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COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION
OF DISCRIMINATION AND PROTECTION
OF MINORITIES
Twelfth session
Item 5 of the agenda

STUDY OF DISCRIMINATION IN THE MATTER
OF RELIGIOUS RIGHTS AND PRACTICES

Statement submitted by the World Jewish Congress, a non-governmental
organization in Category B consultative status

The Secretary-General has received the following statement, which is
circulated in accordance with paragraphs 28 and 29 of Economic and Social Council
resolution 288 B (X).

Dated: 15 January 1960

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I

1. The World Jewish Congress wishes to express to the Sub-Commission and its
Special Rapporteur, Mr. A. Krishnaswami, its profound appreciation of the "Study
of Discrimination in the Matter of Religious Rights and Practices". It ventures
to express the view that this Study constitutes a contribution of exceptional
importance to the work of the Sub-Commission, and its appreciation is heightened
by its understanding of the complexity of the problems with which it deals.
2. The Congress expresses the hope that, subject to such amendments as in its
judgement may prove necessary, the Sub-Commission will especially recommend, for
further action by the Commission on Human Rights, the Basic Rules which are
embodied in the Study.

II

3. The Congress at the same time has the honour to submit, for the consideration of the Sub-Commission, the following observations on the Basic Rules proposed:

4. Rule 1 (1) is worded in absolute terms. It grants everyone an unrestricted right to adhere to any religion or belief he chooses. But certain limitations to this right are embodied in Rule 16. In order to resolve the apparent contradiction it is suggested that there should be added to Rule 1 (1) a clause making it clear that no limitation on the exercise of this right should exceed such limitations as are defined in Rule 16.

5. At the same time it is suggested that the expression "religious denomination" should be introduced after the word "religion" and before "or belief" both in this rule and in the subsequent rules where the phrase "religion or belief" is employed.

6. Rule 1 (3) does not define the term "improper inducements". While it is admittedly difficult to list all such "improper inducements" which may be objectionable, it would be helpful if certain of the more obvious could be enumerated by way of example. It is therefore suggested that there should be included the phrase "such as pecuniary, economic, social or political benefits".

7. It seems to us desirable that the words "facilities and" should be inserted between the words "Equal" and "protection". Where facilities of one sort or another are granted by public authorities to one or more religious groups, it seems important that corresponding facilities should be granted to all others. The recognition of a right to such equal treatment, which does not exist in all States, seems to us a matter of paramount importance.

8. Rule 5 (1) provides that no one should be "prevented from acquiring or producing articles necessary for the performance" of religious rituals. It is sometimes quite impossible to acquire such articles in certain countries, and the Rule as it now stands might therefore prove valueless unless the right to import them were specifically included. Accordingly we urge that the words "or importing" should be inserted after the word "acquiring". Moreover both the production and importation of such articles may in practice be made very difficult or even impossible by the imposition of customs duties, taxes or other levies.

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We venture to urge that this Rule should be ~~supplemented by a provision under~~ which Governments would renounce the right to impose such taxation.

9. The Rules provide for the protection of places of worship (Rule 3) and burial places (Rule 6) but nothing is explicitly said on the need for protection of institutions of religious training (Rule 11). It is accordingly suggested that the words "theological seminaries and institutions of religious training" should be added in Rule 3 (2) after the words "places of worship".

10. It is suggested that Rule 7 should be reworded as follows: "The prescriptions of each religion or belief or religious denomination relating to holidays and days of rest should be respected. Derogation is permissible where the interests of society as a whole are affected." The purpose of this change is to protect the rights of religious institutions and private firms whose observance or non-observance of holidays and days of rest do not affect the public interest.

11. It is urged that the following should be added to Rule 8 (2): "and the necessary facilities should be made available for this purpose". This would, for example, make it legitimate to import the necessary materials where they are not available in a country, and it would also cover the case of countries where the Government does not control (see Rule 8 (2)) the means of production and distribution.

12. Rule 11 will not solve the problem in a number of countries under contemporary conditions. Many religious communities have neither the facilities to train the necessary personnel nor to send their own people abroad for this purpose. This is particularly true of smaller communities. Accordingly it seems to us necessary to add to the conclusion of Rule 11 (1) the words "and should have the right where necessary to appoint religious personnel from abroad". It is also respectfully suggested that the word "permanent" in Rule 11 (2) should be omitted. A very long period could strictly be described as not being "permanent", but might for practical purposes have the same effect.

13. In view of the importance of stating quite explicitly the right to equality of treatment in all respects, it is suggested that the use of a phrase like "undue preference" might be taken to justify a modification of this principle in certain instances. Accordingly we urge that in Rule 16 (1) the words "grant

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equal protection and facilities and" should be inserted between the words "should" and "refrain" on line 1. In this context we suggest also that the word "facilities" be added in line 2 of Rule 16 (4)(d) between the words "of" and "subsidies", and that the words "or reductions" be added between the words "exemptions" and "from" should be added in line 3.

III

14. The Basic Rules as a whole are in the main based on a conception of religious communities and communions as autonomous institutions within the confines of a single State. While it is clearly necessary to seek a definition of the rights and duties of such communities and communions in relation to the State and with respect to its sovereignty, we think it important to emphasize that, with the rarest exceptions, no religious group can discharge the moral and spiritual obligations implicit in its own doctrine if its relationship with groups in other countries adhering to the same doctrines is impeded or denied.

15. We hold it to be part of the glory of the great religions, and one of their chief means of service to mankind, that they unite in a community of worship and serve adherents from many States and races. In some of them the unity of the whole company of their members in a single church or communion is based on the highest spiritual sanctions and is in itself a source of the highest spiritual values.

16. In all the varieties and interpretations of the Christian religion, for example, the Church itself is conceived of as more than a mere institution. It is the embodiment of a living principle, the service of which is one of the fundamental obligations of all its followers. In Judaism, to cite another example, the unity of the whole House of Israel and belief in its distinctive place in the spiritual economy of mankind is of the substance of its faith.

17. If the great religions are denied through the exercise of the sovereignty of the State the right to maintain the spiritual unity of their adherents and through it to develop a community of worship and religious service, they cannot be said to enjoy the religious liberty which is acknowledged to be the right of every human group or individual.

18. We venture to place these considerations before the Sub-Commission because the value of Basic Rules must in some measure be judged by the respect they make possible for these larger principles.