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COUNCIL COMMITTEE ON
NON-GOVERNMENTAL ORGANIZATIONS

LIST OF COMMUNICATIONS RECEIVED FROM NON-GOVERNMENTAL
ORGANIZATIONS GRANTED CATEGORY B OR C CONSULTATIVE
STATUS

The following communication is listed in accordance
with the provisions of paragraph 1 of rule 81 of
the rules of procedure of the Council

Consultative Council of Jewish Organizations (CCJO)
(Conseil consultatif d'Organisations juives)

The Consultative Council has submitted for the attention of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, a 38 page memorandum on the "International Protection of Minorities" dated January 1950. The "Summary and Conclusions" of this memorandum reads as follows:

/SUMMARY

SUMMARY AND CONCLUSIONS

The protection of human rights against all the major varieties of oppression that the ingenuity of injustice has thus far produced in the world, requires a division of labour in the accomplishment of this task. In such a division of labour, there is one aspect of the problem of protection of human rights that particularly calls for special attention. That is the protection of human beings against those forms of injustice which are directed against them because they are members of racial, national, religious or linguistic minorities.

1. Definition of Minorities Coming Within the Purview of the Sub-Commission

The minorities which are properly the concern of the Sub-Commission are groups which have internal ties of association involving a community of nationality, language, religion or race; which are conscious of themselves as such and of their rights and grievances, and which have been in the past and/or may be in the future victims of racial, national, religious or linguistic oppression.

2. Functions of the Sub-Commission

The function of the Sub-Commission is not the formulation of minority rights separate and distinct from human rights. It is, rather, the task of seeing that the various international instruments for the protection of human rights, either generally or in specific fields, are adequately constructed to meet special requirements of minority groups; to propose separate or supplementary agreements and to draft multilateral agreements which will adequately afford protection to these groups; to utilize the special motive powers and to take account of the special experiences that are bound up with the oppression of minorities and with remedial and preventive action to counteract such oppression.

3. Human Rights of Special Concern to Members of Minority Groups

In the register of human rights, there are certain rights with which religious, linguistic and ethnic minorities are chiefly concerned. These are: freedom of worship, freedom of communication, freedom of association and freedom from discrimination. There is always the danger that formulations of basic human rights in terms of a purely individualistic philosophy may fail to do justice to the full scope of such rights. There is, for example, a tendency to define religious freedom in terms of the relations between a single human being and his God. True religious freedom must include the freedom of men and women

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to come together for purposes of common and public worship. Similarly, freedom of association must include the freedom to associate for cultural, educational, charitable and other purposes for the achievement of group values. So, with respect to the right of freedom of expression, and all other freedoms which men and women act together, it must be the responsibility of the Sub-Commission to see that these rights and freedoms are given international definition adequate to guard against all forms of group discrimination and group oppression.

4. Prevention of Discrimination at Root of Equation in Protection of Minorities

Discrimination represents the most common form of assault upon the human rights of members of minority groups. The right to freedom from religious, racial, or linguistic discrimination is the most insistently defended right of minority groups. This struggle for freedom from discrimination is therefore at the root of any equation in the international protection of minority groups.

Considerable misunderstanding has arisen over the terms "prevention of discrimination" and "protection of minorities." Viewed as exclusive categories, namely, that the protection of minorities is something entirely distinct from prevention of discrimination, is to invite all sorts of absurd conclusions. Perhaps the most serious conclusion, from the point of view of the Sub-Commission's work, is that which may result from the view that the protection of minorities involves measures entirely outside the realm of human rights.

The fact is that the protection of minorities with which the Sub-Commission is concerned is not something separate and apart from the prevention of discrimination. Rather, the prevention of discrimination is to be viewed as one of several essential elements in the protection of minorities. Discrimination is one way of infringing upon the basic rights of a group of human beings, but it is not the only way. The destruction of the human beings that constitute the minority group, or genocide, is a second threat which any agency dedicated to the protection of minorities must consider. A third threat to every minority is offered by an interference with the rights of association, organization and communication whether such interference is carried out on a discriminatory or non-discriminatory basis.

5. Utilization of Social Forces in the Prevention of Discrimination and Protection of Minorities

The difficulty of the problem of prevention of discrimination and protection of minorities is emphasized by the recognition that violations of the rights of /minorities

minorities are often the result of deliberate behaviour and attitudes of dominant groups in a society, and that the groups from which motive power for political action is ordinarily sought are commonly the very ones in which anti-minority prejudice is lodged. But it is also true that such prejudices are most effectively blocked or reduced when they collide with the immediate objectives and values of the very people who harbour such prejudices. And, because prejudices against minorities are irrational, they continuously produce such collisions.

There are many religious, cultural and economic organizations which serve to give expression to powerful forces and which may be enlisted in the struggle against discrimination and for the protection of the human rights of minority groups. Many of these organizations cross state boundaries in their interests and operations. Such organizations, as organizations, may be free from prejudice and bias against minorities. In fact, the same person, through his religious, cultural or economic organization, may oppose a policy of racial discrimination which, through his social club or political party, he helps to support. The influence of such organizations in securing enactment of legislation which serve to protect the rights of minority groups has been great, and may be even greater in the future.

An effective strategy for the defence of the rights of minority groups, therefore, calls for the maintenance of outposts that can cover and keep constantly in view the major international developments in all fields where prejudice and discrimination appear. An international convention on travel or trade or the exchange of students, for example, may offer a significant opportunity for international guarantees against forms of discrimination relevant to the particular field. It is the task of the Sub-Commission to be in constant rapport with other United Nations agencies that deal with such specific fields of human intercourse, and thus add to the structure of the international protection of minority groups.

6. Need for a Permanent Agency for Redress of Wrongs to Minority Groups

Experience of the past point to the need of a permanent international agency through which complaints from minority groups may be channeled. It also shows that such international machinery will not move if it is left to governments to initiate proceedings against other governments in behalf of an aggrieved minority group. It is the responsibility of the Sub-Commission to devise a method and

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procedure to enable aggrieved minority groups to seek redress and to voice their grievances through agencies of their own choosing.

If, under the Articles of Implementation of the Covenant of Human Rights every individual has the right to appeal to an international body for the protection of the rights assured to him by the Covenant, there will be no need for a special machinery and a special procedure for the effective protection of the rights of minorities. What one individual can do, ten or a thousand can also do. At most, it will be necessary to assign special functions within the framework of that international body to deal with petitions originating with minority groups as such.

The need for a special international body to deal with complaints originating from minority groups, is based on the recognition that there may be certain situations in which nations may for a long time to come be unwilling to extend to individuals the capacity to initiate proceedings under any scheme of implementation of the projected Covenant on Human Rights. Furthermore, whatever provisions may be adopted to implement and enforce the terms of the Covenant will probably be limited to the elementary guarantees that may be contained in various other multilateral treaties. This is particularly true in connexion with pledges of religious liberty, freedom of communication and commercial non-discrimination, which are not exhausted by the terms of the Covenant of Human Rights.

7. Machinery of Implementation and Procedure

In its Memorandum on the Implementation of an International Covenant on Human Rights^{1/}, cited above, the Consultative Council outlined in detail the machinery and procedure for processing and deciding upon complaints submitted by individual petitioners for redress of their grievances. This machinery and procedure, in the opinion of the Consultative Council, be readily adapted to the field of prevention of human rights violations.

Once a grievance has been formally presented, there remains the question of how its validity is to be determined. The League experience with enforcement of minority treaties indicates the vital importance of having a permanent international agency authorized and equipped to inquire into the facts. To some

^{1/} Implementation of an International Covenant of Human Rights. A Memorandum submitted to the Commission on Human Rights (Fourth Session).

extent, such an inquiry can be conducted through written interrogations addressed to the defendant nation, and by analysis of the charges in the light of published and generally available data. A far more satisfactory procedure, however, would be one in which the international investigative agency had independent power to go to the facts. This involves almost inevitably the according to such an agency by the various signatory states of the privilege of free movement within the states concerned and of observing, questioning, photographing and reporting, at least so far as such activities may be conducted by private investigators not armed with the authority of subpoenas or other judicial or administrative writs.

In order to avoid the consequences of the traditional notions in international law that individuals for whose benefit treaty provisions are drawn have no standing to raise a question of the violation of such provisions unless they can secure the aid to which the obligation formally runs, recourse may be had to the legal figure of "relator" which exists in English Common Law and adapt it to the international field. Ways may be found of extending to non-governmental agencies the privilege of raising a question of rights of a minority on behalf of one or more of the states to which the obligation runs in their capacities as relator.
