



Dual Distribution

COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTY-SIXTH MEETING

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Present:

Chairman: Mr. MALIK (Lebanon)

Members:

Australia	Mr. WHITLAM
Chile	Mr. SANTA CRUZ
China	Mr. YU
Denmark	Mr. SÖRENSEN
Egypt	AZMI Bey
France	Mr. CASSIN
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMEN
India	Mrs. MEHTA
Pakistan	Mr. WAHEED
Sweden	Mrs. RÖSSEL
Ukrainian Soviet Socialist Republic	Mr. KOVALENKO
Union of Soviet Socialist Republics	Mr. MOROSOV
United Kingdom of Great Britain and Northern Ireland	Miss BOWIE
United States of America	Mrs. ROOSEVELT
Uruguay	Mr. CIASULLO
Yugoslavia	Mr. JEVREMOVIĆ

Representatives of specialized agencies:

International Labour Organisation	Mr. PICKFORD
United Nations Educa- tional, Scientific and Cultural Organization	Mr. SABA Mr. THOMAS Mr. ELVIN Mr. BMMATE Mr. HAVET

Representatives of non-governmental organizations:

Category A

World Federation of Trade Unions	Mr. FISCHER
International Confederation of Free Trade Unions	Miss SENDER Mr. PATTEET
International Federation of Christian Trade Unions	Mr. EGGERMANN

Category B and Register

Agudas Israel World Organization	Chief Rabbi SHAFRAN
Caritas Internationalis	Mr. FETERKIN
Carnegie Endowment for International Peace	Mrs. CARTER
Catholic International Union for Social Service	Miss de ROMER Mrs. SCHRADER
International Council of Women	Mrs. CARTER
International Federation of Business and Professional Women	Miss TOMLINSON
International Federation of University Women	Miss ROBB
International League for the Rights of Man	Mr. de MADAY Mr. BALDWIN
International Union for Child Welfare	Mrs. SMALL
International Union of Catholic Women's Leagues	Miss de ROMER
Liaison Committee of Women's International Organizations	Miss ROBB
Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BIENENFELD

Secretariat

Mr. Humphrey

Mr. Das

Representing the Secretary-General
Secretary to the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(item 3 of the agenda):

(b) Inclusion in the Covenant of provisions concerning economic, social and cultural rights:

1. Special provisions on the right of association and the right to strike (E/CN.4/591/Rev.1, E/CN.4/594, E/CN.4/595/Rev.1, E/CN.4/596, E/CN.4/AC.14/2/Add.4) (continued)

The CHAIRMAN invited the Commission to continue its consideration of the proposals relating to the right of association and the right to strike. The United States proposal, as modified by the amendments accepted by its author, was contained in document E/CN.4/591/Rev.1. The revised Egyptian text, similarly modified, was to be found in document E/CN.4/595/Rev.1.

Mr. WHITLAM (Australia) had understood the Yugoslav representative to ask at the previous meeting whether in Australia the establishment of trade unions required legislative measures. The answer was that it did not. The right to form trade unions was recognized there as deriving from the common law right of association. The Australian Government held that free men in a free society had the right to form trade unions, the only limitation of that right - and one which, he believed, would be generally accepted - being that necessary for the protection of public order. Australia had numerous instruments for the settlement of industrial disputes. The system of conciliation commissioners and arbitral tribunals with conciliatory powers had been in operation for at least a quarter of a century, and its possible improvement was under continuous consideration. Its purposes were defined in the Commonwealth Conciliation and Arbitration Act, in Part I of which it was stated that:

"The chief objects of this Act are:

- a) to establish an expeditious system for preventing and settling industrial disputes by the methods of conciliation and arbitration;
- b) to promote goodwill in industry and to encourage the continued and amicable operation of orders and awards made in settlement of industrial disputes;

.....

- e) to provide for the observance and enforcement of such orders and awards;
-
- g) to encourage the organisation of representative bodies of employers and employees and their registration under this Act."

Almost all trade unions and employers' organisations had registered in accordance with the terms of the Act, and were thus able to avail themselves of the procedure which it provided. Orders and awards made under the Act were enforceable.

Mr. JEVREMOVIĆ (Yugoslavia) explained that what Australia had really asked at the preceding meeting was why there was special legislation relating to trade unions. He was grateful for the information supplied by the Australian representative which, he suggested, supported the view that the draft Covenant should contain special, detailed provisions on the rights of trade unions over and above the general principle of the right of association recognized in article 16.

He could not support the revised Egyptian proposal, because it involved serious restriction of the right to strike, and would enable governments to obstruct the exercise of that right and the freedom of trade unions in general. He maintained that a more specific provision was required.

Mrs. ROOSEVELT (United States of America) explained that the revised United States proposal embodied the Danish proposal that the words "in conformity with article 16" be included; the Chilean proposal that the words "of his choice" and "economic and social" be inserted; and the Egyptian proposal that the words "local, national and international" be inserted.

She would be unable to support either the second sentence of the revised Egyptian proposal or the second Uruguayan amendment to the Yugoslav proposal, because the right to strike had long been recognized in the United States of America, the Government of which could not therefore agree to any clause that sought to restrict that right in the sense explicit in the two texts mentioned. It would be preferable to leave the International Labour Organisation to spell out the precise details in that respect. Practically every country imposed

certain limitations on the right to strike, which were accepted by the workers engaged in certain occupations; but the discussions at the present session had clearly shown that when detailed provisions could not be drafted with sufficient precision, it was better not to go beyond a general statement of principle or policy.

Mr. MOROSOV (Union of Soviet Socialist Republics) recalled his assertion at the previous meeting that in a number of countries the rights of trade unions were so circumscribed as to make recourse to strikes impossible. Both the second provision of the revised Egyptian proposal and the second Uruguayan amendment to the Yugoslav proposal would effectively perpetuate that situation and open the door to legislation directed against the freedom of the workers. It must also be remembered that trade unions were often compelled to participate in conciliation procedures and to bow to the decisions of State tribunals. The only proposal before the Commission which unreservedly recognized the rights of trade unions was that submitted by his delegation, and he would again urge its adoption.

Mr. CASSIN (France) asked that two editorial changes should be made to the French text of the United States proposal. First, the words "avec d'autres" should be inserted after the words "... le droit de former". Secondly, the word "s'affilier" should be substituted for the word "adhérer".

It was so agreed.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) requested that the proposed Soviet Union text for the article relating to the right of association and the right to strike (E/CN.4/AC.14/2/Add.4, pages 5 and 6) be put to the vote paragraph by paragraph.

It was so agreed.

Paragraph 1) was rejected by 7 votes to 3 with 8 abstentions.

Paragraph 2) was rejected by 9 votes to 2 with 7 abstentions.

Paragraph 3) was rejected by 8 votes to 3 with 7 abstentions.

Paragraph 4) was rejected by 8 votes to 3 with 7 abstentions.

Paragraph 5) was rejected by 8 votes to 3 with 7 abstentions.

Paragraph 6) was rejected by 8 votes to 5 with 5 abstentions.

Paragraph 7) was rejected by 8 votes to 2 with 8 abstentions.

Mr. SANTA CRUZ (Chile) explained that he had abstained from voting on the individual paragraphs of the Soviet Union proposal because of his attitude to the proposal as a whole. He could have supported some of them, especially paragraphs 1, 3, 4 and 7, but, as would be recalled, he had earlier opposed the proposal as a whole for reasons of form, and because he did not approve the substance of some of its provisions.

Mr. WHITLAM (Australia) explained that he had voted against every paragraph of the Soviet Union proposal, not because he was generally opposed to its substance, but because the United States proposal corresponded more closely to the views of the Australian Government.

The CHAIRMAN said he would next put to the vote the Danish proposal that the words "in conformity with article 16" should be inserted after the words "shall have the right" in the Yugoslav proposal (E/CN.4/AC.14/2/Add.4, page 5).

Mr. MOROSOV (Union of Soviet Socialist Republics) suggested that the vote on the Danish amendment be deferred until article 16 had been adopted. He intended to submit an important amendment to that article and it would be inappropriate to insert a reference to it in another provision until its final form was known.

Mr. SÖRENSEN (Denmark) said that, to facilitate matters, he would withdraw his amendment to the Yugoslav text, though it would stand in respect of the Egyptian and United States proposals.

AZMI Bey (Egypt) was surprised to find the words "in accordance with article 16" in the revised Egyptian proposal (E/CN.4/595/Rev.1). He had accepted the two amendments proposed by the Chilean representative, but not the Danish amendment.

The CHAIRMAN said that the words "in accordance with article 16" would be deleted from the revised Egyptian proposal, in view of the statement just made by the Egyptian representative.

Mr. DUPONT-WILLEMIN (Guatemala) requested that the second Uruguayan amendment be voted upon in two parts.

The CHAIRMAN put to the vote the first Uruguayan amendment (E/CN.4/594) to the Yugoslav proposal, namely that the words "for all purposes not at variance with law or democratic public policy" be inserted after the words "trade union organizations".

The first Uruguayan amendment was rejected by 4 votes to 2 with 11 abstentions.

The CHAIRMAN then put to the vote the first part of the second Uruguayan amendment (E/CN.4/594), namely, that the words "it shall be understood that the right to strike is restricted to circumstances where attempts at conciliation have been exhausted" should be added to the end of the first paragraph of the Yugoslav proposal.

The first part of the second Uruguayan amendment was rejected by 7 votes to 5 with 6 abstentions.

The CHAIRMAN then put to the vote the second part of the second Uruguayan amendment to the Yugoslav proposal, comprising the words: "In the same way, the right to strike may be restricted by legislative measures in the case of public officials".

The second part of the second Uruguayan amendment was rejected by 6 votes to 4 with 8 abstentions.

The CHAIRMAN then put the Yugoslav proposal (E/CN.4/AC.14/2/Add.4) to the vote. The Chilean representative's proposal that the words "of his own choice with a view to protecting his economic and social interests" be inserted after the words "international organizations" had been accepted by the Yugoslav representative, and should therefore be considered as incorporated in the text.

The Yugoslav proposal, as amended, was rejected by 8 votes to 3 with 7 abstentions.

The CHAIRMAN said the Commission could now proceed to vote on the revised United States proposal (E/CN.4/591/Rev.1)

Miss BOWIE (United Kingdom) asked that a separate vote be taken on the words "of his choice".

Mrs. ROOSEVELT (United States of America) said she would cast her vote on the understanding that the decision on the Danish proposal that the words "in conformity with article 16" be inserted was of a provisional character only.

The CHAIRMAN put to the vote the words "of his choice" in the United States proposal.

The words "of his choice" were retained by 8 votes to 2 with 6 abstentions.

The CHAIRMAN then put to the vote the United States proposal as a whole.

The revised United States proposal (E/CN.4/591, Rev.1) was adopted by 10 votes to none with 8 abstentions.

Miss BOWIE (United Kingdom) said that in her opening remarks on the proposals relating to the right of association and the right to strike she had expressed the view that the right of association was adequately covered by article 16 of the draft Covenant, and that the right to strike was a particular expression of that right as implemented by trade unions. The trend of the subsequent discussion had revealed a general desire for the inclusion of a separate provision on the matter, and she would have been prepared to vote in favour of the United States proposal had it not included the words "of his choice". But as those words had been retained, she had been obliged to abstain from voting on the proposal as a whole, because the United Kingdom Government believed that trade unions must be free to lay down their own conditions of entry and membership. Recognition of the right of everyone to join the trade union of his choice constituted a limitation on the rights of those unions to control their internal organization, particularly in the field of qualification for membership.

Mr. CASSIN (France) explained that he had voted in favour of the United States proposal precisely because it contained a reference to article 16 of the draft Covenant, even though the text of that article was still tentative. He had always maintained that although trade union rights formed part of the right of association, they should be dealt with in a separate article in view of their importance.

Mr. WHITLAM (Australia) said that trade union rights sprang from the right of association; hence the acceptance by the United States representative of the Danish amendment had enabled him to vote in favour of her proposal. However, he shared the misgivings of the United Kingdom representative with regard to the implications of the words "of his choice". It must be clearly understood that they would not be interpreted as justifying interference with the trade unions internal regulations governing membership; otherwise the Australian Government might have to reserve its position at the next stage in the discussion of the draft Covenant. In the meantime, he had voted in favour of the United States proposal because he believed a clause in those terms should be inserted in the draft Covenant.

Mr. SANTA-CRUZ (Chile) said that the reason why he had abstained from voting on the United States proposal was that he regarded its provisions in respect of the exercise of trade union rights, and especially the right to strike, as inadequate. Despite that shortcoming, however, he would have voted for it, had it been put to the vote after the Egyptian proposal, if only because it was better to adopt limited provisions than none at all.

Mr. YU (China) said that he had voted in favour of the United States proposal on the understanding that the decision on the Danish amendment was provisional.

Mr. CIASULLO (Uruguay) unreservedly associated himself with the explanation given by the Chilean representative.

Mr. JEVREMOVIĆ (Yugoslavia) said that trade union rights, which in many countries had been won at the price of great sacrifices, sometimes even at that of human life, were too important for such summary treatment as they had been given in the United States text. As his proposal showed, he had been in favour of a detailed provision. The United States proposal would clear the way for abuse of trade union rights, the more so as it referred to article 16 of the draft Covenant, which permitted governments to restrict the right of association in the interest of public order, action which could not fail to lead to curtailment of the freedom of trade unions.

Mrs. RÖSSEL (Sweden) said that she had voted in favour of the United States text for the reasons she had given at the previous meeting. Sweden recognized the right to strike, but at present the legal aspect of the whole problem was being studied there, especially with regard to the status of public officials. It was for that reason that she had abstained from voting on the proposals containing detailed provisions concerning the right to strike.

2. Special Provisions on educational and cultural rights (E/CN.4/593, E/CN.4/598, E/CN.4/AC.14/2/Add.4, (section IX).

The CHAIRMAN invited the Commission to take up the proposals relating to educational and cultural rights. Texts had been submitted by the representatives of the following countries: Australia, Denmark, Egypt, the United States of America, the Union of Soviet Socialist Republics and Yugoslavia; and there was a suggestion from the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO). All were to be found in document E/CN.4/AC.14/2/Add.4 (Section IX). In addition, the Commission had before it the revised United States proposal (E/CN.4/593) and the Yugoslav amendment thereto (E/CN.4/598).

The Soviet Union representative had asked him to say that the words "and general" after the words "providing free elementary" should be deleted from the Soviet Union proposal.

Mr. ELVIN (United Nations Educational, Scientific and Cultural Organization), speaking at the invitation of the CHAIRMAN, expressed his gratitude for the opportunity of commenting on the clauses relating to education in the text suggested by his Organization and in the proposals submitted by members of the Commission. At a later stage, Mr. Havet would speak on the clauses relating to general culture.

He recalled the general statement made by the Director-General of UNESCO at the first meeting of the Working Group on Economic, Social and Economic Rights,⁽¹⁾ but explained that at the present stage he (Mr. Elvin) proposed mainly to draw some comparisons between his Organization's suggestion and the other proposals, and to comment on certain definitions, and on the relation between the enunciation of general educational rights and possible specific obligations that might be laid down in the Covenant.

With regard to the first point, he had been pleased to note that his Organization's text, which was similar in principle to that submitted by the World Health Organization in connexion with the provisions on health, seemed to subsume most of the points raised in the other proposals, and thus formed a comprehensive resumé of them. There appeared to be common agreement that an explicit reference to the general right to education should be included, though no one had submitted a definition, and that Article 26 of the Universal Declaration of Human Rights should be followed in laying down what was implied by the three main stages of systematic education, namely: primary, secondary and higher education. He was glad to note that the revised United States proposal actually did so. There also appeared to be general agreement that in the provisions relating to education reference should be made to the need for tolerance, understanding and respect for human rights.

1) See document E/CN.4/AC.14/SR.3, pages 13-17.

However, only his Organization's suggestion referred in detail to basic obligations concerning free and compulsory schooling.

As the Director-General of UNESCO had made clear, the comments of representatives of the Organization emanated from the Secretariat, which had no mandate, either from the General Conference or the Executive Board, in respect of precise texts. It had, however, from the programme resolutions, a clear indication of what it might suggest, and a general warrant, in the report forwarded (on the instructions of the last General Conference) to the Economic and Social Council as to how clauses (1) and (2) of Article 26 of the Universal Declaration could be translated into terms suitable for embodiment in the Covenant.

No text attempted to cover the principle laid down in Article 26 (3), namely: "Parents have a prior right to choose the kind of education that shall be given to their children". As that omission from his Organization's suggestion had given rise to some private comment, he would explain that the principle had been left out because the Secretariat had no formal instructions on the matter from the General Conference. Most representatives of governments and non-governmental organizations interested in the rights of parents conceived that question in broad terms involving political, social, philosophical and religious considerations, and the UNESCO Secretariat did not believe that it would be proper for it to make a proposal on the matter. It had, indeed, expected that some members of the Commission, who in that respect were freer would have done so. He was personally of the opinion that the General Conference of UNESCO would express sympathy with a provision embodying that principle.

There was an additional technical difficulty in drafting a provision concerning the rights of parents to choose the form of education to be given to their children, which he would illustrate by reference to the situation in the United Kingdom, where the Education Act of 1944 provided for free and compulsory education up to 15 years of age. Under that Act, emphasis was placed on three forms of secondary education, namely, those afforded by grammar, technical and modern schools. It also recognized the desirability of giving parents a strong voice in deciding which kind of school their children should attend.

Nevertheless, in choosing which particular school the child should attend, some weight had to be given to the aptitude of the child, especially where there were not enough schools of one type. Thus, unless the provision were worded very carefully, indeed, much more so than was Article 26(3) of the Universal Declaration, governments would be involved in considerable difficulty. He had spoken at some length on that point in order to ensure that the omission of any suggestion concerning it was not interpreted as meaning that his Organization was unaware of the vital role of parents in educational advancement.

Reverting to the question of the right to education, he noted that the Commission had made no attempt to define the general concept of education. He therefore assumed that the Commission wished UNESCO to submit a definition of the right to education, and proposed the following formula:

"The right of access to the knowledge and training which are necessary to full development as an individual and as a citizen".

The word "access" was used because the State could not do more than provide access to education; the final responsibility rested with the child and its parents. The phrase "knowledge and training" provided recognition of the fact that knowledge by itself did not constitute education; physical, civic, character and vocational training, all had important parts to play in any comprehensive educational system. The phrase "which are necessary to full development" was an admission that the individual, however gifted, could not achieve full development without education. Finally, the phrase "as an individual and as a citizen" implied respect for the personality of the individual while recognizing that man was a social being.

But a bare general statement in the Covenant prescribing the general right to education, even if supported by such a definition, would not be enough. The Covenant should refer specifically to the three main stages of systematic education: primary, secondary and higher education. The term "primary education" was used in the UNESCO draft article, because it corresponded to the French term "education of the first degree" more closely than did the term "elementary education". Both terms, however, were subject to widely differing interpretations in different countries.

Point 5 of Article (a) dealt with the content of education in relation to the international community. There was no specific reference to racial and religious tolerance, because it was felt that those aspects were covered by the general expression "respect for human rights". He would, however, have no objection to such mention being made. He noted that the revised United States proposal (E/CN.4/593) contained a similar point (5) which did not mention tolerance. He felt that some specific reference to tolerance was necessary, as the question of what constituted "a free society" had in the past given rise to much intolerant controversy. The untutored child was free of racial prejudice, which was undoubtedly a product of mis-education.

Articles (b) and (c) had been inserted because although a Covenant had a juridical force lacking in a mere declaration, the Covenant must contain a guarantee of action which the average man could grasp, if it was to prove effective. The average man had to be taken into account because the representatives round the Commission table were, in the ultimate analysis, representatives of the people, although in the first place representatives of governments.

He was not asking that specific obligations should be laid down in the Covenant; that was a task for individual Governments acting in collaboration with UNESCO. He did, however, ask that general obligations be laid down concerning two specific fields; primary and fundamental education. Articles (b) and (c) would then provide a direct juridical link between the governments and the specialized agencies.

Primary and fundamental education were the two most important fields, in respect of both urgency and the number of persons involved. It was a fact that many children, legally of school age, attended school only irregularly or not at all. That was often no fault of the governments of the countries concerned, which simply did not possess the necessary administrative machinery; but from the point of view of the international community it was a shameful fact. To remedy that state of affairs, a huge programme of school building and training of teachers would be required. The problem was further complicated by the fact that a child could often make an important, and even vital, contribution to the family income. To prepare the necessary plans, a conference was to be held in

the course of the next few months under the auspices of UNESCO and the International Bureau of Education; and regional conferences to deal with problems in South-east Asia and the Middle East were planned for the near future.

The proposals contained in Article (b) provided for an international guarantee of action, and gave scope for regional co-operation with the specialized agency concerned. They gave a clear, general lead in an agreed, specific field to the specialized agency concerned, while avoiding encroachment on national sovereignty. Finally, they were practical. He did not insist on the term of two years as the period within which the plans mentioned should be adopted, but a definite time-limit should be fixed.

With regard to the problem of fundamental education, which formed the subject of Article (c), parents had as much right to education as children. The importance of the problem was clearly shown by the fact that at least half the adult population of the world was illiterate. The extension of fundamental education and of primary schooling were closely linked. A child receiving school education often tended to look down on its parents if they were illiterate; that constituted a serious threat to family stability. On the other hand, the influence of illiterate parents might be such that the value of schooling to the child was lost. Fundamental education could, moreover, play a vital part in the social awakening of the peoples of the relatively backward countries. For all those reasons he urged that a reference to fundamental education should be included in the Covenant.

There seemed to be general agreement on the need to include some general reference to the right to education together with a specific reference to the general obligation of States to promote education in order to develop respect for human rights and greater tolerance between peoples. Moreover, many delegations seemed to agree that mention should be made of the general right of the individual to education in the three main stages of systematic teaching. In conclusion, he pressed for a reference to the general obligations of governments in the specific fields of primary and fundamental education. If the Commission decided to include a statement of that nature it would be taking a step of the greatest practical importance.

Mr. SANTA CRUZ (Chile) said he would be glad to sponsor the UNESCO proposal, which was based on Article 26 of the Universal Declaration and demonstrated the progressive attitude and wide experience of the UNESCO Secretariat.

He would probably have detailed observations to make when he had heard what other members of the Commission had to say about the UNESCO proposal and the other proposals before the Commission, but he would like at once to suggest an amendment to point 5 of Article (a) in the UNESCO proposal. He felt that if the United Nations wished to enunciate the purposes of education in the Covenant, it should not deviate from the definition of those purposes given in the Universal Declaration, since any discrepancy between the text of Article 26(2) of the Declaration, and the corresponding article of the Covenant might be interpreted as indicating that the United Nations had changed its mind in the matter. He therefore proposed that point 5 of Article (a) be replaced by the text of Article 26(2) of the Universal Declaration.

Chief Rabbi SHAFRAN (Agudas Israel World Organization), speaking at the invitation of the CHAIRMAN, said that during the second world war nearly 1,300,000 Jewish children had been exterminated by German and non-German Nazis in concentration and death camps, crematoria and gas chambers, or by other diabolical modern methods. Only a few score thousand children due to be so killed had escaped that fate. Some of them had been taken into non-Jewish families and institutions. The Agudas Israel World Organization deeply appreciated such charitable action on behalf of Jewish children, but noted with profound regret that they were being brought up in a religion other than that for which their parents had been put to death. He urged therefore that an addition should be made to Article 5 of the principles set forth in the Secretary-General's Memorandum on the Rights of the Child (document E/CN.4/512), to the following effect

"Such education shall be in accordance with the religious views of his parents. If the parents are dead, it shall be in accordance with their presumed religious views".

Mr. CASSIN (France) said that the Chilean representative had stolen a march on him by sponsoring the UNESCO proposal; he therefore asked that the UNESCO proposal be described as a proposal submitted by the Chilean and French delegations jointly.

In view of the importance of maintaining a proper balance between the various parts of the draft Covenant, he felt that, while Articles (a), (b) and (c) of the UNESCO proposal were worth keeping in their entirety, it would be preferable to replace Articles (d) and (e) by the alternative version of Article (d) suggested by the Director-General of UNESCO.

He sympathised with the issue raised by the Agudas Israel World Organization. The problem might be examined either in connexion with the article in the Covenant relating to religious education, or in the course of the Commission's future work on the rights of the child. He did not feel that a provision like the one the representative of the Agudas Israel World Organization had suggested would be altogether appropriate in the part of the Covenant relating to economic, social and cultural rights.

The CHAIRMAN, speaking as representative of Lebanon, associated himself with the remarks of the Chilean and French representatives.

Mr. BIENENFELD (World Jewish Congress), speaking at the invitation of the CHAIRMAN, said that education was one of the fundamental human rights. He questioned, however, whether it could properly be called a cultural right. It should be counted as one of the civil and political rights, and one of the greatest importance, because it was fundamental to the exercise of all economic, social and political rights. That view was confirmed by the terms of Article 26(3) of the Universal Declaration. He therefore considered that the right to education should be implemented in the same way as other civil and political rights.

The right to education, unlike economic and social rights, did not depend on the level of a country's economic and social development. In any country, economic and social rights could only be realized when that country had reached the necessary level of economic and social development. However, any provision

concerning education, with the exception of the immediate introduction of compulsory education, could be carried out at once.

He was surprised that none of the proposals submitted contained any reference to the right of the parents to choose the kind of education that should be given to their children, as was laid down in Article 26(3) of the Universal Declaration. The right of the parents to wield some influence over the education of their children was thus completely unprotected. By virtue of the decision taken earlier, it was now too late to submit proposals concerning economic, social and cultural rights, but if the right to education were classed as a civil and political right there would still be time to submit a proposal to remedy that omission.

Article 26(2) of the Universal Declaration stated that education should ".....promote understanding, tolerance and friendship among all nations, racial or religious groups.....". The United States proposal omitted all reference to that phrase. In the past, the United Kingdom representative had had occasion to object to Article 26(2) on the ground that it would be impossible to enumerate in the Universal Declaration all the aims of education. That was true, and those objectives, which were not controversial, did not require mention either in the Universal Declaration or in the draft Covenant, but Article 26(2) of the former rightly stressed three of them which had been challenged by the Nazi and Fascist governments, namely: the full development of the human personality as opposed to the Nazi doctrine of the deification of the State; the strengthening of respect for human rights in contrast to the Nazi doctrine of the enslavement of inferior races; and the promotion of tolerance between nations, and particularly between racial and religious groups, in contrast to the Nazi doctrine of racial inequality, and the Nazi practice of racial extermination. As recognized in the Constitution of UNESCO, the misuse of education for the dissemination of racial hatred had been one of the main causes of the second world war. It had led to the slaughter of millions of Jews. He would make a special appeal to the United States delegation to withdraw its objection to the inclusion in the draft Covenant of the phrase

"racial and religious groups", since that phrase was in complete harmony with the policy and practice of the United States Government, which was doing everything in its power to further tolerance between racial groups, though it was not always able entirely to eradicate deep-rooted prejudices.

The wording used in the suggestion put forward by UNESCO that "education should encourage ... understanding and tolerance between all Nations", which was repeated in a slightly different form in the Danish proposal, did not go far enough. Teachers could do little to promote understanding and tolerance between nations; that was a matter of foreign policy. The great contribution that teachers could make was to inculcate understanding, tolerance and friendship between different racial and religious groups.

He therefore requested that the amendments he had suggested should be adopted, especially the classification of the right to education as a civil and political right, and the substitution of Article 26(2) of the Universal Declaration of Human Rights for point 5 of Article (a) of the UNESCO proposal.

The CHAIRMAN pointed out that the representative of Chile had already made a formal proposal in respect of the final amendment suggested by the representative of the World Jewish Congress.

Mr. CIASULLO (Uruguay) supported the Chilean proposal relating to point 5 of Article (a) of the UNESCO text. He would further suggest that the provisions of Article 26(3) of the Universal Declaration also be included in the draft Covenant.

If the Chilean proposal was adopted, the last paragraph of Article (d) of the UNESCO text, by which signatory States would undertake to guarantee "the free cultural development of racial and linguistic minorities", could be dispensed with, since the principle was implicit in the more general wording of Article 26(2) of the Universal Declaration. He did not consider it desirable to make specific provision for the preservation of racial and linguistic differences - often an artificial process - by making it one of the aims of education.

Finally, he would like the clause at the end of point 3 in Article (a) of the UNESCO text, namely: "and should be made progressively free", to be repeated at the end of point 4, which dealt with higher education, for it was just as desirable that higher education should be available free of charge as that secondary, technical and professional education should be.

Mrs. MEHTA (India) expressed her gratitude to UNESCO for the pains it had taken in preparing an elaborate text, which not only defined a fundamental right but also made provision for implementing it. Education was the most fundamental of all human rights; without education man was little better than an animal. She agreed that point 5 of Article (a) of the UNESCO proposal should be replaced by Article 26(2) of the Universal Declaration of Human Rights. Only the promotion of understanding, tolerance and friendship could bring about the peace for which the United Nations was striving, and education provided the only sure means of abolishing conflicts between national, racial and religious groups.

While admitting that the proportion of illiterates in the United States of America was exceptionally low, she regretted that no mention of fundamental education had been made in the United States proposal. The war against ignorance had to be fought on both the juvenile and the adult fronts.

She supported the UNESCO proposal (Article (c)) that every signatory State should undertake within two years to work out and adopt a detailed plan of implementation. It was impossible to train teachers and procure the material essential for the implementation of such plans overnight, but their preparation and adoption would demonstrate the willingness of States to undertake the work.

Apart from the points she had made, she was prepared to accept the UNESCO draft as it stood.

The CHAIRMAN quoted Article 1 of the Universal Declaration of Human Rights, namely, "All human beings are endowed with reason and conscience", which bore out the Indian representative's contention that man without education was little more than an animal.

Mr. EUSTATHIADES (Greece), having complimented UNESCO on its proposal and paid tribute to the Director-General of UNESCO for his inspired remarks on the basic problem of education at the first meeting of the Working Group on Economic, Social and Cultural Rights, said that of all the texts submitted by the various delegations the United States revised proposal most closely approached the UNESCO draft; he would therefore deal with that.

None the less, he would like to point out that the UNESCO proposal actually referred to two different questions; first, the right to education, secondly, the preservation, development and propagation of science and culture. The United States revised proposal, on the other hand, referred solely to the right to education. He was personally prepared to support it, subject to certain minor amendments, namely, the insertion in point 5, after the word "encourage", of the words "by national and international means"; and the addition, already suggested by the representative of Uruguay, of the text of Article 26(3) of the Universal Declaration, which embodied the application of a specific aspect of the more general principle set out in Article 16(3) of the Declaration.

As to the second question, which was not dealt with in the United States proposal, if the Commission decided to incorporate provisions of that nature in the Covenant, he would favour the alternative version for Article (d) submitted by UNESCO (E/CN.4/AC.14/2/Add.4, page 3).

The Commission also had before it the question of measures of implementation in the shape of the provisions advocated by UNESCO in that connexion. At the appropriate time, he would support that part of the UNESCO text, because he felt that the implementation of cultural rights should be made separate from the implementation of economic and social rights.

Mr. SANTA CRUZ (Chile), like the French representative, preferred the alternative version of Article (d). He would therefore ignore the first draft of that article, which would automatically exclude the provision concerning the free cultural development of racial and linguistic minorities. On the other hand, he was not opposed to the retention of that provision, because he

appreciated the somewhat special position of such minorities in certain countries. In Latin America, however, minorities had chosen to integrate themselves in the national life of the countries in which they lived; they were protected by all necessary safeguards, and were subject to no discrimination.

Article 26 (3) of the Universal Declaration had, he recalled, been adopted, not by the Commission on Human Rights, but by the Third Committee of the General Assembly. He felt that its provision was at variance with the legislation of many States, because it concerned not merely the legitimate views of parents on the education of their children, but also educational curricula themselves. In many countries, education was under the administration of the State, which drew up the appropriate curricula, which therefore had to be followed by all pupils receiving elementary and secondary education. That was at any rate the position in Chile. He was therefore opposed to the inclusion in the Covenant of the text of Article 26 (3) of the Universal Declaration, which might be construed as giving parents the right to determine the curriculum for their children's education.

The CHAIRMAN, speaking as representative of Lebanon, explained that Article 26 (3) had been inserted in the Universal Declaration at the instance of the Lebanese delegation. His country believed that it was the natural right of parents to have the last word in deciding what type of education should be given to their children, and that that right followed logically from the acceptance of the principle, set forth in Article 16 (3) of the Universal Declaration, namely that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

Mr. CIASULLO (Uruguay) recognized the aptness of the Chilean representative's remarks. His object, however, in proposing that the text of Article 26 (3) of the Universal Declaration should be included in the draft Covenant was to take account of existing facts. Three systems of education operated side by side in Uruguay: education in State schools; education in schools which, though private, were recognized by the State, and thus worked to the same curricula as State schools; and education in independent schools, the curricula of which differed from those of schools in the first two categories, which, unlike those in the third, awarded diplomas recognized by the State.

So far as the education of their children was concerned, parents were free to choose between the three categories; and he hoped that the Commission would recognize their right to do so. Admittedly, while that right existed in the free democracies, its exercise might involve certain difficulties in countries where education had a political or religious bias, or where Governments tried to influence the minds of the parents. He would suggest, therefore, that a provision similar to that of Article 26 (3) of the Universal Declaration be included in the Covenant, on the clear understanding that it would not bear the interpretation placed on it by the Chilean representative.

Mrs. ROOSEVELT (United States of America) recalled that when the same question had been raised at the third session of the General Assembly in Paris in 1948, she had been unable to accept the Chilean representative's interpretation. She could not admit that an educational system which failed to take the parents' desires into account was a correct one, although she felt that the draft Covenant should in some way make it clear that the ultimate aim of education was the good of the child. Again, parents should undoubtedly have the right to choose the kind of education - for instance, lay or religious - they preferred; but in some countries parents who had never had any education themselves did not appreciate the child's interests, feeling that since they had had no education, their children had no need of any either. In the interest of the child, therefore, the Government should also specify that, if necessary, the good of the child should take precedence over the wishes of his parents. She agreed, however, that complete State control of education should be ruled out.

The CHAIRMAN recalled that the United Kingdom representative had accepted the text in question when it had been made clear that the text had been drafted with a view to preventing parents being forced to send their children to State schools.

The meeting was adjourned at 1 p.m.