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CONTENTS:

PARAG

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:

Draft articles on the implementation of
provisions relating to economic, social and
cultural rights (E/CN.4/570/Rev.2, E/CN.4/622,
E/CN.4/623, E/CN.4/624, E/CN.4/AC.1.1/2/Add.5)
(resumed from the 238th meeting)

4 - 33

Present:

Chairman: Mr. HALIK (Lebanon)

Members:

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

Representatives of specialized agencies:

International Labour Organisation	Mr. PICKFORD
United Nations Educational, Scientific and Cultural Organization	Mr. BAMBATE
World Health Organization	Miss HOWELL

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions	Miss SENDER
International Federation of Christian Trade Unions	Mr. EGGERMANN
Inter-Parliamentary Union	Mr. ROBINET de CLERY
World Federation of United Nations Associations	Mr. BALDWIN

Category B and Register

Agudas Israel World Organization	Chief Rabbi SHAFRAN
Caritas Internationalis	Mr. PETERKIN
Carnegie Endowment for International Peace	Mrs. CARTER
Catholic International Union for Social Service	Miss de ROHER Mrs. SCHRADER
Consultative Council of Jewish Organizations	Mr. NOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Association of Penal Law	Mr. HABICHT
International Council of Women	Mrs. CARTER
International Federation of Business and Professional Women	Miss TOPLINSON
International Federation of University Women	Miss ROBB
International League for the Rights of Men	Mr. BALDWIN
International Union of Catholic Women's Leagues	Miss de ROHER Miss ARCHINARD
Liaison Committee of Women's International Organizations	Miss ROBB
World Jewish Congress	Mr. BILLENFELD Mr. RIEGNER

Secretariat:

Mr. Humphrey	Representing the Secretary-General
Mr. Das	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:

Draft articles on the implementation of provisions relating to economic, social and cultural rights (E/CN.4/570/Rev.2, E/CN.4/622, E/CN.4/623, E/CN.4/624, E/CN.4/AC.14/2/Add.5) (resumed from the 238th meeting)

The CHAIRMAN invited the Commission to resume its consideration of the draft articles on the implementation of the provisions relating to economic, social and cultural rights. A revised version of the Lebanese proposal, involving changes to articles 4 and 5 only, had been circulated as document E/CN.4/570/Rev.2, the delegations of Pakistan and Sweden had submitted a new joint proposal (E/CN.4/622) and a French proposal was to be circulated shortly (E/CN.4/623).

Mr. PICKFORD (International Labour Organisation), speaking at the invitation of the CHAIRMAN, thought that some misunderstanding might have arisen with regard to the tentative suggestions put forward by his Organisation (E/CN.4/AC.14/2/Add.5). They had perhaps been considered as an attempt to draft a comprehensive scheme. If so, the supposition was incorrect. As Sir Guildhaume Myrddin-Evans had made clear at the 218th meeting, there were other matters to be considered, such as those which did not fall within the competence of any specialized agency and had therefore to be dealt with by the United Nations itself, and the question of the implementation of certain rights by governments which were not members of the specialized agency concerned. The International Labour Organisation's suggestions had been designed to cover those rights which fell within the terms of reference of one or other of the specialized agencies, on the grounds that use should be made of existing machinery for implementing such rights. It was most unfortunate if the Commission was under the impression that the specialized agencies claimed to have a monopoly in technical assistance or disliked co-ordination. Technical assistance was a joint project, in which the United Nations and the specialized

agencies worked in the closest harmony, each within its sphere of competence. The work was co-ordinated in accordance with the terms of the Charter, the Constitutions of the specialized agencies, and their working agreements with the United Nations, and was proceeding very smoothly. It was quite wrong to suppose that those agreements were restrictive. On the contrary, they facilitated the closest and least wasteful action in pursuance of the common aims. Co-operation between the United Nations and the specialized agencies was nothing new - it was a continuing phenomenon and proceeded at all levels of work and on a wide variety of subjects. He would cite as an example the Fact-Finding and Conciliation Commission on Freedom of Association, which had been set up as a result of joint discussions between the United Nations and the International Labour Organisation in connexion with the enforcement of trade union rights; as a result of those discussions it had been agreed that the International Labour Organisation should act in matters relating to its own members, and that the services of the Commission would be available to the United Nations in other cases. His Organisation was now suggesting that a somewhat similar approach should be made to the implementation of those economic, social and cultural rights which fell within the competence of specialized agencies. Such a procedure, established in conformity with normal working relations, would eliminate duplication and provide the most effective solution to the problem.

It had been argued that the procedure envisaged in the Lebanese proposal would not involve duplication or the creation of new machinery, but in that connexion he wished to comment on that proposal under the four following heads: reporting procedure; the formulation of international standards by comparison with which the fulfilment of obligations could be assessed; consideration of the extent to which those standards were fulfilled; and "positive" implementation, that was to say, assistance in bringing national achievement up to the international standards laid down.

With regard to reports, he could perhaps best expound his argument by taking a specific example, namely, that of implementation of the right to social security, a matter which fell within the competence of his Organisation. The preparation of report forms and the handling of the reports submitted on a subject of that sort must either be done by a specialized agency or by experts recruited for the purpose since the material was of a technical character. In reporting on the matter, a State party to the Covenant might refer to certain data already available to the International Labour Organisation, or the information submitted might relate to one of the Organisation's conventions. The appreciation and analysis of such data could only be carried out by someone who was fully cognizant with the objectives and significance of the work of the International Labour Organisation in that field. There was, of course, the question of States not members of the Organisation, but that did not arise in many cases.

At the 238th meeting, the Danish representative had spoken of international standards or norms. Standards on subjects within the competence of the International Labour Organisation had been adopted by the International Labour Conference, and that was a continuing responsibility of the Conference with its tripartite representation. It would be most regrettable if a committee on the lines proposed were set up, and were to establish different standards as a basis for assessing progress in any country in the fields in question.

With regard to his third point, he would remind the Commission that members of the International Labour Organisation assumed exact and definite obligations, and an expert committee had been set up to examine the detailed reports of governments concerning the way in which they were carrying out those obligations. The results of that examination were in due course submitted to the International Labour Conference. The question was, would the proposed Human Rights Committee be in a better position to assess progress in that matter? There might perhaps be some danger of a conflict of jurisdiction.

He agreed with everything the Chairman had said, as representative of Lebanon, concerning the need for positive action for raising national standards to an internationally established level, as opposed to punitive action against governments for failure to carry out their obligations. In that respect, the International Labour Organisation had a tradition of consultation with governments and of setting up technical committees and holding regional meetings for dealing with special problems. Technical assistance was being provided in respect of a wide range of subjects and the Organisation was in a very good position to inform the Economic and Social Council of what was being done. It might be argued that, instead of presenting reports on the work accomplished in the field of, for example, social security, the International Labour Organisation should collaborate with the proposed committee, repeating what it had already done, but that would surely be nothing more than duplication pure and simple.

He had taken but one example; the same argument could be advanced in the case of any right, with the realisation of which any one of the specialized agencies was specifically concerned. They had the appropriate machinery for carrying out the kind of duties he had outlined, and arrangements could be made to submit to the Economic and Social Council the relevant information on the application and implementation of such rights. It was for such reasons that he feared that the provisions laid down in the Lebanese proposal would give rise to duplication. The representatives of the International Labour Organisation believed that their suggestion offered the simplest, most economical and most effective machinery, and were grateful to the representatives of Pakistan and Sweden for having embodied part of that suggestion in their proposal.

The CHAIRMAN, speaking as representative of Lebanon, suggested that all the points raised by the representative of the International Labour Organisation had been met in the provisions of article 2, paragraph 4, of the revised Lebanese proposal (E/CN.4/570/R3v.2).

Mr. WAHEED (Pakistan), introducing the joint proposal (E/CN.4/522) submitted by the Pakistani and Swedish delegations, re-affirmed his Government's view that the implementation machinery should be operated through the specialized

agencies in respect of matters falling within their competence. That view had been endorsed by representatives of the International Labour Organisation, as well as by those of other specialized agencies, attending the Commission's discussions.

The Pakistani Government also believed that, for matters outside the competence of specialized agencies, the responsibility should, to the greatest possible extent, be entrusted to existing organs of the United Nations qualified to carry out the tasks in question, since it was strongly opposed to the creation of additional bodies. Those views were surely completely consistent with those expressed by the Chairman when he had emphasized the necessity for avoiding any action which might impair the present work of the United Nations or of the specialized agencies.

The provisions of the joint proposal were designed to clarify the position as to the functions of United Nations bodies and the specialized agencies. The former were in no way divested of their authority, and the special competence of the latter in the particular field of work in question was specifically kept intact. He repeated that the sponsors of the joint proposal had no intention whatever of undermining the authority of the United Nations and its organs.

The Pakistani delegation had consistently advocated that the Covenant should be a powerful and comprehensive instrument for the protection of human rights, and that no distinction should be made between the implementation of civic, civil and political rights and that of economic, social and cultural rights. It believed that the latter should be defined in the Covenant, and that the machinery for their implementation should form an integral part of that Covenant. His delegation had also consistently recognized the over-all responsibility of the United Nations and its various organs with regard to implementation, and it would be the last to suggest any limitation of the functions allotted to them under the Charter. It was precisely because a multiplicity of new organs would weaken and impair the authority of the General Assembly and the Economic and Social Council that his delegation viewed with disfavour proposals to set up new committees such as that suggested for the

supervision and co-ordination of work connected with the implementation of the rights recognized in the Covenant.

The Pakistani Government was seriously perturbed by the tendency to interpret the Charter as allowing United Nations organs not only to perpetuate themselves, but also to create new ones. With all due respect to those august bodies, which were no doubt engaged on work of fundamental importance, he was bound to express his misgivings about the readiness with which they contemplated the creation of new bodies, which would soon produce a situation in which the tail started to wag the dog. The General Assembly and its subsidiary organs, such as the Economic and Social Council, would, if his fears were realized, be reduced to mere approving authorities deprived of all initiative, and simply carrying out the behests of their subordinate organs.

The Commission would recall the doubts he had expressed with regard to the establishment of a human rights committee. If, after the Commission had decided to proceed with the drafting of articles relating to that committee, he had continued to participate in the discussions and the voting, he had done so on the understanding that his Government reserved its right to oppose the principle of the establishment of such a committee when the matter came up for discussion in higher organs of the United Nations. He had refrained from withholding his co-operation in that respect, as a token of his Government's acceptance of the principle that the fulfilment of obligations assumed by States could best be achieved through international machinery, and in order to save the time of the Commission by allowing it to proceed to draft the relevant provisions so that they could be submitted to governments for their consideration. He would pursue the same course, on the same understanding, if the Commission adopted the Lebanese proposal that a committee be set up to deal with the implementation of the provisions relating to economic, social and cultural rights.

Turning to the joint proposal, he pointed out that it fell into three parts. The preamble referred to the responsibility for international action, and he hoped it was worded in a manner that would ensure the most effective results.

Had the Commission adopted the procedures envisaged in certain of the other proposals before it, such as that of entrusting to an existing United Nations body the task of examining on a technical basis the progress achieved in fields covered by the specialized agencies, it might have run the risk of creating a situation where authority was divided in the application and enforcement of obligations under the Charter, which could only have led to duplication of endeavour and to frustration.

He gave full weight to the co-ordinating rôle which fell to the United Nations in the matter, and did not wish to see that rôle whittled down in any way. Moreover, the Economic and Social Council would obviously have to consider various important matters relating to economic, social and cultural rights which did not fall within the field of competence of any of the existing specialized agencies. It was to be hoped that wherever possible, existing machinery and procedures would be used to the greatest extent feasible.

The preamble to the joint proposal also made reference, by way of illustration, to certain types of international action which could further assist implementation. Among them, the importance of technical assistance should be emphasized, and he entirely agreed with the Chairman's view that technical assistance could provide a positive contribution to implementation, particularly in the case of under-developed countries.

The first operative paragraph of the joint proposal dealt with reporting procedure. There seemed to be fairly general agreement that reporting was necessary, and that so far as possible it should be linked and co-ordinated with existing reporting procedures, so as to avoid duplication. He believed, too, that the provisions of the first operative paragraph were in harmony with the responsibilities of States as set out in the preamble. Where reporting concerned matters within the competence of specialized agencies, he was convinced that the States parties to the Covenant should forward their reports to the agencies concerned to enable the information to be handled by specialists on the subjects in question. Special provision was made in sub-paragraph (c) of the first operative paragraph to cover the case of non-members of a specialized agency. He also attached considerable importance to the

provision in clause (2) of sub-paragraph (c) to the effect that reports might indicate obstacles to the fulfilment of any obligation, because that would show the kind of assistance of which a given State was in need.

The second operative paragraph of the joint proposal dealt with the action that might be taken by the Economic and Social Council on the information supplied concerning the progress made in achieving general observance of the economic, social and cultural rights set out in the Covenant. The Council would no doubt wish to give the point detailed consideration. The words "may submit" had therefore been preferred to the words "shall submit" in sub-paragraph (a) of the second operative paragraph, dealing with reports of the Economic and Social Council to the General Assembly.

Sub-paragraph (b) of the second operative paragraph contained an affirmation with which he believed all would agree, namely, that nothing could or should be done under the Covenant which would impair the Charter of the United Nations or the Constitutions of the specialized agencies.

Thus, the three sections of the joint proposal formed an articulated whole, in which a clear and comprehensive course of action, making the fullest use of existing machinery and procedures, was set out. He believed that such an approach would be the most effective in achieving the objectives in view.

Mrs. RUSSEL (Sweden) expressed her agreement with the views put forward by the Chairman, as representative of Lebanon, at the 237th meeting as to the need for taking up a constructive attitude with regard to the specialized agencies in order to strengthen their position and to take full advantage of their services in the achievement of the objectives the Commission had in mind. It was with that end in view that her delegation, together with that of Pakistan, had examined the Lebanese proposal and the tentative suggestions put forward by the International Labour Organisation. In their view, both contained valuable elements which could fruitfully be combined, which was what the joint Pakistani/Swedish proposal set out to do.

She proposed to comment briefly on the considerations which had prompted the submission of the joint proposal. First, it had been felt that the details of the procedure governing implementation did not need to be embodied in the draft Covenant itself. Those details could be worked out by the Economic and Social Council, but broad lines of principle should be laid down for its guidance. In that respect, the joint proposal had been inspired by the spirit of the Lebanese proposal and was much indebted to it. Secondly, the need for co-operation between the various international agencies concerned with human rights required emphasis. Much useful work was already being done by those agencies in different spheres, and the more closely their efforts were integrated, the more rapid and effective the progress made would be. Thirdly, effective co-ordination was essential to the success of co-operative action on the part of all the bodies and agencies concerned. The obvious body for directing such co-ordination was the Economic and Social Council, and the joint proposal therefore made it clear that the Council should assume full responsibility for doing so. It also made specific provision in sub-paragraph (c) of the first operative paragraph for appropriate action in respect of matters not within the competence of any specialized agency, or in cases where a State was not a member of a particular agency. All contingencies were thus adequately provided for. Fourthly, in considering the machinery for implementation, particular attention had to be paid to the need for ensuring that it was made as simple as possible, and that it did not entail heavy new financial commitments. The use, as far as possible, of existing machinery, as recommended in the joint proposal, would simplify and reduce the cost of the task of implementing the rights defined in the Covenant; at the same time it would effectively harness to the fulfilment of its objectives the knowledge and experience of all the organizations concerned.

She hoped that the Commission would accept the joint proposal as a basis for discussion, with a view to achieving an acceptable synthesis of the various proposals made. It was desirable that the representatives of specialized agencies should have a chance of expressing their views on it.

Mr. EGGERMANN (International Federation of Christian Trade Unions) speaking at the invitation of the CHAIRMAN, said that the International Federation had subjected the problem of the implementation of economic, social and cultural rights to the closest scrutiny. He reminded members of the Commission that millions of workers were awaiting the outcome of its deliberations in the hope that it would establish a system which would afford them protection and security. Hence the International Federation trusted that the Covenant would include provisions relating to the implementation of those rights.

Of the various proposals before the Commission, he preferred the Lebanese proposal (E/CN.4/570/Rev.2) which was particularly noteworthy in three respects: in the first place, it defined the relations between the United Nations and the specialized agencies. Obviously, a text of that nature could not contain fully detailed stipulations, but the principle of collaboration was clearly laid down.

Secondly, the Lebanese proposal clarified the question of the relationship between States and the specialized agencies. That was a most important problem, especially in the matter of the reports to be submitted by States.

Thirdly, the Lebanese proposal opened up possibilities of international assistance and co-operation. The International Confederation considered that an essential point. The recommendations of the specialized agencies and of United Nations organs should be implemented with the help of international aid and collaboration in the form of technical assistance.

Hence the International Federation of Christian Trade Unions supported the Lebanese proposal as embracing virtually everything the workers expected from the United Nations, and from the Commission on Human Rights in particular, namely, the indispensable minimum of assurance that their recognized rights would be guaranteed.

Mr. B. MATE (United Nations Educational, Scientific and Cultural Organization), speaking at the invitation of the CHAIRMAN, said that the representatives of the United Nations Educational, Scientific and Cultural Organization (UNESCO) had on an earlier occasion referred to the instructions given them by the UNESCO General Conference, namely, to co-operate closely with the United Nations in drawing up texts relating to Articles 26 and 27 of the Universal Declaration of Human Rights.

During the discussions in the Commission, several speakers had tackled the problem of the relative competence of the United Nations and the specialized agencies, and the procedure for collaboration between them. In so far as discussion might bear on that particular point, it might be well to point out that his delegation's terms of reference were limited, and that the UNESCO General Conference alone was entitled to determine the Organization's position.

At the 218th meeting, the UNESCO representative, Mr. Seba, had stated that UNESCO found paragraphs 2, 3 and 4 of the International Labour Organisation's tentative suggestions entirely acceptable. Those suggestions were, indeed, remarkable for their simplicity, in that they did not provide for any new machinery to be superimposed on the existing system, and for the effectiveness of the measures recommended, which would enable UNESCO to take all the action contemplated to make its contribution to the implementation of cultural rights.

The authors of the International Labour Organisation's suggestions and of the Lebanese proposal were essentially concerned with the same fundamental problems. They dealt on the one hand with modes of action, which included reporting and the provision of technical assistance, and on the other with the problem of supervision and co-ordination. On the second point, the Lebanese proposal was more detailed than the International Labour Organisation's suggestions but the importance of the difference between the two texts should not be over-rated. Indeed, Article 68 of the Charter provided that "The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions"; thus, whether the International Labour Organisation's suggestions themselves did or did not contain an explicit reference to a commission set up by the Economic and Social Council, the fact remained that, under the terms of those suggestions, the Council would be perfectly free to set up a subsidiary organ. The Lebanese representative's proposal endeavoured to anticipate the possible

1

decisions of the Council. The suggestions of the International Labour Organisation did not prejudge that question. Nor was UNESCO better qualified to anticipate the measures which the Council might deem it opportune to adopt.

A second aspect of both proposals, which was of greater importance for UNESCO, was the first measure of implementation, namely, the submission of reports. Both texts made a provision for reporting. Some members of the Commission had expressed the fear that the Lebanese proposal might lead to duplication of work. In that connexion, he would draw the Commission's attention to two aspects of the matter. In the first place, it would appear from a comparison of article 2, paragraphs 1 and 4, of the Lebanese proposal that the powers of specialized agencies in the matter of reports might be of a purely residual nature. Paragraph 4, for instance, stated that "where relevant information has already previously been furnished the action ... may take the form of a precise reference to the information". Those words seemed to place a limitation on the use of the reports of the specialized agencies. On the other hand, the study (E/CN.4/590) by the Secretary-General on existing procedures for periodical reporting to the specialized agencies made it clear that the reports submitted to the specialized agencies covered a very wide field. He therefore wondered whether the greater part of the material in the reports to be submitted to the proposed committee by the States parties to the Covenant would not also be contained in the reports which they were already bound to furnish to the various specialized agencies. It would indeed mean duplication if a system of reporting was devised which failed to take due account of the information already transmitted by the specialized agencies. The new procedure should be applied only in order to fill in gaps in the fields covered by the specialized agencies, and to ensure that reports were submitted by States parties to the Covenant which were not members of the specialized agencies concerned.

The other aspect of the problem of reporting which his delegation wished to mention was the technical evaluation of the reports submitted by governments.

Referring to article 4, paragraph 1, of the Lebanese proposal, he pointed out that, subject to any amendments which might be adopted, the text provided that the observations of the Committee should be submitted to the Economic and Social Council, to the States parties directly concerned and to the appropriate specialized agencies. Observations of a technical nature made by the specialized agencies would thus be presented in the form of comments on the Committee's report, by a system similar to that followed in trusteeship matters. It was, however, doubtful whether the problem took the same form in both cases. The most important feature of the procedure for reporting to the specialized agencies was the examination of the reports by the General Conference of the agency concerned. In that connexion, he quoted from document E/CN.4/590 a passage stating that reports submitted to UNESCO were examined not merely by its Secretariat, but chiefly by the representatives of States Members, and that they came before the UNESCO General Conference for appropriate decisions.

Accordingly, if the suggestions and observations of the specialized agencies were submitted post facto, as under the Trusteeship Council procedure, it might well be asked whether some danger might not arise of the Committee provided for in the Lebanese proposal being thereby deprived of an important technical element for the evaluation of the reports. It would furthermore be important to obtain the observations and suggestions of the experts who represented their governments at the general conferences of specialized agencies before their submission to a co-ordinating body.

With regard to technical assistance, a question which was bound to arise when it was asked what practical measures could appropriately be taken if, after assembling and examining the reports from signatory States, it became clear that some States could not, or did not, ensure respect for certain rights covered by provisions of the Covenant, UNESCO considered that it was fundamentally just to regard implementation as a form of technical assistance, since it excluded any idea of blame but suggested rehabilitation and aid. In connexion with measures of implementation, the Danish representative had drawn

attention to one very important point, namely, that the specialized agencies could undertake the task - although it did not, strictly speaking, fall within the field of technical assistance - of drafting conventions clarifying and amplifying particular provisions of what must necessarily be a brief and concise Covenant.

To sum up, UNESCO accepted the system suggested by the International Labour Organisation in articles 2 and 3 of its original proposal, the essential parts of which had been taken up in the joint Pakistani - Swedish proposal. If, however, the Lebanese proposal were taken as a basis for discussion, the delegation of UNESCO would have no other observations to offer on the subject of technical assistance, co-ordination and supervision.

It was quite clear that the responsibility which UNESCO claimed was of a purely technical character, and that there was no question whatever of encroaching on the competence of the Economic and Social Council. But UNESCO would like two things to be clearly understood in connexion with reporting if the Lebanese proposal was taken as the basis for discussion. In the first place, it should be recognised that the primary responsibility in respect of reporting lay with the specialized agencies, which would pass on to the Economic and Social Council the reports required. In the second place, provision would have to be made for the comments of the secretariats of the specialized agencies, and more especially still those of their General Conferences, to be submitted before, and not after, the reports were studied, so that any supervisory or co-ordinating body which the Commission might set up could take into account the technical data embodied in those comments.

Mrs. ROOSEVELT (United States of America), referring to rule 28 of the rules of procedure, pointed out that before the Commission could vote on the proposals before it, it would have to consider an estimate of the financial implications involved.

The CHAIRMAN said that the Secretariat was already working on the estimates, which would shortly be circulated.

Mrs. ROOSEVELT (United States of America) asked whether the specialized agencies could furnish similar statements for their part, which might be required if the Commission was to take final action.

The CHAIRMAN observed that rule 28 related exclusively to United Nations expenditure. Nevertheless, if any representative of the specialized agencies concerned was in a position to supply similar information, it would be very welcome.

Miss BOWIE (United Kingdom) said that the machinery for dealing with implementation should be as effective as possible, so as to eliminate dissipation of effort and frustration. The illustration relating to social security, given by the representative of the International Labour Organisation, showed what was likely to happen if another body attempted to encroach on matters with which the specialized agencies had the necessary staff and the expert knowledge to deal.

She would support the joint Pakistani-Swedish proposal, under the provisions of which the essential co-operation and collaboration between the United Nations and the specialized agencies would be maintained, as would also be the proper division of functions called for by articles 56 to 59 of the Charter. The suggested procedure was simple and straightforward, and would not involve the creation of new organs, the recruitment of additional staff or unnecessary expenditure.

The joint proposal omitted the suggestion in article 4, paragraph 2, of the Lebanese proposal, namely, that the proposed committee might include in its report suggestions concerning the type of technical assistance which could be offered to countries for the progressive implementation of the rights defined in the Covenant. She believed that omission to be perfectly justified, since

the Commission was concerned with elaborating an instrument relating to fundamental rights and their implementation, and though technical assistance might be necessary to enable States to fulfil the obligations laid upon them under such an instrument, it would not be appropriate to mention it therein. As was provided for in clause (2) of sub-paragraph (c) of the first operative paragraph of the joint proposal, reports might indicate the difficulties encountered by States in fulfilling their obligations. That point would undoubtedly have to be dealt with by the Economic and Social Council, and if the joint proposal was adopted, she would submit a draft resolution suggesting that the Council should request the Technical Assistance Board to take such difficulties into account in drawing up its programmes of assistance.

Mr. CASSIN (France) said that the French proposal (E/CN.4/623) did not follow the same general lines as the other proposals before the Commission. That did not mean that he disapproved of them; on the contrary, he considered that the Lebanese and joint Pakistani-Swedish proposals and the International Labour Organisation's tentative suggestion dealt sufficiently thoroughly with the vital problem of relations between the Economic and Social Council - the supreme co-ordinating organ of the United Nations - and the specialized agencies.

The Lebanese proposal appeared to him to contain three basic ideas: that of the submission of reports; that of the connexion between those reports and technical assistance; and, lastly, an idea which was not explicitly included in the proposal itself, but which the Lebanese representative had explained verbally at the 237th meeting, namely, the idea reflected in Economic and Social Council resolution 283(X), by which the Council had decided that it would follow the procedures recommended by the ad hoc Committee on the Implementation of Recommendations on Economic and Social Matters, one of which was that "in regard to treaties, conventions and protocols on economic and social matters, the Secretary-General should ask those members of the United Nations which have not ratified or adhered to them what steps they have taken to do so". He fully accepted those three ideas.

In the particular matter of economic, social and cultural rights, however, the joint proposal of the delegations of Pakistan and Sweden came to much closer grips with the problem, and provided a fairly acceptable basis for the Commission's deliberations. Its chief merit was that it did not create a new organ, which would have the disadvantage, to which attention had been rightly drawn by its authors, of entailing additional expenditure and complicating the machinery of the United Nations. That quality was all the more to be appreciated, in view of the fact that the Commission had already decided to set up a new body which would have a more limited sphere of action, since it would not deal with day-to-day supervision of the observance of civil, civic and political rights, or with their constructive implementation, but only with complaints submitted in regard to them.

His delegation hoped that the Commission would not establish new supervisory organs apart from the Human Rights Committee, and agreed with other delegations that it should be stated that the organ exercising normal supervision under the Economic and Social Council was the Commission on Human Rights itself, as provided for by the Charter. It was indeed essential to point out that if a new organ were set up to deal with the implementation of economic, social and cultural rights, there would then be no body dealing with the implementation of civil, civic and political rights, so that there would be a gap in the United Nations machinery in the field of human rights. He wanted a balanced Covenant, and did not wish the implementation of certain rights to be supervised while that of others was not. There must be a standard rule applying to all rights, subject to certain derogations in view of the nature of certain rights and the existence of the specialized agencies. It was with that in mind that article X 3 of the French proposal had been drafted, which provided that all the information supplied should be referred to the Commission on Human Rights for periodic study, not necessarily of a technical character, but from the angle of general respect for all human rights.

He drew the Commission's attention to a point he considered of great importance. The States Members of the United Nations which signed the Covenant

would thereby assume certain obligations. Now, those obligations were not a novelty, but arose out of the provisions of the Charter itself. So far as possible, therefore, the obligation to submit reports must not devolve solely on those Member States which signed the Covenant, but on all those which had signed the Charter.

He agreed with the representative of Pakistan that special machinery should not be set up for that purpose. That was why he had suggested in article XI of his proposal that "The States parties to this Covenant undertake to comply with any recommendation which the General Assembly or the Economic and Social Council, in the exercise of their general responsibility, may make to the Members of the United Nations as a whole...". That provision did not apply merely to economic, social and cultural rights, but to all the rights defined in the Covenant. With regard to economic, social and cultural rights in particular, article X 2 of the French proposal provided for consultation with the competent specialized agencies and aimed at avoiding all duplication. That article also referred to "the Member States as a whole".

Thus the French proposal contained two ideas: the first was that no new body should be set up, since the Charter had already established the Commission on Human Rights; the second was that all States Members of the United Nations were called upon to respect human rights, and that, in consequence, they must all submit reports on the subject. Those which had not become parties to the Covenant would be required to make special mention in their report of the reasons which had prevented them from ratifying or acceding to it, and the General Assembly would in due course be able to make recommendations or suggestions in that connexion; ratification of an international covenant on human rights might not, in point of fact, prove to be the only way of ensuring that those rights were respected.

He hoped that the Commission would bear in mind that the French proposal was not incompatible with the other proposals before it, but that, on the contrary, the function of the Commission on Human Rights, as he himself understood it, was to some extent incompatible with that of the supervisory body envisaged by other members of the Commission. That was an important matter of substance on which the Commission might have to take a decision.

Miss HOWELL (World Health Organization), speaking at the invitation of the CHAIRMAN, stated that her Organization had given careful examination to the question of the financial implications mentioned by the United States representative. In the light of that examination she suggested that the words "subject to governmental approval of the necessary budgetary provisions for this purpose" should be added to the end of sub-paragraph (b) of the first operative paragraph of the joint Pakistani-Swedish proposal.

Mr. JEVREMOVIĆ (Yugoslavia) said that the texts of the new proposals before the Commission had only been distributed during the course of the present meeting. Consequently he had not had time to examine them properly. He could therefore only make a statement of principle.

His delegation was opposed to any discrimination between economic, social and cultural rights on the one hand and civil and political rights on the other. Part III of the draft Covenant described the Committee to be set up to supervise the implementation of the Covenant; economic, social and cultural rights should under no circumstances be segregated outside the competence of that body. The task of the Human Rights Committee would be not only the defence of human rights, but also the maintenance of peace and security throughout the world, as the mass violation of human rights by one particular State normally only occurred as part of a programme of preparation for war.

He agreed that bodies with strictly limited terms of reference should be set up to deal with specific aspects of implementation; they could do work of considerable importance. But the primary concern of the Human Rights Committee as an organ of the United Nations was to ensure the maintenance of peace and security; it must therefore supervise all rights without distinction, including economic, social and cultural rights, and the terms of reference of any other bodies set up to deal with specific implementation questions must be so drafted as not to remove important matters of substance from the Committee's competence.

Referring to the question of the relationship between the specialised agencies and the United Nations in the matter of the implementation of the Covenant,

he pointed out that the Commission had as yet made no attempt to encroach on their respective spheres of action; on the contrary, it had given them every opportunity of stating their views. But the concessions so far granted had clearly all come from one side; the specialized agencies did not seem to realize the importance of upholding the prestige of the United Nations. He did not wish to minimize the importance of their work, but that work, however important, could never take the place of the work of the United Nations as a whole. He could not admit that the specialized agencies enjoyed equality of status with the United Nations. They had no reason to doubt the seriousness with which the United Nations was approaching its task, and should therefore subordinate their work to that of the United Nations; they could not fail to benefit by doing so.

He reserved the right to make a detailed statement later on the proposals before the Commission.

The CHAIRMAN, speaking as representative of Lebanon, stated that he had the highest respect for the specialized agencies, and had never let pass any opportunity of expressing his faith in their work, especially that of UNESCO. The Lebanese Government considered that nothing should be done to weaken the position of the specialized agencies or to derogate from their competence in their respective fields, whereas everything should be done to strengthen them and to promote harmonious and fruitful co-operation between them and the United Nations. If, therefore, it could be shown that any part of his proposal might directly or indirectly weaken the position of the specialized agencies or lead to duplication, he was prepared to withdraw that part.

As a State Member of the United Nations, however, Lebanon could not think solely of the prerogatives of the specialized agencies. The specialized agencies had every right to defend their positions before the Commission; he noted with surprise, however, that certain delegations had supported the proposals of the specialized agencies in toto, having apparently forgotten that the Charter conferred certain prerogatives in the field of human rights on the United Nations itself.

Speaking of the fear expressed by certain members of the Commission that the setting up of a committee for supervising the implementation of human rights would constitute a duplication of already existing machinery, he stated that if the Commission really wanted the United Nations to be in a position to exercise its right of directly supervising the implementation of human rights, it was bound to admit that that supervision should be carried out by the Economic and Social Council.

Certain delegations had stated that the primary responsibility for implementation should rest with the Economic and Social Council, but that the committee set up to supervise such implementation should consist solely of representatives of the States which ratified the Covenant. Those two proposals contradicted one another. Such a contradiction, however, was inevitable; the international situation was such that nations had lost all confidence in one another. The proposal submitted by his delegation represented an attempt to resolve that contradiction; the committee should consist of representatives of the States which ratified the Covenant, but should be directly responsible to the Economic and Social Council. He had purposely omitted all reference to the composition of the committee; the Economic and Social Council would thus be free to vest the powers of that Committee in the Commission on Human Rights or alternatively, if the international situation improved to an extent where nations again had confidence in each other, to take them upon itself. His proposal did not, therefore, constitute a duplication of existing international machinery; the international situation was such as to oblige the Commission to recommend a solution of that kind, while leaving the final decision to the Economic and Social Council.

He expressed his willingness to re-draft certain parts of his proposal on the lines suggested by the representative of UNESCO.

On the question of technical assistance, he felt that the attitude of his delegation was fundamentally the same as that expressed by the United Kingdom representative. Both delegations were agreed on the necessity for technical assistance; the only difference between them was one of method. Article 62 of

the Charter empowered the Economic and Social Council to make recommendations "with respect to international economic, social, cultural, educational, health and related matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned." Article 5 of the Lebanese proposal repeated that article almost word for word. He could not conceive of a covenant on economic, social and cultural rights, drawn up within the general framework of the United Nations, which made no reference to the work of a United Nations organ which could make such an important contribution to the implementation of those rights. Everything provided for in article 5 of the Lebanese proposal was already being done by the Economic and Social Council; the only innovation in that article was the explicit suggestion that technical assistance should be extended where required. It would thus be made clear to governments which hesitated to ratify the Covenant that practical assistance could, if necessary, be given to them.

Speaking of the joint Pakistani-Swedish proposal, he said that he was certain that those delegations had had no intention of running counter to the provisions of the Charter; however, there was an unjustified selective emphasis in their proposal which was not in strict conformity with the Charter.

Sub-paragraph (a) of the preamble was not strictly false, but it made no mention of the main point at issue, namely, the fact that the United Nations was empowered to take action in the fields of activity of the specialized agencies, and that the powers of the Economic and Social Council were accordingly not confined to co-ordination. He drew attention to Articles 1, paragraph 3, and 62 of the Charter.

Sub-paragraph (b) of the preamble recognized the absolute competence of the specialized agencies in their respective spheres, and was to a certain extent bolstered by the terms of the Charter and the activities of the United Nations since the latter's inception. While admitting that the provisions of the Charter dealing with the responsibility of the specialized agencies were somewhat vague, he maintained that the Commission could not run counter to the terms of the

Charter as they stood. Sub-paragraph (c), which vested the Economic and Social Council with responsibility for determining the appropriate United Nations organs to be entrusted with international action solely "in respect of rights not dealt with in paragraph (b)", was not in accordance with the facts. He again pointed out that his own proposal made no attempt to settle composition of the Committee; that was the task of the Economic and Social Council itself, which might well decide to vest those powers in the Commission on Human Rights.

The problem of whether the Economic and Social Council should be allowed to make suggestions concerning the progressive implementation of human rights raised a fundamental question of principle concerning the activity of the United Nations. The Commission had to decide whether it considered the United Nations merely as a clearing house for national policies, or as an organization with an original, creative function and a duty to assist the under-developed countries. The last report of the Third Committee of the General Assembly had been tantamount to a protest by the under-developed countries against the neglect they had suffered at the hands of the United Nations and the more highly-developed countries; that protest would, if necessary, be taken up in the General Assembly itself. It was a significant fact that four-fifths of the Member States of the United Nations were under-developed countries. The Commission talked a great deal about human rights; but when the chance came to give practical help in realizing them, its ardour suddenly cooled. He could emphasize too strongly that mutual co-operation between States, or help given to a State by one or more specialized agencies, did not preclude that State from receiving assistance from the United Nations direct. In the circumstances the word "suggestions" was the most innocuous word the Commission could use.

His proposal was a mere skeleton outline of what could be done and, in his view, set a minimum standard of achievement; any narrowing of its scope would be tantamount to an admission that the Commission was not really interested in the practical implementation of human rights.

AZMI Bey (Egypt) thought that after the strong plea made by the Chairman, as representative of Lebanon, in support of his proposal, it would be well to sum up the situation. As the French representative had rightly pointed out, the question under immediate consideration was that of supervision of implementation. He (Azmi Bey) had observed that although there was unanimous agreement concerning information, reports and recommendations, and almost unanimous agreement on the technical and financial assistance to be recommended, opinions differed on the other points at stake.

The first difference of opinion concerned the question of whether supervision should be practised in respect of economic, social and cultural rights alone, or of all the rights defined in the Covenant. The second difference concerned the question of whether such supervision should be entrusted to a committee, and if so, whether the committee should be a body specially set up for the purpose, or the Commission on Human Rights itself. The third point on which opinion differed was whether the Economic and Social Council or the specialized agencies should bear the ultimate responsibility.

He personally favoured general supervision, applicable to all the human rights recognised in the Covenant. He would prefer the Commission to set up a special committee, and to recognize the primal responsibility of the Economic and Social Council.

Miss BOWIE (United Kingdom) said that she felt it was necessary to go over again some of the ground already covered, in view of certain statements made by the Chairman, in his capacity as representative of Lebanon.

She would first draw his attention to Article 57 of the Charter which read: "The various specialized agencies having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of

Article 63". She would also remind him of the clause which occurred in the agreements of all those specialized agencies with the United Nations which read "The United Nations recognizes the as a specialized agency responsible for taking such action as may be appropriate under its basic instrument for the accomplishment of the purposes set forth therein". During the course of the debate she had not heard a single one of the representatives of specialized agencies say anything that went beyond the terms of those two provisions. She was therefore in her turn astonished that the Chairman should have expressed surprise that governmental representatives, whose governments happened also to be members of the specialized agency, should on certain occasions have spoken in precisely the same terms as the representatives of those agencies. It was surely not surprising that members of the Commission knowing the terms of the Charter and the work of the specialized agencies should agree on the functions of the latter in carrying out the work assigned to them under the former.

The representative of Lebanon had expressed his willingness to withdraw any part of his proposal that might have the effect of depreciating the work of the specialized agencies. Under that proposal a committee, to which States parties to the Covenant would report, was to be set up every year by the Economic and Social Council and article 4 of the proposal provided that the committee should consider reports submitted to it "in the light of the prevailing circumstances as they exist from time to time and from place to place". In its turn that committee would report to the Economic and Social Council.

The highly developed existing procedures for periodic reporting to the specialized agencies concerned in the implementation of human rights were described in document E/CN.4/590. It showed, for example, the way in which Member Governments had to report to the International Labour Organisation, and how such reports were then dealt with. The question was, whether it was justifiable to set up another body for the further examination of the same reports, which would not be as technically qualified as the specialized agencies and would not command the services of a trained secretariat. As the reports would be considered in the light of the prevailing circumstances, as they

existed from time to time and from place to place, such examination would entail duplication. The provision of article 4 of the Lebanese proposal was so widely conceived that it could be made to cover anything affecting the application of the economic and social rights in question by the signatory State. She would suggest that such a procedure would entail waste and confusion and would detract from the expert work which had already been done by the expert committees and the annual conferences of the International Labour Organisation and UNESCO, which, under the Charter, had been charged with those tasks. She therefore hoped that the Lebanese representative would withdraw his proposal.

Turning to the financial estimates (E/CN.4/624) for the establishment of such a committee, she drew attention to item (d) in paragraph 2, concerning contractual printing. Only signatory States would be reporting on implementation, and unless otherwise decided it would require 20 ratifications to bring the draft Covenant into force. Was it to be supposed that the reproduction of the reports of twenty countries on all matters covered by the articles on economic and social rights, together with all the material which would have to be prepared for the committee and that would emanate from the committee itself, could be compressed into 100 pages at a cost of \$2,900?

The joint Pakistani/Swedish proposal had been criticized on the grounds that it detracted from the standing of the Economic and Social Council. In answer to those critics she would draw their attention to the terms of Article 58 of the Charter which read: "The Organisation shall make recommendations for the co-ordination of the policies and activities of the specialised agencies". That was precisely what the joint proposal was suggesting in relation to the field covered by the Covenant and the International Labour Organisation and UNESCO. She believed that the sponsors of the joint proposal were right in not including details of how the fundamental rights and freedoms enunciated in a basic instrument such as the draft Covenant should be applied in practice. The means whereby help could be given to countries in difficulties was a matter for the Technical Assistance Board.

In conclusion, she re-affirmed her conviction that the joint proposal represented the most practical solution and the one that accorded most completely with the terms of the Charter.

The CHAIRMAN, speaking as representative of Lebanon, referred the United Kingdom representative to paragraph 4 of article 2 of the proposal submitted by his delegation.

Mr. SØRENSEN (Denmark) said that the members of the Commission were by tradition not personally attached to the proposals they submitted. The representative of Lebanon had, however, every reason to feel personally attached to his proposal, for it had made the most important contribution to the Commission's discussion of the implementation of human rights. That representative's initial approach to the question had given rise to a certain amount of criticism, but the explanations he had given since clearly showed that he had endeavoured to take into consideration all the points raised during the discussion.

The French proposal (E/CN.4/623) also made an important contribution to the discussion; it contained ideas which were not to be found in any of the other proposals.

The Economic and Social Council had already been assigned important functions in respect of technical assistance which would not be modified by any provision the Covenant might contain. The Covenant could go no further than to point out to the competent bodies that in granting technical assistance due consideration should be given to the promotion of human rights. He felt that such a statement could more profitably be made in another part of the Covenant.

The French text proposed that the responsibility for setting up implementation machinery and fixing procedures should be assigned to the Economic and Social Council; his delegation supported that proposal. The existing machinery was based on resolutions of the Economic and Social Council and the agreements between the United Nations and the specialized agencies, and could be easily adapted to changing conditions. In any case, it was unlikely that procedures considered adequate at the present time would be considered adequate in the future. The French proposal tried to combine the

general supervision of the implementation of human rights in States ratifying the Covenant with the general supervision of such implementation in all countries.

He pointed out that the rights in respect of which the Commission had already adopted definitions were all specified (although in more general terms) in the Charter, and would consequently impose no new obligations of governments ratifying the Covenant. He therefore felt that it might be feasible to link the supervision of action taken by States Members of the United Nations with the supervision of action taken by the States ratifying the Covenant. Article X.1 of the French text provided machinery by which all Member States could inform the United Nations of the action they had taken, and of their future plans for the fulfilment of their obligations under the Charter. Any recommendations the Economic and Social Council might make in the field of economic, social and cultural rights would therefore be binding on the States parties to the Covenant, although not legally binding on other Member States. Those States, however, would be morally bound to comply with the recommendations.

The representative of Lebanon had stated that it was contradictory to seek to limit membership of the proposed Human Rights Committee to representatives of States which had ratified the Covenant on the one hand, and to urge on the other that the primary responsibility for the implementation of economic, social and cultural rights should rest with the Economic and Social Council. That contradiction, however, was more apparent than real. As the French representative had pointed out, there was a world of difference between supervising the promotion of economic, social and cultural rights and examining complaints about the non-observance of the provisions of the Covenant.

Article 43 of the French text gave the Commission general responsibility for supervising governmental action in the field of the implementation of human rights; it made no reference to the examination of complaints regarding non-observance. That article was of considerable importance, as it defined the future place of the Commission in the general structure of the United Nations in the field of human rights. Moreover, the French proposal did not

preclude action on the lines suggested in the Pakistani-Swedish proposal. A new proposal combining those two texts might therefore best serve the purposes of the Commission; on the other hand, the Commission might prefer to submit separate recommendations, embodying the substantive provisions of the Pakistani-Swedish proposal, to the Economic and Social Council for consideration. The discussion on the preamble of that proposal had been significant, but was not relevant to the text before the Commission, the substantive provisions of which left no doubt as to the respective roles of the United Nations and specialized agencies.

He stressed the importance of making the implementation machinery as flexible as possible and of drafting the text finally adopted by the Commission in such a way that the Economic and Social Council would have no difficulty in adapting the existing co-ordinating machinery to its terms.

Miss HO ELL (World Health Organization) stressed that she did not want anything she had said to be interpreted as meaning that the World Health Organization did not recognize the right of the United Nations to take action in the field of human rights and the right of the Economic and Social Council to co-ordinate the activities of the specialized agencies.

The specialized agencies, however, were bound by their respective Constitutions to undertake certain responsibilities. It would therefore be unfortunate if the Covenant contained provisions which were not fully compatible with the obligations set forth in those Constitutions or in the Charter. The joint proposal submitted by the delegations of Pakistan and Sweden was satisfactory in that respect. In particular, the preamble foresaw the steps to be taken through the specialized agencies as well as by the United Nations to assist governments in implementing the provisions of the Covenant. Moreover, the establishment of standards and the evaluation of progress achieved by governments were essential aspects of implementation.

She pointed out that the agreement between the United Nations and the World Health Organization recognized the latter's constitutional responsibility to governments. Furthermore, her Organization had no authority either from its Executive Board or from the World Health Assembly, to delegate any part of its responsibilities to other bodies. For that reason she found some difficulty in accepting the Lebanese proposal.

Mr. 'AHEED (Pakistan) had little to add to the statement made by the United Kingdom representative, who had very adequately covered all the points raised by the Chairman as the Lebanese representative in connexion with the joint proposal. He would, however, like to point out that in drafting that proposal the representative of Sweden and himself had attempted to give due recognition to the particular spheres of competence of the specialized agencies and to the functions of United Nations organs. He feared that only stubborn prejudice against the specialized agencies could lead anyone to interpret the joint proposal as restricting in any way the rôle of the United Nations.

The Swedish representative and himself, in accepting the main thesis of the suggestions put forward by the International Labour Organization, had done so in the conviction that the time had come to call a halt to the process of setting up new committees. Indeed, the Chairman had also recognized that there was some overlapping in certain fields of action. Surely it was proper to entrust to specialized agencies tasks which, under the Charter, their Constitutions and their agreements with the United Nations, fell within their particular fields of competence.

The meeting rose at 1.10 p.m.