CHAPTER FOUR

THE 1992 UN DECLARATION ON MINORITIES

I Introduction

At its 47th session, on 18 December 1992, the United Nations General Assembly adopted, without a vote, a Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.¹ The text was prepared by a working group appointed by the Commission on Human Rights, in keeping with Resolution 1988/64. After the Commission discussed the draft and introduced some changes, it submitted the final text through the Economic and Social Council, in accordance with General Assembly Resolution 46/115, of 17 December 1991, and ECOSOC Resolution 1992/4, of 20 July 1992.²

Generally, the Declaration is inspired by Article 27 of the 1966 International Covenant on Civil and Political Rights (hereinafter: CP Covenant),³ and thus emphasizes the individual rights of persons belonging to minorities. At the same time, the need to protect the existence and identity of minorities is acknowledged and it is from this perspective that some progress made in comparison to the strictly individualistic approach of the Covenant provision mentioned above should be noted.

It seems almost superfluous, presently, to stress the relevance of the minorities issue to contemporary international life.⁴ The dissolution of the Soviet

¹ For its text, see A/C/3.47/L.66 (1992).
³ Article 27 of the CP Covenant reads: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.” 999 U.N.T.S. 171, 179.
⁴ The academic community has shown a pronounced interest in the minorities issue. In March 1990, the Faculty of Law of Tel Aviv University arranged an International Legal Colloquium on the Protection of Minorities and Human Rights. The papers submitted were published in The Protection of Minorities and Human Rights (Y. Dinstein & M. Tabory eds., 1992) and in 20 Israel Yearbook on Human Rights (1990). The Department of International Law and International Relations, Faculty of Law, of the University of Amsterdam organized a Conference on Peoples and Minorities in International Law in June 1992. The papers submitted have been published in book form, Peoples and Minorities in International Law (C. Brolmann, R. Lefeber & M. Zieck eds., 1993). The bibliography on minorities is enormous.
Union and of Yugoslavia, and the tragic events that followed, took center stage, displacing other complicated situations involving minority problems, less spectacular or perhaps less tragic. But there seems to be no doubt that the subject has become one of the main topics of our time. With the end of the Cold War, limited inter-ethnic (in a broad sense) conflicts are presently the major hot points of violence and friction. Even where violence does not occur, discrimination of some groups by others (not always the majority) is a permanent and serious source of unrest, bitterness and political disorder. The list of such situations is a long one, and includes virtually all continents and regions. In many cases, States are reluctant to confess even to an awareness of the need to find adequate responses to the demands of minorities. In others, those demands are of such a nature as to make it very difficult for States to find solutions based on accepted and traditional legal formulations. To equilibrate the demands of self-determination and the preservation of the territorial integrity of States is not an easy task.

The new UN document appears to be a compromise. Other recent instruments that will be mentioned show a more pronounced inclination toward minority realities and demands. It is against this background that the UN Declaration must be analyzed.

II. History of the Declaration

The United Nations’ attitude vis-a-vis the minorities issue was completely different from the system established under the League of Nations. Although special arrangements concerning some minorities were concluded after World War II, the prevailing view in the United Nations in the early years after its establishment was that general human rights legislation and the principle of self-determination were sufficient to deal with the issue.

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5 There is a vast literature on the system established by the League of Nations, partially listed in Definition and Classification of Minorities, UN Doc. E/CN.4/Sub.2/85 (1949), Sales No. 1950. XIV.3 26-51. See also J. Robinson et al., Were the Minorities Treaties a Failure? (1943) and works mentioned supra note 4.

6 See K. Hailbronner, “The Legal Status of Population Groups in a Multinational State under Public International Law”, in Dinstein & Tabory eds., supra note 4, at 117-44.