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CONSIDERATION, IN CONFORMITY WITH THE PURPOSES AND PRINCIPLES OF THE CHARTER OF THE UNITED NATIONS, OF CONTEMPORARY TRENDS IN AND NEW CHALLENGES TO THE FULL REALIZATION OF ALL HUMAN RIGHTS, PARTICULARLY THOSE OF PERSONS BELONGING TO VULNERABLE GROUPS

Ethno-nationalism and minority protection: the need for institutional reforms, a report by Mr. Asbjorn Eide to the First International Colloquium on Human Rights in La Laguna (Tenerife) 1-4 November 1992

1. The First International Colloquium on Human Rights in La Laguna the main theme of which was the reform of international institutions for the protection of human rights was held in La Laguna (Tenerife) from 1 to 4 November 1992. The Colloquium was organized, in cooperation with the Spanish National Commission for UNESCO, by the University of La Laguna on the occasion of the celebration of the bicentenary of its foundation, under the auspices of UNESCO and in the presence of its General Director Mr. Federico Mayor Zaragoza.

2. In the attached report, Mr. Eide argues that one of the most serious contemporary threats both to peace and to human rights is the ideology of ethno-nationalism, and that the best way to counter this threat is an appropriate and effective minority or group protection within an overall quest for national confidence building and cooperation in existing, sovereign States in full respect for their territorial integrity.

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ETHNO-NATIONALISM AND MINORITY PROTECTION:

THE NEED FOR INSTITUTIONAL REFORMS

by Asbjorn Eide

1. The threat of ethno-nationalism

The importance of minority issues in contemporary international relations is evidenced by the great flurry of present activities to deal with them. Such efforts at the international level take place, i.a., within the Conference on Security and Co-operation in Europe (1), in the Council of Europe (2), and the United Nations (3). Many states are presently involved in a thorough review of their constitutional and statutory provisions concerning minorities. Scholarly activity in this field is also extensive.

In this paper it will be argued that one of the most serious contemporary threats both to peace and to human rights is the ideology of ethno-nationalism, and that the best way to counter this threat is an appropriate and effective minority or group protection within an overall quest for national confidence building and co-operation in existing, sovereign states in full respect for their territorial integrity.

The word "nation" when use in phrases like "international law" is practically synonymous with the word "state". In a similar vein, the word "nation" often refers to the aggregate of people who constitute the citizens of a state, those who "belong" to the state.

A different usage of the word is also widespread, however. The Kurds are said to be a nation without a state. The Tamil Tigers seek to justify their fight for secession by the same slogan: That they are a nation without a state.

Groups of the "nation" in this sense who live outside the country in which they are "titular nationals" are sometimes referred to as "national minorities".

Ethno-nationalism and citizen nationalism.

The semantic difficulties arise in large part from the complicated and controversial ideology of nationalism. One version of nationalist ideology is the following: Nations are to be defined in ethnic terms, referring to a common past history, tradition, preferably also common language; secondly, nations should have their own states, so the society composing a state should as far as possible be congruent with the nation as defined in ethnic terms; thirdly, the loyalty of members of nations to that nation should override all other loyalties.

This notion of nationalism will here be referred to as ethno-nationalism, in distinction to citizen nationalism. The latter holds that everybody living within the state should be part of the nation, irrespective of their ethnic background.

Nationalism can be malignant, like cancer, or benign, measured by its impact on human rights and peace. An ideology is malignant when likely to cause substantial violations of human malignant when likely to cause substantial violations of human rights. The most malignant manifestation of ethno-nationalism in recent history was nazism as practiced from 1993 to 1945. Malignant ideologies of nationalism are at work also in our

time. Ethno-nationalism is more likely than citizen nationalism to be malignant, but a closer inspection is required in order to assess its nature in each and every case.

Restrictive citizenship legislation is frequently an aspect of ethno-nationalism. At worst, permanent residents who have lived in a territory prior to its recent independence are disenfranchised when they do not belong to the dominant ethnic group.

Citizen nationalism encourages policies of fusion, assimilation, or integration. Its main thrust is towards equality and non-discrimination, but its built-in tendency against pluralism can lead to a denial of separate identity by minority groups.

None of the two versions of nationalism exist in pure forms. It should also be pointed out that some minority groups are ethno-nationalist just as much, or even more, as the majority within the state they live. If their ideology is ethno-nationalistic, they are likely to pursue claims for self-determination and in the process pursue ethnic cleansing directed against members of other ethnic groups living inside their region. Sometimes they seek border revision to join a neighboring state dominated by the same ethnic group.

2. Current minority problems

At least four categories of problems can be observed at the present time:

(a) Problems of discrimination, where some groups are subjected to social discrimination, exploitation, or intolerance and hatred. The

situation of the Gypsies in some countries of Central and Eastern Europe can illustrate this.

b) Denial of pluralism: Restrictions on the preservation of religious, linguistic and cultural identity. These are the typical situations to which the International Covenant on Civil and Political Rights Article 27 apply; so does the (Draft) Declaration on the Rights of Persons belonging to national or ethnic, religious and linguistic minorities adopted by the. A wide range of possibilities for constructive arrangements exist in different parts of the world.

(c) In some cases the numerical minority has obtained for itself a dominant position and maintained it through non-democratic means or through effective marginalization of the members of the majority groups.

(d) Efforts, by groups living compactly together, to obtain some degree of autonomy, where there is resistance to these efforts by the central government. These conflicts can become very severe when the ethnic group concerned tries to push out or chase away members of other ethnic groups in the same region.

(e) Secessionist movements, seeking to break a part of the territory away from the state, to become an independent entity or to be incorporated into another state (the "mother country").

The conflicts under (d) and (e) are the most dangerous ones, often leading to extensive violations. External encouragement and even support to drives for autonomy or secessionist activities, even to the extent of open intervention, is deeply disturbing to the international legal order.

The international legal order is based on the existence of sovereign and independent states, of which there are at present more than 180. There are between five and six thousand ethnic groups spread around the world, sometimes straddling two or more sovereign states. Obviously not all of these groups can have their own state. The respect for the principle of territorial integrity is the basic faeture of the contemporary international legal order, with the accompanying principles of non-aggression and non-intervention.

Unfortunately, in some cases of open and violent conflict, neither the minority or the majority respect humanitarian law. Minorities sometimes generate a self-fulfilling prophecy of extensive violations of human rights by the other side. They might hope that the outside community overlooks the initial provocations and the subsequent violations carried out by the members of the minority. Impartiality is essential, however, if the international community is to respond constructively to these situations.

3. Minority definitions: Language as facilitator of solutions, or as weapons for conflict?

The existence of different religious, linguistic or ethnic groups in a state does not always give rise to minority problems. Indeed, the very notion of "minority" implies that majority policies pose some risks to the group concerned. In situations such as that of Switzerland and other consociational democracies the minority issue hardly ever arises, irrespective of the great differences in numerical strength of the different linguistic groups. To introduce the word might cause a temptation to solve conflicts which do no exist. The word "group" might in some cases be a better term because it does not carry any

assumption that the majority is a threat to the minority. This has no significance for the distinction between "individual" rights versus collective rights, an issue which will not be examined here.

Minority issues arise when social, political or other conditions generate tension between the different groups, and when some of these claim to find themselves at a disadvantage. In democracies, minorities are more likely than majorities to find themselves at a disadvantage. In totalitarian or authoritarian regimes, and even more in racist regimes, it may happen that the majority is more disadvantaged.

The ethno-nationalist ideology in itself, whether pursued by the majority or the minority, is in itself conflict provoking.

Efforts by the Sub-Commission on Prevention of Discrimination and Protection of Minorities to clarify its mandate by defining minorities was first made in January 1950 and has since gone through many stages. At an early stage, the Sub-Commission recognized that any definition of minorities that is made with a view to their protection by the United Nations must take into account complex situations as:

> (a) the undesirability of imposing unwanted distinctions upon individuals belonging to a group who, while possessing the distinctive characteristics described above, do not wish to be treated differently from the rest of the population.
>
> (b) the undesirability of interfering with the spontaneous developments which take place when impacts such as that of a new environment or that of modern means of communication, produce a state of rapid racial, social, cultural or linguistic evolution.

(c) the risk of taking measures that might lend themselves to misuse amongst a minority whose members spontaneous desire for a tranquil life as contented citizens of a state might be disturbed by

parties interesting in fomenting amongst them a disloyalty to that state.

(d) the undesirability of affording protection to practices which are inconsistent with human rights as proclaimed in the Universal Declaration of Human Rights.

(e) the difficulties raised by claims to the status of a minority by groups so small that special treatment would, for instance, place a disproportionate burden upon the resources of the state." (E/CN.4/358, 1950, p.38 para.3)

These considerations are worth keeping in mind also at the present stage.

In his study on rights of persons belonging to ethnic, religious and linguistic minorities, Francesco Capotorti, in paragraph 568, gives the following definition:

"A group numerically smaller to the rest of the population of the state, in a non-dominant position, whose members, being nationals of the state, possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and so, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language."

The most recent effort at defining minorities was entrusted to Mr. Justice Jules Deschénes, discussed by the Sub-Commission in 1985. The definition presented in his working paper, E/CN.4/Sub.2/1985/31, reads:

> "A group of citizens of a state, constituting a numerical minority and in a non-dominant position in that state, endowed with ethnic, religious or linguistic characteristics which differs from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive, and whose aim it is to achieve equality with the majority in fact and in law."

Efforts at definition made in other fora have also largely been unsuccessful. An unofficial draft convention has been prepared by the European Commission for Democracy through Law. The definition, contained in draft article 2, reads as follows:

> "1. For the purposes of this Convention, the term "minority" shall mean a group which is smaller in number than the rest of the population of a state, whose members, who are nationals of that state, have ethnical, religious or linguistic features different from those of the rest of the population, and are guided by the will to safeguard their culture, traditions, religion or language.
>
> 2. Any group coming within the terms of this definition shall be treated as an ethnic, religious or linguistic minority.
>
> 3. To belong to a national minority shall be a matter of individual choice and no disadvantage may arise from the exercise of such choice."

In 1991, a draft protocol to the European convention has been presented by Austria. It does not refer to "minorities" but to "ethnic groups", and define the latter as follows:

> "For the purpose of this Convention the term "ethnic group" shall mean a group of citizens within a state who.
>
> a. Are traditionally residents of the territory of the state.
>
> b. Are smaller in number than the rest of the population or a region within this state.
>
> c. Have ethnical or linguistic features different from those of the rest of the population.
>
> d. Have their own cultural identity.

The draft declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities, approved by the United Nations Commission on Human Rights in 1992 (Resolution 1992/16, 21 February 1992) does not contain any definition. It does not spell out whether the protection foreseenunder the Declaration it is limited to citizens or not; nor does it contain any formulation about limitation to dominant or non-dominant groups. Many questions are left open, understandable so.

4. Classification of (minority) groups: Three sets of división.

Rather than seeking to determine which groups to include under the concept of minorities, I shall now examine different categories of groups.

Leaving the issue of numerical strength aside, theree classifications will be made: (a) the distinction between settled groups versus recent immigrants; (b) groups living compactly together versus dispersed groups; and (c) groups classified by the features of differentiation from other groups in society.

A. Settled groupe versus recent immigrants

The distinction between settled groups and recent immigrants is mainly based on the length of time in which they have lived in the country, and on the ways in which the groups concerned has established itself in that territory.

Settled groups fall in two categories: (a) those who are accepted as citizens in the country where they reside. Being citizens (or nationals) of the country, they distinguish themselves from other members in society by some features which will subsequently be examined. (b) Groups of settled residents who in spite of being residents of long standing, have been deprived or denied citizenship.

Special attention should be given to settled groups which have become inhabitants of the territory in good faith, having been citizens of a larger entity which comprised that territory prior to the independence or the redrawing of borders of the country in which they now find themselves. These situations occur among others when federations are dissolved, and where the constituent units of the dissolved federation adopt restrictive citizenship legislation, thus temporarily or for ever disenfranchising parts of the resident population, persons who previously were lawful inhabitants with voting rights in that region. Similarly, when borders are redrawn, so that the residents even

without moving become part of a country different from the one in which they previously found themselves.

Normally such residents should be given the option automatically to become citizens of the country in which they find themselves, unless they decline to take such citizenship. This would also be best in conformity with the Universal Declaration of Human Rights Article 15: "Everyone has a right to a nationality".

By "recent immigrants" must be understood those who have entered another country in full awareness that it was not their own country of citizenship. They arrive as aliens, knowing that they are alien, and therefore recognize that at least temporarily they will not be citizens of the country of arrival. It must be assumed that they, like others, have a right to practise their own religion, use their own language in relations between themselves, and to maintain and preserve their identity, in the sense that the state and its citizens must respect their freedom to do so.

B. Groups living compactly together Vs. dispersed groups

This distinction is important, since groups living compactly together can have some of their problems solved by some degree of local self-government. Some of them have in the past enjoyed a degree of autonomy; if this is taken away they sometimes react very strongly.

Some groups live completely dispersed. Solutions consisting in local government is of less usefulness for them. Their concern with the maintenance of culture can be met through the establishment and support of cultural associations, and the right to use their language and practice their religion. Arrangements for local self-government on a

territorial basis is of use for them only in regions of the country where their numer is substantial.

Many ethnic groups consist of different segments with different levels of integration in the state where they live. Some of their members live compactly together and even form a majority in the region where they live, whereas other members of the same ethnic group are dispersed. This mixed pattern of settlement is often overlooked in discussions about the rights of minorities. Groups living compactly together in a given region try to present themselves as a "people", not taking into account that many members of other ethnic groups. In fact the percentage of persons of the ethnic group who live dispersed may be considerably greater than the number of those member of the same ethnic group who live compactly together.

In these cases there might well be a conflict of interest between the different sections of the same ethnic group. Those living compactly together may desire local self-government, control over land resources, and similar measures, including the control over their own schools, or at the extreme they might opt for self-determination. Those living dispersed, on the other hand, are primarily concerned. In-fighting, including assassinations (extra-legal executions) between the hardliners and those in favour of integration is therefore part of the hard reality of minority and self-determination issues. The distinction between groups living compactly together and those who are dispersed, is therefore not as simple a matter as it might look at first sight.

C. Features of differentiation

Groups of relevance to the present study are those which are identified by one of the four following categories: religion, language, ethnic or cultural identity, or national groups.

The identification under one or the other of the four headings is, in itself, often very controversial. Which is related to the controversies over the policies to pursue towards or by the groups concerned. A government may define a minority as "religious" and thereby indicating that its religious freedom will be protected, while most members of the group in question may consider itself a "national" rather than a "religious" group, indicating that it would like to pursue some nationalistic policies. The categorization of a group as a "minority" or as a "people" is sometimes even more controversial because of its wide-ranging consequences for the policies projected by the definition chosen.

These factors make definitions problematic. They have to be seen in the light of policies pursued by governments (majorities) and by minority groups.

5. Policies pursued by states (majorities) and by minorities.

Situations involving minorities cause tension when there is a discrepancy between the policies pursued by the state (or the majority) and by numerically or politically weaker groups. Consequently, a review is required of the nature of such policies. It bears repeating that it is not necessarily the government which is most at fault; in some cases the policies of the minority is unacceptable from the perspective of international order and human rights.

On underlying policies in plural societies.

Constitutional and legal devices relating to minorities can and should be examined from the perspective of their conformity with modern human rights. For purposes of analysis, the existing policies could be evaluated on the basis of their location on two dimensions:

Homogenization-------Separation
Domination----------Exclusion----Equalization

Neither homogenization nor separation is inherently bad or good seen from a human rights perspective, as will be seen below: It depends essentially on whether it is done for purposes or with the effect of domination, exclusion, or equalization, and more importantly on whether or not it is based on informed consent by all parties concerned.

Homogenization (making everybody alike, i.e. conforming to one common culture, one language, one set of mores and behaviour) can be pursued in two different ways: Through assimilation and through fusion.

"Assimilation" is understood as a process by which homogeneity is obtained on the basis of a dominant culture, to which other groups are expected to conform by shedding their own cultural characteristics.

"Fusion" is, in theory, different from assimilation. It consists in a process where a combination of two or more cultures, on a basis of equality, produces a new and different culture. It corresponds to the more pupular notion of "melting pot" and occurs mainly in immigrant settler societies, where the immigrants come from different nationalities and ethnic groups to a new future. The indigenous peoples who lived there before, however, are rarely participants on an equal level in the process of fusion.

"Integration" is understood as a process by which different elements combine into a unity while each group retains its identity to the extent that it does not threaten the over-arching unity. Key indicators in practice of the difference between assimilation and integration is found in language and in educational policies.

Ideally the purpose of integration is to guarantee the same rights and opportunity to all citizens whatever their group membership, while allowing them to maintain differences which do not threaten the existence of an all-embracing national society. Integration is possible only when ethnic or cultural cleavages are subordinated to common, social values and loyalties.

At the opposite end we find the policies of separation, which can be territorial or non-territorial.

Territorial separation typically fall in two categories, one based on dominance and the other being egalitarian.

The extreme version of dominant separation is that of segregation, the prime example being apartheid, which aims at keeping the ethnic groups territorially separate, unmixed, and ranked in a hierachical position. This policy is used for purposes of extreme exploitation, by depriving the weaker groups of access to resources except on conditions set by the dominant group. Segregation is a flagrant violation of contemporary human rights.

Territorial separation can also be on an egalitarian basis, where different groups voluntarily choose to live territorially separate within the same sovereign state, the territorial separation being made in order better to preserve their own particular lifestyles and

cultures, while in some respects they form partners of a larger entity on a basis of equality and non-discrimination.

It is on an egalitarian basis provided (a) that it is indeed the voluntary choice of each group involved, (b) that there is no hierarchical ranking between the groups, (c) that they share common resources on a basis of equality and (d) wherever they interact, there are no privileges for members of one group and exclusion or restriction for members of other groups.

Returning now to the way in which the minority groups are classified, and the way in which the different groups would prefer to be classified, the following observations could be made:

Religious groups, strictly speaking, distinguish themselves from the majority in regard to their religion which is different from that of the dominant religion in the country where they live. They should normally be concerned mainly with their freedom to profess and practice their religion. It is doubtful that they want to define their "identity" solely on the basis of the religion they hold. Identity should not be based solely on religion they hold. Identity should not be based solely on religious belief, since the persons holding such beliefs normally want in all other respects to be part of the wider society.

Linguistic groups are sometimes distinguished only by their use of a particular language. If so, their sole concern is the right to use and to develop their language as a means of communication. Language, however, is such a crucial aspect of community identification that it will most often also function as an ethnic identity.

Most groups, then, are composite in the sense that they combine a specific language and often a specific religion with a common cultural tradition. All of this taken together constitute their ethnic identity. These groups have comprehensive claims for the preservation of their identity. Not only do they want to practice their religion, of they have one different from that of the majority, and to use and develop their language, but they are also concerned with the maintenance of their traditions, of the recognition of and education in their history, and to preserve their particular lifestyle. Sometimes this may be held to require exclusive control over the natural resources in the region in which they live.

The concept of **national** groups or **national minorities** is ambiguous. No common definition exists. The CSCE has limited its concern to "national minorities" but without clarifying its meaning. It is the reference to "national" which creates problems, because of the highly emotional variations in the semantic uses of the word "national", as discussed above.

In the sentence "being national of the state in which they live", which has been used in some tentative definitions of minorities, the word "national" simply refers to citizenship. A "national minority" could then be understood to include all minorities (religious, cultural and ethnic) who are nationals of the country in which they live. Another understanding is that a "national minority" is part of a wider ethno-nation which has formed a state elsewhere, or has formed a constituent unit of a federation based on the nationality principle.

The former case would, e.g, be Hungarians in Rumania, since the Hungarian ethno-nation has its own state, Hungary. The latter would be the case prior to 1991 e.g with Armenians in Union republic within

the USSR-or the Servians in Bosnia-republic within the Yugoslav federation.

If "national minority" is used in this way to refer to parts of an ethno-nation who are in a minority situation within a state dominated by another ethno-nation, the use of this concept is extremely dangerous and destabilizing. It is an encouragement to secession, border revision or cantonization, with all its implications, of ethnic cleansing and extensive violence. The ideology of ethno-nation has been outlined above. Since its basic tenet is that the state and the national unit should be congruent, it might at its extreme require that the political duty of the members of the ethno-nation shall override all other public obligations.

The draft minority declaration adopted by the United Nations Human Rights Commission and probably within weeks also adopted by the General Assembly, is entitled "Declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities". Since the declaration is not limited to national minorities, it should be understood to include also non-citizens who form part of the ethnic, religious and linguistic minorities residing in the country concerned. It has to be recognized, however, that some of the drafters who insisted in the inclusion of "national minorities" did not intend it to mean all minorities composed of the nationals of the country concerned, but that it was to have the other and more disturbing meaning.

6. International roles in conflict prevention and resolution: Procedures and institutions

Aprropriate responses to ethnic conflicts require action by different institutions and through the use of different procedures. Increasingly,

the is felt for a better coordination at the global level between the inter-governmental human rights organs and agencies, the international development agencies, and the political organs of the United Nations. The Security Council has over the last few years had increasingly to deal with issues stemming from human rights violations and ethnic conflicts. This evolution is likely to continue. It would be desirable to explore how these various agencies can best harmonize their efforts. One aspect would be to examine the appropriate stages of involvement for different institutions with their different procedures. The following is only intended as some initial indications; much more detailed exploration is required.

Aspects of legal approaches to nationalism and minority issues.

Standard-setting in this field has been intimately connected with the evolution of international organization, through the League of Nations and later the United Nations, and through regional organizations. The end of World War I was, in many ways, the victory of nationalism over empires in and around Europe, but most colonial empires remained intact. The League of Nations, while appearing to be a global organization, was mainly a European-Latin American organization with few Asian and African members.

The right of nations to self-determination became a major tenet of the post-World War I legal order, strongly endorsed by Woodrow Wilson. The nationalist ideology, claiming that states should be made congruent with nations in the ethnic sense, received wide support, but was mainly applied to the detriment of the losing side in the war. Even then, the principe was impossible to be fully implemented. Whichever ways state borders were drawn, groups of different nationalities were bound to be found inside many of the new or the restructured states. Minorities

became much more exposed than before. The system of minority protection was established mainly in order to sweeten the pill.

Unfortunately, the nationalist ideology turned out to be deadly dangerous. It facilitated the emergence of numerous authoritarian regimes across Europe and ended with the devastating World War II, initiated by the high priest of nationalism, Adolf Hitler.

The second stage set in at the end of World War II. The lessons of malignant nationalism had been learned by 1945; the new international order was to be based on pluralism and tolerance. The foundation was the International Bill of Human Rights, whose basic principle was the equality of every human being irrespective of national or ethnic origin-and also irrespective of race, religion, and gender. Prominent in the new legal order was a stronger endorsement of the principle of territorial integrity. The existence of different ethnic groups and nationalities within a state shoul not be a reason for dividing it up, provided pluralism and equal respect was provided for members of all groups.

The right to self-determination now changed to be the right of peoples, not nations. Its main application in the post-war period has been the decolonization process.

The right to self-determination has been understood to belong to the collectivity of persons, composed as it was of several ethnic or national group, living within the territory concerned-the colony, or the occupied territory. Self-determination was no longer intended to have an ethnic basis. Self-determination was the right of that collectivity of people to govern itself within the boundaries drawn by the colonial system. The principle of "uti possidetis"-first used by the Latin

American states in the 19th century-was taken over by the African states to consolidate their boundaries and thereby avoiding, in most cases, what would have constituted disastrous ethnic conflicts.

In this new world, the problem of minorities was not expected to be of great significance. If states behaved according to the principle of pluralism, the different groups would have no particular difficulty.

Ethno-nationalism was not dead, however, neither in the collective mind of the majority, nor among the ethnic minorities. Many of the former sought to use the state as a vehicle for their nationalist self-assertion, for instance by elevating their language to be the only official language; the minorities, in resistance, increasingly sought to have a reserved domain for themselves, to opt out altogether, or to have borders redrawing in order to join other states where their own ethnic group dominated.

Partly in order to avoid such tragic conflicts, half-hearted efforts have been made to develop mechanisms for the protection of minorities. This has been considered to be essential partly in order to ensure their right to existence and to preserve their identity, but also in order to reduce the pressure for dissolution of states. There was little enthusiasm, however, and much did not happen apart from the reassertion of the freedom of all individuals to preserve their religious, cultural and linguistic identity, alone or in co-operation with others (the International Covenant on Civil and Political Rights article 27).

Nationalist and ethnic tensions increased, however, in the 1970s and 1980s. By 1989-90 it was becoming clear that nationalism was reasserting itself with a vengeance, and the minority problem had to be addressed

more seriously. Particularly serious issues have arisen in the context of the dissolution of the USSR and Yugoslav federations. That dissolution resulted from the internal political disintegration within those two federations. The constituent units - the Union republics - became independent states with the borders they had as members of the federation. Both the CSCE and the United Nations have applied the principle of "Uti possidetis" insisting that the states are recognized with the borders as they were in the federation. Ethno-nationalist movements within several states in the former Soviet Union and in the former Yugoslavia have sought to have the borders changed-or to obtain an ethnic cantonization within the new states. Peaceful efforts for territorial autonomy could have been acceptable if it was coupled with strong safeguards for the minority ethnic groups in the autonomous region, but the terrible means applied by the groups seeking cantonization, including ethnic cleansing, has made them forfeit any just claim for autonomy during the present generation. When the dispossed groups have been allowed to return under international safeguards and physical presence, and a generation of confidence-building has been succesfully completed, it might be possible sometime in the next century to return to the question of autonomy.

The main focus should therefore still be with the protection of minority and group rights. As pointed out in the introduction some progress has been made in recent years.

Standard-setting is also proceeding concerning the rights of indigenous peoples, small and very vulnerable groups who inhabited regions subsequently settled or occupied by more assertive and modernizing groups. The indigenous peoples have generally been marginalized, pushed into the hinterlands. Many of them, however, have shown great resilience, and have been able to further develop their own culture,

influenced, but not absorbed, by the more technology-intensive culture around them. In recent years, their representatives have become active at the international level, developing their own international network of organizations and participating with great energy in a working group within the United Nations on the drafting of rights of indigenous peoples.

The Conference on Security and Co-operation in Europe has also, to an increasing extent, sought to elaborate standards relating to minorities. Within the CSCE, however, this does not take the form of precise legal standards but rather as broad political principles. The CSCE Final Act refers both to the rights of minorities and to territorial integrity; the relation between these two has become a major issue in recent years; the dominant position, however, is that minority rights have to be solved in preservation of territorial integrity of the inherited state.

The significance of standard-setting for the resolution of conflicts.

Collective standard-setting is, an effort through dialogue (or multi-logue?) to find common solutions to common problems. It can work in so far as the problems are nearly common and if underlying values are broadly shared. Its primary function is preventive. Through the application of standards adopted at the international level, governments can defend its policies both against militants inside majority groups and among minorities. The existence of standars reduces the range of legitimate options, consequently reducing the degree of uncertainty about outcomes. This can be reinforced by the desire to try to be seen from the outside as conforming to civilized standards. Secondly, adopted international standards for the treatment by governments of their own subjects, including minorities, affects the policies of external actores. They have, through reference to the internationally adopted

standards, a framework by which to assess the performance of states and governments in their internal affairs, and can take this into account in the formation of their bilateral relationship with that state, in development policies and other matters.

The process of standard-setting can under some circunstances in itself contribute to conflict resolution. The most interesting case is that of the UN working group on indigenous peoples rights mentioned above-in this process, indigenous people's representatives have joined with governments from countries in which indigenous peoples live in a dialogue about the best ways of handling situations involving minorities. Their debate about standards to be applied to indigenous peoples have already affected significant legal changes in several countries.

However, the dialogue becomes effective standard-setting only when there is a basis of real, not only token agreement. In the real world there is often considerable ambiguity; governments might wish to be able to apply generally accepted standards but may find themselves in situations where this would be politically impossible or too costly for them. The standars could remain empty rhetoric unless international mechanisms existed to promote or ensure their application, also in times of stress.

Duty to co-operate and duty to prevent-through application of standards.

Al states members of the United Nations have, in accordance with Article 56 of the Charter, undertaken an obligation to co-operate with the organization in promoting universal respect for and observance of human rights and fundamental freedoms for all without distinction as to

race, sex, language, or religion (U.N. Charter article 55 c) This obligation to co-operate in the prevention of human rights violation extends to all standards adopted by the United Nations in the field of human rights. International human rights bodies assist states in preventing conflicts, through the monitoring of implementation of human rights and through the handling of individual complaints.

International supervision of national implementation

Under the International Convenant on Civil and Political Rights Article 2, all states parties to the Covenant undertakes to respect and ensure to all individuals within its territory all the rights contained in the Covenant, without distinction of any kind. Under article 40 of the same Covenant, the states are obliged to submit reports on the steps they have taken to implement those obligations, and those reports are being examined by an elected international committee which carries out a dialogue with representatives of the state concerned on the degree to which the latter has complied with its obligations. This formalized dialogue between governments and United Nations expert bodies is applied also to a wide range of other conventions.

Complaint procedures for or on behalf of individuals.

A second, essentially preventive function is the availability of individual complaint procedures. Individuals who claim that they have been subjected to discrimination or other violations of human rights have the possibility under strictly regulated rules to address the committees of the international human rights bodies in order to obtain a finding whether or not the alleged violation has taken place. This procedure is open only in regard to states who have accepted such procedures, and many states still fall outside this arrangement.

Such procedures are functioning reasonably well in regard to governments who are commiteed to the implementation of human rights, and who do not face internal obstacles blocking such implementation.

7. Conflict resolution at aggravated stages of conflict.

The human rights approach: Responding to gross and systematic violations.

Religious conflicts, fundamentalism, ethno-nationalism, and profound social cleavages generate situations where governments are not willing or not able to ensure compliance of human rights. The United Nations human rights bodies have tried to respond also to these kinds of situations by developing mechanism for responding to cross and systematic violations. Non-governmental organizations play a crucial role in activating these processes. Increasingly, however, it is recognized that their traditional approaches are unsatisfactory when faced with ethnic conflicts.

The dominant attitude taken by human rights activists has been that the government is always at fault when violations occur.

The reasoning is simple: The government is obliged to abstain from violations, furthermore, the government has a duty to prevent violations. When violations nevertheless occur, the government is held to be at fault.

The precariousness of this argument becomes obvious in cases of serious group conflicts. The duty to prevent violations includes also an obligation to protect from group violences but what can the government do when the group violence is out of control? It should certainly stay

within the limits of human rights at all time. If has to declare a state of emergency, it should nevertheless at all times respect theminimum humanitarian standards which are applicable at all stages. However, what about the other side-the violent opposing group? While the government should take all means compatible with human rights to control such groups, it is essential that the international community also does what it can to prevent or halt violence by opposition groups.

Firstly, there should be strict abstention from international encouragement of groups which engage in violence.
Unfortunately and all to often, such encouragement does take place, ranging from verbal endorsement of secessionist claims, to direct intervention.

More efforts should be made to find ways to restrain the violence of opposing group. This refers not only to groups such as the Red Khmer or the Sendero Luminoso. Which have no moral standing at all; but there are also armed secessionist groups which evoke strong sympathy in some circles: Sikhs, Tamil Tigers, the Armenian community in the Azarbeidjani enclave of Nagorno-Karabakh, the South Ossetians in Georgia, the Abkazians etc. Their choice of violent means, often connecte with ethnic cleansing within the region they claim as theirs, block efforts at confidence-building and a human rights-based solution.

Legal approach applicable to group conflict resolution?

Is the legal approach, based on human rights and minority standars, functional in regard to serious group conflicts, particularly when ethno-nationalists clash over territory? Parties in such conflicts have two basically different legal understandings of the situations. Governments consider it their absolute duty to maintain law, order and

territorial integrity; secessionist groups are convinced of their moral and legal right to self-determination.

When the conflict has escalated to such levels, the groups have formed and polarization has occurred, one can no longer deal with individuals or associations, but with hardened and militant roups, who are in confrontation with each other and or with the government. Outside governments are sometimes also involved, providing support to the minorities, to the extent of being accused of illegal intervention.

Inter-state dispute settlement.

The external involvement might be dealt with by inter-state dispute settlement. That, however, would not solve the underlying conflict. Disoutes over the legality of governmental policies towards its opponents can in some cases be made the subject of inter-state dispute settlements. The International Court of Justice, howver, established for the handling of disputes between states, have not been made much use of for these purposes; it is revealing that no state was prepared even to make use of their right under the Genocide convention to bring Democratic Kampuchea to court for the massive human rights violations perpetrated by the Pol Pot regime (Kooijmans, 1991). Even where interstate dispute settlements are provisided for in human rights instruments (CCPR, CERD, European Convention, it has not been much used in issues dealing with minorities.

Intermediate procedures between law and diplomacy.

Less legal, more political and diplomatic procedures are more likely to be useful. The procedures under the so-called "Human dimension" of the CSCE contains considerable prospects for further development.

They emerged out of the Vienna follow-up meeting, which started on November 4th 1986, and ended on January 15, 1989-thus spanning the crucial years of the introduction of glasnost and the end of the Cold War. They have since been further developed through several subsequent meetings and consist of four stages: (i) Exchange. States are obliged to respond to request for exchange of information on issues under the human dimension of the CSCE; (ii) Bilateral consultations will be held at the request of one state to clarify the information and the facts; (iii) Notification: Other members can be notified, by any CSCE member, on questions emerging from these contacts which the notifying state finds important; (iv) Discussions at the annual meeting on Human Dimension can be initiated by any state.

Procedures for fact-finding have been since been further developed under the CSCE. They are partly intended to help in confidence-building, and partly to help assess whether new members conform to CSCE principles.

Such fact-finding can be of help at early stages in the conflict. Later, when the conflicts have hardened, it seems that much more comprehensive processes are required which involves a wide range of activities.

8. United Nations and the Agenda for Peace.

At the United Nations, the debate about new approaches is now being pursued with great vigour. A survey of possible and desirable activities has been outlined in the recent report by the United Nations Secretary-General, in his "An Agenda for Peace", presented to the Security Council on June 17, 1992 (A/47/277, S/24111).

Preventive diplomacy is defined, in his report, as "action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur". Traditionally such diplomacy has ben addressed primarily to inter-state disputes. The awareness is growing, however, of the need to ensure that internal disputes do not escalate into violent conflicts. Human rights efforts have to be complemented by diplomatic action to encourage parties to find peaceful solutions. If international human rights bodies were sufficiently effective, they would guide the local parties to manage their disputes, in compliance with accepted human rights standards, through democratic channels. When this does not succeed, however, and conflicts do escalate into violence, it can affect other states in a multitude of ways-refugee flows, danger of intervention by the "mother country", transboundary terrorism, disruption of trade, communications and development activities. Preventive diplomacy is indeed required in order to limit the spread of such conflicts should they occur. Consequently there should be a closer link between the activities of the human rights bodies and those of the political organs of the United Nations, including the Secretary-General.

Peace-making

Is defined, by the Secretary-General, as "action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nations". Chapter VI refers to negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means as chosen by the parties themselves. The Charter had disputes between states in mind. Disputes arising between groups inside a state have been subject to international concern only in so far as they bring up human rights problems, which they often do-but

unfortunately only some aspects of the problems can be addressed by the international human rights bodies. They can ascertain whether the government, in its response to the conflict, has respected human rights norms. International human rights bodies have not, so far, seriously investigated the underlying causes in order to help the parties solve their conflict. There is a certain development in that direction, (advisory services. The special repporteur and their recommendations).

At the political level of the United Nations, it has increasingly been recongized that hostile disputes inside countries can have serious international implications; consequently there has been a growing tendency to deal with such disputes. Recent examples include the actions in El Salvador and Cambodia.

Peace-Keeping is defined by the Secretary-General as the deployment of a United Nations presence in the field, hitherto involving United Nations military and/or police personnel and frequently civilians as well. The "consent" to which he refers, is the consent of the states involved in a dispute. For a number of reasons, peacekeeping forces have not been intended for substantial military action; consequently, de facto consent is required also from organized groups which otherwise might start armed action against the United Nations peace-keeping forces.

In ethnic conflicts, as often seen in the recent past, local groups may not be willing to stop armed action when United Nations peacekeeping forces are deployed. This is why the Secretary-General now proposes the possibility to make use of peace enforcement units. This is a new and important (but difficult) departure: It is not a question of large-scale United Nations forces to resist aggression by states, but to enforce agreements which are intended as steps in the solution of

conflicts. In particular, cease-fire agreements which are agreed to but very quickly violated, often by militants who wanted to upset the peace process and who succeed because of the response by the other side to the provocation. Had the United Nations the necessary presence to enforce the agreement, such provocations could be prevented, and should they happen the United Nations could take the necessary steps against the provocateur, thus avoiding the escalation which otherwise almost always result from it. As pointed out by the Secretary-General, however, the task of peace enforcement can on occasion exceed the mission of peacekeeping forces and the expectations of peace-keeping force contributors. Peace enforcement units may have to be more heavily armed than normal peacekeeping forces, be prepared for armed action and trained for it. In ethnic conflicts such presence may be essential, but they can still only operate where the parties are prepared to take steps towards peace and can agree on some interim measures towards that road.

Regarding Bosnia-Hersegovina, a large degree of consensus exists in the United Nations on who to blame and on basic standards that should be implemented. The Servs have had practically no external supporters. Yet they have managed by relentless use of arms to prevent the United Nations from recreating peace. It has become very clear that the UN must play a more forceful role, operating with the consent of the host government but able to use force against recalcitrant and lawless groups.

Peace-building

The Secretary-General introduces the concept of peace-building as comprehensive post-conflict measures to identify and support structures which will tend to consolidate peace and advance a sense of confidence

and well-being among people. Among measures mentioned he refers to advisory and training support for security personnel, monitoring elections, advancing efforts to protect human rights, reforming and strengthening governmental institutions and promoting formal and informal processes of political participation.

The major thrust is towards good governance, which in turn is intimately dependent on a proper safeguard for human rights for all, including the different ethnic and religious groups.

Peace-building can also be carried out preventively, however. When the international community consistently seeks to encourage the development and strengthening the institutions for good governance, including such arrangements for pluralism that will satisfy reasonable demands by minorities, the conflicts might not erupt in the first place. Consequently, there is a common ground between the human rights endeavours and those of peace settlement.

9. Guidelines for the handling of situations involving minorities and ethnic groups.

Below are some guidelines, derived from my present study for the Sub-Commission on Prevention of Discrimination and Protection for Minorities, on Peaceful and Constructive Ways of Handling Situations Involving Minorities.

Guideline 1: **the paramount importance of non-discrimination as well as the full participation of all individuals and groups, as contained in the two international Convenants on Human Rights and the Declaration on the Right to Development;**

Article 1 of the Universal Declaration is the basis:

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

Equality in the enjoyment of human rights requires abstention from and prevention of discrimination; equality in dignity requieres respect for the self-identification of the individual with her or his group.

Denial of rights to religion leads to forced assimilation. Denial of rights for an ethnic minority amounts also to forced assimilation ("ethnocide"). Denial of rights for members of a linguistic group to use their own language is also forced assimilation.

The principle of non-discrimination, if properly applied to situations involving minorities, can go a far way to prevent conflicts.

Guideline 2: **The necessity of promoting the rights and development of minorities in a manner that is consistent with the unity and stability of States, in light of the Declaration of Principles on International Law Concerning Friendly.**
Relations and Co-operation among States;

It is essential to the United Nations and the international community to recognize the importance of the stability of states, but it is equally important to promote the rights and the development of minorities within that framework. In all discussions at the international level about minority rights, the need to safeguard the stability of states has also been emphasised. A primary concern for all governments is to maintain the political independence and territorial integrity of their own state,

and outside states are required to respect its sovereignty and integrity. Contemporary international law, as reflected in the Charter of the United Nations and the Declaration on Principles of International Law Concerning Friendly Relations Between States, makes this point clear but with some modifications.

The most important is the right of peoples to self-determination with its two variations, the external and internal. The external right to self-determination consists in the possibility for a people to determine its own status-to decide whether it should possess statehood by itself or be part of another state. The exercise of this right is limited, in customary international law, to peoples under colonialism or subjected to alien subjugation, domination or exploitation. What this means is subject to controversy and will not here be examined.

More important for the purpose of this study is the right to internal self-determination. Which is the right of a people living within an independent and sovereign state freely to choose its own government, i.e. to adopt representative institutions and to periodically or by reasonable intervals to elect their representatives through a free procedure and with a freedom to choose among alternative candidates or parties. This can be organised through a unitary state system, a federal system, or a system with arrangements for autonomy (home rule) or devolution of power.

Internal self-determination is intimately liked with the notion of pluralist democracy. The key to the right to internal self-determination is partly found in the Declaration on Friendly Relations, partly in the Universal Declaration art. 25. The provision in the Declaration on Friendly Relation which is of special significance is found in the

formulation of the principle of the right to self-determination, which states:

"Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which could dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people without distinction as to race, creed or colour." The formulation in italice emphasizes the principle that the government must be representative of the whole people over which it claims to have jurisdiction, which means that the people must be able to choose its government and that everyone without discrimination is equally entitled to take part, on each occasion of election, in that choice. When it is found suitable throug peaceful negotiations to subdivide jurisdiction in regard to some aspects of authority, making it easier for ethnic groups or nationalities within the state to control their own fate in certain functional areas, this may strengthen rather than weaken the self-determination of the various sections of the people: In other cases it would have negative consequences. No general model for solutions of these issues are likely to emerge.

There are requirements both to the governments in which minorities live, and to outside states. The former should give access in the decision-making to any group existing in that country; the outside states should abstain from any action which tends to impair the integrity of any state. Thus, a reciprocal set of expectations apply both to the state in which minorities live, and to outside states. The relations can easily take a negative turn through the behaviour of any one of them.

The policies of the so-called "mother countries", i.e. the neigbouring country in which the same ethnic group has a dominant position, is crucial. The "mother country" must avoid destabilization by encouraging secessionist moves, or engaging in direct intervention. On the other hand, states in which minorities live should respect the existence and development of minority ethnic groups inside its borders. This would facilitate peaceful and confident relations to its neighbour. It may be difficult at times for outside governments to remain silent and passive when a population belonging to the same ethnic or linguistic group is subject in a neigbouring country to serious discrimination and prosecution. Confidence-building measures should in such cases be pursued in order to combine respect for the integrity and stability of both states with appropriate respect for the ethnic groups concerned.

Non-recognition of rights of minorities is also a serious challenge to democratic development by increasing inestability, since it cam lead to subversive action rather than open political activity. Governments must find the appropriate balance of peaceful and democratic accommodation between the different groups in society, avoiding both a complete rejection or denial of minority concerns, and also avoiding external intervention to destabilize the country.

Guideline 3: **The danger posed for regional, national and individual security.**

This study explores possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities, because of the potntially very serious nature of ethnic and religious conflicts, posing dangers both to regional and to national security.

National and even personal security is negatively affected by ethnic and religious conflicts, which often lead to serious dislocations, to internally displaced populations, and to international refugee flows. These phenomena are not only destabilizing, but they create severe obstacles to the realization of human rights for all.

Irrational processes of conflict dynamics in such conflicts have often been observed. In the beginning there may be nothing more than some feeling of unease about alleged discrimination. Such allegations are gradually combined with protests and political demonstrations. Rumours emerge and are easily believed. If at that stage security forces over-react it can constitute a self-fulfilling prophecy which is then exploited by the self-appointed militants among the minority, responding in kind to the action by the security forces, which in turn can lead to new and more violent responses by the latter. It should not be excluded that the violence is deliberately proveked by militants on both sides, with the purpose to agitate public opinion and to create firm and confrontational alignments, leading eventually to massacres and repriesals by both sides. Eventually it can degenerate into a guerrilla/counterguerilla process, bringing about full polarization where extralegal executions in the form of liquidation becomes part of the process, and with internal repression both on the majority and the minority side, eventually developing into a cataclysm of infantile regression.

Guideline 4: **Importance of positive (special assistance or status) measures for the effective protection.**

From a human rights perspective, three issues are important. Firstly, members of minorities should enjoy all the core human rights (civil, political, economic, social and cultural) in the same way as all others,

without discrimination. For this to happen, non-discrimination measures are essential, as discussed above. Secondly, minorities should be allowed to preserve their dignity as members of a particular community based on religion, language or culture. This may or may not requiere special measures. Thirdly, in some cases they may need protection for the material basis of their culture and lifestyles. This will undoubtedly require special measures. A brief discussion of these three aspects follows.

The concept of special assistance or status shoul therefore refer only to measures made for minorities without the provision of corresponding measures for majorities.

Guideline 5: **The role of the development process in removing economic and social obstacles to co-operation and mutual respect among all groups in society.**

For some time it was assumed that development, in the sense of technological modernization, would reduce or eliminate the traditional national and ethnic conflicts and even reduce the intensity of religious confrontations. This would result, it was often thought, from advanced education and urbanization and from reduction in economic disparities. Today, we know better. Development and so-called modernization has tended to increase rather than decrease national and ethnic identification and inter-ethnic cleavages.

The causal factors are several, but two stand out: Firstly, development often tends to increase rather than decreease economic disparities, by creating prosperity for some and deprivation for others. Secondly, groups attach different values to different kinds of development. Some emphasize environmentally safe and sustainable developments which

preserve traditonal lifestyles and thereby the possibility to preserve the established cultural basis of dignity, while others favour quick technological transformation even when environmental degradation results and lifestyles are disrupted.

More troublesome is the possibility that decisions concerning developments are made in one part of a country, often the urban or metropolitan centre, but where the consequences for the environment and lifestyles are felt in another part, among peoples who did not participate in making the decision.

Guideline 6: **The necessity of ensuring that measures adopted to protect minorities also respect the human rights of majorities.**

This point has been addressed on several occasions in the preceding pages. The general principles of equality and non-discrimination require that minorities and their members must not be given privileges which cannot be enjoyed by members of the majorities. This does not exclude that measures adopted similar measures are also adopted for majorities. As stated in the Convention on the Elimination on All Forms of Racial Discrimination Art. 2 para. 2, however, special measures shall in no cases entail as a consequence the maintenance of unequal and separate rights for different racial groups after the objectives for which they have been adopted have been achieved.

In their pursuit of equality and non-discrimination, members of minorities are not entitled, nor are their opponents, to use means and methods which constitute violations of human rights of members of majorities, or the rights of those members of the minority concerned who disagree with their leaders. Extralegal execution, abductions, maltreatment, denial of freedom of movement and denial of contacts with

members of majorities are as much violations when carried out by minorities as when they are carried out by governments. The individual members of majorities must be respected in terms of integrity and dignity, also by the minorities. In areas where minorities are dominant, they are not entitled to humiliate or terrorize members of the majority.

10 Conclusions.

Problems of ethnic conflicts and minority issues are central to the international agenda in our time. There is an increasing need for a combination of the insights gained by international standard-setting and implementation, on one hand, and conflict resolution practices, on the other.

Conflicts cannot be solved ad hoc, without the application of basic standars; all actors have to adapt to a common framework demanded by the international community. This, however, can be done only at the early stages when the parties behave rationally. When conflicts have gone beyond the rational stage to become cataclysmic, there is a need for a much more complex patient and step-by step process to make them return to rationality and adaptation to norms of civilization. Peace enforcement will often be required but is tremendously difficult; the tactics and strategy of peace enforcement as a prelude to peace building have to be learned.

Thus, it is increasingly evident that the threats posed by etho-nationalism, and the prevention or resolution of ethic conflicts, require the utilization of different procedures and institutions. Efforts to elaborate more appropriate standards must not delay the improvement and co-ordination of institutions for the prevention and

resolution of these conflicts. One part of this task is to clarify what institutions and procedures are appropriate at what stage of the conflict. Another task is to obtain consensus on the guidelines to be applied by the different institutions. The greater the consensus, the better will the international comunity be equipped not only to solve, but to prevent the escalation into violence of ethnic disputes.

NOTES:

1) The minority issues have obtained primary attention in the last years: The Final Document of the CSCE Copenhagen Conference contains extensive commitments for the protectionof minorities; the CSCE Paris Charter of November 1990 consolidates this commitment, in July 1991 a special CSCE seminar on minorities was held in Geneva, and at the Helsinki Follow-Up Conference in the Spring of 1992, the office of a High Commissioner for Minorities was established.

2) A draft European Charter for Regional and Minority Languages has been prepared by an officially compsed body, and awaits adoption; a proposal for a European convention for the protection of minorities has been prepared by an unofficial body, the European Commission for Democracy through Law, but official bodies of the Council of Europe has not yet decided whether to go forward with the proposal; a draft protocol to the European Convention and Fundamental Freedoms Securing the Protection of Ethnic Groups has been presented for discussion by Austria in the autumn of 1991.

3) After 14 years of discussion, the Human Rights Commission adopted in February 1992 a "Draft declaration on the rights of persons belonging to national or ethnic, religious or linguistic minorities" which at the time of writing (29. october 1992) is up for discussion at the General Assembly of the United Nations.