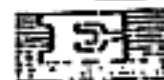


UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL
E/CH.4/SR.265 57
23 May 1952
ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS
Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND EIGHTY-FIFTH MEETING

Hold at Headquarters, New York,
on Thursday, 8 May 1952, at 10.30 a.m.

CONTAINS:

Draft international covenants on human rights: part III of the draft covenant drawn up by the Commission at its seventh session (basic documentation as in E/CH.4/SR.268; also E/CH.4/65/Add.4, E/CH.4/L.51, E/CH.4/L.51/Corr.1, E/CH.4/L.61, E/CH.4/L.60, E/CH.4/L.67, E/CH.4/L.69, E/CH.4/L.89, E/CH.4/L.75) (continued): article 28

<u>Chairman:</u>	Mr. MALIK	(Lebanon)
<u>Rapporteur:</u>	Mr. WEITLAK	Australia
<u>Members:</u>	Mr. NISOT	Belgium
	Mr. TELENZUELA	Chile
	Mr. CERGE PACMAN	China
	AZMI Bey	Egypt
	Mr. JUVIGNY	France
	Mr. KAPPAHELIS	Greece
	Mrs. HETA	India
	Mr. AZKOUK	Libanon
	Mr. WAHED	Pakistan
	Mr. BOWATYNSKI	Poland

Members (continued):

Mrs. FUSSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MOROZOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACOS	Uruguay
Mr. JEVREMLJIC	Yugoslavia

Representatives of specialized agencies:

Mr. MORELLET	International Labour Organisation (ILO)
Mr. GABA	United Nations Educational, Scientific and Cultural Organisation (UNESCO)
Mr. ARNALDO	

Representatives of non-governmental organizations:

Category A:

Miss SEITNER	International Confederation of Free Trade Unions (ICFTU)
Mr. LEAPY	

Category B:

Mr. WOGKOWITZ	Consultative Council of Jewish Organizations
Mrs. FARSAFS	International Council of Women
Mrs. SOULAN	International Federation of Business and Professional Women
Miss GARTMAN	International Union of Catholic Women's Leagues
Mrs. VARSONS	Liaison Committee of Women's International Organizations
Mr. PERLEWEIG	World Jewish Congress
Mr. RONALDS	World Union for Progressive Judaism
Mr. PENCE	World Alliance of Young Men's Christian Associations

<u>Secretariat:</u>	Mr. BUCHTNEY	Director, Division of Human Rights
	Mr. DAS	Secretary of the Commission

/DRAFT INTERNATIONAL

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS: PART III OF THE DRAFT COVENANT
DRAWN UP BY THE COMMISSION AT ITS SEVENTH SESSION (basic documentation as in
E/CN.4/SR.268; also E/CN.4/655/Add.4, E/CN.4/L.51, E/CN.4/L.51/Corr.1,
E/CN.4/L.61, E/CN.4/L.80, E/CN.4/L.85, E/CN.4/L.87, E/CN.4/L.85) (continued)

Article 28

Mr. MOROZOV (Union of Soviet Socialist Republics) said that his amendment (E/CN.4/L.51/Corr.1) was self-explanatory; its purpose was to strengthen the existing draft article (E/1992, pp. 23-4) by specifying that the State must ensure the right to education. The phrase "the necessary school system" implied that the system must also be adequate.

Mr. BRACCO (Uruguay), introducing his amendment (E/CN.4/L.61), said that artistic education should be placed on the same footing as secondary technical and professional education; it would include the fine arts, drama and music. He might withdraw the second paragraph of his amendment later, as some of the amendments submitted by other delegations might serve the purpose better. With regard to the paragraph proposed for insertion, his country had found by experience that compulsory physical education for both sexes in primary and secondary schools had been most valuable. The idea of the provision of scholarships of the kind mentioned in his proposal remedied an omission in the original text; amendments submitted by other representatives referred to scholarships only for secondary and higher education. He was not certain whether the words "specialized vocational training" were an exact equivalent of the original Spanish "especialización obrera". The establishment of public libraries was essential in the whole problem of further training, because without such institutions the student could not obtain the necessary supplementary education unobtainable in his school or college.

Mrs. ROOSEVELT (United States of America) said that the main purpose of her delegation's amendment (E/CN.4/L.80) was to rearrange the existing text in a more orderly form, making four paragraphs of the original nine. In the first paragraph of that amendment the two basic principles had been stated: the right to education and the definition of education, originally in paragraph 7. The
/second paragraph .

second paragraph stated the minimum steps to be taken by each State to achieve the full attainment of the right. The statements of principle in the original paragraphs 8 and 9 had simply been renumbered 3 and 4. The original paragraph 2 had been omitted because the non-discrimination paragraph in the general clause applied to all articles and, as some delegations had observed, it would be unwise to have such a paragraph in some articles but not in others. The word "progressively" had been omitted for similar reasons. The phrase "to the extent of their abilities" had been substituted for "on the basis of merit", as the best test for access to higher education was the amount the individual would be likely to benefit from it rather than his past performance. The United States delegation would welcome any suggestions for the improvement of its amendment.

Mr. HOARE (United Kingdom) said that his delegation was submitting its amendment (E/CH.4/L.85) in its existing form somewhat tentatively and would be prepared to accept any improvements suggested. It had been guided mainly by the fact that article 26 as it stood seemed wholly disproportionate to the other articles; its nine paragraphs almost looked like a small separate covenant embedded in the larger one. An attempt had therefore been made to preserve most of the ideas in the existing text but to make the form both brief and comprehensive and more consistent with the form of the other articles.

Paragraph 1 of the existing text had been, tentatively, dropped. What the article really intended to assert was not so much the right to education as the right of everyone to have access to it on equal terms. The phrase "educational facilities" in the United Kingdom text was to be understood in the most general sense. Paragraph 2 had been omitted for the reasons given by the United States representative. Paragraph (2) of the United Kingdom amendment incorporated the substance of paragraph 3 of the existing text, with two suggested amendments required by conditions in the United Kingdom; but he would not insist on the form of wording. The phrase "within appropriate limits of age" had been inserted because the primary school age differed in different countries; in the United Kingdom primary education was defined by law as education up to the age of twelve, and not all primary education was compulsory; it was compulsory between the ages of five and twelve, but not before five. The final phrase referring to ancillary services was designed to remove difficulties which might be caused by

the word "facilities" in paragraph (1). In the United Kingdom, for example, a small charge was made to those parents who could afford it when children had to be boarded at schools distant from their homes. There should be some provision to show that pupils should not be boarded free; but he was prepared to accept any more suitable wording, if the Commission felt that the phrase was too broad or offered some loopholes for escape from the general obligation. The words "in State schools" had been added tentatively; it had been thought that without some such qualification, there might be some conflict with paragraph (5) of the amendment and it might seem that private schools of the parents' own choosing should also be free; that certainly was not intended. Paragraphs (3) and (4) were identical with paragraphs 4 and 5 of the existing text. Paragraph 6 had been omitted. The idea was perfectly acceptable, but if the phrase "educational facilities" was adopted, it and the word "everyone" would certainly cover the fundamental education contemplated. In any case, the words "shall be encouraged as far as possible" were not very apposite in view of the relatively strict obligations laid down for primary, secondary and higher education. Furthermore, their use might raise some doubts whether there was an obligation to encourage kinds of education other than fundamental. As it stood the paragraph did not add anything important enough to warrant its inclusion with the attendant dangers of misinterpretation. Paragraph 7 had also been omitted. There seemed no good reason for the inclusion of a definition of only one right, education, when there was no definition of such equally important rights as the right to health or to work. All the covenant had to do was to recognize a right and state an obligation. Even though the ideas included in the definition might be unexceptionable, there were disadvantages in listing them. Philosophers and experts on education had long differed widely on the nature of education and it was very difficult to achieve a brief and comprehensive definition. The definition in paragraph 7 seemed to lump together the general and the particular. The intention was excellent and all those who had twice in their lifetime experienced the scourge of war could not fail to agree that a good system of education must necessarily touch the mischief of incitement to racial and other hatred and of any attempt to abridge human rights and fundamental freedoms. That sort of negative aspect of education might well be accepted; but to state positively that education should be directed to those aims was to narrow the whole conception of education. The objective stated in article 7 should rather be

/implicit

implicit in the general conception of an education which taught individuals to distinguish right from wrong and to be bound by decent principles of national and international conduct. Paragraph (5) of the United Kingdom amendment retained all the elements of paragraphs 8 and 9 of the existing text, placed them under a general introduction taken from the first phrase in paragraph 9 and stated them more succinctly.

Mr. WHITLAN (Australia), introducing his amendment (E/CN.4/L.89), said that his delegation had been prepared to submit more extensive proposals but had refrained from doing so, because the purpose could be better served by amending the many amendments submitted by others. The Australian amendment was designed to meet the requirements of several countries in which, as in Australia the State did not lay down minimum educational standards for non-State schools but approved the standards submitted by them when they were consistent with or exceeded the minimum standards for Government schools. In some contexts, however, the phrase proposed might have effects more far-reaching than the Australian delegation had intended. It might therefore be necessary to revise it later, to read: "such minimum educational standards as may be approved by the State".

Mr. NISOT (Belgium) wished to make some comments on article 28.

The Belgian delegation agreed entirely that secondary education, in its different forms, should be generally available and equally accessible to all on the basis of merit. In the field of education, there could be no economically privileged group. The Belgian delegation also agreed that making education progressively free was an excellent method and in some cases the only method of achieving that objective. It was nevertheless of the opinion that such a provision, though based on a generous idea, would if included in the covenant raise general problems which exceeded the scope of the right to education.

In many quarters a growing trend was to be detected linking the compulsory character of education to its free character. Though based on a desire to prevent economic barriers to the cultural development of children, the system of non-payment whether for education, medical services or other benefits should be considered as a lesser evil or as an easy solution but should not be considered as an ideal in itself. Many persons rightly considered that

it would be preferable to have a system where each person would have sufficient means to provide for the education of his children and other benefits from his own income. Such a system seemed more consistent with the dignity of the individual and his social responsibilities.

In connexion with paragraph 7, the Belgian delegation felt that the definition of the objectives of education would be enhanced by a reference to the sense of the dignity of the human person and respect for moral and spiritual values.

In paragraph 8 the words "States" and "establish" might be misinterpreted. In some countries, although primary education was compulsory and free, it was not directly organized by the central authority but by regional and local authorities and in some cases by such authorities and private enterprise. The Belgian delegation considered that States were not necessarily under obligation to set up primary schools themselves but to establish an educational structure making provision for compulsory education and setting up a network of free schools so that parents could fulfil that obligation.

The Belgian delegation considered that respect for the liberty of parents as provided in paragraph 9 fell short of the guarantees given in article 26, paragraph 3 of the Universal Declaration of Human Rights. That liberty would be better safeguarded by the following text: "To ensure the education of their children in conformity with their own religious and philosophical convictions". The Belgian delegation therefore hoped that the Commission would give favourable consideration to its draft amendments to article 26 (E/CN.4/L.7).

Mr. SABA (United Nations Educational, Scientific and Cultural Organization) thanked the Commission for making it possible for him to present UNESCO's views. At the Commission's request, the General Conference of UNESCO had examined articles 19, 26, 29 and 30 of the Covenant and the measures of implementation and had adopted a resolution expressing general approval of those provisions and also calling for comments from member States and inviting the Executive Board to formulate, on the basis of those comments -- of which some forty had later been received -- observations to be presented by UNESCO to the competent organs of the United Nations. The Executive Board, in carrying out

/those instructions

those instructions, had also had before it the results of the very important work performed by the Fourteenth International Conference on Public Education attended by a number of leading educators from many countries. With regard to articles 28, 29 and 30, in particular, the Executive Board had noted that there had been some criticism of their relative length and complexity as compared with other clauses in the covenant, but considered that the definition of educational and cultural rights should not be compromised by any effort to secure a balance of form, and that those rights should be guaranteed in the most explicit way possible. Other comments on those rights would be found in the Executive Board's report (E/CN.4/1955/241.4).

In spite of possible imperfections of form, therefore, UNESCO regarded article 28 as satisfactory. He wished to comment on some of the amendments to that article, and hoped to have an opportunity to make further remarks at a later time.

Point 1 of the USSR amendment (E/CN.4/L.51/Corr.1) explicitly imposed on States the obligation of providing the necessary school system for primary education. That obligation was, however, only one of many imposed by the present wording of the article, and it was to be feared that specifying that particular one might give the impression that obligations not expressly mentioned did not exist. Furthermore, in its point 2, the USSR amendment spoke of "the necessary system of higher educational institutions", but made no mention of a corresponding system of secondary schools, thereby once again opening the door to a restrictive interpretation.

Both the USSR amendment and the Uruguayan amendment (E/CN.4/L.61) brought up the subject of scholarships. While UNESCO was constantly endeavouring to increase the number of available scholarships, which were needed to defray the costs of higher education, he feared that mentioning them in that particular article might weaken the highly important concept, laid down in paragraph 5, that higher education should be made progressively free.

The word "artistic" which the Uruguayan representative wished to introduce in article 28, paragraph 4 appeared to him superfluous, as professional education, mentioned in that paragraph, had always been understood to include artistic education. The proposal for the establishment of public libraries had merit, but it would seem more logical to include it in article 30, which dealt with the right to culture, if not to draw up a separate convention on the subject, in line with the provisions of article 67.

Whereas the USSR and Uruguayan amendments represented attempts to make article 28 even more detailed, the United States and United Kingdom amendments would on the contrary curtail it either in length or in scope. The United States amendment (E/CN.4/L.80) had the merit of shortening the article considerably, but it excluded certain essential elements contained in the original text, and its total effect would be to weaken the article. Point 1 of the amendment altered the orientation of education, as established after long debates both in the Commission and in the General Assembly. Point 2 omitted such important elements as the reference to technical and professional secondary education, the importance of which had been stressed by the Fourteenth International Conference on Public Education; the provision that secondary education should be generally available; and the clause to the effect that higher education should be equally accessible to all and should be made progressively free. He urged the United States representative to consider restoring all those stipulations. Lastly, by enumerating conditions for the full attainment of the right to education, the United States amendment would give the article a limiting character.

He was glad that the United Kingdom representative had submitted his amendment (E/CN.4/L.85) rather tentatively and had welcomed suggestions. In point 1 of that amendment, "the right of everyone to access to educational facilities" was no improvement on the original text, "the right of everyone to education", as access to educational facilities might be interpreted to mean that school attendance was permitted where schools existed, but that States were not obliged to build new schools. That was not the intention of the United Kingdom amendment, which later spoke of compulsory primary education; but even seeming contradictions should be avoided. The amendment further specified that primary education should be free in State schools; that addition appeared superfluous, and might exclude the possibility of free education in schools not operated by the State but subsidized by it, a practice current, for example, in France. The reference to "payment for ancillary services" also did more harm than good. The original text of article 28 imposed no obligation to provide such services free, so that there was no need to counteract it; but the Fourteenth International Conference on Public Education, reflecting the modern trend in many countries, had adopted several resolutions expressing the hope that school supplies, text-books and possibly lunches might be supplied to children
/free of

free of charge. There should be nothing in the covenant to impede progress in that direction, and he therefore hoped that the United Kingdom representative would reconsider that part of his amendment.

The definition of the aims of education, contained in article 25, paragraph 7, which the United Kingdom representative had criticized, was based on article 26, paragraph 2 of the Universal Declaration of Human Rights, a text which had been agreed upon after long debate. If the United Kingdom amendment were adopted, that definition would disappear; yet precisely such a definition was needed in an article which dealt not with the right to instruction merely, but with the right to education, which encompassed moral training as well as acquisition of knowledge. UNESCO, which had been created for the purpose of contributing to peace and security by promoting collaboration among the nations through education, science and culture, could only hope that the definition of education in article 23 would be maintained.

The United Kingdom representative's objection to the word "encouraged" in paragraph 6 on the grounds that it imposed no obligation was no doubt due to an error in translation; the French text of that paragraph said that fundamental education "doit être donnée dans toute la mesure du possible", which constituted a very definite obligation. The English text, which spoke merely of encouraging fundamental education, should be corrected. In a world in which there were great numbers of illiterates whose ignorance prevented them from adapting themselves to social progress, it was of the utmost importance to educate adults, who could not be reached by means of primary education. At its last session, the General Conference of UNESCO had adopted an important project: the establishment of a network of international centres which would train instructors for fundamental education. One such centre had already been established in Mexico and another in Egypt, and ten more were planned, to cover all the main regions of the globe. UNESCO consequently regarded the omission of the reference to fundamental education in the covenant as dangerous, and hoped that the United Kingdom representative would reconsider that part of his amendment.

Mr. BRACCO (Uruguay) expressed appreciation of the statement of the representative of UNESCO and noted that the Uruguayan delegation was prepared to redraft its amendment in the light of his or any other suggestions and comments.

/He requested

He requested the views of the representative of UNESCO regarding the part of the Uruguayan proposal on physical education.

At the invitation of the CHAIRMAN, Mr. PERLZWEIG (World Jewish Congress) commended the Commission for its distinguished pursuit of its objective despite an unfavourable international climate. The Commission's work was a source of hope and encouragement to people throughout the world.

As the representative of a tradition which for centuries had given the highest priority to education, he was deeply concerned with article 23 on the right of education. If that article had been retained in its original form, the World Jewish Congress would not have felt impelled to comment on some of the proposals in the United States and United Kingdom amendments with special reference to the definition of education and the principle of non-discrimination.

The United Kingdom proposal omitted all reference to the nature of education. Experience had proved that public instruction in the hands of a reactionary government could serve as a force perverting rather than disseminating truth. True education in the sense of the original draft of article 23 must be clearly distinguished from the kind of education which produced blind obedience and which had poisoned the minds of countless children under the Hitler regime with disastrous effects. Education could serve the cause of world peace only if its aims were defined.

In reply to the argument that a definition of education would require a definition of other concepts in the covenant, he noted that to some extent other concepts had already been defined, particularly the right to work. In view of the absence of an article guarding against abuse and misuse of education, the objectives of education must be clearly stated. Even if only a negative effect were achieved, such a definition, providing for the promotion of friendship among peoples and of the principles of the United Nations, should prove beneficial.

The United States proposal which stated the purposes of education had the defect of employing the phraseology "realizing that education should be a continuous process..." which was appropriate for the Universal Declaration but which in a covenant should read "undertake that education shall be a continuous process...". A further defect of the United States proposal was the omission from the definition of the purposes of education of a reference to the

/principles

principles of the United Nations. He asked the United States delegation to reconsider its proposal and include such a reference.

In the matter of non-discrimination, he agreed that if article 1 applying non-discrimination to all of the articles of the covenant was included, the point had been met. It was significant, however, that the final form of article 1 had not yet been decided and that both the United States and the United Kingdom delegations had already announced their intention to submit amendments to that article. A reference to article 1 was therefore not a conclusive argument against the non-discrimination clause in article 2f.

The World Jewish Congress was firmly convinced that the principle of non-discrimination should apply to education, as economic as well as a political and civil right, and should be stated in both covenants. At the present stage there was no assurance that a non-discrimination clause would be inserted in both covenants.

If the only difficulty to the inclusion of such a provision was its length, the desired results could be achieved in a very few words by adding after the words "primary education", "secondary education", and "higher education" in paragraphs 2, 3 and 4 respectively of the United Kingdom amendment (E/CN.4/L.85) the phrase "without discrimination of any kind". The question was an urgent one because in many countries, even in the most progressive in some cases, discrimination was practised against certain groups in overt or indirect fashion. It would be unfortunate to omit from the covenant an element which would remedy one of the grave evils of the contemporary world. In view of the excellent record of the United Kingdom in making its educational institutions accessible to foreign students who were unable to continue their studies in their native countries, he hoped that the United Kingdom delegation would agree to the addition of a brief formula on non-discrimination.

In addition to the negative role of a definition of education in preventing abuse, such a definition had equally important positive aspects in committing States to use the school as a means of promoting understanding and justice in accordance with the principles of the United Nations.

/s/ Dr. VALENZUELA

Mr. VALESGUELA (Chile) said that article 28 was of particular significance to the Chilean delegation which considered it in the light of the illiteracy figures recently published by UNESCO. It was reported that in Europe 15 per cent of the population was illiterate, in Canada and the United States less than 20 per cent was illiterate, that the figures for Oceania were even better; but that in Latin America, Africa and Asia over 60 per cent of the population was unable to read and write. In view of those circumstances, the criteria and the general approach to education must inevitably be different in countries whose primary problem was the elimination of illiteracy. The more advanced countries, which regarded illiteracy as a secondary problem, were seeking to perfect their educational system while less developed countries were anxious that States should give solemn undertakings in the covenant which would eliminate illiteracy.

The United Kingdom and United States texts, although different in many respects, were identical in that they omitted the non-discrimination clause which the Chilean delegation considered essential in article 28. Without such a clause in the covenant, the Commission would be inviting the General Assembly to legalize segregation in education on an international scale. If the non-discrimination clause appeared in article 28, segregation in education would be prohibited and States would be unable to claim that they were fulfilling their obligations under the covenant if they maintained separate schools for different groups of the population even if equal facilities were assured in all cases.

The Chilean delegation was also dissatisfied with the United States text because it eliminated the reference to technical and professional education and because it omitted a reference to the principles of the United Nations in its definition of the objectives of education. The Chilean delegation therefore preferred the present text of article 28 to the United States proposal.

The arguments presented by the United Kingdom representative were interesting but failed to give due consideration to the problems of countries with 60 per cent illiteracy. The provision for payment for auxiliary services was justifiable in the case of the United Kingdom but would hamper the efforts of many countries including Chile, which were inaugurating programmes for free school meals and free medical and dental service for students in an effort to raise the deplorably low standard of living.

/The Chilean

The Chilean delegation was in favour of the Australian amendment (E/CN.4/L.89), which achieved greater precision, and would support the USSR amendment if it was extended to secondary as well as primary education and if it was understood that that obligation was one of many obligations assumed by States. In connexion with the Uruguayan proposal (E/CN.4/L.61) he agreed that improvement was possible in the light of the comments made by the representative of UNESCO. It was the view of the Chilean delegation that the addition of the word "artistic" in paragraph 4 could not detract from the article. It also considered the comments on scholarships exaggerated but agreed with the views of the representative of UNESCO on public libraries.

The Chilean delegation had not yet had time to study the Belgian proposal (E/CN.4/L.95) and reserved its position in that connexion.

The meeting rose at 1.00 p.m.