs of the minorities were to be supplied by:

- (a) Minority schools - elementary schools employing the minority language as the language of instruction
- (b) Minority classes - elementary classes employing the minority language as the language of instruction established in schools employing the official language
- (c) Minority courses, including teaching of the minority language and religious teaching in the minority language (Article 105)

99. Minority schools were to be established in school districts where application was made on behalf of at least 40 children of a linguistic or religious minority; though in special classes minority classes might take the place of minority schools (Article 106).

100. Application on behalf of 18 children of a linguistic minority was to procure the establishment of minority language classes, and similar application

^{1/} The texts of these detailed provisions appear in League of Nations Document C.L.110, 1927.I. Annex pp. 74-82.

on behalf of 12 children of a religious minority could establish minority religious courses (Article 107).

101. Other articles dealt with the maintenance, financial and general administration, including appointment and training of teachers, and the closing of minority schools in cases where the number of pupils had become insufficient (Articles 108-114).

102. With regard to secondary and higher education, principles were laid down in Articles 117-130, the Governments of the two Contracting Parties undertaking to use all the influence at their disposal to secure the adoption by the competent bodies. (Article 116).

103. As in the case of elementary education, needs of minorities were to be met by minority schools, minority classes and minority courses - 300 pupils being the required minimum to secure the establishment of a minority higher school, 30-20 to secure minority classes, and 25 to 18 to obtain minority language and religious courses respectively. (Articles 117-118).

104. Other Articles contained administrative and financial provisions concerning minority secondary and higher educational institutions.

105. The Contracting Parties undertook not to authorize the use in any school of books or pictorial teaching material likely to offend the national or religious sentiments of a minority and to take necessary measures to ensure that, in the lessons given at school, the national and intellectual qualities of either party were not improperly depreciated in the eyes of the pupils (Article 133).

(k) Liberty of the person. Freedom of movement and emigration.

106. In a few only of this group of treaties, linked to the provisions on nationality, express mention is made of the right to emigrate of persons belonging to racial minorities.

107. Article 56, paragraph 2 of the Treaty of Neuilly (Bulgaria) states that: "Bulgaria undertakes to recognize such provisions as the Principal Allied and Associated Powers may consider opportune with respect to the reciprocal and voluntary emigration of persons belonging to racial minorities."

108. A Convention between Greece and Bulgaria respecting Reciprocal Emigration between Greece and Bulgaria was signed on the same day as the Peace Treaty at Neuilly (League of Nations Document C.L.110. 1927.I. Annex p. 102, and League of Nations Treaty Series, Vol. I, No. 1).

109. The Treaty of Lausanne 1923, in Article 38, paragraph 3 provides that:
"Non-Moslem minorities will enjoy full freedom of movement and of emigration,
subject to the measures applied, on the whole or on part of the territory,
to all Turkish Nationals, and which may be taken by the Turkish Government
for national defence or for the maintenance of public order."

C. LEAGUE OF NATIONS MANDATES

110. League of Nations Mandates contained a number of provisions which protected minorities. The provisions dealing with freedom of conscience and religious worship and teaching and those dealing with questions of economic and commercial equality, which are similar to the provisions in Trusteeship Agreements, are referred to in the paragraphs dealing with those agreements (paragraphs 138-149).

111. Both the Mandate for Syria and Lebanon, and the Mandate for Palestine referred expressly to the rights of various communities as regards the judicial system and the question of personal status.

112. Article 6 of the Mandate for Syria and the Lebanon was as follows:

"The Mandatory shall establish in Syria and the Lebanon a judicial system which shall assure to natives as well as to foreigners a complete guarantee of their rights.

"Respect for the personal status of the various peoples and for their religious interests shall be fully guaranteed. In particular, the control and administration of Wakfs shall be exercised in complete accordance with religious law and the dispositions of the founders."

113. The following were the terms of Article 9 of the Mandate for Palestine:

"The Mandatory shall be responsible for seeing that the judicial system established in Palestine shall assure to foreigners, as well as to natives, a complete guarantee of their rights.

"Respect for the personal status of the various peoples and communities and for their religious interests shall be fully guaranteed. In particular, the control and administration of Wakfs shall be exercised in accordance with religious law and the dispositions of the founders."

D. TREATIES AND

D. TREATIES AND INTERNATIONAL INSTRUMENTS
SUBSEQUENT TO WORLD WAR II.

114. Certain provisions for the protection of minorities and the prevention of discrimination have been included in the Peace Treaties concluding World War II, as well as in the Trusteeship Agreements drawn up under the auspices of the United Nations. Provisions were also contained in a few special instruments, such as the proposed Statute for the City of Jerusalem drafted by United Nations organs during the course of the work of the Organization.

(a) General guarantees concerning human rights and discrimination

115. Most of these arrangements refer to the maintenance of "human rights and fundamental freedoms" in accordance with the provisions of the Charter of the United Nations.

116. The Peace Treaties with Roumania, Bulgaria, Hungary and Finland following World War II contain provisions in almost identical terms concerning enjoyment of human rights and fundamental freedoms.

Article 6 of the Treaty of Peace with Finland is as follows: "Finland shall take all measures necessary to secure to all persons under Finnish jurisdiction, without distinction as to race, sex, language, or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting."

117. To a similar effect are: Peace Treaty with Hungary, 1947, Article 2, paragraph 1; Peace Treaty with Bulgaria, Article 2, paragraph 1; Peace Treaty with Romania, Article 3, paragraph 1. Peace Treaty with Italy, Article 15. Article 19, paragraph 4 contains a provision in almost the same terms as regards Territory transferred by Italy to another State.

118. The Peace Treaties with Hungary (Article 2, paragraph 2) and Roumania (Article 3, paragraph 2) contain a further undertaking with regard to discrimination in identical terms. Article 3, paragraph 2 of the Treaty with Roumania is as follows: "Roumania further undertakes that the laws in force in Roumania shall not, either in their content or their application, discriminate or entail any discrimination between persons of Romanian nationality on the ground of their race, sex, language, or religion, whether in reference to their persons, property, business, professional or financial interests, status, political or civil rights or any other matter."

/119. The

119. The Peace Treaties with Bulgaria, Hungary and Roumania and Finland contain articles providing for the completion of measures already taken to set free those imprisoned on account of their sympathies with the United Nations or of their racial origin. The States concerned undertook to repeal and never to re-enact discriminatory legislation contrary to the purposes of this Article. (Roumania (Art.4), Bulgaria (Art.3), Hungary (Art.3), Finland (Art.7)). The Treaty with Italy also contains an article (Article 16) prohibiting molestation of former sympathisers with the Allied and Associated Powers.

120. The Peace Treaties with Italy (Art.17), Roumania (Art.5), Bulgaria (Art.4), Hungary (Art.4), and Finland (Art.8) all contain articles providing for the permanent suppression of Fascist or similar organizations which aim at a denial to the peoples of their democratic rights.

121. Article 4 of the Permanent Statute of the Free Territory of Trieste refers to human rights and fundamental freedoms in a provision similar to those of the Peace Treaties as follows: "The Constitution of the Free Territory shall ensure to all persons under the jurisdiction of the Free Territory, without distinction as to ethnic origin, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of religious worship, language, speech and publication, education, assembly and association."^{1/}

122. The provision which was proposed by the United Nations Conciliation Commission for Palestine in September, 1949 in Article 23 of its draft Instrument for establishing a Permanent International Regime for the Jerusalem Area was as follows: "The responsible authorities of the two zones of Jerusalem shall ensure, in their respective zones, the observance of human rights and fundamental freedoms, in particular freedom of worship and freedom of education, as set forth in the Universal Declaration of Human Rights approved by the General Assembly on 10 December 1948 'as a common standard of achievement for all peoples and all nations'. Should the United Nations Commissioner consider that the responsible authorities of either of the two zones are failing to comply with these obligations, he shall refer the matter to the International Tribunal for decision, or, if necessary, bring the matter before an appropriate organ of the United Nations."

^{1/} Other provisions of this instrument relating to the question of discrimination or protection of minorities are referred to in paragraphs 153 and 154.

123. The Draft Statute for the City of Jerusalem which was drawn up by the Trusteeship Council in 1950 in accordance with Resolution 303 (IV) of the General Assembly of the United Nations contains a detailed series of provisions concerning "Human Rights and fundamental freedoms" which reflect a number of the articles of the Declaration of Human Rights. The provisions of Article 9 refer directly to the question of discrimination. It is declared that "All persons are entitled to all the rights and freedoms set forth in this Statute, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

124. In paragraph 2, it is stipulated as follows: "All persons shall enjoy freedom of conscience and shall, subject only to the requirements of public order, public morals and public health, enjoy all other human rights and fundamental freedoms, including freedom of religion and worship, language, education, speech and press, assembly and association, petition (including petition to the Trusteeship Council), migration and movement.

Subject to the same requirements no measure shall be taken to obstruct or interfere with the activities of religious or charitable bodies of all faiths."

125. Paragraph 4 states as follows: "All persons are equal before the law and are entitled without any discrimination to equal protection of the law. All persons are entitled to equal protection against any discrimination in violation of this Statute and against any incitement to such discrimination."

126. Human rights expressly referred to in other paragraphs as applicable to all persons include the right to life, liberty and security of the person, freedom from arbitrary arrest, guarantees for fair trials, freedom from arbitrary interference with privacy, family, home, correspondence, or reputation; freedom of thought, conscience and religion, freedom of opinion and expression and right to social security.

127. It is stated that "the legislation of the City shall neither place nor recognize any restriction upon the free use by any person of any language in private intercourse, in religious matters, in commerce, in the press or publications of any kind or at public meetings"; (Paragraph 12) and that "the family law and personal status of all persons and communities and their religious interests, including endowments, shall be respected." (Paragraph 13)

128. Article 9 of the draft Statute further stipulated that:

"15. Without prejudice to the provisions of the preceding paragraphs, the Universal Declaration of Human Rights shall be accepted as a standard of achievement for the City.

"16. At such time as the proposed United Nations Covenant of Human Rights shall come into force the provisions of that Covenant shall enter into force also in the City in accordance with the provisions of Article 37 of the Statute."

129. The Instruments drawn up in connexion with the disposal of the former Italian colonies express the same ideas. Thus in Article 8 of the Declaration of Constitutional Principles annexed to the draft Trusteeship Agreement for the Territory of Somaliland, it is stated as follows: "The Administering Authority, in accordance with the principles laid down in its own Constitution and legislation, shall guarantee to all inhabitants of the territory human rights and fundamental freedoms and full equality before the law, without distinction as to race, sex, language, political opinion or religion."

130. Article 9 of the same instrument provides guarantees to all inhabitants of the territory of full civil rights and of such political rights as are consistent with the development both of the inhabitants themselves, and of a democratic representative system.

In particular these are to be guarantees for:

1. The preservation of the personal and successional status of the inhabitants;
2. The inviolability of personal liberty;
3. The inviolability of domicile;
4. The inviolability of freedom and secrecy of communication and correspondence;
5. The rights of property.

131. Paragraph 7 of the Federal Act for the Government of Eritrea adopted by the General Assembly of the United Nations in Resolution 390 (V) contains a similar general guarantee concerning enjoyment of human rights, expressly mentioning the following rights:

- (a) The right to equality before the law. No discrimination is to be made against foreign enterprises in existence in Eritrea engaged in industrial, commercial, agricultural, artisan, education or charitable activities, nor against banking institutions and insurance companies operating in Eritrea;
- (b) The right to life, liberty and security of person;

/(c) The right

- (c) The right to own and dispose of property. No one shall be deprived of property, including contractual rights, without due process of law and without payment of just and effective compensation;
- (d) The right to freedom of opinion and expression and the right to adopt and practise any creed or religion;
- (e) The right to education;
- (f) The right to freedom of peaceful assembly and association;
- (g) The right to inviolability of correspondence and domicile, subject to the requirements of the law;
- (h) The right to exercise any profession subject to the requirements of the law;
- (i) No one shall be subject to arrest or detention without an order of a competent authority, except in case of flagrant and serious violation of the law in force. No one shall be deported except in accordance with the law;
- (j) The right to a fair and equitable trial, the right of petition to the Emperor and the right of appeal to the Emperor for commutation of death sentences;
- (k) Retroactivity of penal law shall be excluded.

132. The Article stipulates that:

The respect for the rights and freedoms of others and the requirements of public order and the general welfare alone will justify any limitations to the above rights.

133. Trusteeship Agreements concluded under the auspices of the United Nations set out the undertaking by the Administering Authority to administer the territory in accordance with the basic objectives of the Trusteeship system as expressed in Article 76 of the Charter of the United Nations, including "C. to encourage respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion." (See the Trusteeship Agreements for Western Samoa (Article 4), for Tanganyika (Article 3), Ruanda Urundi (Article 3), British Cameroons (Article 3), French Cameroons (Article 2), British Togoland (Article 3), French Togoland (Article 2), New Guinea (Article 3), and Nauru (Article 3)).

(b) Particular guarantees relating to Trust Territories

134. Many of the Trusteeship Agreements contain two types of provision against discrimination which appeared also in the terms of many of the former League of Nations Mandates; concerning equal treatment for all for social, economic, industrial and commercial matters; and freedom of conscience and of religious worship and teaching.

/135. Thus,

135. Thus, by Article 15 of the Trusteeship Agreement for Somaliland, "the Administering Authority shall take all necessary steps to ensure equal treatment in social, economic, industrial and commercial matters for all States Members of the United Nations and their nationals and for its own nationals."

136. With this may be compared the Trusteeship Agreements for Tanganyika (Article 9), Ruanda Urundi (Article 9), British Cameroons (Article 9), French Cameroons (Article 8), British Togoland (Article 9) and French Togoland (Article 8).

137. The corresponding articles in League of Nations Mandates are Tanganyika, and Ruanda Urundi (Article 7), British and French Cameroons, and British and French Togoland (Article 6).

138. The provisions of the Mandate for Syria and the Lebanon, Article 11, and the Mandate for Palestine, Article 18, and Article 11 of the Treaty between the United Kingdom and Iraq, 10 October 1922, are similar in their purpose.

139. Article 34 of the Statute for Jerusalem proposed by the Trusteeship Council also deals with this field. (Official Records, General Assembly, 5th Session, Supplement No. 9) Article 30 of the same Statute provided expressly for freedom of entry into, temporary residence in, and exit from the City for foreign pilgrims and visitors without distinction as to nationality or faith.

140. Trusteeship agreements entered into under the auspices of the United Nations contain articles providing for freedom of conscience, of religious worship and of freedom of religious teaching for all religious communities.

141. Thus, Article 9 of the Trusteeship Agreement for Western Samoa provides: "The Administering Authority shall ensure, in the Territory, freedom of conscience and the free exercise of all forms of worship and shall allow missionaries, nationals of any State Member of the United Nations to enter into, travel and reside in the territory for the purpose of prosecuting their calling. The provisions of this article shall not, however, affect the right and duty of the Administering Authority to exercise such control as it may consider necessary for the maintenance of peace, order and good government."

142. See, to a similar effect, the Agreement for Tanganyika (Article 13), British Cameroons (Article 13), French Cameroons (Article 10), British Togoland (Article 13), French Togoland (Article 10), Ruanda Urundi (Article 13).

Article 8 of the Trusteeship Agreement for New Guinea, and Article 5 (d) of

/the Agreement

The Agreement for Nauru guarantee, subject to the requirements of public order, in more concise and general terms "freedom of conscience and worship, and freedom of religious teaching." Article 19 of the draft Trusteeship Agreement for Somaliland deals with the matter in slightly broader terms.

143. Provisions of a similar nature concerning freedom of conscience and religious teaching are found in the following League of Nations Mandates: British and French Camerons and British and French Togoland (Article 7), Ruanda Urundi and Tanganyika (Article 8), South West Africa, Pacific Islands north and south of the Equator, Samoa, and Nauru (Article 5).

144. The Treaty between the United Kingdom and Iraq, 1922, Article 12 contained the following stipulation: "No measure shall be taken in Iraq to obstruct or interfere with missionary enterprise or to discriminate against any missionary on the ground of his religious belief or nationality, provided that such enterprise is not prejudicial to public order and good government."

145. The provisions of the Mandate for Syria and the Lebanon with regard to religious communities were somewhat more detailed.

Articles 8, 9 and 10 provided as follows:

Article 8: "The Mandatory shall ensure to all complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality. No discrimination of any kind shall be made between the inhabitants of Syria and the Lebanon on the ground of differences in race, religion or language.

"The Mandatory shall encourage public instruction, which shall be given through the medium of the native languages in use in the territory of Syria and the Lebanon.

"The right of each community to maintain its own schools for the instruction and education of its own members in its own language, while conforming to such educational requirements of a general nature as the administration may impose, shall not be denied or impaired."

Article 9: "The Mandatory shall refrain from all interference in the administration of the councils of management (Conseils de fabrique) or in the management of religious communities and sacred shrines belonging to the various religions, the immunity of which has been expressly guaranteed."

/Article 10:

Article 10: "The supervision exercised by the Mandatory over the religious missions in Syria and the Lebanon shall be limited to the maintenance of public order and good government; the activities of these religious missions shall in no way be restricted, nor shall their members be subjected to any restrictive measures on the ground of nationality, provided that their activities are confined to the domain of religion.

"The religious missions may also concern themselves with education and belief, subject to the general right of regulation and control by the Mandatory or of the local government, in regard to education, public instruction and charitable relief."

146. Articles 15 and 16 of the Mandate for Palestine similarly contain general guarantees for complete freedom of conscience, and the free exercise of all forms of worship subject only to the maintenance of public order and morals. There was to be no discrimination of any kind between the inhabitants on grounds of race, religion, or language. No person was to be excluded from Palestine on the sole ground of his religious belief. The right of each community to maintain its own schools for the education of its own members in its own language was not to be denied or impaired, subject to such supervision as might be required to maintain public order and good government. No measures were to be taken to obstruct the activities of religious or charitable bodies of all faiths in Palestine, or to discriminate against any member of them on the grounds of his religion or nationality.

147. The Proposed Statute for Jerusalem drawn up by the Trusteeship Council in 1950 dealt, in its Article 32, with the question of education much more fully than did the terms of the Mandate, including the following provisions:

"1. All persons have a right to education... It shall be directed to the promotion of understanding, tolerance and friendship among all national, racial and religious groups."

"2.

"3. The City shall maintain or subsidize and supervise a system of primary and secondary education on an equitable basis for all communities in their respective languages and in accordance with their respective cultural traditions; provided that such communities have a sufficient number of pupils to justify a separate school."

"4. Subject to the provisions of paragraph 1 of this Article and

/to such

to such educational requirements of a general nature as the legislation of the City may impose, any community or any specific group within any community may maintain its own institutions for the education of its own members in its own language according to its own cultural traditions."

"5. Subject to the provisions of paragraph 1 of this Article and to the legislation of the City, private or foreign educational establishments may be maintained in the City: provided that existing rights shall continue unimpaired."

"6.

"7. At the request of a parent or legal guardian, any child may be exempted from religious instruction in any school supported in whole or in part by public funds."

143. The Mandate for Palestine contained in Articles 13 and 14 provisions concerning the Holy Places, which have formed the subject of a number of special arrangements, including Article 33 and other provisions of the Statute for the City of Jerusalem proposed by the Trusteeship Council in 1950. (Official Records General Assembly, 5th Session, Supplement No. 9). These arrangements involve factors not present in general questions of protection of minorities, and their details are not therefore collected in the present Memorandum.

(c) Particular provisions relevant to discrimination and minorities contained in instruments other than Trusteeship Agreements

149. Various other instruments drawn up since World War II contain provisions dealing with aspects of the field of discrimination and minorities.

Thus Article 6 of the economic and financial provisions relating to Libya adopted by the General Assembly in Resolution 388 (X) contained a general provision to protect Italian nationals against discrimination. "The property, rights and interests of Italian nationals, including Italian juridical persons, in Libya, shall, provided they have been lawfully acquired, be respected. They shall not be treated less favourably than the property, rights and interests of other foreign nationals, including foreign juridical persons..."

150. Paragraphs 1 to 7 of Resolution 390 (V) of the General Assembly contain provisions declared to constitute a Federal Act for Eritrea which was to be ratified by the Government of Ethiopia. Paragraph 6 lays down rules concerning acquisition of nationality of the Federation.

Paragraph 7 deals with guarantees for the preservation of human rights and fundamental freedoms (see above paragraph 132).

Machinery was provided for the inclusion of these guarantees in the Eritrean Constitution (paragraphs 8, 12, 15).

151. Certain provisions concerning minorities were agreed upon by the Austrian and Italian Governments on 5 September 1946, and taken note of by the Allied and Associated Powers in Article 10 of the Peace Treaty with Italy as follows:

"1. German-speaking inhabitants of the Bolzano Province and of the neighbouring bilingual townships of the Trento Province will be assured complete equality of rights with the Italian-speaking inhabitants, within the framework of special provisions to safeguard the ethnical character and the cultural and economic development of the German-speaking element.

"In accordance with legislation already enacted or awaiting enactment the said German-speaking citizens will be granted in particular:

- (a) elementary and secondary teaching in the mother-tongue;
- (b) purification of the German and Italian languages in public offices and official documents, as well as in bilingual topographic naming;
- (c) the right to re-establish German family names which were italianized in recent years;
- (d) equality of rights as regards the entering upon public offices, with a view to reaching a more appropriate proportion of employment between the two ethnical groups.

"2. The populations of the above-mentioned zones will be granted the exercise of autonomous legislative and executive regional power. The frame within which the said provisions of autonomy will apply, will be drafted in consultation also with local representative German-speaking elements.

"3. The Italian Government, with the aim of establishing good neighbourhood relations between Austria and Italy, pledges itself, in consultation with the Austrian Government and within one year from the signing of the present Treaty:

- "(a) to revise in a spirit of equity and broadmindedness the question of the options for citizenship resulting from the 1939 Hitler-Mussolini agreements;

/"(b) to find

- "(b) to find an agreement for the mutual recognition of the validity of certain degrees and University diplomas;
- "(c) to draw up a convention for the free passengers and goods transit between northern and eastern Tyrol both by rail and, to the greatest possible extent, by road;
- "(d) to reach special agreements aimed at facilitating enlarged frontier traffic and local exchanges of certain quantities of characteristic products and goods between Austria and Italy."

152. The Permanent Statute of the Free Territory of Trieste in addition to the general provisions of Article 4 concerning the enjoyment of human rights mentioned above, contains in Article 6 provisions concerning nationality. By Article 7 of the same instrument both Italian and Slovene are recognized as official languages, with the possibility that Croat might in certain circumstances be also recognized as an official language.

153. The Economic and Financial Provisions relating to the Free Territory of Trieste contain a number of stipulations for the protection of the property, rights and interests of both Italian nationals and former Italian nationals resident in the Free Territory. These provisions, though operating for the protection of rights of minorities, form part of arrangements consequent upon a transfer of territory rather than belong to the field of special measures for protection of minority interests, and details are therefore not given in this Memorandum. The arrangements made concerning Trieste appear as Annexes to the text of the Treaty of Peace with Italy, February 1947.

154. The terms of the Agreement concerning minorities concluded on 8 April 1950 between the Governments of India and Pakistan have been circulated to the Sub-Commission as document E/CN.4/Sub.2/130.
