

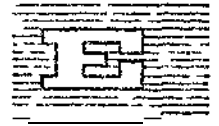
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RIGHTS OF PERSONS BELONGING TO NATIONAL, ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Comments received from Governments pursuant to Commission resolution 14 A (XXXIV)

CONTENTS

	<u>Page</u>
INTRODUCTION	2
REPLIES RECEIVED FROM GOVERNMENTS	3
Austria	3
Chile	5
Finland	6
German Democratic Republic	8
Greece	9
Madagascar	12
Norway	13
Spain	16
United Kingdom of Great Britain and Northern Ireland	17
Yugoslavia,	20

INTRODUCTION

1. In its resolution 14 A (XXXIV)- of 6 March 1978, entitled "Rights of persons belonging to national, ethnic, religious and linguistic minorities", the Commission on Human Rights inter alia requested the Secretary-General to transmit the relevant* documents of the thirtieth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and of the thirty-fourth session of the Commission on Human Rights concerning the rights of persons belonging to national, ethnic, religious and linguistic minorities to the Governments of the Member States for their comments.

2. In accordance with this resolution, the Secretary-General made by a note addressed to the Governments of States Members an, appropriate request for comments upon a number of relevant documents, including in particular the following;

- Draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities proposed by the representative of Yugoslavia at the above-mentioned session of the Commission (E/CN.4/L.1367/Rev.1)5
- Chapter XVIII on "Rights of persons belonging, to national, ethnic, religious and linguistic minorities¹" of the report of the Commission on Human Rights on its thirty-fourth session (E/CN. 4/1292);
- Report of the informal working group on the agenda item at the thirty-fourth session of the Commission on Human Rights (E/CN.4/1292, para. 302);
- Chapter XIV of the report of the Sub-Commission on Prevention of Discrimination and the Protection of Minorities on its thirtieth session, concerning the-"study-on-the-rights of persons belonging to ethnic, religious and linguistic minorities" (E/CN.4/I26I).

3. For the information of the Commission, the Secretariat reproduces In the present document substantive comments received from the Governments of the following countries: Austria, Chile, Finland, German Democratic Republic, Greece, Madagascar, Norway, Spain, United Kingdom of Great Britain and Northern Ireland and Yugoslavia. Any additional replies will be reproduced as addenda to the present document.

REPLIES RECEIVED FROM GOVERNMENTS

AUSTRIA

[Original; English]

[15 September 1978]

On many occasions in the past Austria, has spoken out in favour of the elaboration of international instruments on the rights of minorities. During the general debate at the thirty-first session of the General Assembly the Foreign Minister of Austria, Mr. W.P. Pahr, stressed in his statement that Austria, would be prepared to support any initiative aiming at the creation of an international instrument of a general character on the rights of minorities. It was therefore only natural for Austria to follow closely and with utmost interest the pertinent endeavours of relevant United Nations organs, such as the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and to participate actively, whenever appropriate, in such efforts.

It will be recalled at this juncture - and indeed resolution 14 A (XXXIV) of the Commission on Human Rights reflects these facts in three of its preambular paragraphs - that the Sub-Commission on Prevention of Discrimination and Protection of Minorities decided as early as 1967 to include in the programme of its future work a study on the implementation of the principles set out in article 27 of the International Covenant on Civil and Political Rights with special reference to analysing the concept of minority, taking into account the ethnic, religious and linguistic groups in multinational societies. That decision was approved of by the Economic and Social Council in its resolution 1418 (XLVI). In 1971 the Sub-Commission decided to appoint Mr. Francesco Capotorti as its Special Rapporteur to carry out the study. The Special Rapporteur submitted his final report (E/CN.4/Sub.2/384 and Add.1-7) to the Sub-Commission in 1977 which enabled the Sub-Commission to consider it in depth at its thirtieth session. As a result of its thorough consideration of the study the Sub-Commission not only expressed its appreciation to the Special Rapporteur for his excellent and exhaustive work which constituted an extremely valuable contribution to the clarification of the basic legal problems relating to minorities - a judgment with which Austria fully concurs - but also recommended to the Commission, on Human Rights, to consider drafting a declaration on the rights of members of minorities within the framework of the principles set forth in article 27 of the International Covenant on Civil and Political Rights (resolution 5 (XXX)). Nothing is said in this context, however, about how the drafting of such a declaration should be initiated nor which United Nations organ should, in fact, undertake the drafting.

It is clear from the conclusions of the Special Rapporteur (E/CN.4/Sub.2/384/Add.5, para.59) and borne out by the subsequent in the Sub-Commission that a United Nations declaration on the rights of members of minority groups should be of such a nature as to help States to carry out the tasks incumbent upon them primarily by virtue of article 27 of the Covenant. "It would be useful", the Special Rapporteur stated, "to draw up certain principles to which the Governments of all States could turn for guidance". The function of such principles should be to contribute to the fulfilment of the objectives set forth in article 27 of the Covenant by indicating the means by which they can be achieved. The Special Rapporteur did not see any need to replace article 27 by a broader or differently conceived rule. In his view, the essential requirement was to throw light on the various implications of article 27 and to specify the measures needed for the observance of the rights recognized by that article. It was with this in mind that the Special Rapporteur suggested the preparation of an appropriate draft declaration, a suggestion which was endorsed by the Sub-Commission. Austria is of

the opinion that the above considerations as well as the suggestion concerning a draft declaration deserve the most careful consideration and are indeed worthy of "being actively explored.

When the Commission on Human Rights started discussing this issue at its thirty-fourth session, it became immediately obvious that - notwithstanding such available document as the Special Rapporteur's report and a draft declaration proposed by Yugoslavia (E/CIT.4/L-.1367/Rev.1) - the questions connected with drafting a declaration on the rights of members of minorities were too complex for substantive action to be taken at that stage by the Commission on Human-Rights. Inevitably the working group set up by the Commission to consider the issue of a declaration, realizing that it was faced with highly complicated questions, came to the conclusion that Governments should be given the opportunity of studying the relevant documents before *BJIJ* discussion continued and the Commission decided accordingly.

In view of the situation as described above, and taking into account the interest which the world community ought to have in the elaboration of an appropriate United Nations declaration, as suggested by Mr. Capotorti, Austria believes that the Sub-Commission should now be requested to proceed to the elaboration of a relevant draft. In Austria's view it is up to the Sub-Commission, "as the main United Nations organ established for the purpose of protecting minorities", to prepare a draft. This would not only be consistent with past practice. It would not only be in line with the terms of reference of the Sub-Commission. It would, first and foremost, make available the expertise and knowledge of the Sub-Commission which is composed of the most eminent experts in that field and would thereafter provide the Commission on Human Rights with the necessary carefully elaborated basic documents and drafts. It would seem that drafting such a declaration is a task which ought not be undertaken hastily. If such a declaration is to be meaningful, if it is to have a world-wide impact, if it is indeed to be an instrument which would serve as a guideline for all States, it has to be worked out with the necessary care and consideration and through the organ, primarily responsible for such an important task, namely the Sub-Commission. It should not go unnoticed in this context, that by expressing its appreciation to Mr. Capotorti for his valuable study and by requesting that study to be printed the Commission on Human Rights (resolution-14 B (XXXIV)) and the Economic and Social Council (resolution 1978/16) have themselves recognized the important role which the Sub-Commission has to play in this field. In view of its role it would only be proper to entrust the Sub-Commission with the task of elaborating the declaration, for submission to the Commission on Human Rights at one of its future sessions. Proceeding in this manner would ensure an adequate and thorough preparation, by experts, of an instrument which conceivably will be a mile-stone in the progressive development of the rights of the individual.

CHILE

[Original; Spanish]

L5 October 1970]

The Government of Chile has carefully examined the draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities, proposed by the representative of Yugoslavia at the thirty-fourth session of the Commission on Human Rights of the Economic and Social Council, and has taken due note of the summary records of the discussions on the question in the Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1977 and in the Commission on Human Rights in March 1978*. It has also noted, with great attention, the other documentary material sent by the Secretary-General with Note G/SO 234 (19-1-3).

The following comments are made in response to the request contained in that Note.

Chile fully agrees with the proposal that a declaration developing and elaborating upon the fairly general principles set forth in article 27 of the International Covenant on Civil and Political Rights should be adopted. The draft submitted by Yugoslavia, constitutes an excellent working document which can be used as a basis for a final text with such additions or amendments as may be appropriate in the light of opinions expressed in future debates.

In the opinion of the Government of Chile, both the useful study by Mr. Francesco Capotorti, the Special Rapporteur, and the statements by representatives who participated in the debates of the Commission on Human Rights and of the Sub-Commission revealed the many complicated aspects of the problem of national, ethnic, religious and linguistic minorities, starting with the need to clarify and define the notion of "minorities" itself. The various aspects of the subject must therefore be examined at greater length and in more detail with a view to achieving, if possible, a general consensus. In any case, my Government considers that, whatever conclusions may be reached on the question, the draft declaration that meets with the approval of the majority should, as stated in the text submitted by Yugoslavia, be based on strict respect for the sovereignty, territorial integrity and political independence of the countries concerned and non-interference in their internal affairs, without prejudice, of course, to fulfilment of international undertakings assumed with respect to the minorities in question.

At the appropriate time, the Government of Chile will explain in greater detail its views on the various points that have to be examined and settled in order to reach agreement on a declaration of rights of national, ethnic, religious and linguistic minorities which, besides commanding a broad measure of agreement, will make an effective contribution, in practical terms, to the achievement of the praiseworthy objectives being pursued.

FINLAND

[Originals English]

[7 November 1978]

First of all, the Government of Finland wishes to pay tribute to the Special Rapporteur, Mr. Francesco Caprotti, for his comprehensive Study of the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, which profoundly illuminates this complex subject.

As pointed out by the Special Rapporteur, the fundamental principle concerning the right of such minorities to enjoy their own culture; to profess and practise their own religion, or to use their own language is laid down in article 27 of the International Covenant on Civil and Political Rights. This provision, however, is of such a general nature that it obviously needs further elaboration in order to facilitate its application in practice, taking into consideration the many different types of minorities and the circumstances which have resulted in their formation. From this point of view, a declaration on the rights of persons belonging to ethnic, religious or linguistic minorities undoubtedly would promote the protection of these rights and, consequently, help such minorities to preserve their identity and own characteristics.

As regards the conclusions and recommendations of the Special Rapporteur appearing in document E/CN.4/Stib. 2/38 4/Add. 5 they are, in general, well balanced and acceptable, as such. The definition of the term "minority" proposed by the Special Rapporteur is suitable for the purposes of the study although it may be considered, as lacking general validity. The expression "nationals of the State" used by the Special Rapporteur in his definition is somewhat vague since there may exist within a State several different nationalities as presupposed in the UNESCO Convention against Discrimination in Education. A more accurate expression would be "citizens of the State".

Concerning the size of a minority as a prerequisite for protective measures by the State, the Special Rapporteur quite rightly points out that there should be a reasonable proportionality between the efforts required by the State and the benefit to be derived from them. Thus, for example, it would not be feasible, without unreasonable costs, to provide all educational and other services in the native language of a small minority comprising only a few hundred people. In some cases such a language may not even have developed, to this extent.

Although the formulation of article 27 of the Covenant seems to imply that a purely permissive attitude on the part of the State would be sufficient in respect of the rights envisaged in that article, the wider interpretation of the said article presented by the Special Rapporteur to the effect that it requires active and sustained measures from the State, is justified.

The Special Rapporteur has accepted the assumption that the desire of members of minority groups to preserve their own characteristics and their own traditions is generally implied by the mere fact that a distinct group has continued to exist. In most cases this may be true. From the point of view of the individual, however, it should be emphasized that the belonging of the individual to a certain minority group should be based on his/her freely expressed will, for example, in connexion with an official census. No forcible classification of individuals on such grounds as the differences in outlook or some other qualification should be permitted on the part of authorities or of the minority groups themselves. It is, of course, equally clear that no forced assimilation can be accepted. On the other hand, integration of all groups into the society, as a whole, should be encouraged and supported by the State,

The Special Rapporteur deals at some length with the problem of de facto discrimination. He quite rightly points out that harmonious relations between the various ethnic, religious and linguistic groups within a country depend to a large extent on the attitude of the dominant political forces of the society of that country. Such an attitude cannot be easily eradicated by legislative or administrative measures.

De facto discrimination which may take more or less subtle forms is usually based on old prejudices, historical reasons, social and economic circumstances or even on completely irrational factors. Therefore, it would be important to study the social mechanisms which allocate different social roles to different ethnic, religious and linguistic groups and the root causes of antagonism and intergroup tension.

Obviously, the task of the eradication of de facto discrimination has to be directed towards an educative process aiming, at a change of attitudes and guiding the human mind from early childhood to a true concept and understanding of the brotherhood of all peoples. This is a prerequisite for the creation of a pluralistic society where diversity is regarded as having positive value, adding new elements to the common good and contributing, to the richness of the cultural life of the society and where all minority groups, are not only accepted but even appreciated.

As regards the Draft Declaration proposed by Yugoslavia appearing in document E/CN.4/L.1367> it contains the most fundamental elements which obviously have to be included in the final form of such a declaration. However, the substance and formulation of the declaration need still further consideration.

Finally, the Government of Finland wishes to correct the information given by the Special Rapporteur in his study (document E/CN.4/Sub.2/3⁸4/Add.6, page 21); more than 92 per cent of the population, of Finland belong to the Evangelical Lutheran Church, whereas the Orthodox Church of Finland numbers about 61,000 members,

GERMAN DEMOCRATIC REPUBLIC

[Original; English]

[2 November 1978]

The German Democratic Republic commends United Nations efforts directed at bringing about comprehensive international legal arrangements concerning the rights of persons belonging to national, ethnic, religious and linguistic minorities.

In the view of the German Democratic Republic, these efforts are a valuable contribution to the world-wide struggle for the realization and observance of everybody's human rights irrespective of race, sex, language or religion. At the same time, these endeavours constitute a further step in the peoples' striving for higher material and cultural standards of living.

In this context the German Democratic Republic advocates the proposal of the Socialist Federal Republic of Yugoslavia that a Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities be elaborated and adopted.

The German Democratic Republic holds that the draft declaration at hand, indeed, takes into account and puts in more concrete terms important ideas contained in international instruments and conventions on this matter. Including the International Convention, on the Elimination, of all Forms of Racial Discrimination, the Convention against Discrimination in Education, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Furthermore, the draft declaration contains a number of specific provisions which reflect also the experience which the German Democratic Republic has gained in the conduct of a Marxist-Leninist nationalities policy with regard to the Sorb minority in the German Democratic Republic over almost 30 years.

Therefore, the German Democratic Republic agrees, in principle, with the draft declaration; it proposes, however, the following modification to render the language more precise;

In the preamble and especially in Article 1, the term "promotion" should be replaced by "comprehensive promotion by the State".

This alteration is being recommended bearing in mind that in consequence of frequent inequality in the legal status of a great many minorities, which is rooted in historical evolution, there is an urgent and indeed absolute need for States to adopt measures for the promotion of those minorities so that genuine equality can be ensured for all minorities in the shortest possible time.

While the purpose of this proposal is to place more emphasis on the responsibility of States, the principle formulated in article 3 that "for the purpose of realizing conditions of full equality and complete development of minorities as collectivities and of their individual members, it is essential to take measures which will enable them freely to express their characteristics ..." should be maintained at any rate and possibly elaborated.

The German Democratic Republic expresses to the Secretary-General of the United Nations its readiness to make further comments at a more advanced stage of the drafting of the declaration.

GREECE

[Original; English]

... •.....:-.... [9 November 1978]

1. The problem of the rights of persons belonging to national, ethnic, religious and linguistic minorities is complex and delicate owing to the individual features of each minority and due to their particular historic, cultural, economic background and geographical situation. It is therefore the opinion of the Greek Government that a United Nations declaration of principles thereon might cause more difficulties between the above-mentioned persons belonging to minorities and the State, than it might help to solve at the present moment.

2. It is furthermore the opinion of the Greek Government that it is not expedient for the United Nations to adopt a declaration on the subject, as no consensus exists on the matter let alone on the meaning of the term minority. It is apparent that under such circumstances the declaration might cause understandable confusion and misunderstanding between the parties concerned,

3. With reference to the draft declaration proposed by the representative of Yugoslavia at the thirty-fourth session of the Commission of Human Rights, the Greek Government would like to express appreciation for the effort made and the intention expressed on the part of the Yugoslav Government. It is none the less the feeling of the Greek Government that even if the difficulties referred to under 1 and 2 did not exist, the draft could be considered as going far beyond present needs and realities.

4. In view of the above it is the feeling of the Greek Government that instead of an ambitious declaration, it would be advisable to have the matter referred back to the Sub-Commission on Prevention of Discrimination, and Protection of Minorities for further review and consideration.

5. The study of Prof. Capotorti, with its many constructive elements might prove to be a comprehensive contribution to the protection of the rights of persons belonging to ethnic, religious or linguistic minorities, even if it does not offer generally acceptable solutions to important points as the definition of minority or the interpretation of article 27 of the Covenant on Civil and Political Rights.

6. In that respect the Permanent Representative of Greece wishes to recall the following observations his Government expressed within the framework of information for the study of Prof. Capotorti:

"1. With respect to the interpretation of the term 'minority' the Greek Government would like to make the following basic comments:

(a) The interpretation of the term minority used in the plan for the collection of Information is incomplete, broad and vague.

(b) An ethnic, religious or linguistic minority group of persons should be clearly recognizable as such.

The following criteria, among others, should be applicable to a group of persons for it to qualify as a minority:

- (i) The characteristic features should be sufficiently distinctive for the group concerned to be clearly distinguishable as separate from the majority.

(ii) The difference between a minority group and the rest of the population should not only be sufficiently distinct, as stated in the preceding subparagraph, but also sizeable forming a substantially compact element in the community,

(iii) It is doubtful that the words "a group numerically smaller" than the rest of the population" constitute a sufficiently adequate criterion for an interpretation of the term "minority".

There should be taken into account not only the number of persons belonging to a particular group but also the relation between the number and the size of the geographical area in which the group lives.

(iv) The subjective factor, that is to say, the desire expressed by the minority group to preserve its old traditions and characteristics, should be an essential element of any interpretation of the term "minority".

The extent to which a minority actually feels itself to be a separate section of the community, or is felt to be and is perhaps treated as such by others should also be taken into consideration for any interpretation of the term "minority".

(c) The word "physical" should be omitted as superfluous.

(d) Another fact to be considered for the qualification of a "minority" is that it is recognized as such by an international Treaty or Agreement.

2, (a) The Greek Government recognizes the importance of article 27 of the International Covenant on Civil and Political Rights, the main purpose of which is to grant a differential treatment to minorities in order to ensure them real equality of status with the other elements of the population.

(b) The provisions of article 27 were drafted in such a manner as to be acceptable to a maximum number of States on a world-wide basis.

(c) The article covers only persons of separate or distinct groups well-defined and long established on the territory of a State. This appeared to be the meaning of the opening words of article 27 "in those States in which ethnic, religious or linguistic minorities exist, persons ...".

(d) With regard to the rights of persons "belonging to ethnic, religious or linguistic minorities it is to be observed that only persons belonging to ethnic, religious or linguistic minorities should have the right to "enjoy their own culture to profess their own religion or to use their own language".

(e) The exercise of rights by persons belonging to ethnic, religious or linguistic minorities, is qualified with the provisions "in community with the other members of their group".

(f) The provisions of article 27 should, not be applied in such a manner as to encourage the creation of new minorities or to obstruct the process of voluntary integration, and

(g) The words "the persons 'belonging to such minorities shall not be denied the right" seemed to imply that the obligations of States would be limited to permitting the free exercise of the rights of persons belonging to such minorities".

A further point the Permanent Representative wishes to make is that, notwithstanding its value, the study of Prof. Capotorti does not always meet with approval on the part of governments, it would therefore be advisable that, if it is to be printed as a document of the United Nations a note be made by the Secretariat to the effect that the opinions expressed in the study are those of the author and do not necessarily reflect those of the United Nations and its members.

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MADAGASCAR

[Original; French]

[13 September 1978]

The Malagasy Government considers that, although it is difficult, a priori, to propose a precise definition of the term "minorities", the existence of minorities in certain States cannot be denied.

It was, therefore, with the greatest interest that the Malagasy authorities studied the summary records of the discussions of the various meetings held on the subject. It is clear that, in present circumstances, the problem of guaranteeing and promoting the rights of minorities must be solved as a matter of urgency.

Accordingly, the Malagasy Government endorses the statement of principles set forth in this connexion in the draft declaration proposed by Yugoslavia (E/CN.4/L.1367/Rev.1 of 2 March 1978) which might provide a sound basis for an exchange of views aimed at eventually securing international recognition of the minimum rights of minorities to dignity, freedom and respect of their human individuality.

NORWAY

[Original; English]

[19 October 1978]

Norway fully recognizes the need for greater international efforts for the protection and promotion of minorities, and therefore supports the main principles outlined in the draft declaration. It would seem necessary, however, to complete the present draft and bring it more in line with existing international conventions and with recent decisions taken by United Nations conferences concerned with the rights of minorities, such as the Declaration of Principles and the Programme of Action, adopted by the World Conference to Combat Racism and Racial Discrimination in Geneva in August 1978 and the Final Document adopted by the International Congress on Teaching of Human Rights in Vienna in September 1978.

Against this background, it would seem appropriate to widen the scope of the declaration to include indigenous peoples as a separate category and pay attention to their specific needs and rights. Indigenous peoples do not necessarily constitute minorities and their situation is in many respects different from that of national, ethnic, religious and linguistic minorities who may profit from their relationship with majority groups in other national States.

Guiding principles concerning education, information, training and research ought also to be included, as well as a recommendation to consider special measures to meet the particular problems encountered by women and children belonging to minorities and by indigenous peoples.

On this basis, the following amendments to the draft declaration are suggested;

2nd preambular paragraph;

Add in third line, after "International Covenant on Civil and Political Rights"; ..., the International Covenant on Economic, Social and Cultural Rights, ... (the rest unchanged).

3rd preambular paragraph;

Amend from sixth line, after "religious minorities"; and indigenous peoples, and that the realization and promotion of the rights of minorities and indigenous peoples in turn ... (the rest unchanged).

4th preambular paragraph;

Add at the end of the last line; ... and indigenous peoples

5th preambular paragraph;

Add at the end of the last line; ... and indigenous peoples

6th preambular paragraph;

Add at the end of the last line; ... and Indigenous Peoples

Article 1L:

Amend as follows 2 National, ethnic, linguistic or religious minorities (hereinafter referred to as minorities) and indigenous peoples have the right to existence, to form their own representative organizations ... (the rest unchanged).

Add a new paragraph (1,2): Indigenous peoples have the right to an official status, and to carry on their traditional structure of economy and way of life in their areas of settlement. •

Article 2s

Add in first paragraph, first line: Members of minorities and indigenous peoples shall enjoy ... (the rest unchanged).

Add in second paragraph, at the end of the first line; ... against minorities and indigenous peoples ... (the rest unchanged).

Article 3:

Amend second line as follows j' ... development of minorities and indigenous peoples as collectivities ... (the rest unchanged).

Add two new paragraphs as follows %

2s Special attention should be given to secure for women who belong to these groups their basic human rights and their full participation in the political, social, economic and cultural life of their societies.

3i Special attention should also be given to the psychological and physical condition of children belonging to these groups, with a view to take measures to counteract any detrimental conditions and developments.

New Article 4s •

^' Members of minorities and indigenous peoples should enjoy equal right to education, training and information, and to participate in devising and producing media programmes.

2s Education, training and information should be conceived with a view to establishing a mutually profitable cultural dialogue as well as to protecting and promoting the rights of minorities and indigenous peoples. As far as possible, such groups should be educated and informed of their rights in their own language and in conformity with their needs as defined by themselves •

3i Education and information about the rights and values of such groups should be developed for the population at large - and especially for civil servants and other persons exercising public authority - in order to foster understanding of and respect for their situation and values .

Old Article 4 (new Article 5)%

Amend first paragraph as follows.; Members, of minorities and indigenous peoples should have the right to develop cultural, and social links with their own kith and MZL-fZ^f2Sil@fS. • ⁿ ensuring and promoting this and other rights, strict respect for the sovereignty ... (the rest unchanged).

Old Article 5 (new Article 6) ;

Amend from first paragraph, second line; ... on the achievement of minorities and indigenous peoples in cultural, educational and other fields create favourable conditions for the promotion of their rights and for their general progress .

Amend from second paragraph, second lines ... minorities and indigenous peoples into account in developing their co-operation with other States, especially in the fields of culture, education and related areas of particular importance for minorities and indigenous peoples.

- Add a new paragraph 3* In order to ensure the preservation, development and expression of minority and indigenous cultures, States should, in co-operation with the relevant international organizations, encourage research concerning the living conditions of minorities and indigenous peoples, cultural pluralism and cultural change.

SPAIN

[Original; Spanish]

[14 October 1978]

I am pleased to inform you that the Spanish Government has examined with interest and attention the documents referred to and expresses its satisfaction at the contributions made to the study of the rights of minorities by the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the informal working group and Mr. Francesco Capotorti, the Special Rapporteur.

•••• The Spanish Government has also studied with great interest the draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities proposed by Yugoslavia at the thirty-fourth session of the Commission on Human Rights, which it finds acceptable in principle. However, as the Spanish Constitution is at present being drafted and as it is to include appropriate provisions recognizing and guaranteeing the rights of citizens, it will be necessary to await the forthcoming adoption of the constitutional text before a position can be taken on this matter.

The Spanish Government considers that the study prepared by Mr. Capotorti, the Special Rapporteur, is very interesting and useful, and in principle endorses the conclusions and recommendations (chapter V) it contains. In this connexion, the Spanish Government considers that a United Nations definition of the term "minorities" may be very useful and helpful to all States, and that its eventual adoption would mark an important step forward in realizing and safeguarding the rights of minorities.

In conclusion, I should like to draw attention to two reports recently prepared by the Spanish Government which reflect the development of Spanish law and contain general comments on the matters which form the subject of your Note. Of the two reports in question, one was prepared in accordance with article A1 of the International Covenant on Civil and Political Rights (submitted with my communication No. 49 of 1 September 1978) and the other is contained in document A/CONF.92/NR.48 of 19 August 1978 which was submitted to the World Conference to Combat Racism and Racial Discrimination.

As stated above, both reports describe the legislative changes that have occurred in Spain recently and include certain relevant provisions of the draft of the new Spanish Constitution which, when definitively approved in the near future, will guarantee respect, protection and promotion of the cultural and linguistic characteristics of Spanish historical communities.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND)

[Originals English]

[27 October 1978]

1. The Government of the United Kingdom of Great Britain and Northern Ireland sympathises with the principle underlying the proposed draft Declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities. Furthermore, the United Kingdom is already a party to a number of United Nations instruments which bear upon this question, for example the Genocide Convention, the International Convention on the Elimination of All Forms of Racial Discrimination, the various instruments for the abolition of slavery, and the International Covenant on Civil and Political Rights. The Helsinki Final Act, to which the United Kingdom is a signatory, also contains a number of references to the rights of minorities.

2. At the same time, the United Kingdom foresees difficulties of definition in the drafting of a Declaration on the rights of minorities, particularly over what constitutes a "minority". Interpretation of the term "minority" is not a question on which United Kingdom law and practice provide guidance, in that all people are treated equally. Although special provision has been made in certain respects, for example, where religious beliefs do not permit the usual oath to be taken by persons giving evidence in the courts, the United Kingdom consider in general that the creation of special rights for particular groups is undesirable as it tends to create barriers to understanding and acceptance. Indeed, in some cases the rights of minorities could be in conflict with the rights of the majority. The United Kingdom therefore suggests that the first three articles of the draft Declaration should be more closely defined, in order to obtain a clearer indication of what precisely they are intended to cover¹ in practical terms.

3* The United Kingdom has the following detailed comments on the present draft Declaration;

Article I

(i) Minorities are said to have the right to "the promotion of" their particular characteristics, which might suggest that they should have a right that somebody else, for example, the government of the State, should take steps for the promotion of those characteristics. Alternatively, the intention could be that minorities should have the right to promote their own characteristics themselves. The latter interpretation would seem more appropriate, and therefore the words "the promotion of" might be replaced by "to promote".

(ii) Minorities are to enjoy "full equality" in relation to the rest of the population, regardless of their number. The meaning of this is not clear. For example, in what ways is a minority of, say, 3,000 people to be "fully equal" to the rest of a country's population of, say, 30 million?

Article 2.

Although they do not appear elsewhere in the text, the words "or racial" are included in this article. Is there particular significance in this?

Article 3

If/so is to undertake the measures referred to?

Article 4

(i) The United Kingdom is unable to accept the reference in the first paragraph to "non-interference" and proposes that this should be replaced, in accordance with Principle VI of the Declaration of Principles of the Helsinki Final Act, by the term "non-intervention".

(ii) The second paragraph seems unnecessary. It surely goes without saying that respect for the Declaration will not release States from their Treaty obligations,

4« The United Kingdom Government wishes to emphasise that these are preliminary reactions to the draft Declaration and that it may wish to comment further in the light of views expressed by other Governments.

5» The United Kingdom also has the following comments on the documents of the thirtieth session of the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and of the thirty-fourth session of the United Nations Commission on Human Rights;

(i) It is welcome to note in these documents a recognition of the dangers of encouraging separation (for example, in paragraph 5 of E/CN.4/L.1381 the statement that "the rights of minorities should be used only for their protection and not to foster separation"). The recommendation in paragraph 40 of Chapter 5 of Professor Capotorti's study that special schools should be established for children belonging to minority groups needs to be considered in that context. Any proposals to establish such schools in the United Kingdom would be looked at on their merits. School curricula and educational practices are increasingly being adapted to reflect the multi-racial and multi-cultural composition of society and there are signs that schools are increasingly paying attention to the special needs of pupils from ethnic minorities.

(ii) The authorities in the United Kingdom encourage, in various ways, self-help initiative by minority groups; Government grants under the Urban Programme have been of direct benefit to ethnic minorities who have been able to undertake a variety of projects catering for the special cultural and educational needs of their communities. Local authorities have often assisted voluntary efforts by ethnic minority groups to maintain their mother-tongue and culture, for example by making premises available for their activities. The Government is funding research into the teaching of mother-tongue and culture (cf. paragraphs 46-7 of chapter 5 of Professor Capotorti's study).

(iii) E/CH.4/1261
E/CIT.4/Sub.2/599

Paragraph 75 of this paper reports the recommendation of a Working Group that "States ... should develop dynamic education policies to guarantee access to education - including higher education - for all citizens, and also to include in the curricula - the subject of human rights (with special emphasis ... , on the equality of all human beings and the evils of racial discrimination)". Education for school age children is guaranteed by the Education Acts 5 higher education in the United Kingdom is based on the principle that courses should be available for 3,11 those who are qualified by ability and attainment to pursue them and who wish

to do so. The United Kingdom education system is non-centralized and the Government cannot insist on the inclusion of specific material in the school curriculum, although it has drawn attention to the need for the curriculum to reflect a sympathetic understanding of the different cultures and races that make up our society. Local education authorities have during the last year been asked to provide information about their policies in a number of key areas, including ways in which racial understanding is promoted in schools.

(iv) It is encouraging to note in these papers that special attention is paid to Gypsies, (it is assumed that the draft Declaration covers their interests). The United Kingdom authorities are currently looking at ways in which the special educational needs of Gypsies and other travelling people can be most effectively met and hope to issue a Circular to local education authorities on this subject in the near future.

YUGOSLAVIA

[Original in English]

..[24 October 1978 J

The basic views and positions of Yugoslavia in respect of the issue of the protection and promotion of the rights of national, ethnic, linguistic and religious minorities are contained in the Memorandum of the Government of the SFR of Yugoslavia addressed to the Sub-Commission for the Prevention of Discrimination and the Protection of Minorities (document E/CEV4/Sub.2/363 of 26 August 1975). They have further been elucidated and elaborated in the speeches of Yugoslav representatives at the thirty-fourth session of the Commission on Human Rights, during the consideration of the Yugoslav Draft Declaration on the rights of the members of national, ethnic, religious and linguistic minorities as well as of other relevant documents reviewed by the Commission.

Having that in mind, the Government of the SFR of Yugoslavia wishes once again to draw the attention of the members of the Commission to some of these positions?

The Government of the SFR of Yugoslavia considers that the minorities are an element which should direct, particularly the neighbouring countries, towards the broadening of mutual co-operation and strengthening of friendship between them. However, minorities can perform that function only if, in the countries in which they live, the human rights of minority members are constantly promoted, that is, if conditions are ensured for their full social, socio-economic and cultural progress. Therefore, any promotion of the rights of minorities as a whole, and of each of its members, directly contributes to the broadening of international co-operation and strengthening of international security and peace which in fact means the putting into effect of the "basic principles of the Charter of the United Nations.

In its efforts to further the rights of minorities the Government of Yugoslavia has in mind the fact that the existing international instruments relating to human rights and racial discrimination only partially and incompletely cover the problem of human rights of the members of national, ethnic, religious and linguistic minorities. The adoption of the Declaration on the rights of the members of national, ethnic, religious and linguistic minorities by the General Assembly of the United Nations would substantially supplement the existing system of human rights established within the framework of the United Nations system and would give an impetus to its further development.

The Government of the SFR of Yugoslavia feels that in the promotion of the rights of the members of minorities account should be taken of specific historical, socio-political, geographic and other conditions in which various minorities live. It would therefore be desirable to include in the Declaration only the basic principles, having in mind that it will serve as an international standard in the field of the protection of minorities at the national level and, at the same time, constitute an encouragement to member States of the United Nations to further promote, through internal measures, the status of the members of the minorities and to that end to develop all-round co-operation, particularly at the bilateral and regional levels.

The Government of the SFR of Yugoslavia is convinced that the political, social and economic integration of minorities in individual countries into the majority population should be ensured precisely through respect for, and the preservation and protection of, their national, ethnic, cultural, linguistic and other specificities.

The Government of the SFR of Yugoslavia firmly believes that the adoption of the basic international principles on the rights of the members of minorities in the form of a Declaration would contribute to the further development of friendly relations among countries, based on full respect for the principles of sovereignty and territorial integrity. It will also prevent possible attempts to use the question of the rights and status of some minorities for interference in the internal affairs of other States or for the encouragement of separatist or similar tendencies. On the other hand, the very adoption of the Declaration would in itself constitute a condemnation of the violation of the principles and provisions established within the United Nations system, relating to human rights of the members of national minorities as well as a condemnation of the policy of their assimilation with a view to eliminating their cultural, linguistic and other features, by invoking in this the national competence.