

OIDEL (International Organization for the Right to Education and Freedom of Education)

Speech at the Forum on Minorities

First session

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Madame President, Ladies, Gentlemen,

The OIDEL is delighted about the holding of this first Forum on Minority Issues and in particular the chosen theme. Having worked within human rights bodies for the recognition of the right to education, our organization finds this Forum of the highest importance. But we also reckon that a single session will not be enough to truly address such issue which is crucial for the very survival of persons belonging to minorities. At least two sessions on this theme would be necessary.

In its basic principles the draft recommendation suggests a generous and positive attitude towards minorities. This is essential yet often lacking. It is indeed necessary to promote an attitude that is supportive of pluralism and minorities. Like A. Eide underlined when speaking about identity in his Commentary to the Declaration: *“Beyond simple tolerance, identity, which is essentially cultural, requires of the State and of society in general a supportive attitude towards cultural pluralism (...) (The States) have to create an environment conducive to the development of that identity. This goes beyond mere protection and requires the adoption of special measures aimed at making it easier to preserve, transmit, and develop the culture of minorities.*

Everyone has the fundamental right to forge their own identity. This right should be understood as being part of the main freedom every State shall respect: the freedom of thought. As the draft recommendation underlines, “education is an essential support for the identity of a community”. Indeed, the freedom to teach and to create cultural institutions actually stems from the necessary respect of the freedom of thought. As we all know, this freedom that cannot be subject to any limitation.

Now, obviously, freedoms cannot be protected in an effective manner without a positive action by the State. We cannot merely advocate their respect. The freedoms have to be implemented, or even better, the means to do so have to be provided. But the requirements for the freedom of thought are even stronger. Such freedom cannot be effectively protected if the freedoms that follow from it or that constitute the condition of their effective exercise, are not protected: freedom of expression, freedom of religion, freedom of the press, and freedom of education. An affirmative action by the State is thus necessary in this field. With regard to education, the question is mentioned by the Declaration on the Rights of Minorities which provides that “this right entails for everyone and in particular for the public authorities, the obligation to favour, to the extent of the available resources, its exercise in conditions of equality.”

Here we are confronted with an evolution of international law that, however, for political reasons, is not yet unanimous. Paragraph 2 of article 6 of the Declaration – in conformity with the developments

of international law – mentions precisely equality as the great principle to be respected by the action of the State.

In this context, the mention “to the extent of the available resources” should not be interpreted as a concession to the State that allows granting the resources to its liking. This reference allows the State to progressively move forward in the implementation of this right. Yet in the field of education – the priority of priorities - under no circumstance can the state invoke the lack of financial resources to limit the exercise of this right.

Thus we are in the middle of a question that is decisive for the future of minorities and cultural rights in general. Indeed, we address here the question of the practical implementation of the indivisibility of human rights. There cannot be freedom of thought without the freedom to *choose one's master* (G. Burdeau), and there cannot be freedom of education without public funding allocated to this freedom. In this sense, the principle according to which a State has the obligation to set up an acceptable education for minorities to the maximum of the available resources, a general obligation with regard to all the economic, social and cultural rights cannot be only a rhetoric assertion. The recommendations have to be more demanding on this point.

We should recall the Convention 169 on Indigenous Peoples (ILO) that asserts that “governments shall recognize the right of these peoples to establish their own educational institutions and facilities, provided that such institutions meet the minimum standards established by the competent authority in consultation with these peoples. Appropriate resources shall be provided for this purpose.” (art. 27, par. 3). The formulation of this text is clear: Indigenous Peoples must be able to create their own school centres and manage them, and these educational centres must be funded by the public authorities. In this regard, it should be recalled that, in the Folgero judgment, the European Court [of Human Rights] indicates that the verb ‘to respect’ means more than only ‘to recognize’ or ‘to take into consideration’. It implies a positive obligation on behalf of the State.

The *Fribourg Declaration on Cultural Rights*, which has received the support of numerous well-known figures, in particular of members of treaty bodies and special rapporteurs, has outlined the right of minorities to education when stating that: “*everyone has the right throughout one's lifespan, alone or in community with others, to education and training that, responding to fundamental educational needs, contribute to the free and full development of one's cultural identity while respecting the rights of others and cultural diversity*”.

A strong educational system in a multicultural society has to build up positively on multiculturalism, as multiculturalism provides numerous resources for an education based on human rights. Taking responsibility of multiculturalism thusly, we go beyond the judicial fiction of neutrality, which fundamentally overshadows the central question of culture, that is, the question of meaning. As François Audigier stated in a document of the Council of Europe on the teaching of values: “(everyone) must be able to form their own identity, in relation to multiple points of reference... (The transmission of values in a democratic society) results in a critical internalization of the rules to wanting to live together ... (This means) consequently to irretrievably, and intrinsically, introduce and accept the question of values in schools.”

Pluralism and cultural diversity are a creative richness. This is the vision of the Declaration on Cultural Diversity and of the World Commission on Culture and Development of the United Nations.

In its report 'Our Creative Diversity' the Commission rightly stated that *"pluralism appears to be a fundamental principle. The lesson that emerges from the debate on this question is that cultural pluralism is omnipresent and a permanent feature of societies and that identification with an ethnic group is a normal and healthy response to the pressures of globalization. Ethnic and other forms of group identification can act as triggers for violent conflict when mobilized and manipulated to do so."*