

# **Education, Peace Building and Human Rights**

**By**

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# Education, Peace Building and Human Rights<sup>1</sup>

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## Introduction

In an effort to reduce conflict between societies the Member States of the United Nations drew up the *Universal Declaration of Human Rights*. With reference to education Article 26 of the Declaration contained three clauses to promote justice, peace and freedom through education by making it a universal right that is directed to the establishment of good relations between racial, ethnic and religious groups while remaining subject to parental choice. These rights have been elaborated and strengthened in Articles 13 and 14 of the *International Covenant on Economic, Social and Cultural Rights* and Article 18.4 of the *International Covenant on Civil and Political Rights*, by the *UNESCO Convention Against Discrimination in Education*, various regional Human Rights instruments and most recently in Articles 28 and 29 of the *UN Convention on the Rights of the Child*. With a certain sense of regret those who worked so hard to include these provisions in the *Universal Declaration of Human Rights* must be congratulated on their foresight as many deeply divided societies continue to violate these fundamental principles of education established to create what is now termed a “Culture of Peace”<sup>3</sup> through equality of opportunity, mutual understanding and tolerance. For example, in Israel and Northern Ireland all three clauses of Article 26 have been repeatedly broken while efforts to rectify these Human Rights abuses have been, and continue to be, persistently subject to political manipulation aimed at perverting the endeavours of would be peace builders.

In the first part of this paper I will review some of these violations and the steps that have been taken to correct these abuses in the deeply divided societies of Northern Ireland and Israel. In the second part of the paper I will attempt to evaluate the effectiveness of various human rights reporting and complaints procedures in relation to these abuses in Northern Ireland and suggest what future steps could now be taken to strengthen international institutions so that the application of these human rights can be progressively removed from political interference.

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<sup>1</sup> At the invitation of the Assistant Director-General for Education at UNESCO the author prepared an earlier draft of this paper for the 44th Session of the International Conference on Education, held in Geneva from October 3rd. to 8th. 1994 and for the 1995 UN Year of Tolerance. This request was made in an effort to encourage “reflection and dialogue on what works in facilitating the development of a culture of peace through education in difficult context such as Northern Ireland, Palestine, etc.”

<sup>2</sup> The author wishes to acknowledge the guidance and invaluable comments of Mr. Stephen Livingstone and Prof. Tom Hadden of the Faculty and School of Law at The Queen’s University of Belfast.

<sup>3</sup> “Culture of Peace” is the title given to a program instituted by UNESCO at the initiative of the Director General in 1994 as a response to the UN Secretary General’s program for an “Agenda for Peace” announced in 1992.

## **Part 1. Education and Peace Building in Two Deeply Divided Societies**

### **Education and Social Justice**

The *Universal Declaration of Human Rights*, Article 26, Clause 1.

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be equally accessible to all on the basis of merit.”

Although discrimination is not mentioned explicitly in this clause, because it is dealt with elsewhere in the Declaration, the intent of the clause is to assure the equitable delivery of educational resources and opportunities to all members of a state’s society. This necessarily requires the absence of discrimination which is most precisely defined in respect to education in the *UNESCO Convention Against Discrimination in Education* as follows:

“Article 1 and 1.1 (a). For the purpose of the Convention, the term ‘discrimination’ includes any distinction, exclusion, limitation or preference which..... has the purpose or effect.... Of depriving any person or group of persons of access to education of any type at any level.”

Using this definition it is possible to identify numerous examples of discrimination in both the education systems of Israel and Northern Ireland.

### **Discrimination in Israel**

I will not attempt to give a detailed account of all the instances of discrimination in education directed by the State of Israel against the Palestinians in the Occupied Territories. However, here are a few examples taken from a review by Johnson and Taylor<sup>4</sup>. Before the uprising, the Intifada, Bethlehem University was closed when a student was killed by the Israeli Defence Force (IDF) in October 1987. This was followed by collective closures of West Bank Universities and, on February 3rd. 1988, 1,194 schools, excluding East Jerusalem, were also closed. These closures were repeated in 1989. Closures in Gaza were not collective but between 35 and 50 percent of school days were lost through individual closures and curfews. Attempts by the United Nations Relief and Works Agency controlled schools to distribute home study packs in 1989 were blocked by the authorities. Schools were also defaced, vandalised and

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<sup>4</sup> Johnson, P. and Taylor, M., The Israel Occupied Territories (Palestine). In *Academic Freedom 1990: A Human Rights Report*. World University Service. Ed. Laksiri Fernando et al. World University Service, Geneva. Zed Books Ltd., London and New York. 1990.

commandeered for use as temporary detention centres and military posts. Student prisoners have been denied tertiary education since 1981 and Palestinian institutions have been subject to taxes and customs duties for which Israeli universities receive refunds or subsidies. Finally, at a more individual level, students and faculty have been subject to detention, interrogation and denied access to libraries, book shops and international conferences.

These actions by the Israeli authorities in the Occupied Territories go far beyond a number of individual cases that simply violate the terms of the *UNESCO Convention Against Discrimination in Education*. Article 50 of the Fourth Geneva Convention (1949) specifies that an occupying power has the duty to facilitate the proper working of all institutions devoted to the education of children and Article 50 of the Hague Regulations of 1907 explicitly forbids the seizure or destruction of or wilful damage to institutions dedicated to education. In this context UNESCO sent a “Mission” to the Occupied Territories in an effort to appraise the extent of Human Rights violations there. Subsequently, in his report to a meeting of the Executive Committee held on the 25th. of August 1989 the Director General noted that:

“Neither in terms of the reasons invoked, nor in the context of legislation or international law, does the generalized and permanent closing of schools and universities and the paralysing of the entire educational system appear to be justified. Given the other measures of an obstructive nature applied for the past twenty years in the Occupied Territories, the consultant finds it impossible to dismiss outright the interpretation offered by the very many people, not only Palestinians but also foreigners, with whom he spoke during his mission, that it is the deliberate intention of the occupying power to oppose the development of a Palestinian elite, or even to destroy the Palestinian identity.”

Through the efforts of an international campaign the schools on the West Bank were reopened, temporarily, in July 1989, and sanctions from the European Community directed at the suspension of scientific agreements with Israel helped to improve the circumstances of the Palestinian Universities. However, given the systematic nature of these Human Rights abuses these violations are unlikely to come to an end before a comprehensive peace settlement and an end to the occupation itself. Few would question the long term individual and social value of a good education. Conversely the harm that has been done to the youth and future society of Palestine can not be easily undone. In drawing parallels with South Africa Afif Safieh, the Head of the PLO Delegation to the United Kingdom, pointed out at a Queen’s University public lecture, that the struggle against Israeli rule had sacrificed the creative potential of a generation and that this loss would make the implementation of a stable peace more difficult to realise and sustain<sup>5</sup>.

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<sup>5</sup> Safieh, A., *The Palestinian-Israeli Peace Process*. Queen’s University of Belfast Middle East Seminar Group. Public Lecture. Queen’s University of Belfast. March 10th. 1994.

## Discrimination in Northern Ireland

Since the formation of the Province of Ulster after the division of Ireland in 1922 the government system of schools, which are *de facto* Protestant, has always received more funding than their Catholic counterparts. The classification and financing of schools in Northern Ireland is far from simple and I will not attempt to review all the details here. However a few figures taken from a review by Dunn<sup>6</sup> will help to illustrate the point. While Protestant schools have always been fully funded Catholic schools have received between 0% of their capital costs in 1923 rising to 65% in 1947, as much as 85% in 1976 and finally 100% in 1994 - subject to changes in the structure of their governing boards. Like the Catholic schools in 1923 integrated schools did not receive any funding when they started in 1981 however this was raised to 85% in 1984 and finally 100% in 1989.<sup>7</sup>

However discrimination in the Northern Ireland education system has not only been limited to simple percentages of capital and operating grants. Differences in the sizes of the schools, provision for teaching science and access to grammar school places have also favoured the Protestant sector over the Catholic sector<sup>8</sup>. In their Seventeenth Report the Northern Ireland Standing Advisory Commission on Human Rights made a number of specific administrative recommendations to monitor and rectify these discrepancies<sup>9</sup>.

Government policy is now shaped by the principle of equality of provision in education<sup>10</sup> but a great deal of progress has yet to be made in order to meet this objective. For example, the Department of Education will not allow Lagan College, the first integrated school to be established in Northern Ireland, to select the best students that apply to their school so that they can offer them the highest possible standard of education amongst their academic peers (*Lagan College v. Department of Education for Northern Ireland*)<sup>11</sup>. As a Catholic school in Maghera

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<sup>6</sup> Dunn, S., A Short History of Education in Northern Ireland 1920-1990. In *Fifteenth Report of the Standing Advisory Commission on Human Rights*. Report for 1989-90. HMSO. London. 1990.

<sup>7</sup> Although the principal of 100% funding has been accepted for integrated schools financial discrimination still exists *de jour* in as much as state and Catholic schools are exempt from sales or Value Added Tax (VAT) and *de facto* in as much as many of the school buildings are "temporary" structures that do not come up to average standards set by the other schools in the Province.

<sup>8</sup> Cormack, Gallagher, Murray and Osborne, Curriculum, Access to Grammar Schools and the Financing of Schools: An Overview Paper. In *Seventeenth Report of the Standing Advisory Commission on Human Rights*. Report for 1991-92. HMSO. London. 1992.

<sup>9</sup> SACHR, *Seventeenth Report of the Standing Advisory Commission on Human Rights*. HMSO. London. 1992.

<sup>10</sup> Smith, A., The Management and Control of Schools in Northern Ireland. ESRC Seminar Series. *Schools and inter-group relations*. University of Ulster at Coleraine. April 21st. 1994.

<sup>11</sup> *Lagan College v. Department of Education for Northern Ireland*. In the Matter of an Application by Lagan College for a Judicial Review. In The High Court of Justice in Northern Ireland. Belfast. 1992. The case put by Lagan College was rejected on the grounds that the College could not be classified as a grammar school.

is allowed to do this the decision of the Department of Education is clearly discriminatory in favour of the Catholic sector.<sup>12</sup> Equitability in the provision of choice is also a problem but that will be discussed later.

In addition to this kind of institutional discrimination the United Nations *Convention on the Rights of the Child* also expressly seeks to protect individual children from acts of discrimination as follows:

“Article 2. 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.”

These rights are frequently broken by children, parents and teachers associated with Northern Ireland’s segregated schools. For example rates of mixed marriage in Northern Ireland have steadily increased from only 1.3 percent in 1943-47 to as much as 9.7 percent in 1978-82<sup>13</sup>. However there are only places for approximately 2 percent of children to attend integrated schools in Northern Ireland so it must necessarily follow that literally thousands of children from mixed marriages are obliged to go to segregated schools where they may be subject to violent discrimination.

*Boy aged 13 from a mixed marriage.*

‘I came to Lagan College on the ninth of September from Bally High School. I left Bally High School because my Dad was a Catholic and my Mum is a Protestant, and as Bally was a Protestant school I didn’t seem to be liked by quite a lot of the people. They found out that I was half and half because they knew my Dad because he refereed in the local football league.

I never stood up and told any of the teachers about what sort of problem I was having. Some times in class they would call me a Taig but the teachers let on they never heard them. But there was one day when I went to the toilet and six or seven fourth years followed me and gave me a kicking in the toilets and then I went and told a teacher. He understood the matter as he knew me and my family very well. He tried his hardest to get the matter stopped but it back fired, it started to get worse. He tried to give them detentions, but still it didn’t stop, it started to get more worse, the crowd got bigger.

I didn’t go back to the school on the last three days as I was so shaken that they were

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<sup>12</sup> Since this matter was brought to the attention of the Department of Education for Northern Ireland (DENI) as an issue concerning discrimination the Department has now reversed their previous position and have permitted Lagan College to develop a grammar school stream. The College have sent their proposals to the South Eastern Education and Library Board for publication in February of this year. These proposals will include the selection of students who have passed their 11+ exams so that approximately 35% (the Provincial average) of pupils in the sixth form will in future meet this standard.

<sup>13</sup> Compton, P. A. and Coward, J., *Fertility and Family Planning in Northern Ireland*, Avebury, Aldershot. 1989.

going to get me and kick my head in.

So it was the last week of the summer holidays when my Dad phoned Lagan College and it was the ninth of September before I got in.'

Additionally, those who choose to promote peace building through integration are often thought of as a threat to the status quo of their divided communities and systems of separate education.

*Catholic girl aged 12.*

'I went to a Catholic Primary school. Across the road was a Protestant school. It did not matter to me about Catholics and Protestants. When I was in P6 we were told all about religion. My P6 teacher did not agree on having a school for both Catholics and Protestants. It was coming time for me to do the 11+. The teacher asked me what school I would like to go to. I said "Lagan College." Then the teacher started asking me all these questions. The teacher said "Why do you not want to go to a Catholic school." I replied "just because that's where I want to go and my parents want me to go." When my results came out I had passed my eleven plus. My teacher asked our class again what school do you want to go to. There was me and 3 others that had said they were going to Lagan College. Then the teacher took us out of the room. He said to us "What are you going to Lagan College for?" When I was in P6 and P7 I always got chased because I was Catholic and called Fenian. So our teacher would say it would be worse at Lagan College because it was mainly Protestant.'

*Protestant girl aged 13.*

'The area in which I live is mostly Protestant. There are very few Catholics, maybe 2 or 3, and it is not well known. If Catholics come to the estate they would get chased and a group of Protestants would start a fight. Even if you are Protestant and are suspected of being Catholic a fight may be started. This is not all the time. Sometimes if a Catholic came to visit a Protestant friend nothing would be said. If I brought a Catholic friend to visit I would maybe change their name, because even though nothing might not be said I wouldn't like to take a chance. It can annoy me because I would like to bring people from school without changing their names etc.

As I go to Lagan College some people think that I am Catholic and taunt me. It doesn't really worry me. People say I should change schools and not to mix.'

## Education and Peace Building

The Universal Declaration of Human Rights, Article 26, Clause 2.

“Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”

Although the intention to “promote understanding, tolerance and friendship” is to be found in most of the conventions derived from the Universal Declaration none of the conventions attempt to expand on these imperatives<sup>14</sup> in any great detail except for the *UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms* and the *Declaration of the forty-fourth session of the International Conference on Education*.<sup>15</sup> Clause 2 of the *Universal Declaration of Human Rights* was drafted in an effort to define the “spirit” or purpose behind education in an effort to prevent the kind of socialisation given to the youth of Nazi Germany that Halvorsen<sup>16</sup> describes as “immoral, racist, destructive and contrary to the human rights idea”. The fact that the World Jewish Congress believed that the “Neglect of this principle in Germany had been the main cause of two catastrophic wars”<sup>17</sup> must now be viewed with a certain sense of tragic irony given the failure of Israel to implement this imperative throughout their own education system and the contribution this failure has made to the continuation of the conflict in the Middle East.

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<sup>14</sup> In his review of the normative aspects of economic, social and cultural rights Alston (Alston, P., *Out of the Abyss: The Challenges Confronting the New UN Committee on Economic, Social and Cultural Rights*, *Human Rights Quarterly*. 9. 1987.) points out that such definitions should set both minimum standards and provide for the refinement and evolution of standards in general. In this context clearly any educational practice that promoted social lies, intolerance, and conflict would be in violation of minimum standards while states are under a positive obligation to determine and promote educational practices that enhance understanding, tolerance and friendship. This objective runs as the central theme throughout the *Declaration of the forty-fourth session of the International Conference on Education* (UNESCO. International Conference Centre, Geneva, 3-8 October, 1994. - Copy provided in Appendix). Unfortunately some current recommendations on reporting procedures (for example see Alston, P., *Human Rights Reporting Under Six Major International Human Rights Instruments: The International Covenant on Economic, Social and Cultural Rights*, in, *Manual on Human Rights Reporting*, UN. New York. 1991.) do not require states to address these issues.

<sup>15</sup> UNESCO. International Conference Centre, Geneva, 3-8 October, 1994.

<sup>16</sup> Halvorsen, K., Notes on the Realization of the Human Right to Education. *Human Rights Quarterly*. 12. 1990.

<sup>17</sup> U.N. Doc. E/CN.4/AC.2/SR.8/1947, at 3-4. 1947.



## **A Failure to Promote Understanding, Tolerance and Friendship in Israel**

As a response to Jewish and Arab riots in Palestine in the 1930s and 1940s the British Government would like to have introduced a system of integrated secondary education as they felt:

“It would be natural to suppose that in the field of education, more easily and effectively perhaps than anywhere else, something could be done to bring the two discordant races of Palestine nearer together. But, in so far as any policy of that kind would tend to moderate the full-blooded nationalism of both races, it would be vehemently opposed by the spokesmen of both..... The existing Arab and Jewish school systems are definitely widening and will continue to widen the gulf between the races.”

Secretary of State for the Colonies, 1937<sup>18</sup>

But such a policy was impossible to implement as Article 15 of the 1923 British Mandate had conferred “The right of each community to maintain its own schools for the education of its own members” with the result that public institutions and opinion had already been shaped along lines of social division in matters of education<sup>19</sup>.

In an effort to counter this unfortunate and continuing state of affairs in post independent Israel a Dominican, Father Bruno, founded the Neve Shalom: Wahat Al-Salam community and School for Peace in 1971. It does not receive the full support of the state enjoyed by other new communities and schools. However, it does receive the support of the Church. It has been established on 100 acres of Church land leased to Father Bruno for this purpose from the adjacent Latrun Monastery. Promotional materials for the Neve Shalom nursery, kindergarten and primary school state that:

“The principles of coexistence and equality are our guide at all-times. Here, in the only bi-national, bi-lingual school of its kind to date, the children absorb these values naturally and are taught about their national and cultural differences, whilst stressing their own individual identities.”

Neve Shalom: Wahat Al-Salam<sup>20</sup>

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<sup>18</sup> Secretary of State for the Colonies, *Palestine Royal Commission Report*, presented to Parliament by Command of His Majesty, July 1937. His Majesty’s Stationary Office, London, 1937.

<sup>19</sup> Secretary of State for the Colonies, *The System of Education of the Jewish Community in Palestine*, Report of the Commission of Enquiry appointed by the Secretary of State for the Colonies in 1945. His Majesty’s Stationary Office, London, 1946.

<sup>20</sup> Neve Shalom: Wahat al-Salam, published by the Coordinators and Representatives of Neve Shalom/Wahat al-Salam at Neve Shalom/Wahat al-Salam, Doar-Na Shimshon, 99761, Israel, (undated).

As might be expected, Father Bruno has received some criticism from some members of his Church. However, questioning and discussion are both natural and healthy prerequisites for constructive action. The point is, Father Bruno was able to gain the support of his Church, and perhaps this is one of the reasons why he has also received nominations for the Nobel Peace Prize. When the President of Israel, who was born in Belfast and grew up in Dublin, visited Neve Shalom, he suggested that if Israel did not adopt the educational policies practised there, Israel would end up like Northern Ireland. President Hertzog made these comments before the Palestinian uprising, the Intifada.

Neve Shalom: Wahat Al-Salam has set a standard for peace education in Israel against which all other efforts can be judged. It provides a wide variety of services, that, in addition to the ecumenical community itself and their integrated school, includes a hostel and seminar facilities used extensively for encounter groups that are made up from both sides of the sectarian divide in Israel. Contact schemes for Jewish and Palestinian school children at the Peace School have been refined and perfected through an ongoing program of research undertaken by the Israel Institute of Applied Social Research in Jerusalem and funded by the Ford Foundation.

By way of contrast programs for peace education instituted by the state of Israel are token and ineffectual. They are limited to informing each group about the culture of the other and how this kind of knowledge is used in the establishment of group relations. Research on this program, conducted by the Bar-Ilan University, was reported to the *First International Congress on Prejudice, Discrimination and Conflict* in Jerusalem in 1991<sup>21</sup>. At that time one token Palestinian was working on the project and research was limited to studies amongst the Jewish Israeli population. In spite of these limitations the program seems to have flourished. The Department for Democracy and Coexistence in Israel now “acknowledges the need for the nurturing of the cultural identity of both Arab-Israeli students and Jewish-Israeli students toward promoting a multi-cultural society” (*Information Booklet of the Department*).<sup>22</sup> As most “Arab-Israelis” consider themselves to be “Palestinians” the expressed objectives of the Department for Democracy and Coexistence appear to be contradictory, incompatible and self-defeating.

The reality behind this tokenism are systems of segregated education that teach, respectively, the superiority of Islam and Judaism alongside a denial of a right to existence for the state of Israel, on the one hand, and the validity of a “Greater Israel” on the other.<sup>23</sup> These polarised visions

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<sup>21</sup> Ben-Ari, Riad Nasser, Aharon Bizman and Hadas Smadar, Changing Attitudes and Perceptions in Intergroup Relations. *First International Congress on Prejudice, Discrimination and Conflict*. Jerusalem. July 1-4. 1991.

<sup>22</sup> Quotation taken from *Tolerance: the threshold of peace. A teaching/learning guide for education for peace, human rights and democracy (preliminary version)*, UNESCO. ED-94/WS/8, Paris. 1994.

<sup>23</sup> Clearly these kinds of violations go beyond simply failing to promote peace but arguably violate Article 20.2 of the International Covenant on Civil and Political Rights: “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

of the Middle East are taught with greatest conviction in the fundamentalist schools such as those operated by Hamas and Shas<sup>24</sup>. In the most extreme of these type of schools, such as the ones run by settlers in the Occupied Territories, the relationship between inhuman attitudes and inhuman behaviour correlate with deathly clarity. After thirty worshippers were killed in the Hebron massacre a follower of Rabbi Kahane expressed the view that “There are no innocent Arabs. These deaths are necessary and it is necessary to kill a lot more. Baruch was a hero, a hero of all the Jews. He was a perfect man, a kind man and a sweet man”. This opinion was echoed by a child of 13 who made the observation that “The killing was very good. It shows the Arabs we have the power”<sup>25</sup>. Dr. Baruch Goldstein, who shot the Palestinians at prayer, considered the Arabs to be “like an epidemic - the pathogens that infect us”. Hitler held similar views about the Jews in Germany. In this context we should not be surprised to discover that the Israeli Defence Forces deployed in Hebron were under orders not to shoot settlers because, according to Major-General Shaul Mofaz, “We do not shoot Jews, they are not the enemy”<sup>26</sup>. Conversely, outside Israel and the Occupied Territories, in South Lebanon, extremist Muslim groups like Hizbollah believe it is their religious duty to destroy the state of Israel and they teach and practice their violent philosophy with similar vigour and determination<sup>27</sup>.

### **A Failure to Promote Understanding, Tolerance and Friendship in N. Ireland**

Successive governments have believed that integrated education could do much to improve inter-community relations and promote peace in Ireland and Northern Ireland. The first national system of education established in Dublin in 1831 was intentionally created to be non-denominational with the expressed “hope that by learning to live together as children they would at least tolerate each other as adults.” Unfortunately this early effort to produce a united or mixed system of education was strongly opposed by the Churches with the result that it became denominational or segregated within less than twenty years of its foundation. Sectarian interests also prevented the formation of an integrated school system in the Province in 1922<sup>28</sup>. Again, during the brief life of the power-sharing Executive, the Minister of Community Relations attempted to put integrated education on to the agenda. But this effort failed with the

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<sup>24</sup> Helm, S., Divided at Birth. *The Sunday Review. The Independent on Sunday*. London. 22nd. August. 1993.

<sup>25</sup> Helm, S., Hebron settlers shed no tears after slaughter. *The Independent*. London. 28th. February. 1994.

<sup>26</sup> Helm, S., Israeli troops ‘under orders’ not to shoot Jewish settlers. *The Independent*. 11th. March. 1994.

<sup>27</sup> British Broadcasting Corporation, “Allah’s Army”. *Assignment.. BBC 2*. British Broadcasting Corporation. May 10th. 1994.

<sup>28</sup> For reviews of the history and politics of education in Ireland, both North and South, see Akenson, D., *The Irish Education Experiment: The National System of Education in the Nineteenth Century*, Routledge and Kegan Paul. 1970; and Akenson, D., *Education and Enmity: the Control of Schooling in Northern Ireland, 1920-1950*, Newton Abbott, David and Charles. 1973.

collapse of the Executive in 1974<sup>29</sup>. And yet again, in 1977, the introduction of comprehensive schools in England and Wales successfully opposed in Northern Ireland in case such reforms might also include integration.<sup>30</sup>

In a similar fashion to the efforts of Father Bruno in Israel the “All Children Together” movement (ACT) and Lagan College have set a standard for peace education against which all other efforts can be judged in Northern Ireland. Indeed I believe these kinds of institutions set standards for the world. After the resumption of the “Troubles” in 1972 a group of concerned parents formed ACT with the expressed goal of seeking “changes in the educational system of Northern Ireland, that will make it possible for parents who so wish, to secure for their children, an education in shared schools acceptable to all religious denominations and cultures”. In the absence of effective government initiatives on these objectives ACT actively stimulated public debate and founded the first integrated school, Lagan College, in 1981 in a scout hut with 28 students, 2 full time and 5 part time teachers. During its first three years the College received no government funding and had to raise over 1.5 million pounds from the international community to cover its building and operating costs. Ten years later, in 1994, Lagan College now has a student population of nearly one thousand and another 23 integrated schools have been established in the Province. The intense lobbying of ACT also led to significant changes to education legislation in Northern Ireland. Most importantly the Education Reform (NI) Order 1989 requires the government to promote integrated schools and make Education for Mutual Understanding (EMU) a part of the cross-community curriculum throughout the Province. Unfortunately resistance from local politicians<sup>31</sup> the churches<sup>32</sup> and school boards<sup>33</sup> have prevented these programs from developing to their full potential<sup>34</sup> and in spite of much popular support the government are reluctant to oppose this resistance as they require the co-operation of the church and community leaders in other areas of policy development<sup>35</sup>. As always such decisions are driven by short term political interests<sup>36</sup>.

Resistance to integrated education has also come from those in the academic community who tried to predict the inevitable institutional or social failure of such an enterprise. For the most

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<sup>29</sup> *Parliamentary Debates*, Northern Ireland. April 30th. 1974.

<sup>30</sup> Cathcart, H. R., The Politics of ‘No Change’, in *Schools Under Scrutiny: The Case of Northern Ireland*, Leslie Caul Ed., Macmillan Education. London. 1990.

<sup>31</sup> British Broadcasting Corporation, “Schools Out,” *Heart of the Matter*, BBC 1. London. July 7th., 1991.

<sup>32</sup> Gallagher, E. and Worrall, S., *Christians in Ulster 1968-1980*, Chapter 10, Education, Oxford University Press. 1982.

<sup>33</sup> White, B., Testing time for Brownlow College, *Belfast Telegraph*, January 28th., 1992.

<sup>34</sup> Pollack, A., Editor. *A Citizens’ Inquiry: The Opsahl Report on Northern Ireland*. The Lilliput Press for Initiative 92. 1993.

<sup>35</sup> Morrow, D., “Political Parties in Community Politics: Means or Ends?” *Annual Conference of the Political Studies Association of the United Kingdom*, The Queen’s University of Belfast, April 7th-9th. 1992.

<sup>36</sup> Guelke, A., Promoting Peace in Deeply Divided Societies. *Frank Wright Lecture*. Queen’s University of Belfast. April 19th. 1994.

part these critiques have been made by scholars from Northern Ireland<sup>37</sup>. UN forces and UNESCO personnel are not permitted to go on “Missions” to their own country. Similarly, perhaps research on conflict in deeply divided societies should only be undertaken in collaboration with “outside” scholars.

My own studies suggest that the children coming to Lagan College from throughout the Greater Belfast area are not so very different from their peers in the segregated schools<sup>38</sup>. Although there is a great deal of variation between individual children many find it difficult to make friends across the sectarian divide when they first arrive. For some children it takes several years to cross this barrier and it is therefore not surprising that<sup>39</sup> discovered children in her study who found such friendships difficult and who avoided discussion of sensitive political issue. However there would be many more of these children in first year than there would be in fifth year by which time all the children at Lagan College had made at least one friend in the other community<sup>40</sup> and for most of the children at the school questions of denomination became substantially unimportant. Unfortunately, out of school, some children could only meet their friends from the other community in the neutral shopping centre “down town” or take them to their home by masking their identity with, for example, a temporary change of name.

But friendships are not everything, values are also important. A study completed by

<sup>37</sup> For example: Salters, J., *Attitudes Towards Society in Protestant and Roman Catholic Schoolchildren in Belfast*, M. Ed. Thesis, Queen’s University of Belfast, 1970; Russell, J., Sources of Conflict, *The Northern Teacher*, 11, 3. 1974; Darby, J., Murray, D., Batts, D., Dunn, S., Farren, S. and Harris, J., *Education and Community in Northern Ireland: Schools Apart?* New University of Ulster. 1977; Loughran, G., The Rational of Catholic Education, in *Education and Policy in Northern Ireland*, Eds.. R. D. Osborne, R. J. Cormack and R. L. Miller, Policy Research Institute, The Queen’s University of Belfast and The University of Ulster, 1987; McEwen, A., Segregation and Integration in Northern Ireland’s Education System, in *Schools Under Scrutiny: The Case of Northern Ireland*, Ed. L. Caul, MacMillan Education, London. 1990; Hughes, J., Prejudice and identity in a mixed environment, in *New Perspectives on the Northern Ireland Conflict*, Ed. A. Guelke, Avebury Press. Aldershot. 1994 and for reviews see Gallagher, E. and Worrall, S., *Christians in Ulster 1968-1980*, Chapter 10, Education, Oxford University Press. 1982 and Irwin, C. J., *Education and the Development of Social Integration in Divided Societies*, Northern Ireland Council For Integrated Education. Belfast. ISBN 1-874042-00-4, August 1991; Irwin, C. J., Integrated Education: From Theory to Practice in Divided Societies, *Prospects, UNESCO Quarterly Review of Education*. Vol. XXII, No.1. UNESCO Paris, January 1992; Irwin, C. J., The Myths of Segregation, in *New Perspectives on the Northern Ireland Conflict*, Ed. A. Guelke, Avebury Press. Aldershot. 1994.

<sup>38</sup> Irwin, C. J., *Education and the Development of Social Integration in Divided Societies*, Northern Ireland Council For Integrated Education. Belfast. ISBN 1-874042-00-4, August 1991. Irwin, C. J., How Integrated Education Works, in *Education Together for a Change: Integrated Education and Community Relations in Northern Ireland*, Ed. C. Moffat. Fortnight Educational Trust. Belfast 1993.

<sup>39</sup> Hughes, J., Prejudice and identity in a mixed environment, in *New Perspectives on the Northern Ireland Conflict*, Ed. A. Guelke, Avebury Press. Aldershot. 1994.

<sup>40</sup> Irwin, C. J., *Education and the Development of Social Integration in Divided Societies*, Northern Ireland Council For Integrated Education. Belfast. ISBN 1-874042-00-4, August 1991. Irwin, C. J., How Integrated Education Works, in *Education Together for a Change: Integrated Education and Community Relations in Northern Ireland*, Ed. C. Moffat. Fortnight Educational Trust. Belfast 1993.

Montgomery<sup>41</sup> compares the inter-community attitudes of 5th year children at both integrated and segregated schools in Belfast. As might be expected the values of the integrated students were consistently more pro-social than their counterparts in the other schools. However, when the sample was broken down, Montgomery also found evidence to suggest that integrated education was more important than a mixed marriage background in the development of these positive social attitudes. Perhaps the importance of peer groups has been greatly underestimated by some researchers.

In this context it may be important not only to consider the benefits of integrated education but also the social harm done by segregated schools. A study completed by Douglas<sup>42</sup> of children who transferred from an integrated primary school to a segregated secondary school suggests that their positive social attitudes may not have been well enough developed to be entirely secure.

“The change in attitudes at the intergroup level found in pupils at an integrated school appear to be lost within 3 months of attending a segregated Secondary school. One reason that could be given to account for this change of attitudes in such a short period of time is that it is due to social conformity. The children who go to the segregated Secondary school from an integrated Primary school may have to conform to a different set of social norms.”

Fortunately, as children mature through puberty and gain the self confidence of young adults they become more independent minded and less susceptible to transient social pressures<sup>43</sup>. Montgomery<sup>44</sup> is drawn to the conclusion “that integrated schools are the best forum in which to address..... [the curricular demands of Education for Mutual Understanding and Cultural Heritage]; these schools do make a difference to the pupils who attend them and they must be taken more seriously as an alternative to the segregated/sectarian schools.” The following essays written by children from Lagan College may help to further illustrate this dichotomy of segregation and integration and of social harm and social good.

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<sup>41</sup> Montgomery, M. G., *Integration by Chance or Design?* Master of Education Dissertation. Queen’s University of Belfast. October. 1993.

<sup>42</sup> Douglas, S. E., *Differences in Group Identity and Intergroup Attitudes in Children Attending Integrated or Segregated Schools in Northern Ireland*, thesis submitted to the Department of Psychology, Queen’s University of Belfast. 1983.

<sup>43</sup> Irwin, C. J., *Education and the Development of Social Integration in Divided Societies*, Northern Ireland Council For Integrated Education. Belfast. ISBN 1-874042-00-4, August 1991. Irwin, C. J., *Integrated Education: From Theory to Practice in Divided Societies, Prospects, UNESCO Quarterly Review of Education*. Vol. XXII, No.1. UNESCO Paris, January 1992.

<sup>44</sup> Montgomery, M. G., *Integration by Chance or Design?* Master of Education Dissertation. Queen’s University of Belfast. October. 1993.

*Protestant boy aged 13.*

'I have lived all my life in a small coastal village in County Down. It is a very quiet place, the police can walk the streets unarmed and in ordinary clothing and the army never patrol. There are no shootings and the last bomb exploded in Main Street by accident in 1972 before I was born. I am Methodist but five houses away Father O'Brian, the local Catholic Priest, lives. I grew up with boys who went to his church so I could not understand why they had to go to the Catholic school and the rest of us to the local school. It is hard for a child to understand why people should hate each other when they live in a quiet area. I was nine before I learned of the madness that gripped the Province. It was then that I learned words like "Dirty Fenian", "Filthy Taig" and to yell "Mick". At Lagan none of this matters. Who you are is more important than what you are. I have regained the innocence of the child who played with anyone.

My friend David grew up in Belfast on the Ormeau Road where daily army patrols are common place. He has only to lift two pencils when he is beating out the rhythm of "The Sash." Yet he sits beside Mathew, a Catholic from a part of Belfast which David wouldn't be seen dead in. One day they will both be men. Will they meet on a building site? Will they use the same Cafe or Pub? Maybe. One thing I do know even now is that they won't teach their children to hate.

We have nothing to fear but the unknown. Lagan College has seen to it that some of us will know each other very well. We may only be a few when we grow up.... But we will be a start.'

*Catholic girl aged 15.*

'I really couldn't say that there is both Catholics and Protestants in the area where I live simply because there is a road that divides us, which is sad really. I never really thought about this before, I suppose I was just like the rest, I thought about them as every thing else except real people. Lagan College changed all my feelings towards this and having friends which are the opposite religion to mine made me feel against politicians who are confusing the people and probably the cause of the troubles today.

When I see my friends fighting with Protestants I become mad and give off to them all. Lagan College has made me feel a kind of duty to pull us together and has shown me that we are all the same inside.

I know that if I had of went to an all Catholic school I would be against Protestants by following the example of people around me. But after this experience I would be sure to send any children of my own to integrated schools.'

## Education and Freedom of Choice

The *Universal Declaration of Human Rights*, Article 26, Clause 3.<sup>45</sup>

“Parents have a prior right to choose the kind of education that shall be given to their children.”

The intent of this clause has been repeated in all the conventions mentioned here. However the interpretation and application of the clause has now been modified by the *UN Convention on the Rights of the Child* by giving the child some say in this matter:<sup>46</sup>

“Article 11. 1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”

In the context of Clause 2 of the *Universal Declaration of Human Rights* I will limit my discussion of educational choice to the rights of parents and children to attend schools that actively seek to “promote understanding, tolerance and friendship” through integration. However, I would not wish this limitation to imply that other forms of education should be excluded from a discussion of a freedom of choice in this matter although it should be noted that most conventions specifically require that the liberty of individuals and bodies to establish and direct educational institutions are subject always to the observance of the requirement to promote understanding, tolerance and friendship. It should also be noted that the UNESCO Convention also expressly requires that attendance at religious schools should be voluntary:

“Article 2. When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of Article 1 of the Convention: (b). The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil’s parents or legal guardians, if participation in such systems or attendance at such

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<sup>45</sup> It should be noted that this right to a freedom of choice in education is also to be found in both the International Covenant on Economic, Social and Cultural Rights (Article 13.3) and the International Covenant on Civil and Political Rights (Article 18.4). It should also be noted that under Article 4.2 of the International Covenant on Civil and Political Rights Article 18 is non-derogable. For a discussion see Geraldine van Bueren, “Education: Whose Right is it Anyway?” in *Human Rights: A European Perspective* Ed. Liz Heffernan, The Round Hall Press. Dublin. 1994.

<sup>46</sup> For a detailed analysis of this issue see Geraldine van Bueren, “Education: Whose Right is it Anyway?” in *Human Rights: A European Perspective* Ed. Liz Heffernan, The Round Hall Press. Dublin, 1994.



institutions is optional....”<sup>47</sup>

## Choice in Israel

Shortly after the 1967 war, Meron Benvenisti, the then Deputy Mayor of Jerusalem, briefly promoted the idea of Arab and Jewish integrated education in an effort to unite the separate communities of that divided city<sup>48</sup>. In mid-1968 the Jerusalem Municipality conducted a survey of Jewish attitudes in the city which revealed that 55% would not allow their children to attend a mixed Jewish-Arab school<sup>49</sup>. As a matter of simple arithmetic it follows that as many as 45% would not have strong objections, although, in practice, experience in Northern Ireland suggests that the percentage who would freely send their children to an integrated school would be considerably less.

After the *First International Congress on Prejudice, Discrimination and Conflict* was held in Jerusalem in July 1991 the delegation from Northern Ireland went on a tour of Israel and the Occupied Territories organised by Peter Lemish of the International Centre for Peace in the Middle East, Tel Aviv. In the northern city of Accro we met with Palestinian municipal leaders and discussed a wide range of issues including efforts to start an integrated school in their community after the 67 War. As in Jerusalem a significant percentage of parents desired access to such a school, but they were a minority, and thus, through a simple ballot, their wishes were denied. To my knowledge the kindergarten and primary school at Neve Shalom: Wahat Al-Salam continues to be the only integrated school in Israel. At first they only made their facilities available to members of their own community. However, in 1991, they were erecting new school buildings with a view to taking children from outside their village in response to requests for integrated education from non-residents. Unfortunately, as an ecumenical community they were not given equal access to monies that are normally available to new Jewish settlements in Israel and they had to finance much of their construction costs through contributions from international donations. In any society where those who wish to make peace are a minority their efforts at peace building are frequently frustrated by the “Tyranny of the Majority”. Additionally, in Israel and the Occupied Territories where schools and universities are forcibly closed, freedom of choice in education, integrated schools and peace building understandably become matters of secondary concern. As a peace settlement is slowly implemented in the Middle East the human rights of peace makers should become a policy issue of primary

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<sup>47</sup> Clarke develops this issue to conclude that “in most cases where there is a diversity of religious, linguistic or cultural traditions in the same geographical area, the only practical way in which the state may respect the rights of parents in education, is by providing some kind of multi-denominational or non-denominational schools in which the variety of religious, denominational and non-religious or philosophical traditions of the parents are respected in the educational policies of the school.” (Clarke, M., “Education rights”, in *Whose School?* A supplement published with *Fortnight*, Belfast, No. 332, Sept., 1994).

<sup>48</sup> Benvenisti, M., Conversation with Meron Benvenisti. Jerusalem. March 29th, 1989.

<sup>49</sup> Benvenisti, M., *Jerusalem: Study of a Polarized City*, Research Paper No. 3, The West Bank Data Base Project, Jerusalem, P. O. Box 14319, Israel. 1983.

importance if the peace is to be progressively strengthened in the long term.<sup>50</sup>

### Choice in Northern Ireland<sup>51</sup>

Although limited access was provided to a small number of historically integrated 'Mill' schools<sup>52</sup> general access to integrated education in Northern Ireland has never been a reality as the alternative to the optional Catholic schools were the government "Controlled Schools" which are *de facto* Protestant. In 1968 a National Opinion Polls survey conducted for the Belfast Telegraph recorded as many as 65% of young people between seventeen and twenty-four years of age as being in favour of integration at the primary school level and 70% supported integration at the secondary level<sup>53</sup>. A similar majority of parents also expressed their desire for integration in another survey conducted a year earlier<sup>54</sup>.

From its humble beginnings in the 1970s the integrated schools movement has now established itself as a legitimate third sector through the efforts of ACT, the Belfast Charitable Trust for Integrated Education (BELTIE), the Northern Ireland Council for Integrated Education (NICIE) and several other organisations. This growth in the integrated sector has been assisted by the Education Reform (NI) Order of 1989 which allows integrated schools to receive full public

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<sup>50</sup> In response to this point the Israeli delegation to the Forty-fourth Session of the International Conference on Education (Geneva, 3-8 October 1994) publicly undertook to increase contacts between Jewish and Arab school children in Israel.

<sup>51</sup> Although the right of educational choice is also to be found in the second sentence of Article 2 of the First Protocol to the European Convention on Human Rights the United Kingdom of Great Britain and Northern Ireland make a reservation limiting their obligations in this matter to measures "compatible with the provision of efficient instruction and the avoidance of unreasonable public expenditure" (for a discussion see Hadden, T., "Parental choice", in *Whose School? A supplement* published with *Fortnight*, Belfast, No. 332, Sept., 1994). Arguably, however, this element of progression would only apply to *de jour* religious schools in Northern Ireland while *de facto* religious schools would have no special standing and integrated schools as defined by Clark (see footnote No. 47 Clarke, M., "Education rights", in *Whose School? A supplement* published with *Fortnight*, Belfast, No. 332, Sept., 1994) would not be subject to a progressive reservation when considered in the context of Article 18.4 of the International Covenant on Civil and Political Rights for which a derogation is not permitted (Article 4.2). Similarly it may be argued that the state is under no obligation to affirmatively fund *de jour* religious schools for past discrimination while integrated schools (as defined by Clark, footnote No. 47) can and should receive affirmative funding in compensation for past discrimination. If these arguments can be sustained then it may follow that an overall structural reform of the education system in Northern Ireland is required if human rights standards are to be met.

<sup>52</sup> For a study of these schools see Douglas, S. E., *Differences in Group Identity and Intergroup Attitudes in Children Attending Integrated or Segregated Schools in Northern Ireland*, thesis submitted to the Department of Psychology, Queen's University of Belfast. 1983.

<sup>53</sup> Belfast Telegraph, Clear Call for End to Religious Separation in Schools, in the *Belfast Telegraph*, October 22nd. 1968.

<sup>54</sup> Belfast Telegraph, Poll Favours Integration of Education, in the *Belfast Telegraph*, October 22nd. 1968.

funding (subject to government approval) and existing segregated schools to become integrated if more than 50 percent of the parents vote for change. Unfortunately the costs of establishing new schools, particularly secondary schools, is prohibitive and the political difficulties of changing the status of a segregated school to integrated is subject to numerous social pressures that can range from simple obstruction to blatant intimidation<sup>55</sup>. As a consequence of these failures this legislation continues to deny the rights of substantial minorities who may wish an integrated education for their child and acts as a serious impediment to the natural growth of the integrated sector.<sup>56</sup>

Many of those who apply for admission to an integrated school are turned away for lack of places. For example 252 parents chose Lagan College as the first preference on their 1991 "Transfer Procedure" forms although only 150 places were available. Or they do not apply because an integrated school does not exist in their area. The integrated sector can only accommodate about 2 percent of the student population of Northern Ireland while recent research suggests that approximately 30 percent of parents would like to send their children to such schools<sup>57</sup>. This research also noted that a much higher proportion of parents, approximately 80 percent, believe it is important for children to be educated together and students representing the schools of Northern Ireland, at a 'Schools Assembly' meeting held in 1993, voted 68 to 16 in favour of complete integration of the education system with 7 abstentions and 81 to 9 in favour of non-compulsory integration with only 2 abstentions<sup>58</sup>. This desire for integrated education amongst the young is also reflected in comments made by some

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<sup>55</sup> British Broadcasting Corporation, "Schools Out," *Heart of the Matter*, BBC 1. London. July 7th., 1991. and White, B., Testing time for Brownlow College, *Belfast Telegraph*, January 28th., 1992.

<sup>56</sup> Although the Opsahl Commission welcomed the development of integrated education in Northern Ireland they felt that the deployment of a province wide system of such schools was impractical because of the residential segregation of the population into Catholic and Protestant areas (*A Citizens' Enquiry*, Ed. Andy Pollak, The Lilliput Press. Dublin. 1993.). However, it should be noted that bussing has always been extensively used to segregate children in Northern Ireland and therefore it follows that there is no reason why bussing can not be used to integrate school children if parents so wish. Sixty four thousand bus passes were given out in 1993 representing nearly half the post primary school student population. Four thousand City Bus (Belfast) and fifty eight thousand Ulster Bus (Greater Belfast and the rest of Northern Ireland).

<sup>57</sup> Dunn, S., and Cairns, E., A Survey of Parental Opinion on Education in Northern Ireland. In the *Seventeenth Report of the Standing Advisory Commission on Human Rights*. London. HMSO. 1992.

<sup>58</sup> Opsahl Commission, evidence given to the *Opsahl Commission* by the Initiative 92: 'Schools Assembly.' Queen's University, Belfast, 25th. of February, 1993.

of the children who chose to attend Lagan College.<sup>59</sup>

*Protestant boy aged 13.*

‘Now people want to be friendly with people of other religion and not always fighting over stupid things like religion. Sometimes it is the child who sees and understands and he wants to go to Lagan College. These children tell their friends how good and how much fun it is at Lagan College. So friends want to go to Lagan College.’

*Catholic girl aged 13.*

‘I came to Lagan College because I wanted to see what it would be like working with Protestants. I thought that there would be a lot of fighting. But my friend told me there was not a lot of fighting and that both Protestants and Catholics get on well.’

*Protestant girl aged 11.*

‘I am eleven years old. My Mum and Dad wanted me to go to Ulster High but I did not want to go so I told them that I wanted to go to Lagan College.’

The system of segregated education in Northern Ireland contributes to the perpetuation of prejudice and social conflict in Ulster while integrated education increases cross community understanding and friendship. Unfortunately, in the face of local opposition the Northern Ireland Office and Department of Education have failed to provide every child in the Province with a real option of attending an integrated school. This failure represents a breach of the human rights and fundamental freedoms of the children of Northern Ireland. Some of the parents who have not been able to secure a place for their child at Lagan College have expressed their disappointment in the following terms:<sup>60</sup>

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<sup>59</sup> The Government of the United Kingdom of Great Britain and Northern Ireland note that “At present in Northern Ireland there is not a developed jurisprudence in relation to ensuring that the views of the child are given weight in all matters affecting him” (Clause 3.68 in The UK’s First Report to the UN Committee on the Rights of the Child, HMSO, London. 1994.). However even if such jurisprudence were developed in order to meet human rights obligations under Article 12 of the Rights of the Child Convention the British Government have noted that “It is not expected that parents will reach their decision without taking their child’s wishes into account but, as the duty to ensure that child is educated falls to the parents (Article 18.1), the right to express a preference for the school at which that education will take place should also fall to the parent.” This approach to Article 12 clearly will not provide a remedy for children forced to go to segregated schools against their wishes in Northern Ireland.

<sup>60</sup> At present parents who are denied a place for their child at an integrated school like Lagan College can appeal such a decision to an Appeal Tribunal set up by each area Education and Library Board. If this appeal fails they may seek a judicial review in the High Court (for a review see Moffat, C., “Education Rights” in *Civil Liberties in Northern Ireland*, Committee on the Administration of Justice. Belfast. 1993.). However, as most parents are prevented from sending their children to integrated schools for lack of places this remedy is ineffective and as the number of available places is controlled by the government the failure to provide an effective remedy in this matter is in breach of the human rights standards reviewed earlier.

“Being denied the right to attend an integrated school my daughter has been denied the right to mix and find out more about her Catholic peers in a safe environment that hopefully would have helped her form lasting relationships that is the only way forward for this country of ours.”

“My child was not successful in receiving a place at her choice of school. (ie. Lagan College). There is no integrated school in the immediate area, and we were prepared to have her travel to Belfast to be educated at an integrated school.”

“I think it is a disgrace that my children have been denied the opportunity to be educated in an integrated school due to the limited number of places available. If more spaces were available it would allow my children to work and learn with children of different religion and backgrounds, thus understanding the problems faced in Northern Ireland and playing their part in easing them.”

“We are a mixed (Catholic/Protestant) marriage, and an integrated school is the only place where our children, whom we wish to have an Irish and British cultural background can feel completely comfortable. This is also the only system which will ease Ulster’s sectarian troubles.”

“Due to the situation in N. Ireland and the area in which my family are living, integrated education would have given my son a chance to mix with others from different social and educational backgrounds. I feel bitter that this right has been taken from him. I have brought my children up to be peace loving and to realise we are all equal, yet my choice for his future education was taken from me.”

The Northern Ireland Standing Advisory Commission on Human Rights (SACHR) has long felt that the provision of integrated education was a proper subject for their attention<sup>61</sup>. In the context of the *First Protocol of the European Convention on Human Rights and Fundamental Freedoms* SACHR recognised the rights of parental choice in education<sup>62</sup> and initiated a programme of research to investigate the desire of parents to send their children to integrated schools<sup>63</sup>. SACHR also anticipated the failure of government policies to meet the needs of these parents in their 14th. Report and in their 15th. Report SACHR observed that “The proposed policies lacked the element of official planning which was necessary to ensure that the provision of places in the integrated sector in Northern Ireland was in accordance with parents’ wishes.” Additionally, in their Second Report on *Religious and Political Discrimination and Equality of Opportunity in Northern Ireland* SACHR “concluded that the possibility of

<sup>61</sup> See the 13th., 14th., 15th., 16th., and 17th., Reports of the Standing Advisory Commission on Human Rights, (SACHR), London: HMSO, 1988, 89, 90, 91 and 92 respectively for commissioned papers, discussion and recommendations.

<sup>62</sup> SACHR, *Fourteenth Report of the Standing Advisory Commission on Human Rights*. HMSO. London. 1989.

<sup>63</sup> Dunn, S., and Cairns, E., *A Survey of Parental Opinion on Education in Northern Ireland*. In the *Seventeenth Report of the Standing Advisory Commission on Human Rights*. London. HMSO. 1992.

making more explicit provision in the education legislation for parents to have their children educated in denominationally controlled schools and in integrated schools and for equal funding for such schools should be regarded as a serious option”<sup>64</sup>. It is also interesting to note that in the same report, in the context of seeking to improve community relations, SACHR came to the conclusion that “There may therefore be some advantage in granting formal constitutional or statutory guarantees to both Catholic and Protestant schools that they will be treated equally and without discrimination, while also guaranteeing in some way the right of parents to choose integrated schooling if they so wish.”<sup>65</sup>. Finally in the introduction to her book “Education Together for a Change” Moffat<sup>66</sup> points out that:

“A further difficulty is that while the 1989 Order imposes a duty on the Department of Education to encourage and facilitate integrated education, it imposes no corresponding duty on area boards. Nor does it impose any specific requirement that the Department or area boards should ensure adequate provision of integrated schools, both primary and secondary, throughout Northern Ireland for those who want it, or even that they should take steps to ascertain the wishes of parents.”

Clearly a very great deal still needs to be done to make integrated education as accessible as segregated education in Northern Ireland.<sup>67</sup>

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<sup>64</sup> SACHR, *Religious and Political Discrimination and Equality of Opportunity in Northern Ireland*, Second Report, HMSO. London. 1990.

<sup>65</sup> Ibid.

<sup>66</sup> Moffat, C., Introduction in *Education Together for a Change: Integrated Education and Community Relations in Northern Ireland*, Ed. C. Moffat. Fortnight Educational Trust. Belfast 1993.

<sup>67</sup> With a certain sense of irony it is interesting to note that in 1977 the Association of Governing Bodies of Voluntary Grammar Schools opposed reorganisation of secondary education in Northern Ireland to include comprehensive and integrated schools because they felt children should be educated “in conformity with the wishes of their parents..... in harmony with statements in the Universal Declaration of Human Rights, the European Convention on Human Rights and Vatican II on Education that the rights of parents in the education of their children are inalienable and non-negotiable” (AGBVGS, *The Future of Education in Northern Ireland*. Belfast. 1977.).

## Part II. Education, Peace Building and the Effective Application of Human Rights

In divided societies (and most societies are to various degrees) educational resources are rarely delivered equitably amongst the societies constituent groups (e.g. South Africa)<sup>68</sup> and standards are rarely monitored for consistency (e.g. Native Canadians)<sup>69</sup>. As a consequence equitability in employment, social success and political influence all become increasingly differentiated along lines of group division. Beyond simple equitability the problems of integration need to be addressed (e.g. Northern Ireland)<sup>70</sup> and at a more basic level the very existence, recognition and rights of minorities should not be denied (e.g. Israel and the Occupied Territories)<sup>71</sup>. But all these educational failings and needs are subject to the pressures of numerous political forces and interests as all the examples I have mentioned above illustrate. However, for the most part, all these educational failings are covered by numerous clauses in the various international conventions, recommendations and declarations referred to in Part I of this paper.

I would not wish to give the impression that these conventions and recommendations can not be improved. A clause to both promote and protect the rights of those who wish to use education as a means to peace building and a clause to specifically protect the right to an integrated education would be welcome. Such measures would certainly help in places like Israel and Northern Ireland where peace makers are frequently singled out for victimisation by those who seek to maintain the status quo of their divided communities. Peace making is a political act that frequently requires a degree of bravery in deeply divided societies and peace makers must be given every possible advantage that human rights can offer if peace building is to be effective. However, I do wish to stress the point that such additions to conventions, in the absence of other measures, can not be expected to make a significant contribution to peace building.

The weaknesses seem to lie more in the methods of reporting, monitoring and procedures for handling complaints. For example, providing every child in Northern Ireland with the option of attending an integrated school is an issue that should, in principle, have been dealt with when the Government of the United Kingdom of Great Britain and Northern Ireland ratified the *First Protocol of the European Convention on Human Rights* (1954), *UNESCO Convention Against Discrimination in Education* (1960), *International Covenant on Economic, Social and Cultural Rights* (1966), *International Covenant on Civil and Political Rights* (1966) and the *UN*

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<sup>68</sup> Oakley-Smith, T., Education and Transformation: The Challenge for South Africa. *Conflict and Change: First International Conference of the Ethnic Studies Network*. Portrush. Northern Ireland. June 8-10. 1992.

<sup>69</sup> Irwin, C. J., Lords of the Arctic: Wards of the State. *Northern Perspectives*. Ottawa. Vol. 17. No. 1. January 1989.

<sup>70</sup> Moffat, C., Introduction in *Education Together for a Change: Integrated Education and Community Relations in Northern Ireland*, Ed. C. Moffat. Fortnight Educational Trust. Belfast 1993.

<sup>71</sup> Lemish, P., Mula, W., Gur Ziv, H. and Zaretzki, E., Power Relations in Divided Societies: The Case of Education for Co-Existence. *First International Congress on Prejudice, Discrimination and Conflict*. Jerusalem. July 1-4. 1991.

*Convention on the Rights of the Child* (1989).<sup>72</sup> But this did not happen. Hopefully an examination of the various reporting methods, review processes and complaints procedures, as they relate to the case of Northern Ireland, will help to shed light on this failure to promote peace building through the medium of education and point the way forward to effective reform of the international institutions that must take responsibility for the monitoring of these human rights abuses.

### **Domestic Human Rights Procedures in Northern Ireland**

The Northern Ireland Standing Advisory Commission on Human Rights (SACHR) was established under the provisions of the Northern Ireland Constitution Act of 1973 to advise the Secretary of State on issues relating to religious and political discrimination. The Secretary of State appoints the majority of the Commissioners, selects the Chairman and provides the Commission with accommodation, staff and officers.<sup>73</sup> As such it is not a wholly independent body of experts but is subject to a considerable degree of government interference in terms of the human rights issues it chooses to investigate (or not) and recommendations it may decide to make (or not). In spite of these difficulties SACHR has undertaken many valuable programs of research which have included studies of the provision for integrated education.

In January 1988, when Dr. Brian Mawhinney, an enthusiastic supporter of integrated schools, was the Northern Ireland Minister for Education, SACHR informed the Northern Ireland Office that they intended to investigate a number of human rights issues including:

(i) Whether discrimination exists in funding or otherwise in the treatment of controlled (mainly Protestant), maintained (mainly Catholic) and integrated (before or after grant maintained status) schools.

(ii) Whether the current arrangements give proper emphasis to providing education in accordance with the wishes of parents under the terms of the First Protocol to the European Convention on Human Rights and Fundamental Freedoms.

(iii) Whether the current practice in the provision of education in

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<sup>72</sup> A failure to make adequate provision for integrated education is arguably in violation of the *First Protocol of the European Convention on Human Rights* (Article 2), the *UNESCO Convention Against Discrimination in Education* (Article 1.1 and 1.2, Article 2 (b), Article 3 (a) and (b), Article 5.1 (a) and (b) and Article 5.2.), the *International Covenant on Civil and Political Rights* (Article 18.4 with Article 2.1, 2.2 and Article 4.2.), the *International Covenant on Economic, Social and Cultural Rights* (Article 13.1, Article 13.3 and 13.4 with Article 2.1 and 2.2.), and the *UN Convention on the Rights of the Child* (Article 1.1 and 1.2, Article 2 (b), Article 3 (a) and (b), Article 5.1 (a) and (b) and Article 5.2.).

<sup>73</sup> Northern Ireland Constitution Act 1973. Part III, Section 20.



the controlled or maintained sectors has any impact on inequality of opportunity in employment between the two sections of the community.

(iv) Whether the current segregation in the provision of education has any impact on relations between the two sections of the community.

Standing Advisory Commission on Human Rights (SACHR) in their *Fourteenth Report* (London: HMSO, 1989)

At least three of these four objectives are directly related to questions on integrated education but, unfortunately, the wide mandate of this programme of research to study “the broader impact of segregation in the provision of education and of the possible effects of different strategies in dealing with it” was never fully completed. SACHR’s Fifteenth and Sixteenth Reports, as well as their Second Report on Discrimination, published between 1990 and 1991, did contain a number of valuable suggestions aimed at improving provision for and ensuring a right to integrated education. However, during the same period, the problems of inequality between the Catholic and Protestant education sectors came to dominate the research agenda of the Commission. This was done at a time when the Catholic Church felt threatened by the development of integrated schools<sup>74</sup> under the new provisions of the *Education Reform (NI) Order (1989)* and at a time when the Northern Ireland Office believed they required the public support of the Catholic Church in their campaign against the terrorist activities of the Provisional Irish Republican Army (PIRA).

After integrated education lost its strongest political supporter, with the transfer of Dr. Brian Mawhinney from Education in Northern Ireland to Health in Westminster, SACHR reviewed their “Education Project” in their *Seventeenth Report* in 1992. On this occasion the Commission chose to ignore studies completed by others on integrated and segregated education<sup>75</sup> and, by focusing on their own enquiries which now paid far less attention to these issues, they failed to recommend policies to the Secretary of State for Northern Ireland that would have adequately addressed the problems of parental choice raised as a human rights concern by the Commissioners in their *Fourteenth Report* three years earlier.

This outcome should come as no surprise given the Churches’ history of successful political opposition to inter-denominational and integrated schools, in Ireland and Northern Ireland,

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<sup>74</sup> Application by the Most Reverend Cahal Daly and Others for Judicial Review in the Matter of the Education Reform (Northern Ireland) Order 1989, In the High Court of Justice in Northern Ireland, Queen’s Bench Division. Ref. MACE0239 (Unreported 5.10.90).

<sup>75</sup> For examples see Douglas, S. E., 1983, *Differences in Group Identity and Intergroup Attitudes in Children Attending Integrated or Segregated Schools in Northern Ireland*, thesis submitted to Department of Psychology, Queen’s University of Belfast. Irwin, C. J., *Education and the Development of Social Integration in Divided Societies*, Northern Ireland Council For Integrated Education, Belfast, ISBN 1-874042-00-4, 1991.

during both this century and the previous century.<sup>76</sup> However, in their *Eighteenth Report*, the Commission appears to have had a change of heart in relation to the omissions in their *Seventeenth Report*.<sup>77</sup> The Commission note that when they met the Secretary of State on December 8th. 1992 they,

“expressed some concern that there was a perceived lowering of government support for the provisions of integrated education and sought reassurances about plans to promote it..... The Commission supports the development of integrated schools and takes the view that they have a significant part to play in helping to overcome community divisions. The Commission therefore reiterates its earlier recommendation that steps should be taken to address the apparent lack of knowledge in relation to integrated education and draws attention to the disparity between the desire to send pupils to integrated schools and the actual available provision.”

Standing Advisory Commission on Human Rights (SACHR) in their *Eighteenth Report* (London: HMSO, 1993)

These second thoughts (or third depending on how far back the question is persuaded) is not particularly noteworthy except that in the same year SACHR failed to bring these concerns to the attention of Committee D of the British-Irish Inter-Parliamentary Body in a report made to them even though Committee D wished to give particular consideration to “The funding and operation of integrated schools”. Additionally, the Commission suggested that the Government should “inform the international community of the steps it has taken..... To promote integrated education” as part of their Second Periodic Report required under the terms of Articles 13-15 of the *International Covenant on Economic, Social and Cultural Rights* (ESCR). These various contradictory statements that reflect “concern” to the Secretary of State, a failure to respond to the British-Irish Inter-Parliamentary Body and implied praise for the Northern Ireland system of education to the international community, all noted and compiled in the same *Eighteenth Report*,<sup>78</sup> can only be reconciled by concluding that SACHR is torn between various conflicts of interest that impart, to this reader, a certain sense of institutional schizophrenia. And thus, although the Standing Advisory Commission on Human Rights frequently addresses issues that are of considerable social importance to the people of Northern Ireland, when “push comes to shove”, they can not, as a domestic human rights body, be relied upon to be consistent and true to international human rights standards.

<sup>76</sup> For reviews see D. Akenson, 1970, *The Irish Education Experiment: The National System of Education in the Nineteenth Century*, Routledge and Kegan Paul, and D. Akenson, 1973, *Education and Enmity: the Control of Schooling in Northern Ireland, 1920-1950*, Newton Abbott, David and Charles.

<sup>77</sup> SACHR, *Seventeenth Report of the Standing Advisory Commission on Human Rights*. HMSO. London. 1992.

<sup>78</sup> SACHR, *Eighteenth Report of the Standing Advisory Commission on Human Rights*. HMSO. London. 1993.

## Regional Human Rights Procedures in Europe

The Commonwealth Human Rights Workshop held in Ottawa in 1992 recognised the problems of conflicting interests faced by domestic human rights commissions like SACHR by agreeing that there was a “need to expressly guarantee the independence of national institutions and to provide them with adequate resources and freedom to publish and disseminate the results of their enquiries.”<sup>79</sup> At the same Workshop the Chairman of SACHR also “put forward the view that basic and fundamental human rights in the United Kingdom would be best administered and enforced by incorporation of the *European Convention on Human Rights* (ECHR) into United Kingdom domestic law.”<sup>80</sup>

Unfortunately, in the area of education, the ECHR, under the narrow provisions of Article 2 of Protocol 1, is arguably one of the weakest of all the major international human rights instruments. This is particularly true for the United Kingdom who have made a reservation limiting parental choice to measures “compatible with the provision of efficient instruction and the avoidance of unreasonable expenditure” in line with their own domestic law.<sup>81</sup> By way of contrast Article 13 of the *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights*, 1988, brings that regions human rights instruments up to the standards set by Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ESCR).

Few would doubt that the European Court provides one of the most effective human rights procedures that is available to persons who reside in states which recognise the authority of that court. However, until such time as the Council of Europe follow the lead of the American States by incorporating the educational provisions of the ESCR (or perhaps the appropriate Articles in the *Convention on the Rights of the Child*) into the ECHR the possibilities of using the European Court to promote peace building through the medium of education is severely limited and the opportunities to develop European jurisprudence on these questions is restricted to the point of being almost nonexistent.<sup>82</sup>

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<sup>79</sup> The Commonwealth Human Rights Workshop, Ottawa, September 30th. to October 2nd. 1992 as reported under “Representation at Conferences” in SACHR, *Eighteenth Report of the Standing Advisory Commission on Human Rights*. HMSO. London. 1993.

<sup>80</sup> Ibid.

<sup>81</sup> The Education Act 1944 section 76 (the current Northern Ireland equivalent of which is the Education and Libraries (Northern Ireland) Order 1986 article 44) reads as follows: “In the exercise and performance of all powers and duties conferred and imposed on them by this Act [the Secretary of State] and local education authorities shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents.”

<sup>82</sup> Although no jurisprudence has been developed on questions of education in relation to peace, tolerance and understanding some jurisprudence does exist on questions of parental choice. For a review of this jurisprudence see van Bueren, G., *Education: Whose Right is it Anyway?* in *Human Rights: A European Perspective*, Ed. Liz Heffernan, The Round Hall Press. Dublin. 1994.

However, the international instruments of the Conference on Security and Co-operation in Europe (CSCE) are in a continual process of development and cover all “human rights and fundamental freedoms, human contacts and other issues of a related humanitarian character” as part of their “Human Dimension”.<sup>83</sup> Specifically paragraph IV - 40.3 of the CSCE Copenhagen Document (1990) requires States to:

“take effective measures, in conformity with their constitutional systems, at the national, regional and local levels to promote understanding and tolerance, particularly in the fields of education, culture and information.”

#### IV - 40.3 of the CSCE Copenhagen Document (1990)

Arguably the promotion of integrated schools in places like Northern Ireland would fall within the definition of such “effective measures” in the field of education. Unfortunately it seems most unlikely that the current CSCE monitoring mechanisms could be brought into play in respect to such an omission as their priorities are shaped by a combination of political and public will that is in turn driven by the lobbying of NGOs and CSCE member states. In this context, for example, the CSCE mechanism could be brought into play to deal with “clear, gross and uncorrected violations” of human dimension commitments in former Yugoslavia.<sup>84</sup> Such a threshold for consideration would undoubtedly be passed by, for example, the systematic closure of ethnic Albanian schools in Kosova and thereby a parallel European procedure for investigations similar to those undertaken by UNESCO in Palestine<sup>85</sup> is established. These type of human rights violations clearly fall within the mandate of the CSCE Office for Democratic Institutions and Human Rights in Warsaw (ODIHR) and the Conflict Prevention Centre in Vienna (CPC). With respect to complaints the Human Dimension Mechanism (HDM) could be invoked by member states or, with respect to groups, the High Commissioner on National Minorities (HCM) could become involved.<sup>86</sup>

Unfortunately, in addition to failing to meet such a ‘threshold of concern’ two further impediments would prevent the CSCE High Commissioner on National Minorities becoming involved with questions relating to access to integrated schools in Northern Ireland. Firstly groups made up of two or more other groups who wish to share aspects of their social lives are

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<sup>83</sup> CSCE, Vienna Concluding Document (1989) 28 I.L.M. 527..

<sup>84</sup> McGoldrick, D., The Development of the Conference on Security and Co-operation in Europe (CSCE) after the Helsinki 1992 Conference, *International and Comparative Law Quarterly*. Vol. 42. April. 1993.

<sup>85</sup> Discussed in Part 1 of this paper and reviewed by Johnson, P. and Taylor, M., The Israel Occupied Territories (Palestine). In *Academic Freedom 1990: A Human Rights Report*. World University Service. Ed. Laksiri Fernando et al. World University Service, Geneva. Zed Books Ltd., London and New York. 1990.

<sup>86</sup> For a review of these institutions, mechanisms and procedures see McGoldrick, D. (1993), The Development of the Conference on Security and Co-operation in Europe (CSCE) after the Helsinki 1992 Conference, *International and Comparative Law Quarterly*. Vol. 42. April.

not generally regarded as “minorities”, with minority rights, although, in principle, as a matter of group philosophy and belief, there may be no sound reason for maintaining such a distinction.<sup>87</sup> Secondly, with particular reference to Northern Ireland, the United Kingdom added a reservation to the *Helsinki Document 1992* that “In order to protect public safety or national security the United Kingdom might be obliged to decline or to regulate access at a particular time or to a particular place proposed by the High Commissioner or the mission.”<sup>88</sup>

Discrimination and intolerance in education may well be one of the first and best indicators that could be used for conflict prevention purposes. It therefore clearly follows that the CSCE mechanisms, as tools for conflict prevention, still require a great deal of refinement and development.

## **International Human Rights Procedures**

International human rights procedures that include a responsibility for education and peace building can be broadly divided up between the principle agencies of the UN and UNESCO under the topics of state reports, treaty complaints procedures and non-treaty complaints procedures and each of these can be reviewed for their effectiveness as a means for achieving their respective goals.

## **The UN System**

**UN Reporting Procedures.** Many of the ideas for monitoring the quality of education in state reports proposed by Halvorsen in 1990<sup>89</sup> have found their way into the *UN Centre for Human Rights Manual on Human Rights Reporting* (1990)<sup>90</sup>. In his chapter on the *International Covenant on Economic, Social and Cultural Rights* Philip Alston goes into two pages of detailed requests for information on issues relating to discrimination and the right to education. However no requests are made with respect to education for peace, tolerance and understanding although these issues are of central importance to the UN philosophy.

Given this lack of attention to such issues it is perhaps not surprising that documentation sent to the *Committee on Economic, Social and Cultural Rights* detailing the failure to provide parents

<sup>87</sup> Case reference to be obtained from FEC, Fair Employment Tribunal (Unreported 1995).

<sup>88</sup> For a discussion see the Eighteenth Report of the Standing Advisory Commission on Human Rights, Report for 1992-93, HMSO, 1993. It should also be noted that the United Kingdom made a similar reservation in the CSCE Document of the Moscow Meeting of the Conference on the Human Dimension (1991).

<sup>89</sup> Halvorsen, K., Notes on the Realization of the Human Right to Education, *Human Rights Quarterly*. 12. 1990.

<sup>90</sup> Alston, P., Human Rights Reporting Under Six Major International Human Rights Instruments: The International Covenant on Economic, Social and Cultural Rights, in *Manual on Human Rights Reporting*, UN. New York. 1991.

in Northern Ireland with adequate opportunities to choose integrated education for their children<sup>91</sup> were not raised with the Government of the United Kingdom during the examination of their periodic report in November 1994.<sup>92</sup> However, in fairness, none of the issues raised by the Committee for the Administration of Justice (CAJ), a Northern Irish NGO, found their way into the examination of the United Kingdom 1994 report either.<sup>93</sup> In 1987 Philip Alston, the Chairman of the *Committee on Economic, Social and Cultural Rights*, suggested that his committee should take a leading role in the clarification of norms<sup>94</sup> and in 1988 he suggested that this work should be interdisciplinary in character.<sup>95</sup> Consideration of a right to integrated schooling in the context of education for peace, tolerance and understanding certainly falls into these categories of consideration and it can only be assumed that pressure of work and lack of resources prevents the *Committee on Economic, Social and Cultural Rights* from developing these issues as they might wish.<sup>96</sup>

By way of contrast the *Committee on the Rights of the Child* did give careful consideration to the question of integrated education in Northern Ireland when they examined the report of the United Kingdom<sup>97</sup> two months later in January 1995.<sup>98</sup> Although the information sent to both committees was the same the author was able to meet with T. Hammarberg, the Chairman of the *Committee on the Rights of the Child*, and discuss the problems of peace building and education

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<sup>91</sup> Irwin, C. J., *Peace Making, Discrimination and the Rights of Children to Attend Integrated Schools in Northern Ireland*. A brief on Human Rights violations submitted to the Committee on Conventions and Recommendations of the United Nations Educational, Scientific and Cultural Organisation, Paris; the *Committee on Economic, Social and Cultural Rights*, and the *Committee on the Rights of the Child*, United Nations Centre for Human Rights, Geneva; August 31st. 1993.

<sup>92</sup> UN Economic and Social Council, Committee on Economic, Social and Cultural Rights, Eleventh Session, Summary Record of the 33rd. Meeting, Held at the Palais des Nations, Geneva, on Wednesday, 23rd. November, E/C.12/1994/SR.33, 1994.

<sup>93</sup> Ibid.

<sup>94</sup> Alston, P., Out of the Abyss: The Challenges Confronting the New UN Committee on Economic, Social and Cultural Rights, *Human Rights Quarterly*. 9. 1987.

<sup>95</sup> Alston, P., Making Space for New Human Rights: The Case of the Right to Development, *Human Rights Yearbook*, Vol. 1, 1988.

<sup>96</sup> It should also be noted that the UK report to the *Committee on Economic, Social and Cultural Rights* followed SACHR's recommendations (reviewed earlier in this paper) and included references to the provision of integrated schools in Northern Ireland (UN Economic and Social Council, *Second periodic reports submitted by States parties to the Covenant concerning rights covered by articles 13 to 15, in accordance with the third stage of the programme established by the Economic and Social Council in its resolution 1988 (LX)*. E/1990/7/Add.16 - 24 November 1993.). In contrast the UK report to the *Committee on the Rights of the Child* made no such reference (*The UK's First Report to the UN Committee on the Rights of the Child*, HMSO, February 1994).

<sup>97</sup> Ibid.

<sup>98</sup> Nations Unies, Convention relative aux droits de l'enfant, *Comite Des Droits De L'Enfant*, Huitième session, *Compte Rendu Analytique de la 206ème Seance*. CRC/C/SR. 206 - 3 février 1995.

in Northern Ireland with him at some length.<sup>99</sup> Hammarberg questioned the United Kingdom government on the lack of provision for integrated education in Northern Ireland and in their concluding observations the Committee suggested that the State party provide further support to integrated education schooling.<sup>100</sup> Hopefully the public discussion of these issues in relation to Northern Ireland will help to create opportunities for similar complaints to be brought against other states in the future, for example Israel.

Although the attention given to Northern Ireland by the *Committee on the Rights of the Child* is welcome these issues can not be raised with them again for another five years under their reporting procedure and the issue of integration is but one of many that receives a mention in the Committees concluding observations sent to the United Kingdom government. Additionally, it is interesting to note that although the Committee for the Administration of Justice generally support the development of integrated schools in Northern Ireland<sup>101</sup> they chose only to support Irish language education in their submission to the *Committee on the Rights of the Child*.<sup>102</sup> This bias is not in keeping with international human rights standards although it is consistent with the education policies of some of the political parties in Northern Ireland, for example Sien Fein.<sup>103</sup> This political influence may only be temporary but it does illustrate one of the weaknesses with human rights reporting procedures and their reliance on NGO lobbying. Perhaps individual complaint procedures can offer better opportunities for dealing with these kinds of human rights abuses.

**UN Treaty Procedures.** Several cases have been brought to the attention of the UN Human Rights Committee in respect to the content of religious and sex education and the extent of a states responsibilities to fund private schools under Article 18(4) of the ICCPR.<sup>104</sup> Arguably a case could be made in respect to preventing parents from choosing an integrated education for their children in Northern Ireland public schools, due to a lack of provision. Unfortunately such a case can not be brought against the United Kingdom as they have not ratified the ICCPR

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<sup>99</sup> Meeting with T. Hammarberg (Sweden) and Y. Kolosov (Russian Federation), members of the *UN Committee on the Rights of the Child*, at the UN Centre for Human Rights in Geneva during the 44th Session of the International Conference on Education, organised by UNESCO and the International Bureau of Education (IBE) from October 3rd. to 8th. 1994.

<sup>100</sup> UN Committee on the Rights of the Child, Eighth Session, Consideration of Reports Submitted by States Parties Under Article 44 of the Convention. *Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland*. CRC/C/15/Add.34. 27 January 1995.

<sup>101</sup> See, Committee on the Administration of Justice, *A bill of rights for northern ireland*, Committee on the Administration of Justice. Belfast. 1993 and Moffat, C., "Education Rights" in *Civil Liberties in Northern Ireland*, Committee on the Administration of Justice. Belfast. 1993.

<sup>102</sup> Committee on the Administration of Justice (Affiliated to the International Federation of Human Rights), *Submission to the United Nations Committee on the Rights of The Child*. Committee on the Administration of Justice. Belfast. 1st August 1994.

<sup>103</sup> Whyte, J. H., *Interpreting Northern Ireland*, Oxford University Press. 1990.

<sup>104</sup> For a review see van Bueren, G., Education: Whose Right is it Anyway? in *Human Rights: A European Perspective* Ed. Liz Heffernan, The Round Hall Press. Dublin. 1994.

Optional Protocol individual complaints procedure and neither the ICESCR or the *Rights of the Child Convention* have such procedures. The addition of such a procedure for the *Rights of the Child Convention*, if ratified by the United Kingdom, could provide a valuable opportunity for cases like parental choice in Northern Ireland to be heard and jurisprudence developed.

**UN Non-Treaty Procedures.** Unfortunately non-treaty procedures under the UN system also provide little opportunity to deal with educational human rights abuses. The Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities will only consider “gross violations of human rights and fundamental freedoms” under the terms of resolution 1235 (XLII) of the UN Economic and Social Council (ECOSOC).<sup>105</sup> The systematic closure of schools in Palestinian and Kosova probably would meet this criteria particularly when the complaint involved a so called “Pariah States”.<sup>106</sup> Less critically, the confidential “1503 Procedure”, which allows individuals to bring complaints before the Commission and Sub-Commission, is limited to “situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights”. In principle this definition could cover parents denied a right to choose integrated education for their children in Northern Ireland. In practice, however, such a case probably would not meet the Commission and Sub-Commission’s threshold for consideration whose informal calculus is based on a function of severity of abuse, frequency of abuse and abuse over time.<sup>107</sup> Some what similarly, persuading an NGO to raise such an issues by way of a direct intervention at a meeting of the Commission or Sub-Commission is unlikely to meet with success as NGO’s must prioritise their chosen causes and efforts for maximum effect.<sup>108</sup>

Thematic mechanisms are not subject to many of the restrictions reviewed above. Working Groups and Special Rapporteurs can take complaints from individuals, correspond with offending states, compile information, write and publish reports. A Special Rapporteur for Intolerance and Discrimination in Education could undoubtedly undertake an investigation into the situation in Northern Ireland. But no such Special Rapporteur exists in the UN system because education, as a central theme, falls under the mandate of UNESCO’s charter.

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<sup>105</sup> For a review of these procedures see Rodley, N. S., *United Nations Non-Treaty Procedures for Dealing with Human Rights Violations*, in *Guide to International Human Rights Practice*, Second Edition, Ed. Hurst Hannum, University of Pennsylvania Press. Philadelphia. 1992.

<sup>106</sup> Donnelly, J., *Human Rights at the United Nations 1955-85: The Question of Bias*, *International Studies Quarterly*, 32, 275-303, 1988.

<sup>107</sup> Rodley, N. S., *United Nations Non-Treaty Procedures for Dealing with Human Rights Violations*, in *Guide to International Human Rights Practice*, Second Edition, Ed. Hurst Hannum, University of Pennsylvania Press. Philadelphia. 1992.

<sup>108</sup> For a review of this procedure see Kamminga, M. and Rodley, N. S., *Direct Intervention at the UN: NGO Participation in the Commission on Human Rights and Its Sub-Commission*, in *Guide to International Human Rights Practice*, Second Edition, Ed. Hurst Hannum, University of Pennsylvania Press. Philadelphia. 1992.



## The UNESCO System

**UNESCO Reporting Procedures.** With respect to education and peace building UNESCO have three standard setting instruments with different reporting procedures. The *UNESCO Convention against Discrimination in Education* (1964), the *Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms* (1974) and the *Declaration of the Forty-Fourth Session of the International Conference on Education* (1994).

Article 7 of the *UNESCO Convention against Discrimination in Education* (1964) requires that:

“The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organisation on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other actions which they have taken for the application of this Convention.”

In practice the “manner” of reporting adopted by the General Conference of UNESCO has involved surveys of all Member States with mixed responses. For example 84 of the 155 Member States responded to the Fourth Consultation conducted in 1984. Of these 49 responded as parties to the Convention and the remaining 35 Member States responded as parties to the same standard setting instrument in its Recommendation form.<sup>109</sup> The UNESCO Committee on Conventions and Recommendations produced an “analytic summary” of these reports for the General Conference but unlike the reporting procedure for the *UN Rights of the Child Committee* no obligation is placed on Member States to publish their reports and/or subject them to a critical review by the UNESCO Committee.

Under these circumstances it is not surprising to discover that these country reports tend to emphasise the positive aspects of their education programs and ignore the negative. For example the United Kingdom of Great Britain and Northern Ireland reported that in Northern Ireland, in 1984, “No legal provisions, regulations, practices or situations exist which constitute or could lead to discrimination in the field of education” and that “No difficulties are

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<sup>109</sup> UNESCO, General Conference, Twenty-third Session, Sofia 1985. Item 5.3 of the provisional agenda. Summary. *Fourth Consultation of Member States on the Implementation of the Convention and Recommendation in Education: Report of the Committee on Conventions and Recommendations*. 23 C/72, August 1985.

encountered with regard to respect for religion, tradition or customs.”<sup>110</sup> So far as I am aware this report has never been formally challenged although it is clearly contradicted by the evidence compiled in Part I of this paper, by the Northern Ireland Standing Advisory Commission on Human Rights<sup>111</sup> and by the *UN Committee on the Rights of the Child* in their review of the UK’s first report.<sup>112</sup>

The *Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms* (1974) was provided with a monitoring mechanism during the International Year of Peace in 1986 when UNESCO took “three new important long-term measures adopted by the General Conference at its twenty-third session, namely the permanent system of reporting on steps taken by Member States to apply the 1974 Recommendation, the Plan for the Development of Education for International Understanding, Co-operation and Peace, and the Consultative Committee on steps to promote the full and comprehensive implementation of the 1974 Recommendation”.<sup>113</sup> Although these activities do produce numerous guides to good teaching practice<sup>114</sup> the process

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<sup>110</sup> UNESCO, General Conference, Twenty-third Session, Sofia 1985. Item 5.3 of the provisional agenda. Annex D - page 173, United Kingdom of Great Britain and Northern Ireland. *Fourth Consultation of Member States on the Implementation of the Convention and Recommendation in Education: Report of the Committee on Conventions and Recommendations*. 23 C/72, August 1985.

<sup>111</sup> See the 13th., 14th., 15th., 16th., and 17th., Reports of the Standing Advisory Commission on Human Rights, (SACHR), London: HMSO, 1988, 89, 90, 91 and 92 respectively for commissioned papers, discussion and recommendations.

<sup>112</sup> UN Committee on the Rights of the Child, Eighth Session, Consideration of Reports Submitted by States Parties Under Article 44 of the Convention. *Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland*. CRC/C/15/Add.34. 27 January 1995.

<sup>113</sup> UNESCO 1986-1987, *Report of the Director-General on the activities of the Organisation in 1986-1987 communicated to Member States and the Executive Board in accordance with Article VI.3.b of the Constitution*. General Conference, Twenty-fifth Session. 1989.

<sup>114</sup> For recent examples see UNESCO, *Tolerance: the threshold of peace, A teaching/learning guide for education for peace, human rights and democracy*, ED-94/WS/8, UNESCO, Paris, 1994. UNESCO and International Peace Research Association (IPRA), *Handbook Resource and Teaching Material in Conflict Resolution, Education for Human Rights, Peace and Democracy*, UNESCO, Paris, 1994. UNESCO, *International practical guide on the implementation of the Recommendation concerning education for international understanding, co-operation and peace and education relating to human rights and fundamental freedoms*, Eds. Bridgitte Reich and Valeri Pivovarov, ED-94/WS/22, UNESCO, Paris, 1994.

of review tends to emphasise the positive,<sup>115</sup> substantially ignore the negative<sup>116</sup> and is essentially voluntary with regard to Member State participation.<sup>117</sup> As such this reporting procedure can not be expected to identify bad educational practices that teach and promote intolerance, misunderstanding and non-cooperation.

The *Declaration of the Forty-Fourth Session of the International Conference on Education* (1994) has now replaced the *Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms* (1974) as the standard setting instrument for peace building through the medium of education. During the drafting of the Declaration proposals were tabled that included clauses for the involvement of UNESCO in a process of international evaluation but these suggestions were dropped in favour of self assessment by Member States.<sup>118</sup> Similarly the associated and more detailed *Draft Integrated Framework of Action on Education for Peace, Human Rights and Democracy* called upon UNESCO to “set up machinery for the global monitoring of education for peace, human rights and democracy”<sup>119</sup> but this proposal was opposed by China who was concerned about the costs of such an undertaking. It can only be hoped that these omissions will be rectified at some future date.

In general, although UNESCO reporting procedures create a useful forum for the exchange of ideas on good practice in peace education, these procedures are not capable of monitoring,

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<sup>115</sup> For example the Consultative Committee meeting in Paris in 1993 drafted “Suggestions concerning guidelines for the preparation of Member States’ reports on the implementation and revision of the 1974 Recommendation” in which “You (Member States) are invited to share your ideas, experiences and proposals concerning “international education” with others etc....” (UNESCO, *Consultative Committee on Steps to Promote the Full and Comprehensive Implementation of the Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms, Fourth Session, Paris, 14-17 December 1992*, Final Report, ED-92/CONF.502, UNESCO, Paris, 15 January 1993).

<sup>116</sup> The reports of the 62 Member States (approximately half) who did respond to the 1986-1991 review of the 1974 Recommendation were edited into an unrealistically positive document that was necessarily biased by its omissions (UNESCO, *Sexennial Report on the Progress Achieved in the Implementation of the Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms, UNESCO General Conference, Twenty-sixth Session, (1974)*, 26 C/32, UNESCO, Paris, 7 October 1991).

<sup>117</sup> Approximately 40% of Member States replied to the questionnaire referred to in footnote 51 above (UNESCO, *Situation on Education for International Understanding, UNESCO International Conference on Education, Forty-fourth Session*, ED/BIE/CONFINTED44/INF.2, Geneva, 1 September 1994).

<sup>118</sup> Article 2.6 of the UNESCO Declaration of the forty-fourth session of the International Conference on Education reads as follows: “to encourage the development of innovative strategies adapted to the new challenges of educating responsible citizens committed to peace, human rights, democracy and sustainable development, and to apply appropriate measures of evaluation and assessment of these strategies.”

<sup>119</sup> UNESCO, Committee of Governmental Experts, *Recapitulative Table of Comments on the Framework of Action, UNESCO International Conference on Education, Forty-fourth Session*, ED/BIE/CONFINTED44/CE/4, Geneva, September 1994.

documenting and actively responding to bad educational practice that might contribute to the development and aggravation of violent conflict. If UNESCO are to become actively involved in the implementation of measures directed to the objectives of conflict prevention then bad educational practice must be identified at the earliest possible opportunity and remedial action taken. To do this UNESCO reporting practices will have to be brought into line with other UN agencies, such as those adopted by the *UN Rights of the Child Committee* and, as will be argued below, UNESCO complaints procedures will also require reform and/or the appointment of a Special Rapporteur for Intolerance and Discrimination in Education.

**UNESCO Treaty Procedures.** The *UNESCO Convention Against Discrimination in Education* was adopted on the 14th of December 1960 and two years later, on the 10th of December 1962 UNESCO adopted a *Protocol Instituting a Conciliation and Good Offices Commission to be Responsible for Seeking the Settlement of any Disputes which may Arise between States Parties to the Convention against Discrimination in Education*. Unfortunately, as the name of the instrument implies, this procedure requires one state to make a complaint against another state before the Commission can take any action. Although both Israel and The United Kingdom of Great Britain and Northern Ireland are parties to both the Convention and Protocol<sup>120</sup> no state has ever used this mechanism to bring a complaint against either of these states or for that matter any other state - ever! <sup>121</sup>

**UNESCO Non-Treaty Procedures.** In an effort to come to terms with the failure of this treaty procedure a non-treaty procedure was established by UNESCO in 1978 as laid down in Executive Board Decision 104 EX/3.3 which allows for the examination of individual communications alleging human rights violations in UNESCO's fields of competence. As with other individual procedures domestic remedies must have been exhausted, a brief description of the facts of the violation is required and the relevant international law needs to be cited.<sup>122</sup> For example, in the case of Northern Ireland, parents unable to send their children to integrated schools for lack of places could exhaust domestic remedies by simply complaining to the Minister under Section 101 of *The Education and Libraries (Northern Ireland) Order 1986*

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<sup>120</sup> Israel ratified the Convention on the 22nd. of September 1961 and the Protocol on the 13th of September 1961 while The United Kingdom of Great Britain and Northern Ireland accepted the Convention on the 14th of March 1962 and the Protocol on the 8th of January 1964.

<sup>121</sup> Saba, H., *Unesco and Human Rights*, in *The International Dimensions of Human Rights Vol. 2*, Ed. Karel Vasak, UNESCO, Paris, 1982 and Marks, S., *The Complaint Procedure of the United Nations Educational, Scientific and Cultural Organisation (UNESCO)*, in *Guide to International Human Rights Practice*, Ed. Hurst Hannum, MacMillan Press. London. 1984.

<sup>122</sup> For reviews of these procedures see, *Ibid.*

<sup>123</sup> by way of failing to “have regard” for parental choice under Section 44<sup>124</sup> of the same Order.<sup>125</sup> With regard to international law such a failure to make adequate provision for integrated education is arguably in violation of most of the major international conventions.<sup>126</sup>

Unfortunately, even if such a case were brought to the attention of UNESCO, it is doubtful if a satisfactory remedy could ever be found without the full cooperation of the State concerned as all proceedings and deliberations would be confidential so that even the sanctions of public revelation and documentation would be unavailable. In their review of UNESCO Human Rights procedures Weissbrodt and Farley (1994)<sup>127</sup> point out that although it had several advantages over the European and UN complaints procedures when it was established in 1978 it “has not progressively evolved the way other UN procedures have. UNESCO has not exploited the advantages written into the procedure. The procedures have not been implemented appropriately because the UNESCO process has not been subjected to the glare of public pressure, and because it has been quite isolated from more progressive developments in other international institutions.” Weissbrodt and Farley make nine detailed recommendations to address these problems that relate to: (1) political interference; (2) allowing authors to respond to government claims; (3) speeding up the complaints procedure; (4) eliminating interference on questions of admissibility; (5) the need for speedy action in emergencies; (6) the premature closing of cases;

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<sup>123</sup> The Education and Libraries (Northern Ireland) Order 1986, Section 101. “If the Department is satisfied, either on complaint by any person or otherwise, that a board has or the trustees or managers of a voluntary school have acted or is or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any provision of this Order, the Department may, notwithstanding the provisions of any enactment rendering the exercise of the power or the performance of the duty contingent upon the opinion of the board or of the trustees or managers, give such directions as to the exercise of the power or the performance of the duty as appear to the Department to be expedient.”

<sup>124</sup> The Education and Libraries (Northern Ireland) Order 1986, Section 44. “In the exercise and performance of all powers and duties conferred or imposed on them by this Order, the Department and boards shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils shall be educated in accordance with the wishes of their parents.”

<sup>125</sup> It should be noted that British courts have regularly failed to rule in favour of such a complaint [see *Watt v Kesteven* CC[1955] 1 QB 408, [1955] 1 All ER 473, CA, considered and dicta applied in *Wood v London Borough of Ealing* [1966] 3 All ER 514, [1966] 3 WLR 1209 and in *Cumings v Birkenhead Corpn* [1972] Ch 12, [1970] 3 All ER 302, affd [1972] Ch 30, [1971] 2 All ER 881, CA. (ref. p158, *Halsbury's Statutes of England and Wales*, Fourth Edition, Volume 15, 1990 Reissue, Butterworths. London. 1990.)]. However it should also be noted that such a case has not been tested in the context of *The Education Reform (Northern Ireland) Order 1989* which places a duty on the Department of Education to promote integrated education. Provision is made for Integrated Education in *The Education Reform (Northern Ireland) Order 1989*. Specifically Part VI of the legislation is divided into three chapters comprised of 45 articles (64 to 99) dealing broadly with the general functions of the Department and boards in relation to integrated education (Chapter I); the duties of the Department, management and financing of Grant-Maintained Integrated Schools (Chapter II) and Controlled Integrated Schools (Chapter III).

<sup>126</sup> See Footnote No. 8, page 2.

<sup>127</sup> Weissbrodt, D. and Farley, R., *The UNESCO Human Rights Procedure: An Evaluation. Human Rights Quarterly*. Vol. 16. No. 2. May. 1994.

(7) making recommendations to prevent future violations; (8) the greater use of fact finding missions; and (9) the publication of results achieved in order to facilitate public accountability. For example, more specifically, with respect to political interference (1), an author's right to response (3) and public accountability (9) Weissbrodt and Farley recommend:

“(1) The Committee on Conventions and Recommendations needs to be made less political. The Committee consists of twenty-four members appointed by member governments. Although every member may attend Committee meetings, in practice about eighteen usually attend. Moreover, members may be motivated to attend meetings only if communications relating to their governments or allies of their governments are being considered. The size of the Committee should be reduced from twenty-four members to five members. A smaller Committee could better function as a less political, expert body whose only responsibility is examining human rights violations. Alternatively, a sub-Committee of five members could meet between the regular sessions of the Committee. Such a sub-Committee could handle the exchange of information between authors and governments, and make decisions on admissibility.

(3) The existing UNESCO procedure promises an exchange of views between case authors and governments. The Committee's habit of accepting governmental denials that human rights violations occurred, in addition to its quick dismissal of cases without giving authors a chance to respond, prevent that exchange of views. In the future, UNESCO should follow the lead of the Human Rights Committee. The Human Rights Committee will not issue a decision on a case if the specific facts of the case are in dispute. The Human Rights Committee will, however, issue a final decision on cases if the facts are either uncontested or contested only by general denials. UNESCO should also consider allowing authors of cases to attend meetings of the Committee, so they may respond directly to government replies.

(9) The Committee should systematically make available information about the results achieved under the complaint procedure, so that its effectiveness can be evaluated more fully.”

For the most part the issues raised by Weissbrodt and Farley relate to the unlawful imprisonment of individuals in, for example, cases that violate freedoms of expression. However, nearly all of the human rights abuses reviewed here, with regard to education and

peace building, require the use, interpretation and application of a wide range of human rights instruments. Although they are greatly overworked staff at the UN Centre for human rights in Geneva are able to provide advice to those who wish to make a complaint. Questions relating to, for example, which human rights instrument to use, their related procedures and what evidence is required, can be addressed. Unfortunately similar advice is not readily available at UNESCO as the high degree of confidentiality that surrounds the Human Rights procedures at UNESCO makes for poor communications. Identified responsible staff, perhaps in each Division, need to be knowledgeable of the human rights cases brought to UNESCO so that their advice, to both their colleagues and the general public, is well informed. This problem could be further relieved if most questions of confidentiality were made the prerogative of the persons bringing the complaint, instead of UNESCO, the former being the more usual procedure in most human rights practice.<sup>128</sup> I am also aware that many divided societies share the problems of Northern Ireland and may welcome a positive ruling on the issues raised in this paper as a guide to the development of education policy in their own state. Clearly the full peace building potential of any human rights complaint can not be realised if it is processed in a strictly confidential manner.

In general, as the UN Centre for Human Rights in Geneva process several thousand complaints each year while UNESCO process relatively few (about 50 per annum) international experience in such matters is dominated by the procedures used in Geneva. It therefore follows that standardising on the Centre for Human Rights practice would avoid confusion by eliminating the procedures that are peculiar to UNESCO. More specifically UNESCO are the only human rights organisation who require the use of their own special form for the filing of a 'Communication'. This practice should be terminated as it can act as an obstacle to the making of a human rights complaint. Additionally, the requirement that the authors name be divulged to the government concerned is unusual<sup>129</sup> and unhelpful and would certainly discourage many from bringing human rights violations to the attention of UNESCO.

It may be possible to implement some of these suggestions, that relate to personnel and their responsibilities, without delay. Other changes may require revisions being made to the Executive Order that defines human rights practice at UNESCO, Decision 104 EX/3.3. I do not know how far such a revision could go but I would certainly welcome a general opening up of UNESCO human rights procedures, in line with other agencies. There now exists a wide range of thematic and country procedures established by the UN Commission on Human Rights which allow rapporteurs and working groups to seek, receive and respond to information on human rights abuses (see Weissbrodt and Farley (1994) footnote No. 37 for a review).<sup>130</sup> This is done in an effort to progressively eliminate violations. However these activities frequently overlap with UNESCO's sphere of competence and consequently Weissbrodt and Farley are

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<sup>128</sup> Hannum, H., Appendix C, Model Communication, in *Guide to International Human Rights Practice*, Ed. Hurst Hannum, MacMillan Press. London. 1984.

<sup>129</sup> Ibid.

<sup>130</sup> Weissbrodt, D. and Farley, R., The UNESCO Human Rights Procedure: An Evaluation. *Human Rights Quarterly*. Vol. 16. No. 2. May. 1994.

drawn to the conclusion that, “As new avenues for protecting human rights develop, an unmodified UNESCO procedure risks losing its place among the effective alternatives for ensuring international human rights.”

### **UNESCO - ‘Talking Shops’, ‘Paper Tigers’ and a ‘Moral Roar’**

The *Universal Declaration of Human Rights* was drafted with a view to the prevention of conflicts and although UNESCO did act with some effect in relation to the more extreme violations of educational rights in Israel this was only done through the concerted political action of UNESCO member states. If the goal of conflict prevention is to be realised then all violations of human rights must receive the attention of our international institutions. I believe the comparisons drawn between Israel and Northern Ireland in Part I of this paper show little difference in the kinds of human rights abuses reviewed. The difference only seems to be in respect to the matter of degree. Given UNESCO’s special responsibilities for human rights issues, particularly in relation to the “Decade for Human Rights Education”, and given the need to contribute to the UN Secretary-General’s “Agenda for Peace” through the effective implementation of UNESCO’s new program for a “Culture of Peace” I believe UNESCO could accomplish much by seeking to handle Human Rights complaints in an exemplary manner.

The Forty-fourth session of the International Conference on Education (ICE) was held in Geneva in 1994 with a view to making a positive contribution to the United Nations Year of Tolerance in 1995. It was the expressed intention of this ICE “to mobilise the world of education and all of its various partners by putting forward measures which may contribute in an efficient and rapid manner to..... preventing and suppressing conflicts”.<sup>131</sup> If this objective is simply addressed by the establishment of new committees, the approval of new plans and the passing of resolutions and declarations that lack mechanisms for public action then we can not expect the 1995 UN Year of Tolerance to be any more effective than the 1986 UN Year of Peace.<sup>132</sup> It is in such contexts that UNESCO is sometimes referred to as just another “Talking Shop”.

Without UN Forces and the activities of the UN Centre for Human Rights in Geneva the United Nations would be little more than a “Paper Tiger”. Similarly UNESCO’s Peace Building activities, in particular their program for a “Culture of Peace”, can never be more than prescriptive lists of good intentions without the effective application of Human Rights in UNESCO’s spheres of competence. Unless UNESCO reform their Human Rights activities to

<sup>131</sup> Tedesco, J. C., Communication from Juan Carlos Tedesco, Director, International Bureau of Education. Geneva, 29th. April 1993.

<sup>132</sup> UNESCO plans for the 1986 UN Year of Peace were discussed on page 12 and are referred to in UNESCO 1986-1987, *Report of the Director-General on the activities of the Organisation in 1986-1987 communicated to Member States and the Executive Board in accordance with Article VI.3.b of the Constitution*. General Conference, Twenty-fifth Session. 1989.



bring them into line with the best of Human Rights practice to be found in other UN agencies many will find it difficult to take UNESCO plans and ambitions seriously. However, I am aware that in making these points I am not saying anything particularly new. In 1978 the General Conference passed 19 C/Resolution 12.1 which makes reference to the “long-term program of measures whereby UNESCO can contribute to the strengthening of peace” and in this context invited the Executive Board and the Director-General:

‘(a) to examine with particular attention the general situation with regard to respect for human rights throughout the world in UNESCO’s fields of competence,

(b) to study the procedures which should be followed in the examination of cases and questions which might be submitted to UNESCO concerning the exercise of human rights in the spheres to which its competence extends, in order to make its action more effective,

(c) to continue to establish, with a view to the implementation of subparagraphs (a) and (b), close co-operation and co-ordination with the relevant United Nations organs so as to take advantage of their work and the lessons that can be learned from them in this field,’

(underlining mine)

UNESCO are presently a “Paper Tiger”. However the adoption of Resolution 19 C/12.1 provides a solution to this problem by inviting UNESCO to ‘examine... human rights throughout the world....’ and to make their “action more effective” in continued “co-operation and co-ordination with the relevant United Nations agencies”. I believe the intent of this resolution should run as a “Golden Thread” through all the plans that UNESCO are formulating. If this is done then, and only then, might a “Paper Tiger” acquire a “Moral Roar” through which it can effectively carry out those parts of it’s mandate so essential to the peaceful development of our troubled world.

Unfortunately, because the history and development of UNESCO human rights activities emphasise education for good practice rather than the condemnation of bad practice the critical points raised by Weissbrodt and Farley appear to have been substantially ignored. How then can UNESCO reform its human rights culture? What minimum step would be required to set into motion a creative process that could lead to the development of effective peace building through the medium of education, in all nation states, including those who may be resistant to change, who seek to maintain the status quo of an unjust society, who aggravate ethnic divisions for short term political gain and who use intolerance and discrimination in education to achieve these ends.

## **Reforming UNESCO Human Rights Practice: A Special Rapporteur for Intolerance and Discrimination in Education**

It is probably easier for an international organisation like UNESCO to learn from and follow the good example of others who have had to navigate the political difficulties of human rights application. In recent years the work of the Special Rapporteur on Intolerance and Discrimination Based on Religion or Belief provides such an example and UNESCO could possibly not do better than to try and emulate this success.<sup>133</sup> This Special Rapporteur was established at the forty-second session of the Commission on Human Rights in resolution 1986/20 to examine incidents and governmental actions inconsistent with the provisions of the *Declaration on the Elimination of all forms of Intolerance and of Discrimination Based on Religion or Belief* (1981) and to recommend remedial measures for such situations. Following the first report from Mrs. Odio Benito, published in 1987, Mr. Angelo Vidal d'Almeida Riberiro of Portugal submitted seven reports to the annual sessions of the Commission and since his retirement Mr. Abdelfattah Amor submitted his first report in 1994.<sup>134</sup>

These reports have covered wide ranging surveys of human rights abuses by continent and country; dialogue between the Rapporteur and governments against whom violations have been alleged; and conclusions and recommendations to strengthen both national and international institutions so that they can better monitor and take remedial action against intolerance and discrimination. Several recommendations seem to have particular relevance for UNESCO. Mrs. Benito stressed the value of UNESCO's human rights instruments and suggested that the UN document, and/or an NGO be established to document, violations of religious freedom. Such an NGO would be an "Article 18" organisation comparable to "Article 19 - The International Centre Against Censorship." Clearly this suggestion invites the establishment of an "Article 26" NGO to monitor intolerance and discrimination in education. It should also be stressed that reports do not have to be entirely negative and critical. Mr. Ribeiro, for example, made particular reference to positive developments in Eastern Europe and the former USSR in his 1990 report. Finally it is interesting to note that Mr. Amor has made a number of recommendations to enhance his *modus operandi* that include consulting with governments and NGOs with a view to discussing his remit as well as making *in situ* visits in company with other UN Rapporteurs who are working on related matters.<sup>135</sup> Clearly a UNESCO Rapporteur would be a welcome addition to these endeavours.

In keeping with 19 C/Resolution 12.1 the Executive Board of UNESCO could appoint a Special Rapporteur for Intolerance and Discrimination in Education to examine incidents and governmental actions inconsistent with the provisions of the *Declaration of the Forty-Fourth Session of the International Conference on Education* (1994). Like the 1981 *Declaration on the Elimination of all forms of Intolerance and of Discrimination Based on Religion or Belief*

<sup>133</sup> For a review see Dickson, B., The United Nations and Freedom of Religion, *International and Comparative Law Quarterly*, Vol.44, April, 1995.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

the UNESCO Declaration contained no provisions for international regulation beyond domestic monitoring.<sup>136</sup> However, this set back is far from fatal as 5 years passed between the 1981 adoption of the *Declaration on the Elimination of all forms of Intolerance and of Discrimination Based on Religion or Belief* by the UN and the appointment of a Special Rapporteur by the Commission on Human Rights in 1986.

But UNESCO are making progress - all be it very slowly. In 1992 at the fourth session of UNESCO's *Consultative Committee on Steps to Promote the Full and Comprehensive Implementation of the Recommendation Concerning Education for International Understanding, Cooperation and Peace and Education Relating to Human Rights and Fundamental Freedoms* I was informed by some delegates that UNESCO's human rights monitoring procedures were satisfactory.<sup>137</sup> While at the 1995 "Tolerance in Transition" Symposium organised by the German Commission for UNESCO and convened as part of their activities for the UN year of Tolerance<sup>138</sup> their UNESCO representative publicly stated that he thought UNESCO's reporting procedure should be reformed and that UNESCO might consider, for example, appointing a Special Rapporteur for Discrimination against Women in Education.

Although such a development would be welcome it might be better if the mandate of the Rapporteur were kept as general as possible so as not to limit the future scope of the Rapporteur's work. Of course there is no reason why UNESCO can not ask the Rapporteur to focus on questions of discrimination against women in his or her first reports. However, UNESCO might subsequently wish to ask the Rapporteur to look at other issues and a general Rapporteur for Intolerance and Discrimination in Education would not be restrained from taking on new tasks that UNESCO might require. Fortunately, the international instruments that would define the legal bounds of the Rapporteur's mandate are very broad and would permit the exploration of a wide range of themes from, for example, educational standards and third world development to, for example, the inclusion of human rights education as a part of all national curricula.<sup>139</sup> In the context of peace building it should not be forgotten that it is state

<sup>136</sup> For a discussion see "UNESCO Reporting Procedures", earlier in this paper.

<sup>137</sup> UNESCO, *Consultative Committee on Steps to Promote the Full and Comprehensive Implementation of the Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms, Fourth Session, Paris, 14-17 December 1992*, Final Report, ED-92/CONF.502, UNESCO, Paris, 15 January 1993.

<sup>138</sup> UNESCO, German Commission and the Institute of Political Science, University of Magdeburg Symposium, *Tolerance in Transition*, Magdeburg, 14-16 October, 1995.

<sup>139</sup> In a *Draft Resolution on a Decade for Human Rights Education* dated February 13th. 1994 it was proposed that the UN Commission on Human Rights appointment a Special Rapporteur on Human Rights Education as follows: "The Commission on Human Rights..... 5. Decides to appoint a Special Rapporteur on Human Rights Education, and requests the President of the Commission, in consultation with the vice-presidents and interested Member States and non-governmental organisations to propose, for this post, a leading figure in this field, with a mandate to collect information on efforts made to implement the Plan of Action of the Decade for Human Rights and make recommendations to enhance these efforts and realise as effectively as possible the objectives of the Decade for Human Rights Education."

discrimination against peoples that most often leads to violent conflict and it is men who are most prone to aggression, not women. With this point in mind a Special Rapporteur for Intolerance and Discrimination in Education should be able to respond to any emergency situations that might arise from time to time, such as the misuse of an education system to promote majoritarianism or ethnic hatred. The recent experiences of Yugoslavia come to mind:

“Preparations for the ethnic division of Bosnia and Herzegovina have not happened quickly because it has not been easy to persuade ordinary citizens to see that their friends, neighbours, or even relatives belong on the other side of the barricade. But eventually the nationalist propaganda war which began between Serbia and Croatia spread to Bosnia and Herzegovina too. There, too, people’s perceptions of one another have been reduced to primitive stereotypes of Serb, Muslim and Croat zealots..... The aim of this ferocious and warmongering propaganda was, and still is, to ease the conscience of people, to allow them to hate and ultimately to throw themselves into an atrocious war.

Even before the war started, the nationalists were indiscriminate in the means they chose to achieve their ultimate goal of creating ethnic states..... They relentlessly pressured the schools to accept religious education curricula and to classify teachers and headmasters of schools on the basis of their national party membership. The only obstacle they faced was the considerable number of ‘unreliable and suspicious’ people who lived together peaceably in ethnically mixed communities.”

Zoran Pajic “The Former Yugoslavia”<sup>140</sup>

Arguably if UNESCO can not take on the responsibility of monitoring such educational abuses by appointing a Special Rapporteur for Intolerance and Discrimination in Education then the UN Commission for Human Rights in Geneva should, hopefully with the co-operation and blessing of UNESCO, but if necessary without it. Perhaps, in the meantime, much could be accomplished through the establishment of an “Article 26” NGO.

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<sup>140</sup> Pajic, Z., *The Former Yugoslavia*, in *Minority Rights in Europe*, ed. H. Miall, The Royal Institute of International Affairs, Chatham House Papers, Pinter Publishers, London, 1994.

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## **Appendix**

### **Declaration of the forty-fourth session of the International Conference on Education**

**Final Draft Passed October 8th 1994**

**UNITED NATIONS EDUCATIONAL,  
SCIENTIFIC AND CULTURAL ORGANIZATION**

**INTERNATIONAL CONFERENCE ON EDUCATION**

**Forty-fourth Session**

International Conference Centre  
Geneva, 3-8 October 1994

**Declaration of the forty-fourth session of the  
International Conference on Education**

**(DRAFT)**

1. We, the Ministers of Education meeting at the 44th session of the International Conference on Education,

*Deeply concerned* by the manifestations of violence, racism, xenophobia, aggressive nationalism and violations of human rights, by religious intolerance, by the upsurge of terrorism in all its forms and manifestations and by the growing gap separating wealthy countries from poor countries, phenomena which threaten the consolidation of peace and democracy both nationally and internationally and which are all obstacles to development.

*Mindful* of our responsibility for the education of citizens committed to the promotion of peace, human rights and democracy in accordance with the letter and spirit of the Charter of the United Nations, the Constitution of UNESCO, the Universal Declaration of Human Rights and other relevant instruments such as the Convention on the Rights of the Child and the conventions on the rights of women, and in accordance with the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms,

*Convinced* that education policies have to contribute to the development of understanding, solidarity and tolerance among individuals and among ethnic, social, cultural and religious groups and sovereign nations,

*Convinced* that education should promote knowledge, values, attitudes and skills conducive to respect for human rights and to an active commitment to the defence of such rights and to the building of a culture of peace and democracy,

*Equally convinced:*

- of the great responsibility incumbent not only on parents, but on society as a whole, to work together with all those involved in the education system, and with non-governmental organizations, so as to achieve full implementation of the objectives of education for peace, human rights and democracy and to contribute in this way to sustainable development and to a culture of peace;
- of the need to seek synergies between the formal education system and the various sectors of non-formal education, which are helping to make a reality of education that is in conformity with the aims of the World Declaration on Education for All, adopted in Jomtien;
- of the decisive role that also falls to non-formal educational organizations in the process of forming the personalities of young people.

2. *Strive resolutely:*

- 2.1 to base education on principles and methods that contribute to the development of the personality of pupils, students and adults who are respectful of their fellow human beings and determined to promote peace, human rights and democracy;
- 2.2 to take suitable steps to establish in educational institutions an atmosphere contributing to the success of education for international understanding, so that they become ideal places for the exercise of tolerance, respect for human rights, the

practice of democracy and learning about the diversity and wealth of cultural identities;

- 2.3 to take action to eliminate all direct and indirect discrimination against girls and women in education systems and to take specific measures to ensure that they achieve their full potential;
- 2.4 to pay special attention to improving curricula, the content of textbooks, and other educational materials including new technologies, with a view to educating caring and responsible citizens, open to other cultures, able to appreciate the value of freedom, respectful of human dignity and differences, and able to prevent conflicts or resolve them by non-violent means;
- 2.5 to adopt measures to enhance the role and status of educators in formal and non-formal education and to give priority to pre-service and in-service training as well as the retraining of educational personnel, including planners and managers, oriented notably towards professional ethics, civic and moral education, cultural diversity, national codes and internationally recognized standards of human rights and fundamental freedoms;
- 2.6 to encourage the development of innovative strategies adapted to the new challenges of educating responsible citizens committed to peace, human rights, democracy and sustainable development, and to apply appropriate measures of evaluation and assessment of these strategies;
- 2.7 to prepare, as quickly as possible and taking into account the constitutional structures of each State, programmes of action for the implementation of this Declaration.

3. *We are determined to increase our efforts to:*

- 3.1 give a major priority in education to children and young people, who are particularly vulnerable to incitements to intolerance, racism and xenophobia;
- 3.2 seek the co-operation of all possible partners who would be able to help teachers to link the education process more closely to real social life and transform it into the practice of tolerance and solidarity, respect for human rights, democracy and peace;
- 3.3 develop further, at the national and international levels, exchanges of educational experiences and research, direct contacts between students, teachers and researchers, school twinning arrangements and visits, with special attention to experimental schools such as UNESCO Associated Schools, to UNESCO chairs, educational innovation networks and UNESCO Clubs and Associations;
- 3.4 implement the Declaration and Programme of Action of the World Conference on Human Rights (Vienna, June 1993) and the World Plan of Action on Education for Human Rights and Democracy adopted at the International Congress on Education for Human Rights and Democracy (Montreal, March 1993), and make the internationally recognized instruments in the field of human rights available to all educational establishments;

- 3.5 contribute, through specific activities, to the celebration of the United Nations Year for Tolerance (1995), and particularly to the inauguration, on the occasion of the fiftieth anniversary of the United Nations and UNESCO, of the celebration of the International Day for Tolerance.

Consequently, we, the Ministers of Education meeting at the 44th session of the International Conference on Education, *adopt* this Declaration and *invite* the Director-General to present to the General Conference a Framework of Action that allows Member States and UNESCO to integrate, within a coherent policy, education for peace, human rights and democracy in the perspective of sustainable development.