

FIRST FORUM ON MINORITIES

Barbara Wilson

On behalf of the Committee on Economic, Social and Cultural Rights, I would like to thank and congratulate Madam Chairperson, Ms Gay McDougall (the Independent Expert on Minority Issues) and Professor Patrick Thornberry for organising this Forum which comes at a very opportune time for several reasons. Firstly, the Optional Protocol to the Covenant on Economic, Social and Cultural Rights was adopted last week by the UN General Assembly and will be open for signature and ratification from March 2009. After the ratification by 10 States, the Protocol will enter into force and provide individuals and groups of individuals from State parties the right to address communications to the Committee alleging violations of article 2.2 combined with article 13 of the Covenant. This will certainly help protect the rights of minorities in the domain of education.

Secondly, the Committee's General Comment n° 20 on non-discrimination is in the final stages of drafting and hopefully will be adopted in 2009. In this context, I should like to make a couple of points which have arisen from the drafting of General Comment n° 20, as well as from the Committee's Concluding Observations on State parties' reports.

1. Systemic Discrimination

Systemic discrimination is not specifically mentioned in the Draft Recommendations. It would however be advisable to address this problem.

Systemic discrimination is pervasive and usually deeply rooted in traditional attitudes. National constitutions and legislation generally prohibit discrimination based on recognized grounds. However, these formal guarantees go largely unenforced and act as a cover for the abuses taking place. Many State policies focus on remedying the effects of discrimination but do not tackle the discriminatory attitudes which allow discrimination to flourish in the first place. For example, children belonging to the lower castes and/or to religious or ethnic minorities are frequently victims of discrimination in their enjoyment of economic, social and cultural rights and particularly the right to education.

States should address the problem of systemic discrimination in a systematic way, in particular, by allocating sufficient funds to combat socially and culturally ingrained attitudes by, *inter alia*, adopting

public-awareness campaigns, human rights education and training programmes for judges and public officials and ensuring human rights education classes in schools. These programmes should aim at dismantling notions of social and/or religious inferiority in general and, in particular, in the domain of education.

I would suggest inserting a paragraph on the subject of systemic discrimination and State obligations in this respect at the end of Part IV. of the Recommendations.

2. The Directly Applicable Nature of the Principle of Non-Discrimination in Education

The directly applicable nature of the principle of non-discrimination should be underlined in the Draft Recommendations. As laid down in General Comment n° 13 on the right to education of the Committee on Economic, Social and Cultural Rights, the prohibition of discrimination is subject neither to progressive realization nor to the availability of resources. It applies fully and immediately to all aspects of education and encompasses all internationally recognized grounds of discrimination.

I would therefore recommend that the immediate nature of the obligation of States to ensure equal access to all levels of education without discrimination be mentioned in the Draft Recommendations in Part IV.

3. Editorial suggestions

Regarding Part VI. of the Draft Recommendations

The first sentence of Part VI., which deals with desegregation strategies (at present in brackets), should be retained, as segregation in education without any reasonable and objective justification is a serious problem in many States (for example, with regard to the Roma population).

As the second sentence of Part VI. (also in brackets) is of a general nature, I would suggest inserting it before the first sentence.

Regarding Part VII. of the Draft Recommendations

In the last paragraph of this section, I would suggest inserting, after the words «strengthening of tolerance.. », the term « mutual understanding ».