

COMMISSION ON HUMAN RIGHTS

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

SECOND SESSION

Monsieur Spanien and Miss Monroe: Draft resolution on  
procedure for furthering the protection of minorities

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

1. Considers that the adoption by the Assembly, on 10 December 1948, by 48 votes to 0, of the Universal Declaration of Human Rights imposes on all states members the obligation to fulfill the principles proclaimed therein.

Part I. Studies

2. Recognizes that any arrangement for the effective protection of minorities must be based upon the following considerations:

A. The protection of minorities implies a right to treatment that is different from that accorded to the rest of the population. It represents, therefore, a deviation from the general rule of equality of treatment. It seeks to establish equivalent as opposed to identical treatment for all persons. The differential treatment which it establishes is always exceptional. It is sometimes, also, only temporary.

B. The right of a group to protection is optional. It is granted only upon demand. It is therefore voluntary.

C. The right is complementary to the group rights which are already included in the Declaration. Any attempt to duplicate in new words the group rights and liberties already proclaimed in these instruments must be avoided. It serves merely to weaken the degree of protection already afforded.

D. Rights must be counter-balanced by duties. The granting of minority rights imposes duties upon three parties:

JUN 23 1949 (1) upon the state concerned, to observe its obligations under the Declaration;

- (2) upon the minority, to observe civic and national loyalty to the state of which its members are nationals;
- (3) upon outside states, to refrain from encouraging dissident minority activities (e.g. those fomented among the Sudeten Germans by Hitler).

3. Considers that the rights accorded to all individuals by the Declaration applies equally to rights claimed by minorities and majorities. Strict application of the Declaration by all states therefore satisfies most minority demands. The group rights already accorded without distinction include the right to worship, to work, to associate and to express oneself freely. The adoption of the Covenant now drafted will serve to strengthen these rights. Of all the groups rights to differential treatment that may be claimed by minorities, the only one not already covered by existing provisions is the right of a minority to use its language in the courts and in education.

4. Recognizing that it has encountered the same difficulties as the General Assembly in framing provisions that are of world-wide application; Recognizing also that these same difficulties arise even in the limited field of education;

Considers that if the measures to be taken are to be just and effective they must be drafted in the light of a classification of the different types of minorities and of the states to which they belong. A first draft of these two important classifications is appended to the present resolution and is open to amendment by the members of the Sub-Commission and by the Secretariat.

#### Part II. Recommendations

5. Considers that, in view of paragraph 3 above, the Sub-Commission must adopt a supplementary provision protecting the right to the use of language. The said provision must fulfill the following conditions:

A. In Education

- (i) It must prescribe teaching of, not in, the language in question.
- (ii) It must not exclude all possibility of learning in the language of the majority.
- (iii) It must take into account the principle that the preservation and use of a language ought to contribute to the greater freedom of the individual, the advancement of knowledge and culture and the dignity of the human personality.
- (iv) Any definition of the public or private authorities who should defray the cost of this education at the request  
/of the minority

of the minority should take into account the nature of the state concerned (its laicity, degree of tolerance, subsidies to private schools etc.)

B. In the Courts

The right to a fair hearing in the courts, already granted, is in itself a sufficient guarantee that all persons shall enjoy the assistance of an interpreter whenever the proceedings take place in a language that is not understood by the person appearing in court.

6. Considers that the present situation in regard to action upon communications is extremely unsatisfactory. It is indispensable that the adoption, on 10 December 1948 of the Declaration of Human Rights should yield consequences, and that the governments display their intention to this effect through the voice of their representatives in the Economic and Social Council. The right of petitioning the United Nations is open to all human beings. That right implies a duty to reply on the part of the competent authorities. Resolution 75 must be amended in order to put an end to an intolerable situation. The Sub-Commission welcomes and supports the initiative taken by the Secretariat to preserve the good name of the United Nations in document E/CN.4/165.

7. Decides therefore, to establish as soon as possible a text setting forth the procedure for the admission of groups to the status of a minority and laying down the expedients open to such minorities.

Part III. Conclusion

The Sub-Commission attaches particular importance to the fact that its members serve in their personal capacity. It is anxious to avoid any hasty device adopted in the interests of publicity, or foredoomed to ineffectuality. The task assigned to it calls for careful preparation. It intends to strive to bring to a useful conclusion the studies and recommendations outlined above. In order to expedite this common task, it invites its members to forward to the Secretariat for circulation before its next session, their ideas, suggestions and proposals at least on the subject of paragraphs 4 and 7 above.

ANNEX TO THE DRAFT RESOLUTION ON PROCEDURE FOR  
FURTHERING THE PROTECTION OF MINORITIES

The two classifications set out below to which reference is made in paragraph 4 of the draft resolution are drafted subject to amendment by members of the Sub-Commission or by the Secretariat:

A. The classes of minority to be considered include:

- (i) stable crystallized national groups such as those covered by the minority treaties of 1919 to 1922; they are usually, though not invariably frontier peoples;
- (ii) groups in process of assimilation in lands to which they have emigrated or where they have taken refuge (e.g. second generation immigrants);
- (iii) groups in process of rapid social evolution, notably among backward peoples;
- (iv) groups which though they have preserved their special characteristics are content with the tolerant treatment that they receive and have lost all desire for a special status;
- (v) groups only part of whose members wish for protection of their special characteristics, some members desiring assimilation and others differential treatment;
- (vi) splinter groups (e.g. speakers of dialects).

B. The states within which such groups may reside likewise possess differing characteristics. They include the following types:

- (i) States containing national minorities of classic type.  
(The Sub-Commission has already recommended that the opinion of the International Court be sought in order to clarify the present situation and obligations of states of this type).
- (ii) Unified or federated States composed of an admixture of immigrant communities.
- (iii) States containing an admixture of religious communities.
- (iv) Federal States containing minorities geographically situated in compact groups.
- (v) States which have secured or are on the way to securing autonomy and in which a minority once dominant may require protection.

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