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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND EIGHTY-NINTH MEETING

Held at Headquarters, New York  
on Monday, 12 May 1952, at 10.45 a.m.

CONTENTS:

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, E/CN.4/L.61/Rev.1, E/CN.4/L.80/Rev.2, E/CN.4/L.85/Rev.1, E/CN.4/L.89, E/CN.4/L.95, E/CN.4/L.96, E/CN.4/L.96/Rev.1, E/CN.4/L.97, E/CN.4/L.98, E/CN.4/L.99, E/CN.4/L.100, E/CN.4/L.101, E/CN.4/L.102)  
(continued)

Chairman: Mr. MALIK Lebanon  
Rapporteur: Mr. WILLIAM Australia

<u>Members:</u>	Mr. TIDOT	Belgium
	Mr. ALIJA CHIKI Mr. VALENZUELA	Chile
	Mr. CHENG FACHAN	China
	AZMI Bey	Egypt
	Mr. JUVIGNY	France
	Mr. KIBOU	Greece
	Mrs. MEHTA	India
	Mr. AZKUL	Lebanon
	Mr. WAREED	Pakistan
	Mr. BORATYNSKI	Poland
	Mrs. ROSSER	Sweden
	Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
	Mr. MORGZOV	Union of Soviet Socialist Republics
	Mr. BEANE	United Kingdom of Great Britain and Northern Ireland
	Mrs. ROOSEVELT	United States of America
	Mr. BRACCO	Uruguay
	Mr. JEVREMOVIC	Yugoslavia
<u>Representatives of specialized agencies:</u>		
	Mr. MCHILLIET	International Labour Organisation (ILO)
	Mr. SABA Mr. THOMAS	United Nations Educational, Scientific and Cultural Organisation (UNESCO)
<u>Representatives of non-governmental organisations:</u>		
<u>Category A:</u>		
	Mr. LEARY	International Confederation of Free Trade Unions (ICFTU)
		<u>Category B:</u>

Category B:

Mr. HOLBE	Commission of the Churches on International Affairs
Mr. HOCKOWITZ	Consultative Council of Jewish Organizations
Mr. LEEN	International League for the Rights of Men
Miss GARTMAN	International Union of Catholic Women's Leagues
Mr. JACBY	World Jewish Congress
Mrs. POLSTEIN ) Mrs. FARBER )	World Union for Progressive Judaism
Mr. FEJCE	World's Alliance of Young Men's Christian Associations

Secretariat:

Mr. HUMPHREY	Director, Division of Human Rights
Mr. DAS	Secretary of the Commission

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION  
(E/1992, E/CH.4/655/Add.4, E/CH.4/L.51/Corr.1, E/CH.4/L.61, E/CH.4/L.51/Rev.1,  
E/CH.4/L.80/Rev.2, E/CH.4/L.85/Rev.1, E/CH.4/L.89, E/CH.4/L.95, E/CH.4/L.96,  
E/CH.4/L.96/Rev.1, E/CH.4/L.97, E/CH.4/L.93, E/CH.4/L.99, E/CH.4/L.100,  
E/CH.4/L.101, E/CH.4/L.102) (cont'nued)

The CHAIRMAN invited the Commission to proceed with its consideration of article 23 of the draft covenant on economic, social and cultural rights.

Mr. VALENZUELA (Chile), referring to the statement of the Swedish representative on the principle of non-discrimination at the previous meeting, commented that from a legal point of view it was correct to say that the general provisions of article 1 adopted by the Commission governed all the individual articles relating to economic, social and cultural rights. Nevertheless, in

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view of the conditions prevailing in a number of countries with regard to measures of discrimination, in particular racial segregation in the field of education, it was appropriate to consider whether the scope of article 2B would be restricted by the deletion of the non-discrimination clause from the article. Even if governments gave everyone equal educational opportunity, racial segregation could nevertheless constitute a very definite form of discrimination and could give some races feelings of superiority over others.

Accordingly, delegations should not just try to avoid repetition of the non-discrimination clause for each right; if they were opposed to such repetition, they should clearly state that the non-discrimination clause in article 1, paragraph 2, explicitly prohibited States from making arbitrary distinctions in implementing the right of everyone to education.

In article 2D, paragraph 7 of the draft covenant, the Chilean delegation favoured the addition of the words "moral and spiritual values" as proposed by the Belgian delegation (E/CN.4/L.95) but it advocated the retention in that paragraph of the words "the suppression of all incitement to racial and other hatred". UNESCO had given attention to that question and was, for example, attempting to secure removal of ultra-nationalism and racist theories from history text books.

Mr. AZKUL (Lebanon) called attention to the revised text of his amendment (E/CN.4/L.96/Rev.1) to the United Kingdom amendment (E/CN.4/L.85). In the light of the comments presented by other members and the suggestions of the representative of UNESCO, he had replaced sub-paragraphs (a) and (b) of paragraph I by paragraph 7 of article 2B to satisfy those delegations who wished to have the definition and aims of education at the beginning of the article on the right to education. The changes he had made in sub-paragraphs (a), (b), (c) and (d) of paragraph II of his amendment were intended to give the original text more strength and precision by eliminating the word "make" which implied an excessively long process.

Paragraph III of his amendment combined paragraphs 6 and 9 of the original draft article with some changes providing for minimum standards "laid down or approved". The revised Lebanese amendment on religious education restored the original text of paragraph 9.

Mr. KIROU (Greece) was of the opinion that it would be appropriate in the Lebanese amendment to add the words "and, if necessary, legal guardians" in order to enable guardians to choose the schools which their wards should attend.

Mr. JAVPEMOVIC (Yugoslavia) again indicated his preference for the present text of article 28, particularly paragraph 2 containing the non-discrimination clause. He did not see why that clause could not be repeated in the article dealing with the right to education. It was customary in public parks and museums, for example, to increase the number of notices prohibiting various acts if there was a danger that the number of violations might increase. In the field of education, discriminatory practices were widespread and it was therefore appropriate to urge the Commission to retain paragraph 2 of article 28 in the text it adopted.

He opposed the deletion from paragraph 7 of article 28 of the clause on incitement to racial hatred. He would support the amendments of Uruguay (E/CN.4/L.61/Rev.1) and Belgium (E/CN.4/L.95). Referring to the changes proposed by the Belgian delegation in paragraph 9, he noted that they derived logically from the provision of article 13 of the draft covenant relating to the right to freedom of thought, conscience and religion.

Mr. SABA (United Nations Educational, Scientific and Cultural Organization) thought the Lebanese amendment (E/CN.4/L.96) a most interesting one but noted that it had some gaps and to some extent weakened the obligatory character of article 28. In the revised text of his amendment (E/CN.4/L.96/Rev.1) the Lebanese representative had made some useful changes, particularly by transposing the definition and the statement of the aims of education appearing in paragraph 7 of article 28 to the beginning of paragraph I. He admitted in

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that connexion that at that point it would be appropriate to mention among the objectives of education respect for the dignity of the human person and for moral and spiritual values to which the Belgian amendment referred. On all other points, it would be preferable to retain the present text of article 26 which corresponded to article 26 of the Universal Declaration of Human Rights. In paragraph II of the Lebanese amendment, he would prefer the opening words to be: "In order to ensure and guarantee the full exercise of the right to education in conformity with article 1, the States Parties to this Covenant should take all necessary steps..." Such wording would enable the whole article to be integrated more closely into the framework of article 1 adopted by the Commission. It would also have the advantage of referring to the guarantee of non-discrimination stated in that article. It would in fact be appropriate to remind States of their obligations in the very important field of education where there was a greater danger of discrimination. He added in connexion with the Uruguayan amendment (E/CN.4/L.61/Rev.1) that physical education was not necessarily included in the general concept of education although it was an important aspect of education. To the extent that artistic education meant the professional training of artists, it would come under technical or vocational education.

Mr. KRYKOV (Union of Soviet Socialist Republics) said, in reply to criticism of paragraph 1 of the USSR amendment to article 26 (E/CN.4/L.51/Corr.1) that in its original form that amendment had embodied two ideas: the obligation of States to ensure the right to compulsory and free primary education and their obligation to provide educational institutions to that end. In the light of the comments of the Chilean representative, the USSR delegation had agreed to the insertion of the words "in particular" in each paragraph of its amendment. Thus the text was no longer open to misinterpretation except by those seeking to distort its meaning. He was therefore of the opinion that opposition to the USSR amendment on technical grounds was impossible and that defeat of that amendment would mean that the Commission rejected the idea that States must guarantee the right set forth in article 26.

The United Kingdom amendment to article 26 (E/CN.4/L.65) should be considered together with the United Kingdom amendment proposing the deletion of article 29 (E/CN.4/L.66). Article 29 had been adopted by the seventh

session of the Commission solely in order to make article 26 acceptable to States in which primary education was at present inadequate. The text of article 29 was obviously too long and too indefinite but the United Kingdom amendment to article 28 failed to restore even the vague obligation set forth in article 27. At the preceding meeting of the Commission, the representative of the Ukrainian USSR had noted that, under present conditions, illiteracy would be eliminated in the Gold Coast only in the very distant future; yet it seemed possible to change that state of affairs if there was a real desire to do so, as proved in the USSR by the example of the Turkmen and Uzbek republics for which he went on to give statistics on educational progress under the Soviet regime. In view of the statement in the UNESCO report for 1951 that two-thirds of the population of the world was illiterate, it was urgent to take steps to remedy the situation. In the African territories under French and United Kingdom administration, the percentage of illiteracy was comparable to that in Turkmenistan before the revolution of 1917. In Western Europe and in the United States the situation with regard to secondary and higher education was far from satisfactory. It was therefore not enough to proclaim a principle; States must in addition undertake to ensure implementation of the principle, in particular by the construction of educational institutions.

He was surprised that the representative of UNESCO had so promptly agreed to the revised text of the Lebanese amendment (E/CN.4/L.96/Rev.1). The representative of UNESCO had said that in the Lebanese text the obligatory element was greater than in the original text of article 28. Mr. Morozov however stressed the fact that the USSR amendment (E/CN.4/L.51/Corr.1) was also obligatory in character. Once the principle of obligation was accepted, it was impossible to object to the USSR amendment which, unlike the Lebanese amendment, used clear and precise formulas, as did the Polish sub-amendments (E/CN.4/L.98, E/CN.4/L.99 and E/CN.4/L.100).

Referring to the omission in the Lebanese amendment (E/CN.4/L.96/Rev.1) of the clause on incitement to racial hatred, he commented that none of the opponents of that clause had indicated his reason for favouring its deletion from article 28. The inclusion of that clause was extremely important.

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In concluding, he reserved his right, at the time of the vote, to present a procedural proposal intended to facilitate the Commission's work.

Mrs. MEETA (India) said that paragraph I of the revised Lebanese amendment (E/CH.4/L.96/Rev.1) was preferable to the former version (E/CH.4/L.96); she hoped, however, that paragraph II would be revised again.

Referring to the USSR amendment (E/CH.4/L.51), she agreed that the construction of school buildings was undoubtedly of great importance but felt that, by itself, it would not ensure the implementation of the principle. In some areas in India classes were held in the open air. The number of teachers was also a very important factor. In her opinion, the Commission should merely state the principle and leave its application to the States concerned.

Mr. BOURNE (United Kingdom) wished to reply to certain remarks that had been made during the discussion and to explain why his delegation had revised its amendment to article 28 (E/CH.4/L.8)/Rev.1).

He did not wish to consider article 29 at present. The USSR representative had linked the United Kingdom delegation's proposal to delete article 29 with its amendment to article 28, but the motives which that representative had imputed to the United Kingdom delegation were not correct. The United Kingdom delegation was in complete agreement with the principles contained in article 28; it had simply tried to phrase it more clearly and more concisely.

The statement that several centuries must elapse before the education of the people in the Gold Coast began to bear fruit could not have been seriously intended. In that connexion, he recalled that steps had recently been taken to bestow self-government on the Gold Coast; an elected Parliament was already functioning and would doubtless contribute to the progress of local education. On the other hand, it was correct that during recent years material difficulties had prevented the United Kingdom from building all the schools in the United Kingdom for which provision had been made in the Government programme.

Paragraph 2 of the revised text of the United Kingdom amendment more clearly expressed his delegation's intention, i.e. that primary education should be available free to all children whose parents chose that they should attend State schools; paragraph 5 contained an alternative statement of that

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conception by referring to the liberty of parents to send their children at their own expense to schools other than those established by the State. The phrase "but this shall not preclude the requirement of payment for ancillary services" had been deleted as a result of criticism. Ancillary services did not refer to school equipment, as the Hungarian representative thought, but to the boarding system which existed in some English schools where, for geographical reasons it was essential. He hoped that the Commission would agree, at least tacitly, that the fact that, in some State schools where children had to be boarded the parents were asked to pay for their board was not incompatible with the provision in article 26 that primary education should be free. The words "or approved" had been inserted in paragraph 5 to meet the Australian representative's comments.

The representative of UNESCO had quite rightly pointed out that the word "professional" did not correspond to the French word "professionnel". Professional education could not be considered one type of secondary education, since it was, in fact, a form of higher education given to students who intended to enter one of the liberal professions. The word "vocational" was not entirely satisfactory, but it could be accepted at a pinch; it would, however, be better to delete the word from both the English and French texts, and refer only to technical education, since that term was sufficiently wide.

He had preferred to retain the formula "the right of everyone to access to educational facilities". The right covered by article 26 was, indeed, solely the right to access to educational facilities since the use to which that right was put was a matter of individual capacity. Furthermore, that wording was very suitable in relation to the non-discrimination provisions of article 1. The United Kingdom amendment did not mention fundamental education, which was perhaps a regrettable omission, remedied, however, by the Polish amendment (E/CN.4/L.100), which inserted the original text. That text however was unsatisfactory in the English version, as had been pointed out by the representative of UNESCO, because of the use of the word "encouraged". He would therefore support paragraph II (d) of the Lebanese amendment (E/CN.4/L.96/Rev.1) dealing with that question, since it seemed to him far more satisfactory. The covenant should not define the purposes of education. The wording of article 26 paragraph 7 was in any case open to question, confusing as it did the essential and the secondary. The formula contained in the Lebanese amendment was better, since it linked respect for human rights and

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fundamental freedoms to the more general consideration of the dignity of the human person; it was unnecessary, perhaps, to mention the relations between classes on a basis of justice, because that was merely a further addition to a number of concepts which did not seem to him to be of the essence of education. The words "or guardians" might be added after the word "parents" in paragraphs 2 and 5 of his delegation's amendment.

With regard to the clause in article 1 on non-discrimination, he was satisfied that not only the United Kingdom amendment but also paragraph II of the Lebanese amendment required the full application of that clause to the content of article 26. With regard to the repetition of the clause, he pointed out to the Yugoslav representative that, the covenant being drafted in legal form, its provisions could hardly be compared to notices prohibiting the public from taking certain action, where repetition might be advisable. It could well be argued that the repetition of the clause in certain articles might cast doubts on whether article 1 was applicable to all the articles of the covenant. He wished to reassure those who feared that article 1 might be revised to exclude the non-discrimination clause. His delegation was not desirous of eliminating that clause but of amending it. If the majority of the Commission decided to amend article 1, paragraph 2, the effects of such an amendment on article 26 and the other articles of the covenant would have to be borne in mind. The purpose of the amendment would merely be to eliminate the immediacy of the obligation on States in the realm of non-discrimination. So far as article 26 was concerned, he could accept that obligation and it would be tactically easier for his delegation to secure amendment of the non-discrimination clause if a special non-discrimination provision of immediate application had been added to article 26; no doubt the absence of such an addition to article 26 would be advanced as an objection to any amendment of the non-discrimination clause. Nevertheless, he would still object to such an addition, because he thought the Commission could not at that stage anticipate possible amendments of the non-discrimination clause; the effect of such amendments on article 26 and the other articles would have to be considered when the clause was reviewed and they might even necessitate exceptions or consequential provisions in respect of various articles.

*/s/* Her delegation

Her delegation would vote against the Polish amendment (E/CN.4/L.98). The phrase "shall encourage ... the suppression of all incitement to racial and other hatred" was worded in a negative form and smacked of criticism or censure; moreover, that idea was already expressed by the words "the strengthening of respect for human rights and fundamental freedoms".

Although the word "vocational" was not entirely satisfactory, she preferred it to the word "professional".

The USSR amendment (E/CN.4/L.51) appeared to imply that the rights proclaimed in the covenant could be implemented only if obligations were imposed on States; since other methods must be envisaged, she would vote against that amendment.

Returning to the question of non-discrimination, she explained that it was true that the United States delegation had voted against the word "guarantee" in article 1, paragraph 2; it had done so, however, solely because, in the context of article 1, it did not seem to be the right word. She had voted in favour of article 1 as a whole. She was prepared to vote again in favour of any text proclaiming the principle of non-discrimination. Nevertheless it would weaken the significance of the non-discrimination clause in article 1 to repeat it in the article on the right to education while omitting any special reference to it from the articles on social security, housing and standards of living.

As the Chilean representative had emphasized, non-discrimination in education would obviously not be eliminated by giving the same advantages to all schools, while allowing segregation to subsist. The way to achieve results, however, was not by constant repetition of the non-discrimination clause. In the United States, where segregation was practiced in certain States, the matter could not be fought out by means of federal laws. The battle must be waged in each man's conscience. Discrimination, moreover, was not based only on differences of race or colour; it could also exist on religious grounds. It must therefore be proscribed in a very general clause such as the one contained in article 1. To repeat that clause with respect to specific questions might merely provoke fresh discrimination.

The CHAIRMAN read the list of speakers and announced that it was closed.

The meeting rose at 1.10 p.m.

27/5 a.m.

UNITED NATIONS  
ECONOMIC  
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GENERAL  
E/CN.4/SY.200/Corr.1  
17 July 1952  
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COMMISSION ON HUMAN RIGHTS

Eighth Session

CORRIGENDUM TO THE SUMMARY RECORD OF THE TWO HUNDRED AND EIGHTY-NINTH MEETING

Held at Headquarters, New York,  
on Monday, 12 May 1952, at 10.45 a.m.

The following text should be inserted at bottom of page 10:

"Mrs. ROOSEVELT (United States of America) announced that her delegation had submitted an amendment (E/CN.4/L.101) to the United Kingdom amendment and an amendment (E/CN.4/L.102) to the Polish amendment and the United Kingdom amendment.

"She asked the Lebanese representative to replace the word 'measures' in paragraph II of his amendment (E/CN.4/L.96/Rev.1) by the word 'steps' in order to bring it into line with the wording of article 1. She wondered whether the expression 'whatever may be his resources' in paragraph II (a) of the Lebanese amendment correctly expressed the Lebanese representative's intention."

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