

COMMISSION ON HUMAN RIGHTS: 1999

COMMISSION ON HUMAN RIGHTS

Sub- Commission on Prevention of
Discrimination and Protection
of Minorities

Fiftieth first session Agenda item 2 17 August 1999

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION RESOLUTION 8 (XXIII)

Mr. Bengoa, Ms. Daes, Mr. Diaz-Uribe, Mr. Eide, Mr. Fix-Zamudio, Ms. Hampson, Mr. Oloka-Onvango, Mr. Park, Mr. Pinheiro, Mr. Sik Yuen and Mr. Weissbrodt: draft resolution

1999/ ... Situation of long-term refugees and internally displaced persons

The Sub-Commission on the Promotion and Protection of Human Rights,

Reaffirming the right of every person to return to his or her own country, as enshrined in article 13 of the Universal Declaration of Human Rights and article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, and the prohibition of arbitrary deprivation of the right to enter one's own country and the liberty of movement within one's own country contained in article 12 of the International Covenant on Civil and Political Rights,

Affirming the rights of refugees as contained in the Convention relating to the Status of Refugees and its protocol and the guiding principles on internal displacement (E/CN.4/1998/53/Add.2) which state, inter alia, that every internally displaced person has the right of liberty of movement and freedom to choose his or her residence,

Recalling that arbitrary deprivation of nationality, prohibited by article 15 of the Universal Declaration of Human Rights, constitutes a violation of a fundamental and inalienable human right and that the right of every child to a nationality is enshrined in article 24 of the International Covenant on Civil and Political Rights and article 8 of the Convention on the Rights of the Child,

Recalling also Commission on Human Rights resolution 1999/28, in which the Commission reaffirmed the right to a nationality of every human being as an inalienable human right, recognized that arbitrary deprivation of nationality on racial, national, ethnic or religious grounds is a violation of human rights and called upon States to refrain from taking measures and from enacting legislation that discriminate with regard to the exercise of the right to a nationality on grounds of race, colour or national or ethnic origin and to repeal such legislation if it already exists,

Noting Commission resolution 1999/47 in which the Commission expressed its consciousness of the human rights and humanitarian dimensions of the problem of internally displaced persons and the responsibilities this problem poses for States and the international community to explore methods and means better to address their protection and assistance needs,

Recalling Sub-Commission resolutions 1998/26 and 1997/29 which reaffirmed the right of all refugees, as defined in relevant international legal instruments, and internally displaced persons, to return in safety and dignity to their homes and places of habitual residence in their country and/or place of origin, should they so wish,

Concerned that the situation of long-term refugees and internally displaced persons in various parts of the world may represent a serious denial of the right to return and of the right to a nationality and is likely to result in a serious increase in the phenomena of statelessness and internal displacement,

Aware in particular of the situation of people claiming to be refugees from Bhutan who are currently living in camps in eastern Nepal, in addition to others in Nepal and India, as well as of the problem of internally displaced persons from south-east Turkey within Turkey,

Recalling the statement by the Chairman of the Sub-Commission at the previous two sessions of the Sub-Commission, expressing deep concern over the serious human rights implication of the situation of persons claiming to be refugees from Bhutan in Nepal,

Noting that there has been no progress in that period with regard to determining the status of the individuals in question,

1. Request that the following measures be taken in relation to the situation of people claiming to be refugees from Bhutan:

- (a) That the Governments of Bhutan and Nepal take more effective and urgent action to reach agreement on the criteria to be applied to all those claiming to be refugees from Bhutan to determine whether they are in fact entitled to return to Bhutan;
- (b) That the Governments of Bhutan and Nepal cooperate in order to facilitate the verification of the status and origin of those who assert they are refugees, as determined through an impartial and fair process, and that a solution be pursued which is consistent with international human rights standards including the principle of non discrimination, the right to return, and the right not to be arbitrarily deprived of one's nationality;
- (c) That representations on behalf of the displaced population be taken into account and that the Governments involved avail themselves of technical assistance from the Office of the United Nations High Commissioner for Human Rights and the Office of the United Nations High Commissioner for Refugees, both with regard to the criteria to be applied and to the status determination process;
- (d) That provision be made in order to secure the economic, social and cultural rights of those determined to be refugees, including their rights to housing, health, education and food, as well as their civil and political rights, upon their return;
- (e) That provision be made in order to secure the economic, social and cultural rights, as well as the civil and political rights in Nepal or such other State as they come from of those determined not to be citizens of Bhutan;
- (f) That immediate steps be taken in order to halt unlawful resettlement upon lands which previously belonged to refugees and other displaced persons;
- (g) That the Government of Bhutan review all relevant citizenship laws, with technical assistance of the Office of the United Nations High Commissioner for Human Rights and the Office of the United Nations High Commissioner for Refugees, to ensure that such legislation is in accord with international human rights law and with the Convention on the Reduction of Statelessness;

C.

Requests the respective Governments and the Offices of the High Commissioner for Human Rights and the High Commissioner for Refugees to report to the Sub-Commission at its fifty-second session on the adoption and implementation of the measures referred to above;

Decides:

- (a) To recommend that the Commission on Human Rights consider the effective implementation of the right to return of long-term refugees and internally displaced persons at its next session;
- (b) That, if the Commission is unable to take action on the effective implementation of the right to return, to continue consideration of the matter at its fifty-second session under the same agenda item.