

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



Distr.  
GENERAL



E/CN.4/760  
17 January 1958  
ENGLISH  
ORIGINAL: ENGLISH/FRENCH/  
SPANISH

COMMISSION ON HUMAN RIGHTS  
Fourteenth session  
Item 4 of the provisional agenda

STUDY OF DISCRIMINATION IN EDUCATION

Note by the Secretary-General

1. In resolution VIII (B), adopted by the Commission at its thirteenth session, the Secretary-General was requested to send to States Members of the United Nations and of the specialized agencies the study of discrimination in education prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/181 and Add.1 and Corr.1), as well as chapter IV and resolutions A, B and C of the report of the Sub-Commission's ninth session (E/CN.4/740), and the summary records of the discussion on this matter in the Commission (E/CN.4/SR.565-570). The Secretary-General was further requested to ask Governments to formulate, in the light of the Special Rapporteur's study, their comments and suggestions with regard to the proposals made by the Sub-Commission in resolutions B and C, with particular reference to the principles suggested, and their views as to the possibility of adopting one or more international instruments; and to transmit them before 1 December 1957 so that they could be taken into consideration by the Sub-Commission at its tenth session and by the Commission at its fourteenth session.

2. The Economic and Social Council at its twenty-fourth session, in resolution 651 G (XXIV), requested the Secretary-General to submit the comments and suggestions received from Governments directly to the Commission on Human Rights at its fourteenth session, rather than to the Sub-Commission. The Council expressed the view that the Sub-Commission had already completed its consideration

of the study, and that there would be little time for the comments and suggestions received from Governments on or about 1 December 1957 to be circulated and considered by the Sub-Commission at its tenth session.

3. The Secretary-General drew the attention of Governments of States Members of the United Nations and of the specialized agencies to resolution VIII (B) of the Commission, and to the documentation referred to therein, on 17 June 1957. In accordance with resolution 651 G (XXIV) of the Economic and Social Council, the comments and suggestions received from Governments are submitted directly to the Commission.

4. To date comments and suggestions have been received from eight Governments: Brazil, Cambodia, Finland, India, Libya, Luxembourg, Norway and Peru. These comments and suggestions are as follows:

#### BRAZIL

"The Permanent Representative of Brazil to the United Nations.... has the honour to inform that the Brazilian Government approves the principles embodied in Resolution C of the Sub-Commission.

The Brazilian Government is somewhat skeptical, however, of the possibility of combatting discrimination, wherever it may exist, by the method proposed in the document in question, that is, by the adoption of international agreements on the subject.

The Brazilian Government also wishes to point out that the principles contained in the aforesaid documentation have been incorporated in Brazilian legislation for a number of years. The law known as the "Mello Franco Law" (Lei Mello Franco), which provides for judicial action to prevent the practice of racial discrimination, is the best proof of this incorporation and, at the same time, demonstrates how deeply enrooted in the conscience of the Brazilian people is the principle of respect for the basic rights of all races."

#### FINLAND

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"For the elimination of discrimination in education it would be appropriate that ECOSOC would prepare a draft document in compliance with the ten main principles set forth by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in addition to which UNESCO could contribute for these purposes through educational activities in various countries.

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This document could preferably be prepared in the form of a recommendation, because if a treaty would be done, this might cause many countries to remain outside it. A recommendation would have the same moral effect on all countries and even if all parts of it could not immediately be put into effect, it would serve as a goal for everybody.

It would be recommendable to have the study on discrimination in education printed by the United Nations in accordance with the annex of Resolution C. UNESCO could use this in an abbreviated form for its educational activities. The objectives set forth in the ten main principles of the said resolution can be considered, in principle, as fulfilled in Finland. Thus school attendance of Lapp children is organized as well as possible under the prevailing circumstances.

The national and internal measures of states, as recommended in the resolution, are certainly advisable, but as far as Finland is concerned, there is hardly need for them, because in Finland the rights of all citizens in these questions are safeguarded by legislation and prevailing practice."

#### INDIA

".....in India the fundamental law of the land provides against discrimination in education. Article 29(2) of the Constitution of India provides that 'no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them'. Article 30 of the Constitution provides that '(1) all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. (2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

The fundamental right guaranteed by the Constitution prevents discrimination in education on the grounds of religion, race, caste, language or any of them. The Supreme Court of India and the High Courts in the States as guardians of the fundamental rights of the individual have had occasion to enforce these rights. In the State of Madras Vs Shrimati Champakam Durirajan (1951 S.C.R. 525) with regard to the admission of students to the Engineering and Medical Colleges of the State, the Province of Madras had issued an order (known as the Communal G.O.) that seats should be filled in by the Selection Committee strictly on the basis of communal representation. It was held by the Supreme Court that the communal G.O. constituted a violation of the fundamental right guaranteed to the citizens of India by article 29(2) of the Constitution and was, therefore void under article 13.

In the State of Bombay Vs Bombay Education Society (1954 S.C.A. 737), the Government of Bombay issued an order which directed that subject to

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certain exceptions, no primary or secondary school receiving aid from Government should admit to a class where English was the medium of instructions any pupil other than a pupil belonging to a section of the citizens the language of which was English. It was held by the Supreme Court that as the immediate ground for denial of admission of a pupil to such a school where English was the medium of instructions was that the mother-tongue of the pupil was not English, it was a denial of the right conferred by article 29(2), on the ground of the language of the pupil."

#### LIBYA

".....The laws governing education, in force at present in Libya, do not provide in any form for discriminatory measures because of race, colour, religion or any other motive-cause of similar nature, and..... the principles embodied in the document above referred to, have already been observed and now are being contemplated in the provisions of the educational laws of Libya, which are in a state of full compliance with the principle of no discrimination in the field of education.

The Government of the United Kingdom of Libya takes advantage of the raising of this matter to express its desire for an early abatement by the concerned of any discriminatory policy in the field of education which may still be existing in other countries, also, to draw the attention to the necessity of promoting any efforts granted with a view to realizing equality and freedom in the field of education....."

#### LUXEMBOURG

"...Since the educational system in the Grand Duchy allows of no discriminatory measures against any distinct group, the Government of Luxembourg supports the proposals submitted by the United Nations Sub-Commission in its resolutions B and C.

Furthermore, the Government of Luxembourg is in favour of the adoption of an international instrument or instruments based on those proposals, as set forth in resolution B, (a), (i) and (ii)."

#### NORWAY

".....The study prepared by the Special Rapporteur has been submitted to the Norwegian Government, and this Mission has been instructed to inform the Secretary-General that the Norwegian Government has no comments or suggestions to offer on the matter."

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PERU

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"The Peruvian Government believes that resolution B embodies principles which are fundamental - as they are shown to be in the attached document - and which should be duly observed in all States Members of the United Nations. This is particularly true in the sphere of cultural rights, which enable mankind to satisfy its desire for freedom and advancement. Consequently, Peru is in agreement with the resolution and wishes to make the following suggestions:

- (1) There should be an international instrument setting forth these fundamental principles;
- (2) There should also be an international instrument designed to prevent discrimination in education, in conformity with these fundamental principles;
- (3) These principles should be brought to the attention of the General Assembly at its next session, so that they may be considered in the preparation of the draft International Covenant on Economic, Social and Cultural Rights.

"As far as resolution C is concerned, Peru considers that the principles on which it is based and the legislative, administrative and financial measures, both domestic and international, set forth therein, should be approved by Member States and taken into account in planning the action which the resolution contemplates...".

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