Chapter 2

History of the Minority Question

Nothing, I venture to say, is more likely to disturb the peace of the world than the treatment which might, in certain circumstances, be meted out to minorities.

Woodrow Wilson

2.1. Definitions

The problem of minorities has troubled world peace and international good-will for centuries. The literature on the subject of minority rights covers a range of polarising contemporary issues such as affirmative action, desegregation, bi-lingual education, immigration reform, and multiculturalism. The debate evokes great passion from those who support or oppose the idea of special rights for individuals who are members of minority groups. However, treatment of the minority question as a subject in history differs from the modern literature, portraying the topic instead as an international question that involves the relationship between different states. The minority problem has a distinctly international character since the subject involves the relationship between different national groups who generally emigrate from different countries. Disputes between states and internal state conflicts about minorities have served as a justification for war as well as other forms of violence between national groups, including WWI. The minorities question is a subject that also lends itself to

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2 Capotorti 6.

3 Thornberry, Patrick, International Law and Minorities, 3. A minority may also have formerly constituted an independent nation (tribal organisation); been part of a nation living under its own state, which was segregated from this jurisdiction and annexed to another state; or be a regional or scattered group that has not reached a minimum degree of assimilation with the predominant group.

4 Macartney, C.A. National States and National Minorities (London, OUP,1934), 181. A presenting cause of WWI was the Sarajevo murder of Archduke Franz Ferdinand as well as the ethnic group conflict in the Balkan states.
international law exercised through the treaty-making power of states, since treaty law is the vehicle by which different states govern their formal relationships.

The modern nation, an abstract concept, makes it difficult to produce a clear definition for the term minority. Definitions for the nation as well as for minority groups must be researched as two aspects of the same topic, because so-called minority groups are produced by the grant of sovereignty to the nation-state itself controlled by different national groups. Therefore, to define a minority we must also find a definition for the nation. Some scholars maintain attempts to define a minority group are futile, since the idea of a minority is an inherently ambiguous concept lacking definitive characteristics. Some states unsuccessfully argue that they have no minorities. Legal scholars maintain that a state’s failure to recognise the existence of its minority groups does not exempt it from fulfilling treaty obligations requiring the state’s recognition for the existence and identity of minority groups.

Any group or association of individuals that is linked by a common interest and does not comprise a majority of the population can potentially be defined as a minority group. Social classes, families, speakers of dialects might claim benefits and protections of international law under an expansive definition of the minority group. Giving all such groups recognition and protection in law, however, would create an absurdity that demeans larger historical questions. International law bases the definition of minorities squarely upon problems and conflicts between ethnic, religious, national and linguistic groups that result from the creation of the nation-state. United Nations Special Rapporteur Francesco Capotorti’s 1991 study on the rights of minorities explains that, in recommending international minority rights standards, the HRC “did not consider it necessary to define the term minority…[because] the only point at issue…is whether an indisputable objective

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Thornberry, Patrick. International Law and Minorities, 116. “In the kind of world for which we fight, there must cease to exist any need for the use of that accursed term, racial or religious minority.” The quote is a statement made by the Roosevelt Administration’s Secretary of State during the UN Genocide Convention.

Adarand Constructors, Inc. v Pena, 515 U.S. 200 (1995). US Chief Justice Antony Scalia recently found that “in the eyes of the [US] government, we are just one race here. It is American.”

Claude 82. Claude describes how Hawaii statehood was delayed until its racial groups had been Americanised.

6 See Articles 1 and 27, ICCPR. 999 UNTS 171.