UNIT 10 THE RIGHTS OF PERSONS BELONGING TO MINORITIES

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10.0 OBJECTIVES

After going through this unit, you should be able to:
• understand how minorities are situationally disadvantaged;
• realize why it is necessary to provide special measures for members of minorities to enable them to enjoy effective equality;
• understand why cultural, religious and linguistic identity of minorities requires special measures for its preservation;
• get familiarized with international human rights standards on protection of minorities and mechanism of implementation and monitoring;

10.1 INTRODUCTION

Article 1 of the Universal Declaration of Human Rights (UDHR), 1948, proclaims that “all human beings are born free and equal in dignity and rights”. This moral commitment to ensure equal dignity and rights to all human persons has been one of the major concerns of the human rights movement during the last two centuries. In modern times it found expression in Article 55 of the Charter of the United Nations, 1945, requiring it to promote “universal respect for, and observance of human rights and fundamental freedoms of all without distinction...
as to race, sex, language, or religion”. All member States of the U.N., irrespective of their political system, are therefore required to provide guarantee, in their Constitutions and law, of non-discrimination to all persons and citizens without any adverse distinction based on, among others, religion, language and culture.

What are the rights and freedoms whose equal enjoyment is required to be guaranteed to all? The answer is summed up in ‘All Rights For All’ i.e. civil, political, economic, social and cultural rights for all persons and citizens as well as for all communities or groups of persons/citizens.

However it has been the common experience of mankind throughout history that members of minorities i.e. smaller and vulnerable communities based on religion, language and culture, different from the dominant community/communities in the State are likely to be subjected to neglect and discrimination causing varying degrees of their exclusion in the common social, political and economic domain of national life. Moreover such communities may face majoritarian pressure of cultural assimilation, and find preservation of their distinct language and script and certain religious practices difficult. In some societies and countries certain religious and racial communities are stigmatized for supposed wrongs of history or are considered inferior in intellect and morals by virtue of their colour or descent.

Countering all such claims of inherent superiority of dominant races, religions, languages and cultures and their claim to set cultural norms for the rest of humanity, international human rights law affirms the rights of all smaller non-dominant communities i.e. minorities to enjoy their own culture, profess and practise their own religion and use their own language. It further puts obligation on member States to create conditions favourable for preservation and development of distinct identities of minorities.

Thus we find that recognizing the fact that no large society or country is homogenous, it is a major concern of human rights movement to ensure every one’s right to be equal though different, or right to be different, yet equal. This pursuit of equality and celebration of diversity are facets of the larger concern to ensure equal justice to the weak and the strong. In this regard the following excerpts from the resolution of the Indian National Congress adopted on 26 October 1937 deserves attention as it is based on recognition of rights of individuals as well as of groups to enjoy full freedom and opportunity, and on the affirmation of diversity as a source of enrichment of the Indian life:

The objective of the Congress is an independent and united India where no class or group or majority or minority may exploit another to its own advantage, and where all the elements in the nation may co-operate together for the common good and the advancement of the people of India. This objective of unity and mutual co-operation in a common freedom does not mean the suppression in any way of the rich variety and cultural diversity of Indian life, which have to be preserved in order to give freedom and opportunity to the individual as well as to each group to develop unhindered according to its capacity and inclination.
10.2 WHO ARE MINORITIES?

There is no common definition of minority. Various authors and scholars have defined minority in different ways depending on specific situations.

To start with, the permanent Court of International Justice in 1930 said: “a minority is a group of persons living in a given country or locality, having a race, religion, language and tradition of their own and united by this tradition of race, religion, language and sentiments of solidarity, with a view to preserving their traditions, maintaining their forms of worship, ensuring the instructions and upbring their children in accordance with the spirit and traditions of their race and rendering mutual assistance to each other.” This judgement of PCIJ became the starting point for the definition of a minority put forward by Prof. Capotorti in his report on the protection of minorities in 1977. The following definition of ‘minority’ was put forward by Francesco Capotorti in 1977 in his Study Report assigned by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities for implementation of Article 27 of the International Covenant on Civil and Political Rights (ICCPR).

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.

United Nations Organization and its bodies Human Rights Commission and Sub-Commission on Prevention of Discrimination and Protection of Minorities, have been engaged in providing a definition of minority for the purpose of formulating a declaration on the Rights of Minorities.

As no agreement could be arrived at among the member States over the definition, it was not officially adopted. Later during the course of the preparation of the Draft Declaration on Minorities the Sub-Commission considered a report prepared Mr. J. Deschenes in 1985, wherein ‘minority’ was defined as:

A group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law.

However no consensus could again be arrived at in the Sub-Commission over the definition.

The lack of unanimity over definition, partly derives from differing minority situations, historical as well as contemporary, in different countries. However the criteria set forth in the two definitions above wherein minorities are characterized as groups of people with stable features of cherished identity, whose vulnerability derives from non-dominance in terms of number and power, adequately describe the universal situation of identity-based minorities, though
it excludes oppressed groups like Afro-Americans in the U.S. and Dalits in India, who got negative identity imposed upon them by virtue of their racial and social origin. In their case preservation of identity is not an issue, but attainment of equality of status and opportunity is an issue related to their group right. Prof. Capotori established certain subjective and objective criteria for determining a minority. He pointed out that at the objective level a minority is not only numerically inferior to the rest of the population of the state, it must also be in a non dominant position. At the subjective level, according to Capotori, the minorities show a sense of solidarity towards preserving their culture, traditions, religion or language. It is this subjective dimension of a minority, which distinguishes it from people willing to integrate. However, Deschenes, while defining “minority” for the UN Sub Commission for Minority Rights, pointed towards three basic characteristics: (i) numerical inferiority, (ii) non dominant status, and (iii) ethnic, religious and linguistic characteristics different from those of the majority population. Deschenes did not feel that preservation of identity constituted an essential attribute of the minority situation. The core feature of minority status of a group therefore is its vulnerability derived from inadequate access to power.

Check Your Progress 1

1) What are chief characteristics of minorities?
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2) What makes minorities vulnerable?
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3) Why is preservation of minority culture, language and religion difficult?
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10.3 SPECIAL PROVISIONS FOR MINORITIES

Special measures are required for minorities to enable them to enjoy effective equality of treatment in the common national domain of social welfare, economic development and political participation so as to neutralize discriminatory exclusionary practices against them. Again as their languages and cultures are likely to suffer neglect and even assimilationist pressure of the majority, special measures are required for the survival and development of minority languages and cultures and certain public manifestations of religious practices.

The principle of special measures for minorities was first definitively laid down by the Permanent Court of International Justice (PCIJ) in the case of The Minority Schools in Albania. The court said that the objective of minority rights was two fold: to secure for minority groups the possibility of living peaceably alongside the rest of the population and cooperating amicably with them while at the same time preserving the characteristics which distinguish them from the majority and satisfying the ensuing special needs. It held that these two characteristics are indeed closely interlocked, for there would be no true equality between a majority and a minority if the latter were deprived of its own institutions and were consequently compelled to renounce that which constitutes the very essence of its being a minority. The court therefore held that:

There must be equality in fact as well as ostensible legal equality in the sense of the absence of discrimination in the words of the law. Equality in law precludes discrimination of any kind, whereas equality in fact may involve the necessity of different treatment in order to attain a result which establishes an equilibrium between different situations. It is easy to imagine cases in which equality of treatment of the majority and the minority, whose situations and requirements are different, would result in inequality in fact.............. The equality between members of the majority and of the minority must be an effective, genuine equality, that is the meaning of this provision.

The aftermath of the First World War in particular saw the emergence of international debate on issues of minorities, their protection and rights. At the time of formation of League of Nations a case was made for non-discrimination and collective rights of racial and national minorities within new states as well as others seeking admission to the League. There was strong opposition also to this. The league of nations, however acknowledged the need for international protection of minority rights. As a result of that some treaties were adopted for protection of minorities. But the system of implementation of the treaties was weak.

After the second World War and with the establishment of United Nations Organization, the issue of minority protection was taken up afresh. To begin with the general feeling among the leaders was, that the guarantee of human rights and good relations between states will provide solutions to minority problems. However, in view of the fact that minority peoples were indeed under constant pressure from the dominant society in many states the United Nations Organization got involved in the issue of minorities protection. A sub-commission of U.N. Human Rights commission, on prevention of Discrimination and Protection of Minorities was established in 1962. The Sub-Commission in due course drafted a declaration on Minority Rights which was adopted by the U.N.
General Assembly in 1992. Earlier minority Rights were mentioned in the International Covenants on Civil and Political Rights. These still are there. Let us have a look at this.

**Check Your Progress 2**

1) How do you justify special measures for minorities?

2) How does the PCIJ explain the necessity of different treatment of minorities for equality?

10.4 **THE EXISTING PROVISIONS FOR PROTECTION OF MINORITIES**

Universal Declaration of Human Rights made it clear that all human beings without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion national or social origin, property, birth or other status are entitled to all the rights and freedoms. The UDHR thus made it clear that persons belonging to majority or minority cannot be discriminated in terms of availability of rights. Thereafter Article 27 of the International Covenant on Civil and Political Rights (ICCPR) provided particularly for protection of identity rights of minorities in the following words:

In 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.

Initially there was a feeling that this provision was only negative in nature prohibiting states from denial of equality to members of minority communities. However, later on it was interpreted in more positive manner. The following paragraphs of the General Comment by the UN Human Rights Committee, 1994 elaborate the provisions of Article 27:

6.1 Although article 27 is expressed in negative terms, that article, nevertheless, does recognize the existence of a ‘right’ and requires that it shall not be denied. Consequently, a State party is under an obligation to ensure that the existence and the exercise of this right are protected.
against their denial or violation. Positive measures of protection are, therefore, required not only against the acts of the State party itself, whether through its legislative, judicial or administrative authorities, but also against the acts of other persons within the State party.

6.2 Although the rights protected under article 27 are individual rights, they depend in turn on the ability of the minority group to maintain its culture, language or religion. Accordingly, positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practise their religion, in community with the other members of the group. In this connection, it has to be observed that such positive measures must respect the provisions of articles 2(1) and 26 of the Covenant both as regards the treatment between different minorities and the treatment between the persons belonging to them and the remaining part of the population. However, as long as those measures are aimed at correcting conditions which prevent or impair the enjoyment of the rights guaranteed under article 27, they may constitute a legitimate differentiation under the Covenant, provided that they are based on reasonable and objective criteria.

In spite of above clarifications it remains a fact that ICCPR addresses only minimal traditional minority rights that is cultural, religious and linguistic rights. At the same time these rights are available to individuals as members of minority groups and not to minorities as groups. These issues were later addressed by the UN sub commission on Prevention of Discrimination and Protection of Minorities.

The UN Sub-Commission defined the concept of non-discrimination and protection of minorities in the following words:

1) Prevention of discrimination is the prevention of any action which denies to individuals or groups of people equality of treatment which they may wish.

2) Protection of minorities is the protection of non-dominant groups which, while wishing in general for equality of treatment with the majority, wish for a measure of differential treatment in order to preserve basic characteristics which they possess and which distinguish them from the majority of the population....It follows that differential treatment of such groups or individuals belonging to such groups is justified when it is exercised in the interest of their contentment and the welfare of the community as a whole.

The Sub-Commission apart from other tasks, also started debating the necessity of a declaration on minority Rights.

10.5 DECLARATION ON THE RIGHTS OF MINORITIES

As already mentioned in 1962 was established the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities. The sub-commission took up the issues related to minorities in greater depth and suggested the need for a Declaration on the Rights of Minorities. A draft declaration was submitted to the Commission on Human Rights by Yugoslavia in 1979. This draft provided
Finally The Declaration on the Rights of persons belonging to National or Ethnic, Religious or Linguistic Minorities was completed and adopted by the U.N. General Assembly in 1992. The Declaration was inspired by Article 27 of the ICCPR, explained above. It, however strengthened and clarified those rights which make it possible for persons belonging to minorities to preserve and develop their group identity. According to Prof. Asbjon Eide, Chairman of the Working group on minorities, the Declaration sets out rights of persons belonging to minorities and the duties of the states in which they exist. While the rights are consistently set out as rights of individuals, the duties of states are in part formulated as duties toward minorities as groups. While only individuals can claim the rights, the state cannot fully implement them without ensuring adequate conditions for the existence and identity for the group as a whole.

### 10.5.1 Rights of Minorities

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted by the General Assembly Resolution 47/135 of 18 December 1992 lays down the norms for the protection of rights of minorities to existence, to development and to distinct identity for which States are required to take special measures for effective equality and to create favourable conditions for preservation of distinct identity.

Article 1 of the Declaration states that states shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity. The Article further asks that the states shall adopt appropriate legislative and other measures to achieve these ends. The other measures include judicial, administrative, professional, educational and further policies and steps for protection of minorities identities and culture.

The specific rights of Minorities have been described in Article 2 of the Declaration. The basic premise behind these rights according to Article 2.1 is that persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination. The Article specifies the following specific rights for minorities.

Persons belonging to minorities have:

- Right to participate effectively in decisions on the national, and where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

- Right to establish and maintain their own associations.

- Right to establish and maintain without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other states whom they are related by national or ethnic, religious or linguistic ties.
Article 3 of the Declaration makes it clear that persons belonging to minorities may exercise their rights, individually as well as in community with other members of their group, without any discrimination. It is made clear that no disadvantage shall result for any person belonging to a minority as a consequence of the exercise or non-exercise of the rights set forth in the Declaration.

### 10.5.2 Duties of the States

A reading of the rights provided in the Declaration makes it clear that these rights are not just negative in nature restricting the states from interference in freedoms and equality. These rights for effective implementation require positive measures by the States. The Declaration therefore sets the measures that should be taken in order that the rights can be properly exercised. These are as follows:

**Article 4:**

1) States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

2) States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.

3) States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

4) States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

5) States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

**Article 5:**

1) National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

2) Programmes of cooperation and assistance among States should be planned and implemented with regard for the legitimate interests of persons belonging to minorities.

**Article 8:**

1) Measures taken by States to ensure the effective enjoyment of the rights set forth in this Declaration shall not *prima facie* be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.
The above provisions make it clear that adoption of the Declaration suggests that the State must under all circumstances respect and protect the existence of the minority and that its members retain their necessary sources of livelihood. Furthermore, as Asbjørn Eide points out, the state must abstain from any discrimination, directed against its members and protect them from discrimination. States shall also under all circumstances create favourable conditions to enable persons belonging to minorities to preserve and develop their identity. In both respects the word “shall” is used indicating a duty. As such what is required is that states seek to implement the rights to the maximum of their available resources and they seek in good faith to realize the purposes of the Declaration.

10.6 OTHER PROVISIONS

Apart from Article 27 of ICCPR and the Declaration on the Rights of Persons belonging to national or Ethnic, Religious or linguistic Minorities, some other international instruments also provide for protection of minorities. The provisions of the following other international instruments especially dealing with discrimination, intolerance, violence and hate crimes against minorities have a bearing on the protection of rights of minorities:

1) The UN Charter 1945
3) Universal Declaration of Human Rights, UN, 1948
4) Convention against Discrimination in Education, UNESCO, 1960
5) International Convention on the Elimination of All Forms of Racial Discrimination, UN, 1965
6) International Covenant on Economic, Social and Cultural Rights, UN, 1966
7) Declaration on Race and Racial Prejudice, UNESCO, 1978
8) Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, UN, 1981
10) Vienna Declaration and Programme of Action of the World Conference on Human Rights, UN, 1993
12) Commission on Human Rights Resolution 1995/24, entitled “Rights of persons belonging to national or ethnic, religious and linguistic minorities”, setting up a working group on minorities, UN, 1995
10.7 MONITORING MECHANISM

The status of international Covenants and Conventions is that of multilateral treaties. Most of them have established committees of independent experts to oversee implementation of the provisions of the treaties.

You have already read that the following are treaty-based monitoring bodies, which are mandated to supervise State compliance with the concerned Convention/Covenant containing minority-specific provisions and standards.

1) Human Rights Committee (HRC) under the ICCPR
2) Committee on Economic, Social and Cultural Rights (CESCR)
3) Committee on the Elimination of Racial Discrimination (CERD)
4) Committee on the Rights of the Child (CRC)

States are required to submit an initial report to these treaty-bodies, followed by periodic reports every four or five years, in which they are expected to provide information on special legislative, administrative and judicial measures, policies and programmes to end discrimination against minorities. They are also required to provide statistical data on the share of minorities, including minority children, in economic development, social welfare, health and education. States have an obligation under Article 20(2) of the ICCPR to prohibit “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”.

While examining State Reports the ‘treaty bodies’, including CESCR and Committee on Elimination of Discrimination against Women, and Committee against Torture (CAT) can and do ask government representatives questions about treatment of minorities, and minority rights. The reports are examined in open meetings of respective bodies, which NGOs and members of the public may attend.

Minorities and NGOs are free to provide relevant information to the Committee members.

The HRC, CERD and CAT can receive treaty-based complaints or petitions concerning alleged violations of standards by States, provided the concerned State has ratified the Convention and accepted the particular procedure. The Declaration on the Rights of persons belonging to National, or Ethnic, Religious and Linguistic minorities, of course is not a binding treaty. Therefore no binding mechanism for its implementation is available. However states are watched by the U.N. bodies; particularly through working groups and special rapporteurs.
10.7.1 Working Group

In order to provide a meaningful mechanism to monitor the observance of Declaration The Commission on Human Rights decided through its resolution 1995/24 to set up a five member Working Group on Minorities in 1995, to meet each year for five working days to promote the rights of persons belonging to minorities as set out in the Declaration, and in particular to:

a) Review the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

b) Examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;

c) Recommend further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities;

10.8 RESPONSES OF STATES AND REGIONAL GROUPS

Most of the countries claim that minorities in their respective States enjoy right to equality and non-discrimination, and that their language, culture and religion enjoy due protection, but in reality even liberal secular democracies of the West have not taken adequate measures for the maintenance and development of minority languages and cultures. In some countries like France cultural homogenization is encouraged in the name of secularism. In public employment, racial and religious discrimination is widespread. However in some countries like Canada, Australia and UK multiculturalism is increasingly becoming acceptable.

India's own record is a mixed one. Its religious minorities have been periodically subjected to pogroms and massacres, often with the complicity of the law-enforcement system. The Constitution of India through Articles 25 to 28 grants right to freedom of religion and related rights. Article 29 of the Indian Constitution protects minority language and scripts. The Government of India has established a National Commission for Minorities (NCM) under an Act of 1992. It has also taken various other measures for protection and welfare of minorities. These will be discussed in detail in another unit.

In Pakistan and Bangladesh some minorities like Ahmadiyas do not enjoy the right to freely practise their religion. Blasphemy laws of Pakistan are a source of threat to religious minorities and Muslim dissenters.

In Europe regional mechanism has been established for protection for rights of minorities.

Some of these regional European Conventions etc. are given below:

1) Convention for the Protection of Human Rights and Fundamental Freedoms, Council of Europe, 1950
Human Rights of Groups

2) European Social Charter, Council of Europe, 1961
4) Documents of the Moscow Meeting of the Conference on the Human Dimension, CSCE, 1991
5) Helsinki Decisions on the Human Dimension, CSCE 1992
6) Framework Convention for the Protection of National Minorities, Council of Europe, 1994
7) The Hague Recommendations regarding the Education Rights of National Minorities, the Foundation on Inter-Ethnic Relations 1996

10.8.1 Sources of Continuing Threat to Minorities

With the rise of aggressive nationalism, religious extremism, intolerance and xenophobia, minorities have become soft targets in some parts of the world including Western Europe, the U.S and South Asia. In Post-September 11, 2001 (9/11) situation Muslims as a community have become suspects in Europe and America. The rise of extremism in India has been posing threat to Muslims and Christians.

In some European countries ‘Islamophobia’ has been recognized as one of the manifestations of religious intolerance. All these trends have been taken due note of in the Durban Declaration and Programme of Action, 2001, which require member States to publish disaggregated data on minorities and to make institutions of governance socially diverse. It needs to be noted that similar recommendations have been made in India also by various Commissions and Committees on minorities. The general observation everywhere is that protection and promotion of minorities identities are based on four requirements: protection of their existence, non-exclusion, non-discrimination and non-assimilation. It is also a fact that protection of minorities adds to peace and harmony in the society and creates a conducive atmosphere for development. By no means this is a threat to unity or integration of state.

Check Your Progress 3

1) What are the provisions for protection of minorities in international human rights law?

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2) What is the thrust of the HRC’s General Comment on Article 27 of the ICCPR?

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3) How does the monitoring mechanism of Human Rights Committee under ICCPR function?

4) What are the sources of continuing threat to minorities?

10.9 LET US SUM UP

Throughout ages in most societies and countries there have been communities smaller in number than the more numerous and dominant community/communities, whose members suffer neglect and discrimination. Such minority groups which have language, culture or religion different from the majority face difficulty in preserving their language and traditions. In earlier times, exclusion of such communities from positions of power and prestige and denial of equal opportunity to their members was accepted as a fact of life.

Now for the first time in human history the right to be different yet equal, or right to be equal though different, is being affirmed under the universal human rights standards of equality and non-discrimination.

It is also being affirmed that real enjoyment of equal rights by vulnerable minority groups requires adoption of special measures. Mere formal equality under law without special provisions will not result in equality in fact. It has been clarified by official comments on Article 27 of the ICCPR and by provision (3) of Article 8 of the UN Declaration on Rights of Persons belonging to ....... Minorities that such special measures will not be considered violative of the right to equality.

Though Article 27 of ICCPR deals only with identity rights of minority culture, religion and language, the principle of special measures has been extended to economic, social and political fields of national life.

As minorities periodically face threat to their existence, dignity and places of worship, it is required by the State to uphold rule of law, for which institutions of police, armed forces and justice system must have adequate minority representation.

To ensure minorities due share in legislative and other elected bodies, it is being widely felt that electoral systems should be so adapted as to make them minority friendly so that democracies become really inclusive and not just majoritarian.
All these concerns have given rise to norms of multiculturalism and pluralism, celebrating diversity as a source of enrichment.

The contrary trend of treating minorities as the “other” and as suspects, stigmatizing and demonizing them is also underway, leading to conflicts and use of force and threat of secessionism.

It has led human rights movement to treat inter-community relations, conflict resolution and peace as vital issues on its agenda.

10.10 KEY WORDS

Non-dominant : not being powerful enough
Vulnerable : open to attack
Homogenization : bringing about uniformity
Identity : that which distinguishes a group or person
Stigmatized : condemned
Demonized : negatively described like a demon
Exclusionary practices : practices aimed at excluding the minorities from opportunities and benefits
Assimilationist pressure of the majority : pressure of the majority to make distinct minority identities merge into the larger one
Ostensible legal equality : apparent not real equality
Secessionism : seeking separation
Xenophobia : fear of the alien ‘other’
Islamophobia : fear and hatred against Islam

10.11 ANSWERS TO CHECK YOUR PROGRESS

EXERCISES

Check Your Progress 1

Develop the following points:

1) Vulnerability arising from Non-dominance in terms of number and power.
2) Numerical inferiority, inadequate share in power and in certain cases conflict over issues related to identity.
3) Culture and language require official support, without which they suffer neglect and may not service.
4) Yes. It is the logical corollary of equal enjoyment of all human rights by all.

Check Your Progress 2

1) Members of the majority get their identity rights protected as a matter of course. It is the minority community whose members face discrimination and minority identity which arouse suspicion and hostility. Hence the need of special measures.
2) The PCJ has laid down the principle of the necessity of different treatment of minorities so that equality is substantive and not just formal legal one.
Check Your Progress 3

1) The main binding provision is Article 27 of the ICCPR, 1966; but the Declaration on the Rights of Persons belonging to Minorities, 1992 provide the standards for measures to be adopted by member States.

All other instruments provide for non-discrimination on the basis of religion, belief, and race etc. In this regard the ILO Convention of 1960 and the Convention on the Rights of the Child, and Convention against Racial Discrimination, 1965 are significant.

2) Provisions under Article 27 of the ICCPR are expressed in negative terms and do not apparently recognize collective rights of groups.

The General Comment of the HRC, 1994 elaborates these provisions putting an obligation on States to adopt positive measures for effective protection of identity rights of minorities.

Secondly it recognizes the collective nature of identity rights.

Thirdly it concedes the necessity of special positive measures for minorities as legitimate.

3) Human Rights Committee requires member States to submit country reports every five years, in which they must give disaggregated data on minorities.

The report is examined by the Committee in open session, which may be attended by NGOs.

The Committee’s observations are required to be given due publicity and compliance by States parties.

4) Aggressive nationalism, racism, xenophobia, secular homogenization, religious intolerance are sources of threat to minorities.