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DISCRIMINATION AND PROTECTION
OF MINORITIES
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Item 5 of the agenda

STUDY OF DISCRIMINATION IN THE MATTER OF RELIGIOUS RIGHTS
AND PRACTICES

Statement submitted by the International Catholic Child Bureau,
Pax Romana, and the World Federation of Catholic Young Women
and Girls, non-governmental organizations 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).

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The under-signed organizations appreciate the Rapporteur's efforts to ensure
the objectivity of his report to the Sub-Commission. We also recognize the
sincerity with which he has sought to achieve the aims of this study as he
formulated them in the light of the directives given him, and his substantial
success in drafting rules which might help to reduce discrimination where it
exists.

Because we realize the Rapporteur's effort and sincerity, we regret the
background report's serious limitations in the understanding of the very nature of
religion, limitations which militate against its objectivity and ultimate
effectiveness. This is the more regrettable because the report may be taken as
an interpretative context for the rules, which could thus in turn be vitiated.
Therefore we are compelled to note to the Sub-Commission some of these limitations.

1. Religion as a Transcendent Reality

We recognize the non-expert's difficulty in defining the nature of religion. Furthermore, by equating "religion and belief", the report introduces a note which is confusing and misleading, since the phrase lumps together such contradictory concepts as religion, agnosticism, rationalism and atheism (p. 8, para. 1 and foot-note 1). In a study on "Discrimination in the matter of religious rights and practices", this admixture makes many of the report's statements either ambiguous or unintelligible.

This formal equation of "religion and belief", as is done in the foot-note cited, is misleading, since by a necessary implication, the report does employ a working definition of religion. It reduces the foundation of "truly great religions and beliefs" (page 8, p. 1) to ethical tenets. It treats their most basic affirmations as matters of personal opinion taken in the aggregate. In fact, however, as a study of the great historic cultures makes evident, ethical tenets flow from religious convictions and flourish only in a religious climate. Moreover, any attempt to understand the problems of religious groups and to ensure the protection of their rights as social groups is rendered futile, if religious convictions are treated simply as matters of individual personal opinion.

While these points have been made in a number of previous memoranda and interventions, they appear to have exercised little influence on the present report. Accordingly, we must reaffirm as emphatically as we can that this attempt to examine religious questions - even if only in terms of legal and juridical rules - by-passes all the religious values it seeks to protect by failing to take into account the transcendent character of religion.

Religion is an end in itself and not simply a means. The religious problems considered in this report cannot be fully understood unless this fact is recognized. Religion is incapable of communicating spiritual or moral vitality if it is made the servant of purely political or social or temporal exigencies. History makes it clear that religion and religious values answer the religious need of man only when they stem from a view of reality that transcends the purely temporal and political. To conceive of religion solely from the standpoint of the politician or social reformer divides religious values from religion

itself - an attitude irreconcilable with any truly religious view of life. Hence if a study and report such as this is to bear the kind of fruit hoped for, it must take into account this religious point of view as a fact.

Essential also to this religious point of view, as the age-old experience of humanity testifies, and as reason substantiates, is the idea of God Who is the ultimate principle of intelligibility for all reality. It is the deeply rooted conviction of the religious man that God created him and is his beginning and end. Religion for him is a matter of recognizing this relation with God and the obligation of ordering his life, as well as his relations to the world and to his fellow men, in accordance with it. Religious obligations arise from the nature of man, and the basic rights of religion are not conferred by the state but exist independently of it and simply require the state to recognize them as anterior and superior to itself. This is the conviction that lies at the root of every truly religious view of life. Because of this, the religious man has a right to expect that this religious point of view would be recognized and protected by a report purportedly designed for this end.

2. Social Nature of Religion

Closely related to this central point of the transcendent character of religion is a matter referred to in Rule 16, No. 3b (page 90). The rule states that in fulfilling their duties the public authorities should be guided by consideration of "the freedom of everyone to manifest his religion or belief either alone or in community with others ...". If the proposed rules are read in the light of the report itself, an element of the nature of religion is either misunderstood or inadequately conceived, namely, the communal or social nature of religion.

The social manifestation of religion envisaged in the report seems to be simply the public manifestation of an aggregation of private opinions and nothing else. What is unaccounted for is the fact that both historically and psychologically, religion - like man himself - has an essentially social element. Religion has a natural tendency to constitute itself as a society with a distinctive and recognizable character. The very existence of a common belief and a common way of salvation calls forth as a correlative element an authority responsible to some

degree for harmony in achieving this common good. Moreover, it is an evident fact in the history of religion that in some religions the corporate character is, and has always been, absolutely intrinsic to them. Any attempt to ignore or deprive them of this corporate character is, by that very fact, an attempt to persecute and destroy them.

It is our considered conviction that the failure by the state to recognize the essentially social character of religion renders illusory any effort to protect the rights of religious minorities. Unless a religious group retains the right to determine its own membership, to decide on matters of dissidence, and within the religious sphere exercise leadership in these matters, then the ultimate right of the state to decide on religious problems in public life is conceded, and fatally so for the religious rights of minorities. The end result will be the abrogation of the basic rights of religious minorities and will make the corporate exercise of these rights depend on the will or whim of the state. It is difficult to escape drawing this precise conclusion from the rather ambiguous explanations given on page 69, No. 170.

3. The Relationship of Religion and the State

This relationship of religion and the state raises a further point under rule 16 which calls for clarification, or at least more careful distinction. It is the phrase in the report which reads "separation of the state from religion" (page 66, No. 159). Whatever be the intention of the Rapporteur, the change from the ordinary formula, "separation of religion and the state" or "separation of church and state", would seem to imply a dichotomy between religion and the state that historically has been championed only by those hostile to religion. Furthermore, in its explanation of the relationship between religion and the state the report intimates a kind of indifference of the state to religion which is simply not the case in one of the oldest and best known examples of the constitutional separation of state and church, the United States. For whatever be its denominational indifference, the United States is not, in the eighteenth century sense of the term, a purely secular state. The United States, far from being religiously indifferent, expressly recognizes the field of religion. This attitude of the state toward religion implies certain positive consequences, and

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among them is the recognition that religion contributes to the national well-being and that the nation itself has an obligation, within the limits of the Constitution, to assist the aims of religion. This is a far cry from that separation of the state from religion which would create a secularism entailing a further and most grave form of discrimination.

4. Ecumenical Religions

Intimately connected with the social nature of religion and the relation of religion to the state is what the report terms "ecumenical religions". Here seems to be meant those religious societies which are not limited to a particular nation but have members in many nations who recognize a religious leadership that is supra-national. Any realistic discussion of the rights of religious minorities must recognize that these "ecumenical" religions are a fact, have been so for centuries, and will continue to be so in any foreseeable future. Hence any honest effort to protect religious rights and practices cannot be formulated or projected as if these religions do not exist or were in some way inferior to a purely national religion. Since then these ecumenical religions are a fact, certain consequences follow. The first of these is clear enough, namely, the right to a free "ecumenical" communication. For such an ecumenical religion is almost necessarily an intrinsically corporate reality whose effective existence and administration is dependent on both doctrinal and administrative communication. To prevent or even seriously inhibit such communication would be a real form of religious discrimination and act as a threat to its very life as an ecumenical religious society.

The other consequence that flows from the fact of an ecumenical religious society is one which while not so immediately evident is none the less equally important. By its very nature as an ecumenical religion it is not indigenous to any one nation or group of nations and so comes into the life of a particular nation only through activity from without. If, therefore, it is to carry on its religious activity effectively, an ecumenical religion is dependent to a greater or lesser degree on trained personnel. Yet by the very nature of the case a considerable time must elapse before it will be able to recruit solidly trained personnel from the ranks of its new members. To deny to an ecumenical religion the

freedom to bring trained personnel from the other nations where it also exists is in effect to discriminate against it.

For this reason we ask an amplification of rule 11, paragraph 2 along these lines.

While there are other things in the proposed rules and the accompanying report about which we have reservations, we have in this statement concentrated on one main point and its consequences - the essential and transcendent character of religion itself.

Therefore, we respectfully request that the proposed rules be preceded by a preamble. This preamble should take cognizance of the fact:

- (1) that for the religious man religion is a transcendent reality;
- (2) that the religious man as an individual has a basic right to have his view of religion as a transcendent reality recognized and protected;
- (3) that religious societies which are corporate by nature and function require for their protection the recognition of their corporate rights and communal activities.

It is our firm conviction that without such a preamble the rules, however sincerely formulated, cannot but remain inadequate and will totally fail to prevent discrimination in religious rights and practices.

Pax Romana

World Federation of Catholic Young
Women and Girls

International Catholic Child Bureau
