

MINORITIES: THE MISSING ARTICLE IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

WILLIAM A. SCHABAS

The *Universal Declaration of Human Rights* contains no provisions concerning the rights of persons belonging to ethnic, linguistic and religious minorities. Early in the history of human rights, the protection of minorities had been an important theme, notably in the treaties and declarations adopted subsequent to the First World War. The first draft of the *Declaration* contained a minority rights provision, based on a text prepared by the English scholar Hersh Lauterpacht. However, the Drafting Committee Commission on Human Rights ultimately voted against including such a text in the *Declaration*. The Soviet Union, Yugoslavia and Denmark unsuccessfully attempted to revive the idea during the debate in the Third Committee of the General Assembly, in October-December, 1948. Ultimately, the Assembly adopted a distinct resolution referring the question back to the Sub-Commission for further study. European States, particularly those in Eastern Europe, where the inter-war minorities system had been in force, were keen on including a minority rights provision. Opposition came from states of immigration: South and North America, Australia and New Zealand, who feared it might inhibit assimilation. The remaining colonial powers, the United Kingdom and France, were also opposed. Proponents of minority rights succeeded in the adoption of article 27 of the *International Covenant on Civil and Political Rights*. But the unfortunate omission in the *Declaration* had long-term consequences and may partially explain the rather modest protection offered by international human rights law to both ethnic minorities and indigenous peoples.

The *Universal Declaration of Human Rights* was adopted by the United Nations General Assembly on December 10, 1948.¹ According to its preamble, its aim was to constitute a "common

¹ G.A. Res. 217 A (III), U.N. Doc. A/810. See: Alfred VERDOODT, *Naissance et signification de la Déclaration universelle des droits de l'homme*, Louvain, Paris:

standard of achievement for all peoples and all nations." As the touchstone for international human rights law, its universal significance has been reaffirmed on countless occasions, and most notably in the *Helsinki Final Act* of 1975² and the *Vienna Declaration and Programme of Action* of 1993.³ The *Declaration* was the framework upon which the two international human rights covenants were constructed,⁴ and it is cited specifically in the preambles to the three major regional human rights instruments.⁵ The *Declaration's* provisions are general and often quite vague, leaving a large amount of room for interpretation and progressive development. For example, the very simple recognition of the right to life, in article 3, was meant to allow the law to develop and, eventually, to include the abolition of the death penalty among the elements making up the norm. But in 1948, any such affirmation would have been excessive and unrealistic.

Yet in one important area, the drafters of the *Universal Declaration* chose to exclude a fundamental right, that involving the protection of individuals belonging to ethnic, linguistic and religious minorities.⁶ Amendments aimed at filling this void were proposed but they were systematically rejected by both the Commission on Human Rights

Nauwelaerts, 1963; Asbjorn EIDE, *The Universal Declaration of Human Rights: A Commentary*, Oslo: Scandinavian University Press, 1992; Glen JOHNSON, *La Déclaration universelle des droits de l'homme*, Paris: UNESCO, L'Harmattan, 1991; René CASSIN, "La Déclaration universelle et la mise en œuvre des droits de l'homme," (1951) 79 *R.C.A.D.I.* 237; John HUMPHREY, "La nature juridique de la Déclaration universelle des droits de l'homme," (1981) 12 *R.G.D.* 397.²*Helsinki Final Act*, art. 1(a)(VII).

³ U.N. Doc. A/CONF.157/24, preamble.

⁴ *International Covenant on Economic, Social and Cultural Rights*, (1976) 993 U.N.T.S. 3, [1976] C.T.S. 46; *International Covenant on Civil and Political Rights*, (1976) 999 U.N.T.S. 171, [1976] C.T.S. 4.

⁵ *Convention for the Protection of Human Rights and Fundamental Freedoms* ("European Convention on Human Rights"), (1955) 213 U.N.T.S. 221, E.T.S. 5; *American Convention on Human Rights*, (1979) 1144 U.N.T.S. 123, O.A.S.T.S. 36; *African Charter on Human and Peoples' Rights*, O.A.U. Doc. CAB/LEG/67/3 Rev. 5.

⁶ Albert VERDOODT, "Influence des structures ethniques et linguistiques des pays membres des Nations Unites sur la rédaction de la Déclaration universelle des droits de l'homme", in *Liber Amicorum Discipulorumque René Cassin*, Paris: Pedone, 1969, pp. 403-416.

and the General Assembly. Nevertheless, the protection of minorities or of individuals belonging to minorities has a long history in international law. Almost from the beginning of international law itself, at the time of the Treaty of Westphalia, texts were included in peace treaties securing the protection of religious minorities.⁷ During the nineteenth century, minority rights provisions became a recurring feature of the international conventions that marked the declining fortunes of the Ottoman Empire.⁸

Then, in 1919, minority rights became one of the human rights themes of the post-war world order. There were a series of proposals, originating in the United States, for inclusion of minority rights provisions in the *Covenant* of the League of Nations.⁹ However, these were dropped in the final version, due to hesitation by the United Kingdom, Australia and New Zealand, who were concerned about the consequences in their relations with aboriginal peoples.¹⁰ A series of multilateral treaties, bilateral conventions and unilateral declarations ensured a panoply of rights to members of religious and ethnic minorities in Eastern Europe and the Middle East.¹¹ Moreover, a petition system was inaugurated that had, as its ultimate expression, the rich and enduring case-law of the Permanent Court of International Justice. But the treaties which provided safeguards for ethnic minorities fell short of their promise, and many believed they were exploited by fascists seeking to fan the flames of irredentism. By the end of the Second World War, as work began on the new law of human rights, the question of minority rights was controversial.

⁷ For example: *Austro-Ottoman Treaty* (1615); *Peace of Westphalia* (1648); *Treaty of Ovila* (1660); *Treaty of Peace between France and Great Britain* (1713).

⁸ For example: *Convention of Constantinople* (1879); *Convention of 1881 for the Settlement of the Frontier between Greece and Turkey*.

⁹ F. CAPOTORTI, *Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities*, U.N. Doc. E/CN.4/Sub.2/384/Add.1-7, U.N. Sales No. E.78.XIV.I, §82-91. See also: David Hunter MILLER, *The Drafting of the Covenant*, Vol. II, New York: G.B. Putnam's Sons, 1928.

¹⁰ Nathan FEINBERG, *La question des minorités à la Conférence de la paix de 1919-1920 et l'action juive en faveur de la protection internationale des minorités*, Paris: Librairie Arthur Rousseau, 1929.

¹¹ P. DE AZCARATE, *The League of Nations and National Minorities*, Washington: Carnegie Endowment, 1945; S. ROUCEK, *The Working of the Minorities System under the League of Nations*, Prague: Orbis, 1929.

1. From Secretariat Outline to Drafting Committee

The preliminary meetings for the organisation of the United Nations were held in late 1944 at Dumbarton Oaks. The Dumbarton Oaks Proposals only set out the goals of the United Nations Organisation and did not venture into the specific human rights that would be addressed. The phrase employed was: "promote respect for human rights and fundamental freedoms."¹² The following year at San Francisco the *Charter of the United Nations*¹³ was adopted and the organisation inaugurated. The *Charter* declared that the promotion and encouragement of respect for human rights was an obligation upon Member States¹⁴ and assigned the responsibility for human rights matters to the Economic and Social Council¹⁵ and to commissions that were to be set up by the Council.¹⁶ At San Francisco, there were unsuccessful efforts to adopt an "international bill of rights" as part of the *Charter* or as an adjunct to it, and with this in mind drafts were submitted by Panama and Cuba, neither of which addressed the issue of minority rights.¹⁷ The San Francisco conference did not proceed with the bill of rights, leaving it as a matter of priority for the future Commission on Human Rights.¹⁸

¹² *Dumbarton Oaks Proposals for a General International Organization*, Documents of the U.N. Conference on International Organization, San Francisco, 1945, Vol. III, at p. 19.

¹³ *Charter of the United Nations*, (1945) 39 *A.J.I.L. Supp.* 190, [1945] *C.T.S.* 7, 145 *B.F.S.P.* 805.

¹⁴ *Ibid.*, art. 55c); see Jean-Bernard MARIE, Nicole QUESTIAUX, "Article 55: alinéa c," in Jean-Pierre COT, Alain PELLET, *La Charte des Nations Unies*, Paris, Brussels: Economica, Bruylant, 1985, at pp. 863-883; E. SCHWELB, "The International Court of Justice and the Human Rights Clauses of the Charter," (1972) 68 *A.J.I.L.* 337.

¹⁵ *Ibid.*, arts. 60, 62§2; see Dominique ROSENBERG, "Article 62§2," in Jean-Pierre COT, Alain PELLET, *ibid.*, at pp. 955-960.

¹⁶ *Ibid.*, art. 68; see Raymond GOY, "Article 68," in Jean-Pierre COT, Alain PELLET, *ibid.*, at pp. 1010-1026.

¹⁷ U.N.C.I.O. Doc. 2G/14(g); U.N.C.I.O. Doc. 2G/7/(2). Article 52 of the Cuban draft prohibited discrimination, but said nothing about minorities. Article 17 of the Panamanian draft provided for equal protection but was also silent on the subject of minorities.

¹⁸ The First Committee did, on June 1, 1945, resolve that the General Assembly should examine the Panamanian text and give it an effective form (U.N.C.I.O. Doc. 944, I-I, 34). See also Lilly E. LANDERER, "Capital Punishment as a Human Rights Issue Before the United Nations," (1971) 4 *H.R.J.* 511, at p. 513.

In order to give detailed direction to the Economic and Social Council for the establishment of the Commission, a "nuclear commission on human rights" was convened in May, 1946, with Eleanor Roosevelt as its chair.¹⁹ The Commission took the view that the actual drafting of the bill would be the task of the "Permanent Commission on Human Rights," following the creation of that body.²⁰ The report of the nuclear commission to the Economic and Social Council contained recommendations to this effect.²¹ When the Commission on Human Rights was established by the Economic and Social Council, in June, 1946, its terms of reference consisted of five items, including the drafting of the international human rights declaration and the protection of minorities.²²

The Commission on Human Rights met for the first time from January 27 to February 10, 1947.²³ At the first session of the Commission, there were occasional comments relevant to the issue of minority rights. Hansa Mehta of India said: "An effort must be made to define in practice, legal and practical language, as to what a minority is, as to what discrimination is. Additional to this, a definition must be made forthwith as to what specific safeguards must be incorporated in the proposed bill of human rights against the danger of assimilation where they exist."²⁴ Colonel Hodgson of Australia said: "What do we see when we speak of human rights? We refer to, or we have in mind minorities."²⁵ And General Romulo of the Philippines noted: "...the bill of rights, which we have been commissioned to draw up, should take into account... the rights of minority groups within the state..."²⁶

¹⁹ U.N. Doc. A/125/Add.1, p. 7; U.N. Doc. E/HR/6, p. 3.

²⁰ U.N. Doc. E/HR/13, p. 1; U.N. Doc. E/HR/15, pp. 4-5, U.N. Doc. E/HR/19, p. 5.

²¹ U.N. Doc. E/38/Rev.1.

²² ECOSOC Res. 5 (I), §c; amended by ECOSOC Res. 9 (II); U.N. Doc. A/CONF.32/6, §79.

²³ U.N. Doc. E/CN.4/SR.1*. For a history of the work of the Commission on Human Rights in the drafting of the *Universal Declaration*, see Jean-Bernard MARIE, *La Commission des droits de l'homme de l'O.N.U.*, Paris: Pedone, 1975.

²⁴ U.N. Doc. E/CN.4/SR.2, p. 32.

²⁵ *Ibid.*, p. 42.

²⁶ U.N. Doc. E/CN.4/SR.9, pp. 13-20.

The Commission on Human Rights recognised that an *ad hoc* "Drafting Committee" would be best suited to prepare the draft bill.²⁷ This approach was endorsed by the Economic and Social Council, which requested the Secretariat to prepare a documented outline.²⁸ The outline was to be studied by the Drafting Committee and mailed to Commission members by June 25, 1947. It would then be considered at the Commission's second session at the end of the year, returned to the Drafting Committee if necessary for review, resubmitted to the Commission on Human Rights, and then sent on to the Economic and Social Council, with a view to adoption by the General Assembly at its 1948 session. The Drafting Committee was composed of representatives from Australia, Chile, China, France, Lebanon, the Soviet Union, the United Kingdom and the United States.

Accordingly, the secretary of the Commission, John P. Humphrey, was assigned to compile an initial draft. Humphrey essentially collated the human rights provisions found in the draft declarations submitted by governments and non-governmental organizations, together with the relevant constitutional human rights instruments of the United Nations Member States. His document, known as the "Secretariat Draft Outline," and which is the first real draft of the *Universal Declaration*, consisted of forty-eight articles.²⁹ Only one of the draft declarations available to the Commission had included a minority rights article, that prepared by Professor H. Lauterpacht in 1945.³⁰ But there were examples of minority rights provisions in the constitutions of Belgium, Byelorussia, China, Czechoslovakia, Ecuador, Iran, Lebanon, Luxembourg, Panama, Poland, South

²⁷ *Ibid.*, p. 5; U.N. Doc. E/CN.4/SR.12, p. 5; U.N. Doc. E/259, §10(a).

²⁸ U.N. Doc. E/RES/46(IV), U.N. Doc. E/325.

²⁹ U.N. Doc. E/CN.4/AC.1/3.

³⁰ Hersh LAUTERPACHT, *An International Bill of the Rights of Man*, New York: Columbia University Press, 1945. See also: U.N. Doc. E/CN.4/AC.1/3/Add.1, pp. 380-381. Lauterpacht's text said: "In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right to establish and maintain, out of an equitable proportion of the available public funds, their schools and cultural and religious institutions and to use their own language before the courts and other authorities and organs of the State."

Africa, Syria, Ukraine, USSR and Yugoslavia.³¹ Humphrey suggested the following text, which is article 46 of his draft: "In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right to establish and maintain, out of an equitable proportion of any public funds available for the purpose, their schools and cultural and religious institutions, and to use their own language before the courts and other authorities and organs of the State and in the press and in public assembly."³² The Secretariat placed the provision under the heading "Equality," where it was accompanied by only one other article, dealing with the prohibition of discrimination.³³ The model for the Secretariat Draft article was the text drafted by H. Lauterpacht, with which it differed in only minor respects.

The Drafting Committee convened in June, 1947. Its session began with a first reading of the Secretariat Draft Outline, largely with a view to seeing if at least one member of the Committee considered that the provision should be retained. When it came to article 46, Charles Malik of Lebanon said that he agreed with the inclusion of the substance of the provision.³⁴ After this exercise was concluded, the Drafting Committee agreed to set up a Working Group, composed of the representatives of France, Lebanon, and the United Kingdom.³⁵ This Working Group in turn decided that it would be preferable for the draft declaration to be the work of a single individual and asked René Cassin to assume the responsibility. Cassin was to prepare a draft declaration based on those articles in the Secretariat Outline that he felt belonged in the Bill. A few days later, he produced a new text consisting of a preamble and forty-four articles.³⁶

³¹ U.N. Doc. E/CN.4/AC.1/3/Add.1, pp. 381-386.

³² U.N. Doc. E/CN.4/AC.1/3, p. 16; U.N. Doc. E/CN.4/AC.1/3/Add.1, pp. 380; also U.N. Doc. E/CN.4/AC.1/11, p. 51.

³³ U.N. Doc. E/CN.4/AC.1/3/Add.2, p. 6.

³⁴ U.N. Doc. E/CN.4/AC.1/SR.4, p. 10.

³⁵ U.N. Doc. E/CN.4/AC.1/SR.6, p. 8; U.N. Doc. E/CN.4/21, §13.

³⁶ U.N. Doc. E/CN.4/AC.1/SR.7, p. 2; U.N. Doc. E/CN.4/21, §14; the draft is U.N. Doc. E/CN.4/AC.1/W.2/Rev.2; also U.N. Doc. E/CN.4/AC.1/14.

Article 39 of the Cassin draft dealt was, with a few minor changes, the same as the text in the Secretariat Draft.³⁷ In presenting the provision, Cassin said it "was one of the most important Articles as the prevention of discrimination should be emphasised in the Declaration. However, the language in this Article should be appropriate for situations existing all over the world, and suggested that the word 'conglomeration' might be better than the word 'persons.'" Cassin recommended that the provision be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for further study.³⁸

The Cassin draft provoked the first real debate on whether or not to include a minority rights provision in the draft declaration. Santa Cruz of Chile said that many countries of the American continent had been created by immigration of people from other countries and warned that the form and substance of the Article called for most careful consideration.³⁹ Malik of Lebanon perceptively observed that "the substance of this Article seemed to be what divided the New World from the Old. In the Old World, there were wide divisions of ethnic groups. In the New World, there was assimilation."⁴⁰ Malik did not oppose referral to the Sub-Commission, but insisted that the idea of minority rights be included in the Declaration.⁴¹ Wilson of the United Kingdom said "that when the time was ripe, something along the lines of the draft Article should be included in the Declaration." But Wilson cautioned against referral to the Sub-Commission, as this would imply its endorsement by the Drafting Committee. Wilson said it should be the task of the Secretariat to bring the provision to the Sub-Commission's attention.⁴²

³⁷ *Ibid.* "In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right as far as compatible with public order to establish and maintain their schools and cultural and religious institutions, and to use their own language in the press, in public assembly and before the courts and other authorities of the State."

³⁸ U.N. Doc. E/CN.4/AC.1/SR.16, p. 6.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*

It was by now clear that sharp division existed on the subject. Eleanor Roosevelt, in the chair, thought that a footnote might be attached to the minority rights article saying that the text was based on the Secretariat Outline.⁴³ She thought the Drafting Committee might refer the substance of article 39 to the Commission on Human Rights, letting it decide whether to refer the matter to the Sub-Commission.⁴⁴ Malik preferred to state that the provision had been discussed in the Drafting Committee, which did not take any action, deciding to refer the matter to the Commission for possible reference to the Sub-Commission.⁴⁵ Eventually, the Drafting Committee agreed upon the following footnote: "In view of the supreme importance of this Article to many countries, the Drafting Committee felt that it could not prepare a draft article without thorough pre-examination by the Commission on Human Rights and suggested that it might if necessary be referred to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for examination of the minority aspects."⁴⁶

2. The Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Sub-Commission met in November and December 1947.⁴⁷ The member from the United Kingdom, Elizabeth Monroe, noted an "inconsistency" in the draft declaration, in that it prohibited discrimination and at the same time sought to protect minorities, thus seeking equal treatment in one provision and differential treatment in another. She proposed that a "clarifying clause" be added to article

⁴³ *Ibid.*

⁴⁴ *Ibid.*, p. 7.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*, p. 10.

⁴⁷ On the Sub-Commission, see: Asbjørn EIDE, "The Sub-Commission on Prevention of Discrimination and Protection of Minorities," in Philip ALSTON, ed., *The United Nations and Human Rights*, Oxford: Oxford University Press, 1992; John P. HUMPHREY, "The United Nations Sub-Commission on the Prevention of Discrimination and the Protection of Minorities," (1968) 62 *A.J.I.L.* 869; Patrick THORNBERRY, *International Law and the Rights of Minorities*, Oxford: Clarendon Press, 1991, pp. 124-132.

36 (formerly article 39) reading: "Differential treatment of a Minority or of an individual belonging to a Minority is not discrimination when it is in the interests of contentment and the welfare of the community as a whole."⁴⁸ The Sub-Commission reworked the Drafting Committee's text and adopted its new version by six votes to four, with two abstentions: "In States inhabited by well defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population and which want to be accorded differential treatment, persons belonging to such groups shall have the right as far as is compatible with public order and security to establish and maintain their schools and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so choose."⁴⁹ The Sub-Commission had made some important changes to the original proposal in the Secretariat Outline and the Cassin draft. It did not require that a "substantial number" of individuals make up the minority, but insisted that it be a "well defined group." The Sub-Commission clarified the distinction between objective and subjective criteria, originally contemplated in an advisory opinion of the Permanent Court of International Justice.⁵⁰ Minority groups needed to be "clearly distinguished from the rest of the population" (objective criterion) but additionally must "want to be accorded differential treatment" (subjective criterion).⁵¹ The major source of discord in the Sub-Commission was whether the protection should be reserved to citizens or whether it would apply to all individuals. The latter solution prevailed, although the Belgian member, Nisot, said this was "excessive."⁵²

⁴⁸ U.N. Doc. E/CN.4/Sub.2/26. Perhaps the original "affirmative action" clause. See: *International Convention on the Elimination of All Forms of Racial Discrimination*, (1969) 660 U.N.T.S. 195, art. 1(4); *Convention on the Elimination of All Forms of Discrimination Against Women*, (1981) 1249 U.N.T.S. 13, art. 4(1).

⁴⁹ U.N. Doc. E/CN.4/Sub.2/38, p. 6; also U.N. Doc. E/CN.4/52, pp. 9-10; U.N. Doc. E/CN.4/77/Annex A.

⁵⁰ Advisory Opinion of July 31, 1930 on the *Greco-Bulgarian Community*, P.C.I.J., Ser. B, No. 17, at pp. 19, 21, 22 and 33.

⁵¹ U.N. Doc. E/CN.4/Sub.2/38, p. 7.

⁵² For the debates in the Sub-Commission, see: U.N. Doc. E/CN.4/Sub.2/SR.10, pp. 2-6, U.N. Doc. E/CN.4/Sub.2/SR.11, pp. 1-22. Also: U.N. Doc. E/CN.4/Sub.2/38, p. 7.

3. The Second and Third Sessions of the Commission on Human Rights

The Commission on Human Rights held its second session in December, 1947. In the Working Group on the draft declaration, the two minority rights provisions, that of the Drafting Committee and that of the Sub-Commission, were considered. Byelorussia expressed astonishment at the phrase "as far as is compatible with public order and security," which had been added by the Sub-Commission.⁵³ René Cassin said that France was prepared to support the Sub-Commission draft, but on the condition that the word "persons" was replaced by "citizens of the country."⁵⁴ Eleanor Roosevelt noted that there were no objections among the Group's members to this change.⁵⁵ Focussing on positive obligations to protect minorities, Byelorussia then proposed that an additional sentence be added to the draft provision: "The rights of minorities must be guaranteed by the State by means of establishing standards and procuring the necessary means from State source in order to give members of such groups rights of nation and nationality in the framework of national and territorial autonomy."⁵⁶ Eleanor Roosevelt was not pleased with the amendment, saying that implementation should be left to individual States.

The voting in the Working Group showed the continuing division on the subject of minority rights. Roosevelt, as chair, indicated that the Working Group first vote on whether or not to delete the provision entirely. The proposal to delete article 36 was defeated, by two votes to one, with two abstentions.⁵⁷ The Byelorussian amendment imposing a positive duty on States was defeated by three votes to two.⁵⁸ Then Cassin withdrew his proposed change dealing with

⁵³ U.N. Doc. E/CN.4/AC.2/SR.9, p. 18.

⁵⁴ *Ibid.*, p. 19. Note that the Human Rights Committee considers that the protection of members of minorities ensured by article 27 of the *International Covenant on Civil and Political Rights*, *supra* note 4, extends to non-citizens: *General Comment no. 23(5) (art. 27)*, U.N. Doc. CCPR/C/21/Rev.1/Add.5, para. 5.1.

⁵⁵ U.N. Doc. E/CN.4/AC.2/SR.9, p. 19.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*, p. 20.

⁵⁸ *Ibid.*

citizens, saying that in any case the text of the article was not yet final and that it would be preferable for the Group not to vote on it at all. The Working Group agreed, then, by four votes to one, not to take a position on the minority rights provision and to send the matter back to the Commission.⁵⁹ Subsequently, the Commission also decided to set it aside with a note to this effect.⁶⁰ The Commission's report on the Second Session reproduced the texts of the Drafting Committee and the Sub-Commission, saying they were subject to "further consideration."⁶¹

Responding to an invitation from the Secretary-General seeking observations on the draft declaration, a few Member States submitted comments addressing the minority rights issue. Brazil said: "The Brazilian Government would prefer the text proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. It would seem advisable, however, to add that such provisions do not refer to groups formed by immigration, whether spontaneous or officially fostered, into independent States already in existence at the time of immigration."⁶² Egypt's submission read: "With regard to Article 31 [formerly 39], which deals with the problem of minorities, and on which no decision was taken by the Commission, the Royal Government considers that such an article is out of place in a declaration on human rights, the object of such a declaration being to enumerate the rights of man and not those of minorities. Minority rights should be covered by a convention on minorities. It is to be hoped, moreover, that when the International Declaration on Human Rights is put into effect by States and men are given equal treatment everywhere the problem of minorities will disappear."⁶³

The final version of the declaration adopted by the Commission on Human Rights at its third session, in June, 1948, contained no minority rights provision. The matter was considered only briefly and with the most perfunctory of debate before the Commission

⁵⁹ *Ibid.*, p. 21.

⁶⁰ U.N. Doc. E/CN.4/SR.40, p. 16.

⁶¹ U.N. Doc. E/600, pp. 18-19.

⁶² U.N. Doc. E/CN.4/82/Add.2, p. 7.

⁶³ U.N. Doc. E/CN.4/82/Add.3, p. 2.

decided to delete the provision, by ten votes to six.⁶⁴ Eleanor Roosevelt said that this also disposed of a Soviet draft to the same effect, but the Soviets argued that their text also dealt with the right to have schools in the mother tongue and that this dictated the need to put their amendment to a vote. Without further ado, it too was rejected, by ten votes to five.⁶⁵ The Soviet delegation made a statement, towards the end of the June, 1948 session of the Commission, noting "the omission from the Declaration of the provision regarding the right of every person to his own national culture, to be taught at school in his native language and to use that language in the press, at meetings, in courts and other public offices..."⁶⁶

4. The General Assembly (Third Committee)

The Commission's draft, adopted at its Third Session in June, 1948, was transferred to the Economic and Social Council and from there to the General Assembly, where it was examined in minute detail from the beginning of October to early December, 1948. Although the minority rights provision had been deleted by the Commission, the Soviet Union, Yugoslavia and Denmark endeavoured to revive the matter during the article-by-article debate in the General Assembly's Third Committee.⁶⁷ Uruguay, Cuba and Greece all attempted to block the debate, arguing that the matter had been

⁶⁴ U.N. Doc. E/CN.4/SR.74, p. 5.

⁶⁵ *Ibid.*, p. 6.

⁶⁶ "Report of the Third Session of the Commission on Human Rights," U.N. Doc. E/800, p. 38.

⁶⁷ U.N. Doc. A/C.3/307, p. 1 (Soviet Union): "Add to the text adopted a separate new paragraph... "All persons, irrespective of whether they belong to the racial, national or religious minority or majority of the population, have the right to their own ethnic or national culture, to establish their own schools and receive teaching in their native tongue, and to use that tongue in the press, at public meetings, in the courts and in other official premises." U.N. Doc. A/C.3/307/Rev.1/Add.1 (Yugoslavia): "A. Any person has the right to the recognition and protection of his nationality and to the free development of the nation to which he belongs. National communities which are in a state community with other nations are equal in national, political and social rights. B. Any national minority, as an ethnical community, as the right to the full development of its ethnical culture

resolved by the Commission at its third session.⁶⁸ But Charles Malik, who was chairing the session, ruled the amendments in order and opened the general debate on the three new texts.

Pavlov of the Soviet Union explained that the issue should concern all persons, whether members of a majority or a minority, because "the use of the native language and the right of a population to develop its own national music and culture were fundamental rights." Pavlov presented a lengthy portrait of Soviet practice, explaining that there were more than 100 nationalities living in harmony within his country, a state of affairs very different from that which had prevailed under Tsarist rule. Pavlov said that internationalism could be achieved in two ways, "firstly, by respecting the rights, the independence and the sovereignty of all peoples, which was the method followed by the Soviet Union; secondly, by assimilating the various peoples; that method the USSR rejected."⁶⁹

Yugoslavia's delegate, Radevanovic, explained that the problem of national minorities was one of protecting small national groups, scattered like islets in the midst of the territory of a nation. Minorities were always in danger of losing their national character, he said. "The cultural and ethnical rights of all persons belonging to a national minority, the right to develop their own ethnical culture, to establish schools, to use their native language in public administration etc. all depended upon the recognition of the minority itself as an ethnic group." Radevanovic noted that the Yugoslav proposal was aimed at the protection of national minorities as such, and did not touch directly upon the individual rights of persons belonging to minorities.⁷⁰

Denmark's proposal, dealing only with the right to education in the mother tongue for minorities, was more modest. Hvass of Denmark explained that the Soviet draft was too detailed, and that

and to the free use of its language. It is entitled to have these rights protected by the State." U.N. Doc. A/C.3/307/Rev.1/Add.2 (Denmark): "All persons belonging to a racial, national, religious or linguistic minority have the right to establish their own schools and receive teaching in the language of their own choice."

⁶⁸ GAOR, Third Session, Part I, Summary Records of Meetings of the Third Committee, pp. 717-719; U.N. Doc. A/C.3/SR.161.

⁶⁹ *Ibid.*, pp. 719-720.

⁷⁰ *Ibid.*, p. 720.

“a declaration which was to be completed by a covenant demanded brevity and conciseness.”⁷¹

The heart of the opposition to the proposals came from States of immigration, in South and North America, as well as Australia and New Zealand. Campos Ortiz of Mexico said that the situation of minorities on the American continent could not be equated with that in Europe. They were not, he said, affected by discriminatory measures and “had the advantage of a very generously conceived naturalisation, with the result that the various legislative bodies had not needed to consider the question of the protection of minorities.”⁷² Brazil said that national unity of States might be disrupted were the principle set out in the Soviet resolution to be applied. De Athayde of Brazil explained that all teaching in his country was carried out in the national language. “If foreigners were able to use their mother tongue in the schools, before the courts and in various other circumstances, immigrants would have no interest in learning Portuguese and in becoming assimilated as rapidly as possible into the Brazilian population.” De Athayde said that an immigrant had agreed freely to come to the new country, and therefor should accept “the disadvantages of his situation as an immigrant, since he also had the advantages which went with it.”⁷³ Santa Cruz of Chile said the principle would be “extremely dangerous” for countries such as his own, which had received large numbers of immigrants, many of them Europeans who had been persecuted by dictatorial regimes. Santa Cruz paid tribute to Brazil as “an unprecedented example of the fusion of races.”⁷⁴ Uruguay’s Jiménez de Aréchaga took a similar view, noting that there was no distinction in his country between the status of immigrants and that of its own nationals. However, he admitted that adequate measures might be necessary in States where minorities existed. Still, a minority rights provision had no place in a universal declaration.⁷⁵

⁷¹ *Ibid.*, p. 721.

⁷² *Ibid.*

⁷³ *Ibid.*, pp. 721-722.

⁷⁴ *Ibid.*, pp. 723-724.

⁷⁵ *Ibid.*, p. 721.

Eleanor Roosevelt said that the Commission on Human Rights "had studied with close attention the possibility of including a provision concerning minorities" in the declaration, and had decided to delete it. She agreed with the Latin Americans that the problem was different in Europe and in America. The American position favoured assimilation. The problem of minorities was only a European one, she said.⁷⁶

Canada made one of its rare interventions in the debate on the draft declaration, questioning the definition of the term "minority." The Canadian delegate said "[i]t has been stated that the problem of minorities may arise as the result of the arrival in a country of new settlers from a foreign country, or it may arise from the unfavourable circumstances in which certain indigenous national groups may find themselves." He noted that Canada was made up of groups of English and French-speaking Canadians, neither of which met the definition of a "minority,"⁷⁷ and both of which have "complete amity one towards the other."⁷⁸ He did not expand upon the subject of indigenous peoples, although he did discuss the status of immigrants: "The Government's policy was one of voluntary assimilation, looking forward to the day when the immigrant would regard himself as a Canadian citizen."⁷⁹ He told the Committee that he would vote against the proposals, although he said he could support referring the matter to the ECOSOC for further study⁸⁰.

Australia, New Zealand, Turkey, Greece and the United Kingdom also spoke against the three proposed minority rights provisions. Australia said its situation was similar to that of the Latin American

⁷⁶ *Ibid.*, pp. 726.

⁷⁷ In this regard, see: *Ballantyne and Davidson, and McIntyre* (Nos. 359/1989 and 385/1989), U.N. Doc. A/48/40, Vol. II, p. 91, 14 *H.R.L.J.* 171, 11 *Netherlands Q.H.R.* 469.

⁷⁸ "Final Report, Item 58, Universal Declaration of Human Rights, Supplementary to and continuing Interim Report submitted under cover of despatch No. 31 of 25th November from Chairman of the Canadian Delegation, by J.H. Thurrott, Second Secretary at the Canadian Embassy in Brussels, sent to George Ignatieff, December 21, 1948," NAC RG 25, Vol. 3700, File 5475-DM-1-40, Appendix H.

⁷⁹ U.N. Doc. A/C.3/SR.162, p. 729.

⁸⁰ NAC RG 25, Vol. 3699, File 5475-DG-2-40, No. 497, November 29, 1948. Also: "Final Report, Item 58, Universal Declaration of Human Rights...", *supra* note 78, p. 9.

countries. In general, Australia "desired the dispersal of groups rather than the formation of minorities; similarly it desired that one language should prevail." Australia could not accept the idea that any language other than the national language be used before the courts.⁸¹ Contoumas of Greece said the question was already dealt with in the recognition of the right to equality in the Charter of the United Nations and in draft article 2 of the declaration. He said that recognition of equality met 85% of the concerns of minorities. As for the claim for differential treatment, this was delicate and minorities might abuse the right, becoming disloyal to the government and acting as a fifth column at the orders of a foreign government.⁸²

Opponents of the minority rights provisions also raised the spectre of pre-war fascist agitation among immigrant communities, based on a pretext of protection of minorities in the New World. Chile's Santa Cruz noted that Nazi Germany had endeavoured to make use of the descendants of refugees of 1848.⁸³ Campos Ortiz of Mexico referred to attempts by Nazis and fascists to incite minorities in the Americas, and to suggest that they had some authority over them. However, such contentions had been rejected by all of the Latin-American countries. In this respect, Campos Ortiz cited a resolution of the eighth International Conference of American States, held in Lima, Peru in 1938, where a resolution had been adopted holding that foreigners enjoyed the same rights and privileges as the nationals of the countries where they resided, but that they were not entitled to any special protection as communities.⁸⁴ Australia, too, noted that its only experience with the minorities problem was when it had been raised by German propaganda.⁸⁵

On the other hand, India said that as a country that had been under foreign domination for many years, it would naturally support the Soviet proposal. "India faced difficulties with regard to its own minorities, the most conspicuous example being the partition of the

⁸¹ *Supra* note 68, p. 725.

⁸² *Ibid.*, p. 727; U.N. Doc. A/C.3/SR.162.

⁸³ *Ibid.*, U.N. Doc. A/C.3/SR.161, p. 722.

⁸⁴ *Ibid.*, p. 721.

⁸⁵ *Ibid.*, p. 725.

country on religious grounds," said Menon. "However, it hoped to solve those difficulties on the basis of the USSR policy of political integration with cultural independence."⁸⁶ Poland's Kalinowski supported a minority rights provision, saying it represented the positive aspect of the principle of non-discrimination. Kalinowski said that between the two World Wars, Poland had exercised a policy of discrimination with regard to minorities, but that its present government now recognised the rights of minorities which were being "encouraged" by the government. Poland also hoped that the cultural and linguistic rights of Poles living abroad would be assured to them.⁸⁷ In addition, other Soviet allies, Ukraine and Byelorussia, backed the proposal. Support for a minority rights text also came from Belgium, which noted that reference to Latin American conditions was not appropriate, because the situation of immigrants could not be equated with that of minorities. Immigrants had chosen to submit to the laws of the country, whereas minorities were historically constituted groups occupying more or less distinct territories. Dehousse of Belgium said it was unclear that the minority treaties were still in force, and that this was an additional reason for including the rights of minorities in the declaration.

There were only rare references to the issue of aboriginal peoples during the debate. Byelorussia, a supporter of the minorities rights provision, infuriated Australia by accusing it of "a policy of forceful elimination of its aboriginal group." Byelorussia also noted that "the North American Indian has almost ceased to exist in the United States," adding that in colonial territories there were no signs that indigenous culture was being developed and encouraged.⁸⁸ Syria, too, criticised the treatment of indigenous populations in Africa, where they were still prohibited from using their own languages in primary and secondary schools, and were not allowed to establish universities. But Syria cautioned that in the past, the protection of minorities had been used as an excuse to interfere in the domestic affairs of other nations.⁸⁹

⁸⁶ *Ibid.*, pp. 727-728; U.N. Doc. A/C.3/SR.162.

⁸⁷ *Ibid.*, p. 724; U.N. Doc. A/C.3/SR.161.

⁸⁸ *Ibid.*, pp. 724-725.

⁸⁹ *Ibid.*, p. 729; U.N. Doc. A/C.3/SR.162.

France's Cassin referred to the post-First World War minorities treaties system, but said it had been confined to Central Europe. Things had changed since then, he added, observing that the principle of equality of all persons everywhere had already been recognised. "The greater part of the rights of minorities was therefore covered by the terms already laid down," although there remained some matters to consider, particularly the question of languages. Cassin noted that the Soviet Union had a structure based on specific territories for linguistic minorities, whereas unified States, such as France or the young States of America, did not have the same circumstances. However, although France had no minorities, Cassin conceded that its colonial possessions included religious groups and various ethnic groups. "It was therefore exceedingly difficult to find a common denominator for the problems raised by such varied populations," said Cassin. He said he was aware of the great accomplishments of the Soviet Union and Yugoslavia with respect to minorities, but said their proposals were too general. Rather provocatively, he said "[s]uch measures might result in certain populations being unable to read any newspapers except those printed in their own tongue, and in their being excluded from taking part in competitive examination for official posts or in the active life of the nation."⁹⁰

Saint-Lot of Haiti supported Cassin's argument as to the virtual impossibility of reaching any consensus on the subject due to the variety of experiences. He also agreed that the right to equality was already recognised in the draft declaration, and "the protection of minorities would amount to an increase in discrimination."⁹¹ Haiti proposed that the matter be referred to the Economic and Social Council for further study.⁹² René Cassin supported the Haitian proposal, as did Denmark. Greece wanted to modify the Haitian resolution, arguing for deletion of the second, third and fourth paragraphs, and ending the fifth paragraph with the words: "a thorough study of those aspects of the problem of minorities which are not covered by the Declaration of Human Rights and particularly

⁹⁰ *Ibid.*, pp. 730-731; U.N. Doc. A/C.3/SR.162.

⁹¹ *Ibid.*, p. 733.

⁹² U.N. Doc. A/C.3/373.

by article 2." Contoumas said this was necessary in order to avoid giving the impression that the declaration did not deal with minorities at all. In fact, he said, it covered their protection, except it did not allow for differential treatment.⁹³

Malik, who was in the chair, suggested that the last paragraph of the Haitian resolution should begin: "*Refers to the Economic and Social Council the texts submitted by the delegations of the USSR, Yugoslavia and Denmark on this subject, contained in document A/C.3/307/Rev.2 and requests the Council...*" Haiti agreed to the amendment.⁹⁴ The effect of voting on the Haitian resolution first would be to table the three minority rights proposals. The Soviet Union challenged the Chair's decision to vote first on the Haitian resolution rather than on the Soviet resolution, but his appeal was rejected by twenty-six to one, with two abstentions. Then, Ukraine attempted to adjourn the session, but this was rejected by twenty-seven to ten, with one abstention. The Haitian resolution was voted in parts, paragraph by paragraph, and by roll call vote. After the various portions had been adopted, the entire resolution as amended was adopted by twenty-four votes, with sixteen abstentions.⁹⁵

But this did not finish the matter, because Yugoslavia's additional article "A" was still to be debated. Yugoslavia explained that it was not, strictly speaking a minority rights provision, because it really dealt with "complete national groups forming part of the population of a State."⁹⁶ Critics of the Yugoslav proposal noted that it did not concern individual rights, but rather the rights of a group, and as such had no place in a declaration. Others said that the proposal raised an analogous problem to that of minorities, and should be settled in the same way. The Yugoslav proposal was voted in two

⁹³ *Supra* note 68, p. 732.

⁹⁴ *Ibid.*, p. 733.

⁹⁵ *Ibid.*, p. 736. *In favour*: Haiti, Honduras, Mexico, Netherlands, New Zealand, Panama, Paraguay, Peru, Philippines, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay, Australia, Canada, Chile, China, Dominican Republic, Ethiopia, France, Greece, Guatemala. *Abstaining*: India, Lebanon, Poland, Siam, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia, Argentina, Belgium, Brazil, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Denmark, Ecuador.

⁹⁶ *Ibid.*, pp. 736-737; U.N. Doc. A/C.3/SR.163.

parts; the first paragraph was rejected, by twenty votes to eight with eight abstentions, the second, by twenty-two votes to eight with eight abstentions.⁹⁷

The Haitian resolution referring the question of minorities to the Sub-Commission was subsequently adopted by the General Assembly.⁹⁸ Prior to the vote, the Soviet delegate Vyshinsky lamented what he called a fundamental defect in the *Declaration*, namely a provision concerning minority rights.⁹⁹ The Soviet Union again sought to rectify the situation with an amendment,¹⁰⁰ but it was defeated, by thirty-four to eight, with fourteen abstentions.¹⁰¹

* * * * *

Malcolm Shaw has written that minorities lie "upon the fault line of international personality." He has described them as occupying an "indeterminate space along the uneasy and volatile spectrum that ranges from the State at one end to the individual at the other."¹⁰² This partially explains the difficulties of the drafters of the *Declaration* with the unsuccessful minority rights provision. We know that subsequent efforts, and notably article 27 of the *International Covenant on Civil and Political Rights*, have failed to dispel this equivocation, recognising rights of "persons belonging to such minorities" but adding that these rights are exercised "in community with the other members of their group."¹⁰³

⁹⁷ *Ibid.*, p. 740.

⁹⁸ "Resolution relating to the Fate of Minorities," G.A. Res. 217 C (III).

⁹⁹ GAOR, Third Session, Part I, Plenary Meetings of the General Assembly, pp. 856-857. See also the comments of Ukraine, at p. 871; Yugoslavia, p. 917

¹⁰⁰ U.N. Doc. A/784.

¹⁰¹ *Supra* note 68, at p. 930. *In favour* Ukraine, U.S.S.R., Yugoslavia, Byelorussia, Colombia, Czechoslovakia, Pakistan, Poland. *Against*: United Kingdom, United States of America, Uruguay, Venezuela, Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Costa Rica, Denmark, Dominican Republic, France, Greece, Iceland, India, Iran, Lebanon, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Syria, Turkey. *Abstaining*: South Africa, Afghanistan, Argentina, Burma, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Guatemala, Haiti, Iraq, Liberia, Saudi Arabia.

¹⁰² Malcolm N. SHAW, "The Definition of Minorities in International Law," (1991) 20 *Israel Y.B. Human Rights* 13, at p. 14.

¹⁰³ *International Covenant on Civil and Political Rights*, *supra* note 4, art. 27.

According to Asbjorn Eide, there are four basic categories of minority rights claims: claims for equality or non-discriminatory treatment; claims for conditions necessary to preserve their identity (language, religion, culture); claims for autonomy or local self-government; claims for secession and statehood.¹⁰⁴ The first is the least controversial, and also the most clearly "individual" of the four. It was on this point alone that the drafters of the *Universal Declaration* were able to agree. The second, which recognises positive rights for minorities, or for individuals belonging to them, was more controversial, as the debates in 1947 and 1948 reveal. Many countries, particularly those of the "New World," were extremely uncomfortable with the notion, arguing that it was incompatible with the nature of immigration. Although little was said on the subject, they may also have had an eye to their real problem in this respect, that of indigenous peoples. On a more theoretical level, there was the difficulty of formulating a right to an individual that necessarily involved his or her presence in a group.

This review of the drafting history of the *Universal Declaration* indicates that opposition to a minority rights provision was most certainly not based on the so-called failure of the inter-war minorities treaties, as has often been suggested.¹⁰⁵ Within Eastern Europe, where the treaties had their real impact, delegates to the Commission on Human Rights and the General Assembly were by and large quite favourable to including a minority rights provision in the *Declaration*. Indeed, Poland and Yugoslavia were two of the keenest proponents of such a text. Denmark and Belgium were also very positive on this count. Of the Western European States, the United Kingdom and, to a lesser extent, France, were unenthusiastic, but this appeared to be more out of concern for their colonial empires than a reaction to the minorities treaties regime in inter-war Europe. And significantly, countries that had historically been on the receiving end of Western European civilisation, such as Lebanon and India, were also anxious to see the provision included in the *Declaration*. Finally, Greece and Turkey were opposed to the measure, reflecting

¹⁰⁴ U.N. Doc. E/CN.4/Sub.2/1993/34, §45-48.

¹⁰⁵ Marc AGI, *René Cassin, Prix Nobel de la Paix (1887-1976)*, Paris: Perrin, 1998, pp. 265-266.

a discomfort with the protection of minority rights that continues to this day.

The absence of a dedicated minority rights provision in the *Universal Declaration of Human Rights* does not mean that minorities have no special protection under the instrument. Several articles of the *Declaration* may be invoked by ethnic minorities, including the right to equality (art. 1), to non-discrimination (art. 2), to equality before the law and to equal protection against discrimination (including incitement to discrimination (art. 7), to freedom of religion (art. 18) and expression (art. 19), and to cultural rights (art. 27(1)). The Commission on Human Rights soon returned to the issue of minority rights as it prepared its draft of the *International Covenant on Civil and Political Rights*, the result being article 27 which provides that "[i]n 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." In recent years, specialised instruments have been developed to address the rights of minorities¹⁰⁶ and of indigenous peoples,¹⁰⁷ although their reach is modest and their universality disputed. In the case of indigenous peoples, no final document has yet been agreed to. The drafters of the *Declaration*, foremost among them Eleanor Roosevelt and René Cassin, were perceptive and far-seeing on many accounts, and this explains the enduring importance of the instrument they prepared. On the issue of minority rights, however, as history has shown, they overlooked an important and ultimately unavoidable issue. Fifty years later their oversight has only been partially corrected.

¹⁰⁶ *Declaration on the Rights of Persons Belonging to National or Ethnic Religious and Linguistic Minorities*, U.N. Doc. E/CN.4/1992/48 + Corr.1, U.N. Doc. A/RES/48/138, G.A. Res. 48/138. Also: *Framework Convention for the Protection of National Minorities*, C. of E. Doc. H(94) 10, [1995] *I.C.J. Review* 105; *Vienna Declaration and Programme of Action*, U.N. Doc. A/CONF.157/24, 14 *H.R.L.J.* 352, Part II, paras. 25-27.

¹⁰⁷ *Draft Declaration on the Rights of Indigenous Peoples*, U.N. Doc. E/CN.4/Sub.2/1993/29. Also: *I.L.O. Convention (No. 169) Concerning Indigenous and Tribal Peoples in Independent Countries*, I.L.O., *Official Bulletin*, vol. LXXII, 1989, Ser. A., no. 2, p. 63; *Vienna Declaration...*, *ibid.*, Part. II, paras. 28-32.

William A. Schabas is a professor of international human rights law at the *Département des sciences juridiques* of the *Université du Québec à Montréal*. He has taught as a visiting or adjunct professor in various distinguished universities and institutes. Professor Schabas is the author of twelve books and many articles dealing in whole or in part with international human rights law, including *The Abolition of the Death Penalty in International Law* (Cambridge, Cambridge University Press, 1997), *International Human Rights Law and the Canadian Charter* (Toronto, Carswell, 1996), *The Death Penalty as Cruel Treatment and Torture* (Boston, Northeastern University Press, 1996), *Précis du droit international des droits de la personne* (Montréal, Éditions Yvon Blais, 1997) and *Les instruments internationaux, canadiens et québécois des droits et libertés* (Montréal, Éditions Yvon Blais, 1998). Professor Schabas is editor-in-chief of *Criminal Law Forum*, the quarterly journal of the *International Society for the Reform of Criminal Law*, published by *Kluwer Academic Publishing*. He has often been invited to participate in international human rights missions on behalf of various non-governmental organisations.