

Introductory Remarks by Patrick Thornberry

I wish to thank all concerned with this first Forum for the opportunity to introduce the draft recommendations. It is particularly gratifying to see in the room so many experts on the subject of education and minorities.

Education has always been and continues to be one of the most strongly contested issues in the field of minority rights, certainly so through the era of the League of Nations and the United Nations. To the general principles of human rights developed from the time of the UN Charter, specific additions have been elaborated by the international community for the benefit of minorities.

The *general principles* in the field of education and human rights have been advanced at the global level through a raft of instruments including, *inter alia*, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child. The work of UNESCO and UN special procedures including the Special Rapporteur on the Right to Education has also been crucial to these developments.

In the *specific field of minorities*, we have witnessed an expansion of the essential principles of equality and non-discrimination in the enjoyment of human rights to embrace a distinctive *corpus* of minority rights. The absence of specific reference to minorities in the Universal Declaration of Human Rights was not properly remedied until the emergence of the UNESCO Convention against Discrimination in Education in 1960 and the adoption by the UN General Assembly of the International Covenant on Civil and Political Rights in 1966 - with its crucial Article 27 on rights of persons belonging to minorities. Further instruments followed, among which we may recall again the Convention on the Rights of the Child which adverts to the rights of children belonging to a minority and to children of indigenous origin. The UN Declaration on Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities includes the crucial components of education and language. In the neighbouring field of indigenous peoples, extensive reference to education is found in ILO Convention 169 on Indigenous and Tribal Peoples and the UN Declaration on the Rights of Indigenous Peoples of 2007. This brief recapitulation of developments leaves much out of account, including notable standard-setting achievements at the regional level and much other UN work, but may suffice to introduce the complexity of texts to be subsumed under any draft recommendations on education and minorities.

The work of synthesising the range of provisions is accordingly a difficult one, and not all the elements fit together easily. Other attempts at synthesising international provisions on education include such as the Hague Recommendations regarding the Educational Rights of National Minorities. All such exercises build upon a variety of disparate texts, blending the general with the specific.

Education and language provisions figure prominently in texts on minorities. The depth of concern about such issues reflected in the various instruments suggests that deep intergenerational impulses are at work towards the conservation of group identity and traditions. The dominant themes in the texts on minorities are rights to existence and identity,

and participation in securing lives and futures. These themes are reflected in the draft recommendations.

The draft before you is an attempt to elaborate and structure the relevant norms, build on good practice and suggest modalities of implementation in a clarifying manner: a practical programme. The recommendations are presented as congruent with international norms, bearing in mind the wide variety of minority and ethnic groups to which they may apply, and the variety of national situations. Of course many alternative permutations are possible but we have attempted to grasp the essence of the relevant standards and group them in a coherent form.

Key points in the draft recommendations are as follows:

1. Education is a human right and must be implemented in a human rights-friendly manner. The point is made that education can also be employed with negative impact upon minorities, and such impacts must be avoided.
2. Education is of systemic importance for the enjoyment of other human rights.
3. Equality and non-discrimination are governing principles in the context of minorities and indigenous peoples.
4. Participation rights are underscored with repetitive emphasis.
5. The need for data on minorities is highlighted. Formulae are difficult in view of widespread sensitivities about data collection in the ethnic field.
6. The recommendations are not far off in substance from the '4A formulation' (Availability, Accessibility, Acceptability and Adaptability) employed by the Special Rapporteur on Education and the Committee on Economic, Social and Cultural Rights. They do not reproduce that formula mechanically, bearing in mind the specific range of texts quarried for the draft.
7. Particular points are made on special classes and special schools, in light of the D.H. case before the European Court of Human Rights, and analogous examples.
8. A point is also made on levels of education: minorities need their intellectuals as much as other groups.
9. Access to education is a more complex issue than may appear at first sight and this is reflected in the text. The key question is whether education is a genuine possibility for minorities.
10. The sections are not set in stone, and it is clear for example that elements relating to language education could be transposed to another section. This may also apply to other areas of the recommendations.

11. Difficult issues such as public and private education are touched upon in the text but are susceptible to further elaboration.

12. Language is not the only substantive question covered in the text but it remains key for many groups and deserves adequate representation.

On the question of style, perhaps a sharper approach could be employed, avoiding the complex use of 'should'. Difficulties were experienced in deciding between 'minorities;' and 'persons belonging to minorities'. In the texts of minority rights, the minority is the object of protection but the rights pertain to 'persons belonging to minorities'. The draft touches only lightly on the question of religious minorities: such references can certainly be amplified if consensual language can be found.

The gender dimension is there but may be further amplified also, as well as other 'intersections'.

These are the draft recommendations. I look forward to your comments on the basis of concept and in light of national and local experiences, especially the experiences of members of minorities.

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