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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND EIGHTY-FOURTH MEETING

Held at Headquarters, New York  
on Friday, 2 May 1952, at 2.30 p.m.

CONTENTS:

Draft international covenants on human rights and measures of  
implementation (L/1952; E/CN.4/1952/Add.4, E/CN.4/L.51/Corr.1,  
E/CN.4/L.61/Rev.1, E/CN.4/L.70/Rev.2, E/CN.4/L.85, E/CN.4/L.89,  
E/CN.4/L.95, E/CN.4/L.96, E/CN.4/L.97) (continued)

<u>Chairman:</u>	Mr. MALIK	Lebanon
<u>Rapporteur:</u>	Mr. WITLAM	Australia
<u>Members:</u>	Mr. NISOT	Belgium
	Mr. VALBUENA	Chile
	Mr. GIBBO SACMAN	China
	AZMI Bey	Egypt
	Mr. JUNGHE	France

Members (Continued):

Mr. KAPSAMEELIS.	Greece
Mrs. MERTA	India
Mr. AZKOUJ	Lebanon
Mr. WABED	Pakistan
Mr. BRZYNSKI	Poland
Mrs. RÜGSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MORGON	Union of Soviet Socialist Republics
Mr. BOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. ERACCO	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representatives of specialized agencies:

Mr. MCELLETT)	International Labour Organization (ILO)
Mr. PICKFORD)	
Mr. SABA	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:

Category A:

Mr. LEARY )	International Confederation of Free Trade Unions (ICTU)
Miss BENDER)	

Category B and register:

Mr. LEJE	Agudas Israel World Organization
Mrs. VECARA	Catholic International Union for Social Service
Mr. SOLIE	Commission of the Churches on International Affairs
Mr. MOKOWITZ	Consultative Council of Jewish Organizations
Mrs. GUDAN	International Federation of Business and Professional Women
Mrs. RCFB	International Federation of University Women
Miss GARTIAN	International Union of Catholic Women's Leagues

/Category B

Category B and Register (continued):

Mr. JACOBY	World Jewish Congress
Mr. RONALDS ) Mrs. POLSTEIN )	World Union for Progressive Judaism

Secretariat:

Mr. EMERREY	Director, Division of Human Rights
Mr. DAG	Secretary of the Commission

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION  
(E/1992; E/CN.4/655/Add.4, E/CN.4/L.51/Corr.1, E/CN.4/L.61/Rev.1,  
E/CN.4/L.80/Rev.2, E/CN.4/L.85, E/CN.4/L.89, E/CN.4/L.95, E/CN.4/L.96,  
E/CN.4/L.97) (continued)

The CHAIRMAN invited the Commission to proceed with its consideration of articles 26 of the draft covenant.

Mr. BRACCO (Uruguay) wished to make some comments in reply to objections which had been raised to his delegation's amendment (E/CN.4/L.61/Rev.1).

In connexion with paragraph 1 of that amendment, he considered it essential to mention artistic education which was not necessarily included in technical or professional education. In Uruguay, for example, artistic education was a separate branch of instruction and did not come under general education.

Paragraph 2 of the Uruguayan amendment supplemented the United States amendment and was intended to make the provision on secondary education as explicit as the provision on primary education. In the matter of scholarships, he could not accept the objection of the United States representative; the United States amendment provided for scholarships in the field of higher education and he approved it as well as the USSR amendment on that point. The Uruguayan amendment, however, related to persons who had completed their course of study in secondary or higher education and who must be given the opportunity to specialize further in the cultural, scientific or vocational fields.

/s/

Many representatives considered that physical education was part of the concept of education in general. He did not consider that to be the case since physical education was by its very nature different from intellectual training. Moreover, in the field of international co-operation and understanding, it played perhaps a more significant role in practice than all other aspects of education. He stressed the importance of international sports competitions and championships which were based on the desire of peoples of different countries to understand and know one another. He therefore urged the members of the Commission who had opposed that part of the Uruguayan amendment to reconsider their position.

In general the present draft of article 28 was satisfactory. He was in favour of the retention of the non-discrimination clause. Paragraph 3 seemed to be drafted as clearly and explicitly as possible. He supported the United States amendment to paragraph 4 (E/CN.4/L.80/P.v.2). He indicated that in Uruguay education was free at all levels. For that reason he could not accept the words in the United Kingdom amendment (E/CN.4/L.85) to paragraph 2 "but this shall not preclude the requirement of payment for ancillary services". He accepted the United States amendment to paragraph 5 of article 28 except for the words "for those needing financial assistance to obtain higher education". He thought that paragraph 6 should not be altered. He would vote for the Belgian amendment to paragraph 7 (E/CN.4/L.75); he wished to know whether the Belgian representative would agree to the insertion of the word "social" after the word "moral". As he considered paragraph 8 satisfactory, he would not support the various amendments proposed to it. He would support the Belgian amendment to paragraph 9 because it expanded the concept contained in that paragraph.

He would also vote in favour of point 1 of the USSR amendment (S/CN.4/L.51/Corr.1). In the light of the reservation he had made, he preferred the United States amendment to the part of point 2 of the USSR amendment relating to scholarships, but he would support the part relating to higher educational institutions.

Mr. HISOZ (Belgium) accepted the suggestion of the Uruguayan representative in connection with the Belgian amendment (E/CN.4/L.75) to paragraph 7 of article 28.

/s/ ADRI Fay

ADHI Bey (Egypt) explained the reasons for his sub-amendment (E/CN.4/L.97) to paragraph III(b) of the Lebanese amendment (E/CN.4/L.96). That sub-amendment was based on paragraphs 8 and 9 of article 28. The Egyptian sub-amendment was intended to restore the wording of the part corresponding to paragraph 9. Paragraph 9 referred to religious education while the Lebanese amendment referred to education in general. That amendment might be interpreted to give parents the power to impose their own religious or philosophical convictions in all the subjects taught, a situation which would be dangerous and might lead to unfortunate reactionary pressures on lay institutions.

Mr. WILLIAMS (Australia) wished to make some comments at the present stage of the discussion but reserved his right to speak again at some later time.

One of the fundamental ideas in the field of education was progressively free education at the various levels. Article 1 emphasized the fact that the various rights stated in the covenant should be implemented progressively; it was therefore pointless to repeat the same idea in article 28, having regard to the fact that the covenant could not require all States to undertake immediately to provide free education. Another essential idea which was linked to free education was equality in education.

At the outset, a majority of the Commission had roomed prepared to accept article 28 of the draft covenant on their basis. In that case the United States amendment (E/CN.4/L.85/Parr.) would undoubtedly be best; it seemed particularly desirable to include the definition and the objectives of education in the first paragraph. Although the non-discrimination clause in the first article applied to the various articles of the covenant, there might be some concern about the psychological effect of deleting the non-discrimination provision from article 28. As the essential consideration must be to refrain from limiting the general formula in article 1.

At the present stage, however, the Commission appeared to favour a new draft. If it was possible to find a shorter but equally complete formulation of article 28, he would favour the United Kingdom amendment (E/CN.4/L.85) or the Lebanese amendment (E/CN.4/L.96). He hoped that the United Kingdom delegation would reconsider paragraph 1 of its amendment and decide to restore the general formula. Moreover he did not fully approve of the expressions

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"State schools" and "but this shall not preclude the requirement of payment for ancillary services". It should be borne in mind when drafting the covenant that education would eventually be free, even though it had to be recognized that was a long-term prospect. The word "progressively" could be deleted from paragraphs 3 and 4 of the United Kingdom amendment in view of article 1. On the other hand that amendment satisfactorily combined paragraphs 8 and 9 of the existing text in a single paragraph.

In structure and content the Lebanese amendment (E/CN.4/L.96) was a distinct improvement. Nevertheless paragraph 1 of article 23 should merely enunciate the right to education in general terms and the matter of the various levels of education should be dealt with in paragraph 2. He preferred paragraph 3 of the present draft to paragraph II(a) of the Lebanese amendment. In paragraph II(c), the formula "irrespective of the resources of the individual" seemed ambiguous inasmuch as it might mean "irrespective of the lack of resources" or "irrespective of the abundance of resources". The definition of education appearing in paragraph III(a) of the Lebanese amendment should be placed at the beginning of the article. The definition in the present draft of article 23 which was based on the formula used in the Universal Declaration of Human Rights was somewhat inadequate. Education should encourage the full development of the human personality but to add, after the statement of the principle, a list of only some of its aspects would be to limit the content of that principle. In order of aims, full development of human personality should precede even the ability to participate effectively in a free society. In paragraph III(b) of the Lebanese amendment it would be preferable not to change paragraph 9 of article 23. On that point he agreed with the comments of the representative of Egypt.

It followed from what he had just said that he would not support the Belgian amendments (E/CN.4/L.95) to paragraphs 4 and 5 but that he would support the amendment to paragraph 7 as worded in the Lebanese amendment, he wished to consider further the question of public authorities in the Belgian amendment to paragraph 8; he would vote against the amendment to paragraph 9.

The USSR amendment (E/CN.4/L.51/Corr.1) provided for measures of implementation which he approved in principle but which were only partial and were covered by the proposed article 1. The Uruguayan amendment (E/CN.4/L.61/Rev.1) was interesting but was confined in the terms of the texts already before the Commission. He might at a later stage reconsider his position on that amendment if such action seemed warranted by new developments in the debate.

/In conclusion

In conclusion he made it clear that his delegation's amendment (E/CN.4/L.89) was not intended to enable the State to exercise control over private educational institutions. Those institutions should be free to establish their own educational programmes but naturally and properly they had in preparing pupils for public examinations to take into account standards set by the public authorities.

Mr. LOMITYLKI (Poland) observed that certain delegations showed a tendency to oppose every liberal or progressive provision that the Commission had so far inserted in the draft covenant. For example, the United States delegation, in its amendment to article 2 (E/CN.4/L.80/Rev.2), proposed the deletion of paragraph 2, which enunciated the principle of non-discrimination in education. That there was great discrimination in certain countries, particularly in education, was a matter of common knowledge. It was therefore essential that article 23 of the Covenant should provide special guarantees in that respect. The general provisions of article 1 were not sufficient, as some appeared to think. The effect of the United States proposal to delete the word "progressively" in paragraphs 4 and 5 of article 2 would be to delay indefinitely the application of the principle of free primary and higher education. The United Kingdom amendment (E/CN.4/L.85) also contained a limitative clause concerning free education and the age limit for compulsory primary education; moreover, it omitted to lay down that States must make free education available by establishing schools. The Lebanese amendment (E/CN.4/L.96) completely changed the structure of the article in the draft.

The Polish delegation would therefore propose amendments to the amendments submitted by Lebanon, the United Kingdom and the United States (E/CN.4/L.99, E/CN.4/L.100 and E/CN.4/L.93 respectively) which would have the effect of restoring article 23 to its original form and strengthening the obligations of States to see that everyone received an education.

/s/ H. HÄGGEL

100

Mrs. MÅKEL (Sweden) shared the views of the Australian representative; the right to education was an essential prerequisite of the exercise of the other rights and of the training of public-spirited citizens. Education should not consist merely of imparting facts, but of teaching the pupils to think: i.e. of realizing the idea expressed in article 2<sup>o</sup>, paragraph 7 of the draft convention. She supported the amendment proposed by the United States delegation with the changes suggested by the Indian delegation.

The Commission should not, in its desire to be concise, sacrifice any of the points which were important for countries in which the right to education had not yet been fully put into practice.

With reference to the USA amendment, she agreed that it should be obligatory for States to set up the schools needed to implement the right to education. She thought that paragraph 2 of article 2<sup>o</sup>, which restated the principle of non-discrimination, should be deleted. By its adoption of article 1, which applied to all the other articles of the covenant, the Commission had included a provision on non-discrimination. There was no need to repeat that provision; if it were adopted in relation to each separate right, the effect of article 1 would be weakened.

Mr. JUVIGNY (France) paid a tribute to the Lebanese delegation's attempt to elucidate matters, but wondered whether, as a statement of aims, the text it proposed was any better than the existing text of article 2<sup>o</sup>, which was undoubtedly clearer. The Lebanese wording was weaker than the original text in the case of higher education. Paragraph II (c) of the amendment, which proposed to make higher education equally accessible to all on the basis of merit, was ambiguous in that it was not clear whether it referred to equality in law or equality in fact. If it were understood to mean legal equality, the State would be unable to deny higher education to anyone; if it meant equality in fact, the State would be under an obligation to achieve that state of affairs, i.e. to place all those who deserved higher education in material circumstances which would enable them to receive it.



In view of that ambiguity he would prefer to keep the original text of article 28 and leave UNESCO to draw up a convention on scholarships. He agreed with the Lebanese representative that primary education should be encouraged.

He considered that paragraph III of the Lebanese amendment would weaken paragraph 7 of the article of the covenant, which paraphrased the Universal Declaration of Human Rights and which the Commission should endeavour to leave unchanged. In paragraph III the Lebanese representative proposed to restrict unduly the power of the State, no doubt for worthy motives and to prevent States from giving education a certain bias. In drawing up a covenant for general application, however, any exclusive preoccupation with the special circumstances of a particular country should be avoided; it should be recognized that a minimum of general principles of international and national morality could be laid down by the State, at the same time having the child's conscience free.

Paragraph III (b) of the Lebanese draft provided for the liberty of parents to ensure the education of their children in conformity with their own religious and philosophical convictions. If the word "philosophical" was used to mean a concept of man and his destiny, freedom of choice in that respect might render States powerless in the face of abuses. Freedom in education might lead to the establishment of schools teaching a philosophy completely opposed to the aims laid down by article 28, paragraph 7 of the draft covenant and producing a generation of racists and totalitarians.

He would prefer the expression "standards laid down by the State" rather than "standards approved by the State". The State, if it saw fit, could always refrain from prescribing standards and merely approve them. Moreover, the discussion of that point was somewhat academic; the system of approval might be less liberal than that under which the State laid down minimum educational standards. Lastly, in some States the two systems might be combined.

Mr. NIARE (United Kingdom) congratulated the Lebanese representative on his report (E/CN.4/L.96) and drew the Commission's attention to the fact that the wording of the beginning of the present article 28 laid no immediate obligation on States, some of which might have difficulties if it did and, secondly, to the fact that the Commission had decided to include in article 28 a general clause which would apply to all the articles of the  
/covenant and

covenant and would place States under a progressive obligation only. Hence he disagreed with those representatives who had maintained that the wording of the Lebanese amendment lacked the obligation imposed on States. On the contrary, it gave greater precision to that obligation by jingling out, within the framework of article 1, certain important steps which all States had to take.

On the other hand, he shared the view of the Indian and French representatives that the wording of paragraph 7 was unsatisfactory. He did not believe that it could be said that everyone had the right to secondary and higher education, since there were those who had not the innate capacity to avail themselves of such a right, and it was recognized in paragraph 11 that the right to higher education must be based on merit. He therefore thought that subparagraphs (a) and (b) of paragraph 7 should be omitted.

Paragraph 11 (c) was undoubtedly the best proposal that had been made for a clause relating to the obligations of States in respect of primary, secondary and higher education and he preferred the formulation relating to higher education to that in the United States amendment (E/CN.4/L.80/Rev.2). He objected to paragraph 7 of article 26 because he did not think that a covenant which would stand as a charter of those rights for a long time to come should have in it provisions inserted only for reasons of the moment or deriving from the immediate past. But if the Commission considered something on the lines of paragraph 7 to be essential, he thought that paragraph 11 (a) of the Lebanese amendment was in several respects an improvement, particularly in its adoption of a phrase from the Belgian amendment to which the requirement of respect for human rights was subordinated.

Paragraph 11 (b) was really a sub-amendment to paragraph 5 of the United Kingdom amendment (E/CN.4/L.85). The United Kingdom delegation had tried, by combining paragraphs 8 and 9, to achieve greater conciseness and also to extend the scope of paragraph 8 by omitting the limitation to primary education. He agreed with the French representative in preferring the expression "laid down".

He supported the Egyptian sub-amendment (E/CN.4/L.77) because the relevant sub-paragraph in the Lebanese amendment seemed fraught with the danger that States would be obliged either to make education in State schools conform to the parents' religious and philosophical convictions, or to ensure that there were other schools in which such conformity obtained.

With regard to the amendment proposed by Uruguay (E/CN.4/L.61/Rev.1) to article 26, paragraph 4, it seemed unnecessary to add the word "artistic" because that aspect of education was covered by the phrase "in its different forms" and the word "including" was not exhaustive of those forms. The suggestion to introduce a clause relating to physical education was no doubt praiseworthy, but

In conclusion, he reserved the right to reply subsequently to any comments on his delegation's amendment (E/CN.4/L.95) and to submit his own observations on the Belgian amendment (Z/CN.4/L.95).

Mr. KOVLANKO (Ukrainian Soviet Socialist Republic) observed that formerly there had been many illiterates in his country, but that, thanks to the efforts of the Soviet Government, illiteracy had been stamped out in the Ukrainian SSR and much had been done to develop higher education. For that reason his delegation wished to create conditions all over the world in which all should have the right to education. In some countries only those who could read and write were allowed to vote; that fact proved the importance of the question. Under Article 73 of the Charter the Powers responsible for the administration of Non-Self-Governing Territories pledged themselves to ensure the educational advancement of those Territories; nevertheless, in most of the territories the people were without any educational facilities.

Some of the proposed amendments would maintain the existing text of article 28, with a few changes; others would have the effect of undoing all that the Commission had done at its seventh session and completely transforming the wording of the article. Among the latter were the amendments proposed by the United Kingdom (Z/CN.4/L.85) and the Lebanon (Z/CN.4/L.90). The United Kingdom amendment lessened the obligations imposed on States and made no mention either of the steps States should take to ensure the exercise of the right to education, or of non-discrimination, although half the world's population was illiterate. Nor did it mention the fact that education should tend towards the realization of the aims of the United Nations. Those criticisms also applied to the Lebanese amendment (Z/CN.4/L.90), which was also less satisfactory than the existing text.

He feared that if the clause relating to free primary education were weakened, the result might be an indefinite delay in the development of primary education among peoples such as those of the Gold Coast, 80 per cent of whom were illiterate, and who if the present conditions were perpetuated would be unable to read or write for centuries to come. Hence the Ukrainian delegation supported the amendments proposed by the USSR (E/CN.4/L.51) and the Polish sub-amendments (E/CN.4/L.90, E/CN.4/L.99

... (E/CN.4/L.100) which would compel States to create the necessary means for the exercise of the right to education.

The delegation of the Ukrainian SSR would support the amendments proposed by Uruguay (E/CN.4/L.61/Rev.1) and Belgium (E/CN.4/L.75).

The meeting rose at 5.30 p.m.