The Office of the High Commissioner for Human Rights and Minority Rights

Clive Baldwin*

1. Background

One would expect minority rights to play a very important role in the human rights work of the UN. Minority rights derive from the standards that have been developed by the UN and its predecessor, the League of Nations. In fact, international human rights protection essentially began with the League’s minority rights regime. What is widely acknowledged as the worst human rights violation of all—genocide—is very often targeted at minorities. Minority rights are perhaps the area of human rights that is most needed for effective conflict prevention and development assistance—the two other pillars of the UN. There are millions of people who belong to minorities, in almost every country in the world.

Yet, the UN has largely marginalised its work on minorities, restricting it to just a small part of its Office of the High Commissioner on Human Rights (OHCHR). Until 2005, there was only one UN mechanism devoted to minorities, the Working Group on Minorities (WGM), which now meets for just three days each year. There has been only one staff member in the OHCHR devoted to minority issues. Few other staff in the Office have the time to develop a full understanding of what minority rights are, even where it may be essential to their work. A more cohesive approach to minority rights could therefore make the work of the Office, and the UN in general, much more effective.

Given that the problems faced today often repeat what has happened in the past, a brief history of minority rights and the UN will be provided.


© Koninklijke Brill NV, Leiden, 2007 DOI: 10.1163/138548707X208872
2. A Brief History of Minority Rights and the UN

Minority rights had been developed by the UN long before the creation of the OHCHR. In fact, the international legal protection of human rights can be traced back to the minority treaty system of the UN’s predecessor, the League of Nations, the first time countries were accountable before an international institution for the treatment of their citizens. One of the first acts of the UN’s own human rights work in the late 1940s was to create a Sub-Commission for the Prevention of Discrimination and the Protection of Minorities.

However, this history of minority rights protection within the UN up until the early 1990s was one largely of marginalisation within the UN in general, and in its human rights work in particular. The Sub-Commission whilst initially being involved in addressing specific minority issues was effectively given instructions by the member states of the UN to greatly reduce its work on minority issues.1 Despite this it has managed to draft what became Article 27 of the International Covenant on Civil and Political Rights (ICCPR), which created specific minority rights in one of the core UN human rights treaties. A similar provision was included in the Convention on the Rights of the Child (CRC) in 1989. The Sub-Commission had also in the 1970s set up a comprehensive review of the UN’s work on minorities by Special Rapporteur Capotorti, which also provided a working definition of the word.2 However, many of the recommendations of that review remain to be implemented.

The early 1990s was a period of much change and enthusiasm in human rights, and the creation of new procedures and standards. In the UN, of course, the key moment was the creation of the OHCHR in 1993, following the World Conference on Human Rights in Vienna that year, a major attempt to unify, coordinate and increase the UN’s work on human rights.

The early 1990s was also the time of the greatest development in minority rights protection since 1919, both in new standards and institutions. The reason was partly the post-Cold War upsurge in enthusiasm for human rights protection, but also the large number of ethnic and religious conflicts that erupted at the end of the Cold War, most prominently in the then Yugoslavia. These conflicts were often perceived as being about minority rights issues, and there was a

---

1) The Sub-Commission was actually suspended for a period of time in the early 1950s.
2) Capotorti defined a minority as: “a group, numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language”. See "Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities", UN Doc. E/CN.4/Sub.2/384/Add.1–7 (1977).