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Agenda item 23

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

Report of the informal working group set up by
the Commission on agenda item 23

Chairman-Rapporteur: Mr. I. Toševski (Yugoslavia)

1. At the thirty-fourth session, the Commission established an informal working group, open to all its members, to consider questions connected with the drafting of a declaration on the rights of members of national, ethnic, religious and linguistic minorities. A draft declaration on such rights which was proposed by Yugoslavia (E/CN.4/L.1367/Rev.1), and which was meant to serve as a starting point for an exchange of views, was referred to the working group.
2. The Commission in its resolution 14A (XXXIV) of 6 March 1978, after having taken note of resolution 5 (XXX) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of 31 August 1977 recommending that the Commission on Human Rights 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, and having taken cognizance of the report of the above-mentioned working group (E/CN.4/1282, paragraph 302), requested the Secretary-General to transmit the relevant document of the thirtieth session of the Sub-Commission and the thirty-fourth session of the Commission concerning the rights of persons belonging to national, ethnic, religious and linguistic minorities to the Governments of the Member States for their comments, and decided to consider the relevant item at its thirty-fifth session.
3. At its thirty-fifth session the Commission had before it (i) the comments received from Governments pursuant to Commission resolution 14A (XXXIV) (E/CN.4/1298 and Add.1); (ii) the draft declaration proposed at the thirty-fourth session by Yugoslavia (E/CN.4/L.1367/Rev.1); (iii) paragraph 31 of the Programme of Action of the World Conference to Combat Racism and Racial Discrimination (A/33/262), which reads "The Conference recommends the Commission on Human Rights to continue its attempts to prepare an international instrument for the protection of the rights of persons belonging to minorities"; and (iv) a written statement submitted by the Minority Rights Group (E/CN.4/NGO/231).

4. The Commission at its thirty-fifth session set up an open-ended working group to consider this matter further the group held meetings on 6 and 9 March 1979.
5. The meeting elected Mr. I. Toševski (Yugoslavia) as its Chairman-Rapporteur.
6. At the first meeting the representative of Austria suggested that the only body qualified to do basic work on the draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities was the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which should be entrusted with this task.
7. The observer for Jordan underlined that it would be dangerous to put stress on differences between national and other groups instead of trying to harmonize their relations.
8. The representative of Norway drew attention to the differences in definition of indigenous populations and persons belonging to national, ethnic, religious and linguistic minorities. Another document was being elaborated on indigenous populations.
9. The representative of Cyprus warned against the misuse of the principle of the protection of minorities, which can undermine the national unity of States.
10. The observer for Greece supported the proposal made by Austria according to which the Sub-Commission should elaborate a new draft declaration that could be accepted by all Member States. She referred to the reply of her Government and stated that the eleven answers received from Governments were not sufficient for such an important declaration. A new communication should be sent to Governments so that they could be given the opportunity of studying the documents and submitting their proposals to the Secretary-General.
11. The representative of Nigeria stressed that the first article of the draft declaration proposed by Yugoslavia should contain a definition of "minorities". It was also necessary to take into account the third article so that the measures taken to enable the national, ethnic, religious and linguistic minorities to develop their culture, education and language would not undermine the territorial integrity of the countries in question.
12. The representative of Bulgaria said that the Charter of the United Nations did not contain any reference to the rights of persons belonging to minorities. They were only mentioned in article 27 of the International Covenant on Civil and Political Rights. This article laid down "the rights of persons" and not of communities. The International Covenant on Civil and Political Rights had only been ratified by a third of the Member States. Therefore the proposed declaration could only be acceptable if it were based on the Charter of the United Nations, article 27 of the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

13. The observer for Madagascar pointed out that the third line of the third article of the draft declaration proposed by Yugoslavia should read "to take measures according to national legislation".
14. The representative of Iraq stressed that the protection of persons belonging to minorities constituted part of a more general principle of prohibition of discrimination.
15. At the second meeting the representative of Austria said that there were some principles which were not expressed clearly enough in the draft declaration proposed by Yugoslavia. It was necessary to consider the different forms of self-determination, that are defined in United Nations documents, in order to apply them to minorities. Genocide and expulsion should be also condemned in the document. Governments, non-governmental organizations and the Sub-Commission should be invited to express their opinions.
16. The representative of India agreed with the proposal made by the representative of Austria according to which the Sub-Commission should express its opinion on the draft declaration. Governments should also be encouraged to submit their comments.
17. The observer for the United Kingdom felt that the first three articles of the draft declaration were imprecise. It should be taken into consideration that article 27 of the Covenant on Civil and Political Rights speaks of the rights of "ethnic, religious and linguistic minorities" and not of the rights of "national minorities".
18. The representative of Nigeria maintained that the right of self-determination should not be confused with minority rights. A new definition of this basic question should be considered in the light of the answers from Governments.
19. The representative of Austria stated his point of view on self-determination, which was based on the report by Mr. Cristescu. The important aspect was that of autonomy of minorities.
20. The representative of Cyprus suggested that the right of minorities "to participate on an equitable basis", referred to in article 3 of the draft declaration, should be clarified, and a complete definition should be given to "equitable basis". In article 4 the meaning of "territorial integrity" should also be considered.
21. The representative of the USSR did not agree to the suggestion made by the representative of Austria that the opinions of non-governmental organizations should be asked. He also supported the views of the representative of India.
22. The representative of Nigeria stressed that such minorities as the white minority in southern Africa should not be allowed to be in a position of dominance.
23. The representative of Yugoslavia said that his Government would make further efforts to improve the draft declaration for its consideration at the thirty-sixth session of the Commission, following the suggestions and proposals made by Governments. The declaration should contribute to the development of friendly relations among countries, especially neighbouring countries, based on the principles of sovereignty and territorial integrity. The observance of its principles would prevent the use of the minorities question for encouragement of separatist tendencies, and would contribute as well to the greater social harmony and political stability of societies where minorities live. Only the basic principles should be included in the document

and it would be up to Governments and to national legislation to decide which further measures should be considered to ensure the rights of minorities. Article 3 of the draft declaration was a preliminary proposal for an international legal standard concerning the rights of persons belonging to ethnic, national, linguistic and religious minorities.

24. The representative of Iraq said that a difference should be made between the rights of minorities and the right to self-determination. Resolution 1514 (XV) of the General Assembly referred only to peoples under colonial domination, while the protection of minorities was applicable to all countries where minorities existed.

25. The observer for Turkey supported the statement of the Yugoslav representative that the Commission should consider the item at its next session on the basis of an improved draft declaration by Yugoslavia.

26. In summarizing the debate in the Working Group, the Chairman stated that Governments should be asked again to express their opinions and that the Sub-Commission should be invited to comment upon the draft declaration.

27. The Working Group transmits the following draft resolution to the Commission on Human Rights:

"(XXXV) Rights of persons belonging to national, ethnic, religious and linguistic minorities

The Commission on Human Rights,

Recalling its resolution 14(XXXIV) of 26 March 1978,

Taking into consideration that most of the Governments of Member States have not yet submitted the comments requested by that resolution,

Having taken cognizance of the report of the Working Group (E/CN.4/..),

1. Requests the Secretary-General to transmit to the Governments of Member States the relevant documents of the thirty-fifth session of the Commission on Human Rights concerning the rights of persons belonging to national, ethnic, religious and linguistic minorities, and to ask those Governments which have not yet done so to submit their comments on the subject-matter for consideration by the Commission;

2. Requests the Sub-Commission on the Prevention of Discrimination and Protection of Minorities to submit its opinion on the draft declaration proposed by Yugoslavia (E/CN.4/L.1367/Rev.1) for consideration by the Commission at its thirty-sixth session;

3. Decides to consider at its thirty-sixth session the item entitled "Rights of persons belonging to national, ethnic, religious and linguistic minorities."