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COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTY-NINTH MEETING

held at the Palais des Nations, Geneva,  
on Monday, 7 May 1951, at 10.30 a.m.

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\ Present:

Chairman: Mr. CASSIN (France), First Vice-Chairman

later: Mr. MALIK (Lebanon)

Members:

Australia	Mr. WHITLAM
Chile	Mr. SANTA CRUZ Mr. VALENZUELA
China	Mr. YU
Denmark	Mr. SORENSEN
Egypt	AZMI Bey
France	Mr. CASSIN
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMEN
India	Mrs. MEHTA
Pakistan	Mr. WAHEED
Sweden	Mrs. ROSSEL
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. JEVREMOVIC

Representatives of specialized agencies:

International Labour Organisation	Mr. PICKFORD
United Nations Educational, Scientific and Cultural Organization	Mr. SABA Mr. ELVIN Mr. HAVET Mr. BMMATE

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions	Miss SENDER
World Federation of United Nations Associations	Mr. WILSON

Category B and Register

Caritas Internationalis	Mr. PETERKIN
Carnegie Endowment for International Peace	Mrs. CARTER
Catholic International Union for Social Service	Mrs. SCHRADER
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
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. BALDWIN Mr. de MADAY
International Union for Child Welfare	Mrs. SMALL
International Union of Catholic Women's Leagues	Miss ARCHINARD
Liaison Committee of Women's International Organizations	Miss ROBB
Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BIENENFELD 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:

Special Provisions on Educational and Cultural Rights (E/CN.4/593/Rev.1 and 2, E/CN.4/600, E/CN.4/601, E/CN.4/602, E/CN.4/605, E/CN.4/611, E/CN.4/613 and Rev.1, E/CN.4/AC.14/2/Add.4) (continued)

The CHAIRMAN invited representatives to continue the discussion on the right to education.

Mr. JEVREMOVIC (Yugoslavia), commenting on the last paragraph of Article 1 of the Chilean proposal (E/CN.4/613/Rev.1), said that he was unable to accept the reference to the organization and resources of each State party, on the grounds that it was irrelevant. The really important point was not national legislation, but the international obligations to be undertaken by the States parties to the Covenant. National legislation would, of course, have to be taken into account, but international obligations should not be tied to national systems.

Further, his delegation was in favour of an explicit reference to the prevention of discriminatory teaching and of the fostering of racial hatred. There were countries and areas in the world where backward peoples were being led astray by those nefarious practices. It was essential, therefore, clearly and explicitly to state that racial theories and discriminatory propaganda must be banned.

As to Article 26 (3) of the Universal Declaration, he would recall that when, at its sixth session, the Commission had been discussing article 13 of the draft Covenant, the Lebanese delegation had submitted a proposal on the right of parents to choose the kind of education their children should be given, and that the Yugoslav delegation had supported that proposal. But the argument that article 13 fully covered the issue had prevailed, and the Lebanese proposal had subsequently been withdrawn. The Yugoslav delegation, however, maintained its position on that point.

Mr. MALIK (Lebanon) took the Chair.

Mr. EUSTATHIADES (Greece) said that the members of the Commission had spent a long time discussing the various aspects and details of cultural rights, but in doing so had lost sight of the main lines of the various texts before the meeting. His delegation, like several others, had been in favour of the United States proposal as worded in document E/CN.4/593/Rev.1. Other delegations had supported the proposals submitted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) (E/CN.4/AC.14/2/Add.4, Section IX). It was important to bear in mind the difference between the two texts. The United States proposal dealt only with the right to education, whereas the UNESCO proposal also aimed at the recognition of cultural rights generally, and, in addition, included an implementation clause. Before deciding on the details, the Commission should define its attitude to each of those general problems.

With regard to the right to education, his delegation found the United States proposal entirely satisfactory, and would vote in favour of it. However, in paragraph 5 of the French text, the words "doit être dispensée" should be replaced by "doit être encouragée". His delegation would also be glad if the United States representative could agree to the deletion of the phrase "and enable all persons to participate effectively in a free society" from paragraph 6.

With regard to cultural rights, his delegation was prepared to support the alternative text submitted by the Director-General of UNESCO for Article (d).

Some members of the Commission thought the implementation clause included as Article (b) of the UNESCO proposal inadequate, whereas others felt that it went too far. He personally considered that, as drafted, the clause represented a happy medium, since it called on governments to adopt a plan of action for the introduction of universal primary education within a reasonable period. The supervision of implementation would thus relate to only one aspect, though no doubt a fundamental one, of the right to education, namely, the right of everyone to compulsory primary education free of charge. He would not go so far as to urge that that implementation clause should be inserted in the same

article as the right to education; but he proposed that when adopting that clause at the present time, the Commission should reserve the right to decide later where it should be placed in the Covenant. Even when confined to primary education, the implementation clause seemed so just, so reasonable, and so essential, if the greatest possible number of human beings were to be enabled to read the provisions of the Covenant. That clause would seem the very least that could be provided as a safeguard for ensuring that the peoples of the world were fully apprised of the rights recognized by governments to encourage the development of the human personality. In that respect, free and compulsory primary education was the keystone of all the rights which would be recognized in the Covenant. What would the "adequate standard of living", the "improvement of living conditions" or the "free development of the personality" amount to in a world in which the illiterate were to be counted in millions?

With regard to procedure, he thought the Commission should vote first on the right to education, then on the clause concerning the minimum guarantee of implementation (Article (b) of the UNESCO proposal) and lastly on cultural rights.

The CHAIRMAN confirmed that when the Commission was ready to vote on the proposals, the procedure suggested by the Greek representative would be followed.

Mr. WHITLAM (Australia) said that as the brief statement he had made at the preceding meeting had been misinterpreted, he must perforce waive his self-imposed rule of brevity, and comment more fully on the statements of the representatives of the Soviet Union and UNESCO. The former's quotation from the Australian newspaper Sun Pictorial was gratifying, in that it revealed the surprisingly wide circulation of that newspaper, not only in Australia but elsewhere. The incident in question concerned alleged objections by parents to the presence of aboriginal boys in a school, and the consequent removal of those boys. If such an incident had occurred, in just those simple terms, he could

assure the Soviet Union representative and the Commission that public opinion in Australia would have been up in arms, and justice done. Nevertheless, he would suggest that it was not always wise to accept, without inquiry, news of which the strict accuracy and completeness might alike be questioned. In Australia, the interests of the indigenous population were looked after by a Protector, and in a case such as that cited appropriate action would be taken as a matter of course. True, the process of assimilation which the indigenous inhabitants of the Northern Territory of Australia were at present undergoing was accompanied by occasional friction. That was regrettable, but virtually unavoidable. Every effort was being made not only to apprehend the interesting and complex native cultures which, as UNESCO was aware, were of very great interest to anthropologists, but also to help the aboriginal peoples to adjust themselves to modern civilization. Special tribunals had been set up to deal with offences involving indigenous persons, at which their customs, beliefs and culture were given full weight.

Furthermore, he would point out that all the Soviet Union representative's quotations were taken from a free and uncensored press. Governments naturally paid attention to news items, the value and seriousness of which they were perfectly able to appreciate; public discussion of them might ensue and, if necessary, questions raised in Parliament. Such matters did not go unnoticed and unremedied.

Using that newspaper report in conjunction with his (Mr. Whitlam's) remarks on literacy, the Soviet Union representative had come to some sweeping conclusions. But it was wholly unjustifiable to deduce from remarks intended to elucidate the Australian concept of literacy, that circumstances of a certain specific type prevailed in Australia. Such a deduction was, to say the least, a serious misinterpretation, though he was not prepared to believe that it was either calculated or deliberate. Australia was a Member of the Trusteeship Council, and as an Administering Authority had to submit regular reports and answer inquiries. Indeed, a commission appointed by the Trusteeship Council had quite recently visited certain Trust Territories administered by Australia,

examined the situation on the spot in perfect freedom, and in due course submitted its report to the Council. He would therefore urge the Soviet Union representative not only to peruse the records of the Trusteeship Council, but also to consult the Soviet Union representative on that body, before passing judgments on Australia's work in the Trust Territories for which she was responsible.

Turning from particular points to the general issue at stake, he could assure the Soviet Union representative that he had listened to his arguments with the greatest attention; but although he agreed with much of the substance of the Soviet Union proposal (E/CN.4/AC.14/2/Add. 4, Section IX), it was impossible for his Government to accept texts based on a certain philosophical conception of the State. Australia did not accept that conception of the State, and it was not likely that she ever would, notwithstanding what might be suggested to the contrary in certain quarters.

At the preceding meeting the representative of UNESCO had suggested that his (Mr. Whitlam's) comments on literacy had failed to reflect the close concern felt by the Australian Government for educational progress. It was true that that country's enthusiasm for education was very great. A national university had recently been founded to undertake research and study in the international field, with special reference to the interests which Australia had in common with her northerly neighbours in Indonesia and the Asian continent. A valuable system for the exchange of scholars had been instituted, and would help to develop reciprocal knowledge between the two continents. The largest item in the budgets of the Australian States was that allocated to education, and all Australians fully recognized the cardinal importance of educational progress, which represented the best possible contribution to the cause of world peace.

In reply to the criticisms levelled against his request for a definition of literacy, and recalling the brief comments he had made at the preceding meeting on the suggested plan of action for the progressive implementation of the principle of compulsory primary education (article (b) of the UNESCO proposal) he would point out that the expression "literacy" was in danger of degenerating

into a slogan in international circles. It might become too easily taken at its face value, without any sense of its real meanings, especially when applied to Trust Territories. The facile view might gain ground, that everything depended on the establishment of primary schools of a certain pattern, on the appointment of teachers trained only to that pattern, and on the attendance of children merely because they happened to be of the appropriate age, quite apart from any consideration of their fitness for education of the pattern concerned. Although the campaign which UNESCO proposed to launch must undoubtedly command general approval and gratitude, he would urge that its aims should be viewed as long-term objectives, and subjected to critical analysis at every stage.

The Australians were practical people, who did not accept recommendations without preliminary examination, not even those of the most distinguished experts. Without in any way wishing to disparage educational experts, he was inclined to agree with the Chairman that the approach of theologians, philosophers and poets to the question should also be taken into account.

So much for the general concept. But in the field of application the final test was practicability, and in a democracy it was for the representatives of the people to take decisions on that count. The plan referred to in Article (b) of the UNESCO suggestions was preliminary, in the sense that it had not yet been submitted to the General Conference of UNESCO. It was thus merely an item on the provisional agenda of a conference yet to be held. As representative of the Australian Government, he would be lacking in a sense of responsibility if he voted for the inclusion, in a Covenant intended to endure for perhaps a thousand years, of a plan which, however worthy of commendation in itself, was as yet in its most initial stage. He would therefore oppose its inclusion.

Turning to the proposals made in connection with parental responsibility, he was glad to note that his suggestion had been taken up. He preferred the Danish amendments (E/CN.4/600) to that of the Lebanese delegation (E/CN.4/601), because they were fuller, and in the present case the simplest and most laconic was not the best. He would be able to vote for paragraph 1 of the Danish

amendments if the words "schools other than those established by the State but ..." were substituted for the words "privately established systems of education". The clause relating to minimum standards to be laid down by the State had certain implications, but he assumed that governments would be able to express their views on it before the text was finally adopted, and would therefore confine himself to pointing out that to an authoritarian State minimum standards, as conceived elsewhere, might represent the maximum.

The CHAIRMAN reminded the Australian representative that the Commission's decisions would first be reviewed by the Economic and Social Council, then by the Third Committee of the General Assembly, and finally by the General Assembly itself. Hence, Governments would have a number of opportunities of proposing modifications. The task of the Commission as a technical body was to draft, within the limits of its competence, the best possible text, leaving the rest of the work to higher organs of the United Nations.

Mrs. ROOSEVELT (United States of America) drew attention to the revised United States proposal set out in document E/CN.4/593/Rev.2, which incorporated a number of the points made in the UNESCO proposals. Paragraph 1 had been drafted in the form generally accepted for other articles, and therefore read: "the right of everyone to education;". Paragraphs 2, 3 and 4 retained the wording of the UNESCO proposal, Article (c) of which had been incorporated in the revised United States proposal as paragraph 5. Paragraph 6 gave expression to the Commission's desire explicitly to refer to Article 26 (2) of the Universal Declaration. Her delegation preferred the alternative text of Article (d) of the UNESCO proposals, and had included it as paragraph 7 of its revised proposal, although omitting the reference to questions of copyright. In her delegation's opinion the subject of copyright should not be dealt with in the Covenant, because it was already under study by UNESCO which, as was stated in the Director-General's Report (E/1752, page 53), was engaged on the collation of copyright laws with the object of building up a corpus of doctrine and in due course drafting a convention. Until all the complexities of that subject had been exhaustively studied, it would be impossible to lay down a general principle

As to Article (b) of the UNESCO proposals, she too held the view that it dealt with implementation, and would therefore more appropriately be included among the proposals to be submitted to the next General Conference of UNESCO. Her delegation would therefore vote against its inclusion in the Covenant.

In the case of the clause on parental responsibility, she wished to declare her delegation's acceptance of the parents' right of choice and its appreciation of the Danish representative's endeavours to draft an amendment which would faithfully reflect the views expressed in the Commission. But the amendment had one shortcoming, which she had so far been unable to remedy. It did not cover the point that the ultimate aim of ensuring parental responsibility was to safeguard the rights and interests of the child himself. She had been unable to find a suitable way of expressing that idea and, unless one could be found, she would be obliged to vote against the clause on the grounds that neither the Danish nor the Lebanese texts entirely met the case.

Mr. CASSIN (France) said that of the various proposals before the meeting, his delegation preferred the text submitted by the Chilean delegation on behalf of UNESCO (E/CN.4/613/Rev.1). Nevertheless, he had two comments to make on that text. First, what might be called the "general undertakings" should be omitted, since they were to be inserted elsewhere in the Covenant. Secondly, the Chilean text contained a reference to the principle of non-discrimination, which was much more likely to weaken than to strengthen article 1, paragraph 1, of the draft Covenant. If, in fact, the Commission omitted to refer to non-discrimination in some article or other of the Covenant, it might be argued a contrario that its authors had deliberately intended that the principle of non-discrimination should not apply to that article. Accordingly, his delegation, loyal as it was to that principle, thought that it would carry more weight if it was laid down once only, at the beginning of the Covenant.

His delegation would welcome, as repairing an omission from the Chilean proposal, the replacement of paragraph 6 of Article 1 thereof by paragraph 6 of the United States proposal, the word "useful" also being substituted for the word "effectively".

With reference to the comments on the use of the word "ethnic", it was true that "ethnique" and "étnico" respectively were used in the French and Spanish texts of the Universal Declaration, whereas the English version contained the word "racial". He would not, however, oppose a text in which both words were used.

His delegation would welcome a modification of the phrase "the suppression of all incitement to racial and other hatred", in paragraph 6 of Article 1 of the Chilean proposal, since that idea should be stated affirmatively, and not negatively.

So far as concerned the right of parents to choose the type of education to be given to their children, his delegation regarded paragraph 7 of Article 1 of the Chilean proposal, in the drafting of which the Danish delegation had taken part, as acceptable, and could support it regardless of whether the phrase "privately established systems of education" was maintained or replaced by the words "schools other than those established by the State but..." just suggested by the Australian representative.

Lastly, his delegation was satisfied with paragraph 8 of Article 1, which provided that parents should be free to ensure the religious education of their children in conformity with their own convictions.

Subject to its acceptance by the Chilean delegation, his delegation supported the United States suggestion that paragraph 5 of the United States proposal, which related to fundamental education, should be inserted in the Chilean proposal before paragraph 6. In that connexion, the term "de base" was to be preferred to the term "fondamental" in the French text of document E/CN.4/593/Rev.1.

With regard to cultural rights, his delegation considered that research and original creative work should be given their due place in the Covenant in an article distinct from that dealing with education. The relevant passages in the Chilean and United States proposals merely stressed that the moral and material interests of persons taking part in cultural and scientific life should be safeguarded. It would be unfortunate to omit from the Covenant principles

already stated in the Universal Declaration regarding protection of the moral and material rights of authors, artists and scientists. Moreover, the recognition of conditions which would permit everyone "to take part in cultural life" and "to enjoy the benefits of scientific progress and its applications", and the undertaking to provide for the practical attainment of such conditions, would in no sense bind States to modify their legislation in a rigid way if they did not wish to do so.

As to the campaign against illiteracy, to which Article 3 of the Chilean proposal referred, his delegation wished to state in advance that its vote for that article would be recorded without prejudice to the place that would ultimately be assigned to the text, and merely in order to emphasize the importance of the campaign against ignorance and to propose a method of conducting that campaign. His delegation considered that the article in question contained one of the key principles of the Covenant, and would be found to be among those that would make the greatest impression on public opinion.

Mr. ELVIN (United Nations Educational, Scientific and Cultural Organization), speaking at the invitation of the CHAIRMAN, noted that the revised United States proposal (E/CN.4/593/Rev.2) contained no reference to non-discrimination, and agreed with the French representative that that issue should either be dealt with conclusively in general terms, or be referred to explicitly wherever appropriate.

He wished to comment on the harsh language used by the Soviet Union representative at the preceding meeting in connection with UNESCO's educational experiments and anthropological surveys. The charge would seem to have been based on a confusion between the terms "anthropometrical" and "anthropological". The point was simply that, when deciding on types of education appropriate to certain communities, it was useful to know something about the social conditions and structure of the community in order to integrate education with the general social structure. Furthermore, the Soviet Union representative had suggested that the UNESCO representative had agreed with the Australian representative's views on literacy. That was not so. Indeed, after the statement just made by

the latter, he (Mr. Elvin) was still uneasy about an attitude which seemed tacitly to maintain that there was a group of children unfitted by nature for primary schooling. UNESCO did not accept that point of view.

As to plans, UNESCO, too, believed in looking ahead and proceeding by stages. He felt sure that the General Conference would not fail to accept the suggestions made to the Commission on the Organization's behalf as being in line with UNESCO's main work programme.

Lastly, in connexion with the French representative's suggestion, he would emphasize that UNESCO used the term "fundamental education" in the sense of emergency education of a type generally given to adults. That was a very different thing from primary schooling, and could not therefore be referred to in the context in question.

Mr. MOROSOV (Union of Soviet Socialist Republics) considered that the new paragraph 7 in the latest version of the United States proposal (E/CN.4/593/Rev.2) was not sufficiently complete, in that it omitted all mention of the two important and basic considerations that were brought out in the Soviet Union proposal, namely, that it was in the interests of progress and democracy and in those of the maintenance of peace and of co-operation between the nations, that the State should ensure the progressive development of education. He would therefore press for the inclusion of those fundamental ideas. He would also ask that each paragraph of the Soviet Union proposal be voted upon separately.

He had been pleased to note that the Australian representative was now less categorical on the question of literacy. He was still not satisfied with that representative's attitude, as he had failed to put forward a programme for dealing with the problem. If he (Mr. Morosov) had made reference to the report in the Sun Pictorial that certain indigenous children had not been admitted to a particular school, he had only done so because the report had been confirmed by others, and also by a statement made in the Australian Parliament on 17 February, 1949, by the then Home Secretary, who had admitted that seven indigenous pupils had been refused admission to the Darwin School,

and had stated that the Government maintained its policy of separate schools for indigenous pupils. The Australian representative's assurance that in such a case appropriate measures would always be taken, did not appear to coincide with the views of the Home Secretary and Australian authorities.

In his view, the explanations of the UNESCO representative about the anthropological investigations in Haiti still left something to be desired. He still objected to the UNESCO proposal, which would have the effect of denying to indigenous children the benefits of education as enjoyed by white children. As the anthropological approach was nowhere practised in the case of white children, the procedure adopted in Haiti was tantamount to racial discrimination and, as such, remained for him a monstrous error.

Mr. SANTA CRUZ (Chile) referred to the objections raised by the representatives of France and of UNESCO to the mention, in various parts of his delegation's proposal, of the principle of non-discrimination. He pointed out that that text referred to the principle of non-discrimination only in the case of rights which, in some countries, gave rise to discriminatory practices; moreover, it merely changed the form of the UNESCO proposals. The Universal Declaration of Human Rights, apart from the provisions on non-discrimination embodied in Article 2, itself mentioned that principle in a number of other places.

As the result of an oversight, which should be rectified, the words "should be made progressively free", which it had been decided to include at the request of the Uruguayan delegation, had been omitted from paragraph 5 of Article 1 of the Chilean proposal.

His delegation had, moreover, agreed to insert in paragraph 7 of Article 1 the words "schools other than those established by the State but", proposed by the Australian delegation and supported by the Danish delegation.

The comments of the United States and French representatives on Article 3 of the Chilean proposals were justified. A new paragraph drafted on the lines of point 5 of the revised United States text should therefore be inserted after paragraph 5 of Article 1.

In accordance with rule 61 of the Rules of procedure, he proposed that the Commission should first vote on the UNESCO suggestions in the form in which they had been incorporated in the draft submitted by his delegation. That text was the most detailed, and had formed the basis for a considerable part of the discussion; it already embodied numerous amendments, and had been drafted in such a way that, if the various paragraphs were put to the vote separately, delegations would be able to express their opinions on each point in turn.

The CHAIRMAN agreed that the Commission should take the Chilean proposal (E/CN.4/613/Rev.1) as the basis for voting. It would, however, be correct to take the Soviet Union proposal first.

Mr. SANTA CRUZ (Chile) saw no objection.

Mrs. ROOSEVELT (United States of America) accepted the suggested procedure, confirming that the United States proposal could be dealt with as an amendment to the Chilean proposal.

The CHAIRMAN proposed that the Soviet Union proposal (E/CN.4/537, page 2) should be voted on in three parts: first, the first paragraph; second, the second paragraph down to and including the word "origin"; and third, the remainder of the second paragraph.

It was so agreed.

The first paragraph of the Soviet Union proposal (E/CN.4/AC.14/2/Add.4, page 2) was rejected by 6 votes to 2 with 10 abstentions.

Mr. WAHEED (Pakistan) asked whether the Soviet Union representative could agree to the insertion of the word "religion" after the word "language" in the second paragraph of the Soviet Union proposal.

Mr. MOROSOV (Union of Soviet Socialist Republics) requested that the Pakistani suggestion be put to the vote.

It was agreed, by 12 votes to none with 5 abstentions, to include the word "religion" in the second paragraph of the Soviet Union proposal.

The CHAIRMAN put the first part of the second paragraph of the Soviet Union proposal, as amended, to the vote.

The first part of the second paragraph of the Soviet Union proposal, as amended, was adopted by 8 votes to 7 with 3 abstentions.

The remainder of the second paragraph of the Soviet Union proposal, from the words "and the State" down to and including the words "system of schools", was rejected by 6 votes to 4 with 8 abstentions.

Mr. SANTA CRUZ (Chile) stated that, when what was left of the Soviet Union draft was put to the vote, he would vote against it. The Soviet Union text was more restrictive than paragraph 2 of Article 1 of the Chilean proposal, which referred to a passage in the Covenant which set forth the principle of non-discrimination in much broader terms.

The CHAIRMAN put the Soviet Union proposal as a whole to the vote.

The Soviet Union proposal as a whole, as amended, was rejected by 8 votes to 7 with 3 abstentions.

Mr. WHITLAM (Australia), replying to the CHAIRMAN, confirmed that he wished to withdraw his proposal (E/CN.4/543).

The CHAIRMAN requested the Commission to vote on the Chilean proposal (E/CN.4/613/Rev.1), beginning with Article 1, each paragraph of which would be voted on separately.

Mr. JEVREMOVIC (Yugoslavia) requested that a vote by division be taken on Article 1 and Article 4, since he objected to the last paragraph of each. He also asked for a separate vote on the phrase "in its metropolitan territory or other territories under its jurisdiction" in Article 2.

Miss BOWIE (United Kingdom) referred to her delegation's amendment (E/CN.4/602) to the United States proposal, and suggested that, in order to satisfy those who had taken exception to the phrase "freely available to all",

the amendment should be modified to read "that primary education should be compulsory and available free to all" (cf. paragraph 3 of Article 1 of the Chilean proposal).

Article 1.

The CHAIRMAN asked whether the Chilean representative accepted the United States amendment, namely, that paragraph 1 should read: "the right of everyone to education". He himself preferred the United States text.

Mr. SANTA CRUZ (Chile) saw no reason for preferring paragraph 1 of Article 1 of the Chilean draft to paragraph 1 of the United States proposal (E/CN.4/593/Rev.2). Although the English wording of the two texts differed, the French and Spanish texts were identical.

He also saw no objection to the United Kingdom amendment, the French equivalent of which was the current expression "gratuit et obligatoire".

The CHAIRMAN put paragraph 1, as amended by the United States proposal, to the vote.

Paragraph 1, as amended, was adopted by 16 votes to none with 2 abstentions.

Paragraph 2 was adopted by 11 votes to 3 with 4 abstentions.

Mr. SORENSEN (Denmark) explained that he had voted against paragraph 2 because he considered that there was no need to introduce the question of non-discrimination in any article of the draft Covenant other than article 1.

Mr. WHITLAM (Australia) and Mr. CASSIN (France) gave the same reason for their votes contra.

The CHAIRMAN read out the text of paragraph 3, as amended by the United Kingdom proposal, namely: "that primary education should be compulsory and available free to all".

Miss BOWIE (United Kingdom) submitted that the word "available" added something to the sense of the clause, the idea being that while free education should be available to all, parents should not be obliged to avail themselves of it.

Mr. SABA (United Nations Educational, Scientific and Cultural Organization), speaking at the invitation of the CHAIRMAN, and supported by Mr. CASSIN (France), said that the correct French translation of the words "available free to all" was "offert gratuitement à tous".

Mr. SANTA CRUZ (Chile) accepted that rendering.

Paragraph 3, as amended by the United Kingdom proposal, was adopted by 16 votes to none with 2 abstentions.

Paragraph 4 was adopted by 14 votes to none with 4 abstentions.

The CHAIRMAN suggested, and Mr. SANTA CRUZ (Chile) agreed, that throughout the text of Article 1 the word "should" be replaced by the word "shall".

It was so agreed.

Mrs. ROOSEVELT (United States of America) requested that a separate vote be taken on the phrase "and shall be made progressively free", the addition of which to paragraph 5 had been proposed by the representative of Uruguay.

The first part of paragraph 5, reading: "that higher education shall be equally accessible to all on the basis of merit", was adopted by 16 votes to none with 2 abstentions.

The Uruguayan amendment to paragraph 5, consisting in the addition of the words "and shall be made progressively free", was adopted by 13 votes to none with 5 abstentions.

Paragraph 5, as a whole and as amended, was adopted by 12 votes to none with 5 abstentions.

Mrs. ROOSEVELT (United States of America), explaining her vote, said that, in view of its mandatory nature, the use of the word "shall" instead of the word "should" in the second part of paragraph 5 would make it difficult for States to accept the provision. It was questionable whether the higher education provided by certain private educational institutions should or could be made progressively free.

Mr. EUSTATHIADES (Greece) felt that some delegations might have voted differently on paragraph 5 had they realized the full import of the use of the word "shall", as now explained by the United States representative.

The CHAIRMAN proposed that in the light of the Greek representative's remarks the Commission should vote again on paragraph 5.

It was so agreed.

The first part of paragraph 5, reading "that higher education shall be equally accessible to all on the basis of merit", was adopted by 14 votes to none with 4 abstentions.

The Uruguayan amendment to paragraph 5, consisting in the addition of the words "and shall be made progressively free", was adopted by 11 votes to 3 with 4 abstentions.

Paragraph 5, as a whole and as amended, was adopted by 14 votes to none with 4 abstentions.

The CHAIRMAN recalled that the Chilean representative had suggested that paragraph 5 of the United States proposal (E/CN.4/593/Rev.2) should be included as paragraph 6 of article 1 of the Chilean proposal, in the following form "that fundamental education for those persons who have not received or completed the whole period of their primary education shall be encouraged as far as possible".

The new paragraph 6, as read out by the Chairman, was adopted by 16 votes to none with 2 abstentions.

Mr. SABA (United Nations Educational, Scientific and Cultural Organization) said that in the French text the words "education de base" should be substituted for the words "instruction fondamentale", and the phrase "qui ne l'auraient pas suivie jusqu'à son terme" for the words "qui ne l'ont recue qu'en partie".

The CHAIRMAN confirmed that due note would be taken of the UNESCO representative's remarks.

Mrs. ROOSEVELT (United States of America) suggested that the Commission should next vote on point 7 of the United States proposal, which she felt should be inserted as the next paragraph of Article 1. It constituted an amendment to Article 4 of the Chilean text.

The CHAIRMAN, replying to Mr. SANTA CRUZ (Chile), observed that, if the Commission adopted point 7 of the United States proposal, it would be deciding against the adoption of Article 4 of the Chilean proposal, excluding, of course, the final paragraph beginning "Each State Party to the Convention pledges ...", since that paragraph was not directly related to Article 4 as such.

Mr. CASSIN (France) pointed out with some emphasis that adoption of the United States text would result in overlapping between the provisions concerning the right to education and those concerning culture. It was impossible to vote for paragraph 7 of the United States draft, because its terms were so wide, and to include it would mean omitting the provisions concerning culture in the UNESCO suggestions sponsored by the Chilean delegation; that would deprive the Covenant of a text which appeared in the Universal Declaration of Human Rights.

Mr. SANTA CRUZ (Chile) would also vote against the inclusion of the United States text, since that would, among other things, mean omitting the provisions concerning non-discrimination in connexion with culture, which would be undesirable, since that principle was explicitly mentioned in connexion with the right to education.

Mr. YU (China) said that his delegation would vote in favour of the United States text, because it was more concise. Moreover, the Chilean proposal was also repetitive on the subject of non-discrimination.

Mr. EUSTATHIADIS (Greece) said that he would vote for the inclusion of the United States text, provided its provisions were embodied as a separate article.

Mrs. ROOSEVELT (United States of America) drew attention to the proposal which her delegation had submitted, to the effect that the whole chapter on economic, social and cultural rights in the Covenant should begin with a general clause relating to non-discrimination. The United States delegation felt that it was a mistake constantly to re-iterate that principle and that, provided the general clause was adopted, frequent repetitions on the subject would be unfortunate.

AZMI Bey (Egypt) said he would vote against the inclusion of the United States text, since it would upset the logical order of the Chilean proposal, and would couple, in the same text, provisions concerning the right to education and those relating to cultural rights. The only way to incorporate the substance of the proposal would be to adopt it strictly as an amendment to Article 4 of the Chilean proposal.

Mrs. ROOSEVELT (United States of America) said that in the light of the discussion she would withdraw her proposal.

Replying to the CHAIRMAN, she explained that she would not formally move paragraph 6 of the United States proposal (E/CN.4/593/Rev.2) as a substitute for the new paragraph 7 (old paragraph 6) of the Chilean draft, since they were more or less identical. She would, however, ask for a separate vote on the phrase "and the suppression of all incitement to racial and other hatred" in the new paragraph 7.

At the suggestion of the CHAIRMAN, Mr. SANTA CRUZ (Chile) agreed that the word "ethnic" should be inserted before the word "racial".

Mrs. RÖSSEL (Sweden) said that since a blanket clause was to be inserted making reference to Article 1 of the draft Covenant, she would withdraw her amendment (E/CN.4/611) to the United States proposal.

Mr. CASSIN (France) proposed that in the penultimate line of the French text of new paragraph 7, the words "tendant à permettre" be substituted for the word "permettre", and the word "utile" for the word "efficace" in the last line.

The CHAIRMAN contended that the French representative's suggestions altered the meaning of the clause. In the circumstances, he would put the English text to the vote.

It was agreed, by 12 votes to 1 with 4 abstentions, that the words "and the suppression of all incitement to ethnic, racial and other hatred" should be retained.

Mr. SANTA CRUZ (Chile) stood by the English text of his delegation's proposal, but declined to express an opinion on the wording of the French text.

The new paragraph 7, as amended, was adopted by 15 votes to none with 2 abstentions.

The CHAIRMAN read out paragraph 8 (old paragraph 7), with the words "privately established systems of education" replaced by the words "schools other than those established by the State but", as proposed by the Australian representative and accepted by the Chilean representative.

Speaking as representative of Lebanon, he withdrew the amendment submitted by his delegation (E/CN.4/601).

Mr. CIASULLO (Uruguay) requested that a vote be taken on the replacement of the (new) paragraphs 8 and 9 of the Chilean proposal by the text of the Uruguayan amendment in paragraph (1) of document E/CN.4/605.

The Uruguayan amendment in paragraph 1 of document E/CN.4/605 was rejected by 10 votes to 4 with 4 abstentions.

Mr. SANTA CRUZ (Chile), at the suggestion of Mr. EUSTATHIADES (Greece), agreed to the insertion of the words "and compulsory" after the word "free" in the second line of (new) paragraph 8.

New paragraph 8, as amended, was adopted by 13 votes to none with 5 abstentions.

Mr. CASSIN (France) felt that in the paragraph just adopted the word "réputée" should be replaced by the word "regardée". That observation affected only the French text.

Mr. EUSTATHIADES (Greece) stated that he had voted for the new paragraph 8 because he wished to keep the idea of the freedom of parents, an idea which was proclaimed in Article 26 (3) of the Universal Declaration of Human Rights, although the wording of paragraph 8 was not, to his mind, fully satisfactory.

The CHAIRMAN, speaking as representative of Lebanon, proposed the substitution of the words "respect for" for the words "regard to" in paragraph 9 (old paragraph 8).

Mr. VALENZUELA (Chile) pointed out that the drafting amendment suggested by the Chairman would not affect either the French or the Spanish texts. He was prepared to accept it if the Danish representative, who had collaborated in drafting the paragraph in question, saw no objection.

Mr. SÖRENSEN (Denmark) preferred the original wording.

Mrs. RÖSSEL (Sweden) enquired whether the Chilean and Danish representatives could accept the substitution of the word "confessions" for the word "convictions", pointing out that as there was a State Church in Sweden it was possible for Swedish children to have a religious education outside that Church only if the parents could demonstrate that they practised another religion.

Mr. CASSIN (France) preferred that the word "convictions" should be retained. It was important to respect the freedom of those parents who might wish to inculcate philosophical rather than religious ideas in their children, in exactly the same way as the freedom of those who wished to ensure the religious education of their children.

Mr. VALENZUELA (Chile) said that his delegation could not agree to the Swedish proposal. The principles of free-masons and of unbelievers should also be respected.

Mr. SÖRENSEN (Denmark) suggested that, in the light of the discussion, a vote should be taken on the Swedish representative's proposed amendment.

The Swedish proposal that the word "convictions" be replaced by the word "confessions" in (new) paragraph 9 was rejected by 10 votes to 2 with 6 abstentions.

The Lebanese proposal that the words "regard to" should be replaced by the words "respect for" was rejected by 4 votes to 3 with 11 abstentions.

Mr. CASSIN (France) pointed out that the French text of paragraph 9 contained the word "respectera". In order to abide by the decision which the Commission had just taken, that word should be replaced by the words "tiendra compte de".

The CHAIRMAN supported the French representative. Paragraphs 8 and 9 were unsatisfactory in that respect, and he would, if necessary, seek support

for his view in the General Assembly. If parents were to enjoy the freedom in question, the State must have "respect for", and not just "regard to", it.

AZMI Bey (Egypt) explained that he had abstained from voting on paragraph 9 for the reasons just given by the Chairman. Moreover, he had not had all the necessary data at his disposal to form a considered opinion.

Mr. SÖRENSEN (Denmark) suggested that, having regard to the Egyptian representative's explanation, a fresh vote should be taken on the question.

It was so agreed.

The Chairman's proposal that the words "regard to" should be replaced by the words "respect for" was adopted by 8 votes to 6 with 4 abstentions.

(New) paragraph 9, as amended, was adopted by 10 votes to none with 8 abstentions.

The CHAIRMAN recalled the request of the Uruguayan representative that a separate vote be taken on the words "with due regard to its organization and resources" in the final paragraph of Article 1.

Mrs. MEHTA (India) considered that that paragraph did not apply to (new) paragraphs 6, 7, 8 and 9 just adopted; and recalled that the UNESCO representative had been in favour of its deletion.

Mr. MOROSOV (Union of Soviet Socialist Republics) stated that he would vote against the final paragraph, since it embodied a dangerous and discriminatory formula which, in the case of colonial and non-self-governing territories, it would be possible to implement only in the distant future.

Miss BOWIE (United Kingdom) said that she would vote against the final paragraph since she considered that it was the sort of umbrella clause which should apply to the whole section on education and cultural rights.

Mr. CASSIN (France) and Mr. EUSTATHIADES (Greece) shared the view expressed by the Indian representative, and would vote against the paragraph in question.

Mr. JEVREMOVIĆ (Yugoslavia) would vote against the paragraph for the reasons he had previously given, and because it was inconsistent with the spirit of the draft Covenant.

Mr. VALENZUELA (Chile) said that he stood by his text, which made no reference to colonial territories. As often happened, his delegation found itself obliged to take the opposite view to that of the Great Powers.

Mr. YU (China) stated that he had abstained from voting on (new) paragraphs 8 and 9 because he did not think that special mention should be made in the Covenant of the rights of certain classes of persons, and also because he believed that their inclusion was an offence against conciseness, to which his delegation attached importance. He would also vote against the last paragraph of Article 1, because of its repetitive nature.

It was decided by 6 votes to 4 with 8 abstentions that the clause reading: "with due regard to its organization and resources" should be deleted from the last paragraph of Article 1.

The last paragraph of Article 1 beginning "Each State party . . . . .", as amended, was rejected by 12 votes to 3 with 3 abstentions.

Article 1 of the Chilean proposal (E/CN.4/613/Rev.1), as a whole and as amended, was adopted by 15 votes to none with 3 abstentions.

The meeting rose at 2.0 p.m.