The International Legal Status of Soviet Minorities Today

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International Law on Human Rights, as it has developed during the last decades, is mainly directed towards the protection of individuals. Nevertheless, it also provides for some rights which may be enjoyed on a collective basis by social groups as such.¹ The international concern for such rights today—as emphasized by the practice of the United Nations—concentrates mostly around decolonization at its various stages, including the prohibition of discrimination because of race, color, or ethnic origin. The inter-war period with its elaborate system for the protection of minorities by the League of Nations² focused on the preservation of the identity of social groups within States, but this system has been “... totally dismantled”³ by the United Nations, although a subcommittee of the Human Rights Committee of the ECOSOC has been established to treat questions of discrimination and protection of minorities.⁴ An analysis of the international legal status of Soviet minorities has to take into account this tendency but still can reflect some policy considerations with regard to international legal obligations of the Soviet Union.

The concept of minorities in this paper is not limited to the traditional use of the term in the sense of ethnic, religious, or linguistic groups within a State which are a numeric minority in comparison with the rest of the population. It shall also include groups of people forming a numerical majority but deprived of rights which they should enjoy under International Law.

Minority rights under International Law are traditionally directed at the preservation of the physical existence or identity⁵ of a distinct group and at the protection of this group from discrimination.⁶ In addition, International Law also provides for collective rights of social groups regardless of their size and their numerical proportion within a State,⁷ e.g. also for the whole population of this State.

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Soviet minorities as nations or as linguistic and cultural groups may be regarded as protected by International Law in three ways:

(a) the physical existence of the identity of Soviet minorities as eponymous groups may be endangered by the uncontrolled immigration of other Soviet nationalities into their area (indigenous population versus immigrants);

(b) Soviet minorities, which form a clear minority within the USSR as a whole especially with regard to Slavic nationalities, may be subject to discrimination (minorities versus majorities); and

(c) Soviet minorities, as part of the population of the Soviet Union, may be entitled to rights which International Law accords on a collective basis to the entire population (collective Human Rights).

1.1. Sources of Soviet Obligations for the Protection of Minorities

Soviet obligations for the protection of minorities could arise out of international customary and treaty law. Although the inter-war period showed some trends towards the development of a customary international minority law, there is hardly any evidence to prove its existence today.\(^8\) It seems therefore more appropriate to take into account the USSR's treaty commitments. The USSR has become party to some International Conventions containing provisions with regard to minorities:

The Convention on the Prevention and Punishment of the Crime of Genocide,\(^9\)

The International Convention on the Elimination of all Forms of Racial Discrimination,\(^10\)

The UNESCO Convention against Discrimination in Education,\(^11\)

The ILO Convention on Discrimination in Employment and Occupation.\(^12\)

The Soviet Union is furthermore party to both International Covenants on Human Rights of the United Nations.\(^13\) The first Covenant on Economic, Social, and Cultural Rights came into force on 3 January 1976 and the second on Civil and Political Rights on 23 March of the same year.

On the other hand, the USSR has signed the Final Act of the Helsinki Conference on Security and Co-operation in Europe, but this instrument is not an international treaty. It can be regarded as a solemn declaration of principles of politics of the signatory States.\(^14\) Nevertheless, to completely ignore this declaration