The United Nations

In December 1948 the UN General Assembly adopted the so-called Universal Declaration of Human Rights in which Article 2 contained a blanket provision of non-discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

There was therefore nothing special in the Declaration for Minorities. In any case, as a Declaration rather than a treaty or convention, it was not a legally enforceable document and again Article 2, para.7 of the UN Charter had its part to play. Rather, it was a standard of achievement to be attained, a moral force.

There had been attempts to get protection of minorities inserted into the Declaration but the General Assembly rejected them. It was argued that the Declaration was concerned with individual, not group rights; that the widely differing types of minorities in the world would make it difficult to adopt a uniform solution; that in some countries (like the United States) assimilation was the goal of society, and therefore preservation of a minority’s characteristics could not be considered a universal aim; that political rights extending protection of minorities individually or collectively was something up to national, not international institutions; and, revealingly, that minorities might be incited to endanger the integration and integrity of states.

At the same time that it adopted the Universal Declaration of Human Rights the United Nations adopted the Genocide Convention. Genocide was defined as:
(1) Killing members of the group.
(2) Causing members of the group serious physical and mental damage.
(3) Imposing deliberately conditions of life so as to produce the physical destruction of the group in whole or in part.
(4) Imposing measures to prevent births within the group.
(5) Forced transfer of the children of the group to another group.

Interestingly, an attempt was made to have cultural genocide included in the Convention on the grounds that cultural genocide could not be divorced from physical or biological genocide since their aims were the same, namely, the destruction of a national, racial or religious group as such either by exterminating its members or by destroying its special characteristics. ‘Cultural genocide represents the end whereas physical genocide represents the means.’

The text adopted by the Committee on Genocide of the Economic and Social Council defined cultural genocide as:

any deliberate act committed with the intent to destroy the language, religion or culture of a national, racial or religious group on grounds of national or racial origin or religious belief such as:

(1) prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;
(2) destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.

But the inclusion of the section was rejected in plenary on a number of grounds – cultural genocide was better protected through human rights, the definition of cultural genocide was too vague. The delegate of Belgium, none other than Georges Kaeckenbeeck, the president of the Arbitral Tribunal in Upper Silesia before the war, stated that the importance of protecting minorities had no place in the Convention. Moreover, since the acts described as cultural genocide came within the province of the domestic affairs of states, it would be difficult for the latter to recognise international jurisdiction in such cases.

But the UN did not entirely wash its hands of minorities. At the same time that it adopted the Universal Declaration of Human Rights the General Assembly also adopted Resolution 217 III C to the effect