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COMMISSION ON HUMAN RIGHTS

THIRD SESSION

SUMMARY RECORD OF THE SIXTY-EIGHTH MEETING

Held at Lake Success, New York
Thursday, 10 June 1948, at 3:30 p.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. C. MALIK Mr. AZKOUL	Lebanon
<u>Members:</u>	Mr. G. JOCKEL Mr. L. STEYAERT Mr. R. LEBEAU Mr. A.S. STEPANENKO Mr. G. LARRAIN Mr. P.C. CHANG Mr. O. LOUFTI Mr. R. CASIN Mrs. H. MEHTA Mr. M. de J. QUIJANO Mr. J.D. INGLES Mr. M. KLEKOVKIN Mr. A.P. PAVLOV Mr. G. WILSON Mr. R. FONTAINA Mr. J. VILFAN	Australia Belgium Byelorussian Soviet Socialist Republic Chile China Egypt France India Panama Philippines Ukrainian Soviet Socialist Republic Union of Soviet Socialist Republics United Kingdom Uruguay Yugoslavia
<u>Also Present:</u>	Mrs. A. LEDON	Representative of the Commission on the Status of Women

Representatives of Specialized Agencies:

Mr. A. METTAL	International Labour Organization
Mr. P. LEBAR	United National Educational Scientific and Cultural Organization

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Consultants from Non-Governmental Organizations:

Miss SLINDER	American Federation of Labor
Mr. VANISTENDAELE	International Federation of Christian Trade Unions
Miss DRENNAN	Catholic International Union for Social Service
Mr. PRENTICE, Jr.	Commission of the Churches on International Affairs
Mr. B. JANNER	
Mr. BROTMAN	Co-ordinating Board of Jewish Organizations
Miss STRAHLER	International Committee of the Red Cross
Miss C. SCHAEFER	International Union of Catholic Women's Leagues
Mr. BIENENFELD	
Mr. WOLKOWITZ	World Jewish Congress

Secretariat:

Mr. J. HUMPHREY	Director of the Human Rights Division
Mr. E. LAWSON	Secretary of the Commission

CONTINUATION OF THE DISCUSSION ON THE DRAFT DECLARATION OF HUMAN RIGHTS
(document E/CN.4/95)

Articles 27-28

The CHAIRMAN recalled that the drafting sub-committee composed of the representatives of China, France, Lebanon, Panama, USSR, United Kingdom and the United States of America had agreed on a combined text for Articles 27 and 28. The first paragraph had been considered in three parts. The first sentence "Everyone has the right to education" had been unanimously accepted by the sub-committee. Two alternatives for the second sentence had been drafted for consideration by the Commission, as follows:

- (1) "This right includes free, compulsory elementary education", or
- (2) "This right includes free fundamental education". Finally, the drafting committee had reached agreement on the third part of the paragraph: "and equal access on the basis of merit to higher education."

The Chairman put to the vote the first sentence: "Everyone has the right to education".

That sentence was approved unanimously.

/ The CHAIRMAN

The CHAIRMAN then opened discussion on the two alternatives for the second sentence and explained that the word "fundamental" was intended by several members of the drafting sub-committee to include the broader concept of education for adults as well as for children and adolescents.

Mrs. MEHTA (India) objected to the use of the word "compulsory" in a Declaration of Rights.

Mr. CASSIN (France) said that he would vote in favour of the original text of Article 27 as adopted at the second session of the Commission, as it contained the concepts which his delegation supported: fundamental education should be free and compulsory. The word "compulsory" should be interpreted to mean that no one (neither the State, nor the family) could prevent the child from receiving elementary education; the idea of coercion was in no way implied. Moreover, he saw no objection to the word "fundamental" which the French text had translated "élémentaire." Incidentally, Mr. Cassin thought that the French text of the original draft should be corrected to read éducation élémentaire rather than instruction élémentaire.

Mr. PAVLOV (Union of Soviet Socialist Republics) stressed the importance of free and compulsory elementary education. It should be free so that millions who could not afford the high costs involved might not be deprived of it. Elementary education should be free in order to give everyone the opportunity for schooling, and to combat illiteracy. In that connection, Mr. Pavlov felt that the word "fundamental" seemed to imply that education should be broad and intensive, rather than superficial; it tended to weaken and confuse the definition. Finally, the representative of the USSR emphasized the importance of retaining the word "compulsory". The concept contained in that word was closely linked with the concept of the right to education. It presupposed that the obligations of society corresponded
/to the rights

to the rights of every human being to free education. The State had the obligation to furnish opportunities for education to everyone and to ensure that no one could be deprived of those opportunities. In his own country, almost fifty million persons of all ages were receiving education. On the other hand, millions of inhabitants of countries of the Far East were receiving no education at all. He had learned from United States sources that almost ten million persons were not fully literate in that country. Therefore, Mr. Pavlov strongly supported the inclusion of the word "compulsory" in the definition of the right.

Mr. LEBAR (UNESCO) wondered whether the Commission might be able to combine the concept of compulsory education with that of fundamental education. The word "fundamental" contained the more recent and much broader concept of adult education and represented great progress in the thinking of educators over ^{the past} several decades. Mr. Lebar strongly favoured "fundamental" to replace "elementary".

Mr. WILSON (United Kingdom), while he saw no difference between the words "fundamental" and "elementary", preferred the latter word. On the other hand, he agreed with the representatives of India and Australia that it was dangerous to include the word "compulsory" in the draft Declaration because it could be interpreted as acceptance of the concept of State education. Although the United Kingdom had enjoyed free and compulsory education for several generations, Mr. Wilson found it difficult to reconcile the statement of the right to education with the notion of the compulsory nature of that education.

Mr. CHANG (China) pleaded for support of the concept of "fundamental" education as elucidated by the representative of UNESCO. That new and modern concept was particularly well adapted to countries where adult education became

/imperative

imperative for those persons who had not enjoyed the opportunities of grade-school instruction. Mr. Chang agreed with the representative of the United Kingdom that the word "compulsory" should be deleted.

Mr. LARRAIN (Chile), while he could not agree fully with the arguments presented by the representatives of France and the USSR, would vote to retain the terms "free, compulsory, elementary education". The constitution of Chile contained identical terms and the implementation of that constitutional provision had proved an effective weapon in combatting illiteracy.

In order to avoid mention of the word "compulsory" and to safeguard more adequately the right of the individual to education, Mr. AZKOUL (Lebanon) offered a compromise amendment which he tentatively drafted as follows:

"Parents have the right to control their children's education, but cannot prevent them from receiving education."

Mr. Azkoul explained that the right to education was not in the hands of the individual alone; the family and the State shared in ensuring that right. However, neither the family nor the State could deprive the individual of it. The concept of compulsion was in contradiction with the statement of a right and his amendment was intended to eliminate any implication of coercion.

The representative of Lebanon thought that the word "compulsory" could be isolated from the remainder of the text and voted on after all the other amendments had been put to the vote. He would welcome the suggestions of the Commission regarding the final drafting of his amendment.

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) thought that the Lebanese amendment neither clarified nor simplified the definition of the right to education. The first alternative agreed upon by the drafting sub-committee ensured the right to free and compulsory elementary education and should be maintained. It meant that the individual had the right to education himself and should discharge his obligation to society to do so.

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Since no one could prevent him from exercising his right, he would benefit himself and his community. In the Byelorussian SSR, the exercise of the right had contributed greatly to stamping out illiteracy.

Mr. PAVLOV (Union of Soviet Socialist Republics) agreed with Mr. Stepanenko that the Lebanese proposal could be covered in the simple statement: "free and compulsory education." The word "compulsory" should not be feared for it could only work to the advantage of the child whose parents might not understand his vital interests and to the improvement of society, which would receive educated individuals. The first alternative text should therefore be voted as it stood, including the word "compulsory". The Lebanese representative might then wish to re-introduce his amendment.

Mr. AZKOUL (Lebanon) accepted the procedure suggested by the representative of the USSR and reserved the right to re-introduce his amendment after the other amendments had been voted.

Mrs. MAHTA (India) reminded the Commission that it was discussing the rights of all human beings and should not concern itself either with the rights of children or with the obligations of parents. She reiterated her objection to the word "compulsory" for the contradictory concepts of a right and a compulsion could not be reconciled in the draft Declaration.

Mr. LEBAR (UNESCO) called attention to the fact that the phrase "free and compulsory education" had become traditional in all countries. Its omission from the Declaration of Human Rights would constitute a backward step. Mr. Lebar wished to dispel the confusion surrounding the use of the word "compulsory". It did not mean that the State exercised a monopoly over education, nor did it infringe the right of parents to choose the schooling facilities they wished to offer their children.

/ Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) gave vigorous support to the explanation offered by the representative of UNESCO. However, he continued to question the use of the term "fundamental education". While elementary education was free in many countries, he doubted whether free fundamental education was possible at the present time in view of existing cultural conditions.

Mr. FONTAINA (Uruguay) felt that the word "compulsory" should be removed from the first paragraph of Article 27 proposed by the drafting sub-committee, and should be inserted in the second paragraph (former Article 28), which dealt with the manner in which education was to be directed.

The CHAIRMAN put to the vote the deletion of the word "compulsory" from "This right includes free, compulsory..."

The deletion of the word "compulsory" was rejected by eight votes to seven.

The CHAIRMAN stated that in its next vote the Commission would choose between the words "elementary" and "fundamental".

The phrase "This right includes free, compulsory elementary education" was approved by seven votes to five, with three abstentions.

Mr. CEANG (China) felt that it would be tragic to omit the word "fundamental" from that phrase. He urged the Commission to insert the words "and fundamental" after "elementary", thus making a reference to education for adults.

The Chinese representative's amendment was approved by ten votes to none, with five abstentions.

The CHAIRMAN directed the Commission's attention to the phrase, "and equal access on the basis of merit to higher education".

Mr. PAVLOV (Union of Soviet Socialist Republics) questioned the words, "on the basis of merit". The Russian translation which he had before him was unsatisfactory. To avoid the possibility that such factors as wealth might be included, he suggested, instead, the words "on the basis of personal capabilities and knowledge."

The CHAIRMAN, supported by Mr. CASSIN (France) and Mr. CHANG (China) stated that the words "on the basis of merit" represented precisely the safeguard sought by Mr. Pavlov. They excluded such factors as wealth, personal or political favour, and ensured that higher education would be open to those who had the ability to receive it.

Mr. PAVLOV (Union of Soviet Socialist Republics) accepted the suggestion of Mr. LEBEAU (Belgium) that the Russian text might contain the very words proposed by Mr. Pavlov himself, as an equivalent for the English "on the basis of merit".

The phrase "and equal access on the basis of merit to higher education" was approved unanimously.

Mr. PAVLOV (Union of Soviet Socialist Republics) proposed the addition of the following sentence: "Access to education shall be without distinction as to race, sex, language, religion, social standing, financial means or political affiliation."

The CHAIRMAN, speaking as the representative of the United States, remarked that the USSR amendment seemed unnecessary, as injunctions against discrimination appeared in a separate article devoted to that subject. If the USSR amendment were adopted, the same addition would logically have to be made in a number of other articles.

Mr. de J. QUIJANO (Panama) stated that he would vote for the USSR amendment, as the same idea was contained in the draft of Article 27 which he had submitted.

The USSR amendment was rejected by eight votes to five, with two abstention.

Mr. MALIK (Lebanon) remarked that his delegation had voted against the inclusion of the word "compulsory", lest it be interpreted as making it imperative for children to be sent to schools designated by the State. Now that the word had been approved, the Lebanese amendment was all the more necessary; it was designed to guarantee the right of the family to determine the education of its children, but not to prevent such education. He proposed two versions of the amendment; while he himself preferred the first, he would be content with the milder second one. The versions were as follows:

1. "Parents have the primary right to determine the education of their children."
2. "This does not exclude the right of parents to determine the education of their children."

Miss SCHAEFER (International Union of Catholic Women's Leagues) appealed to the Commission to adopt the first of the two versions submitted by the Lebanese representative. The inclusion in the article of the word "compulsory" introduced an element of obligation by the State which might be misinterpreted. While the State should guarantee education to children, the primary responsibility for that education and the right to determine it rested with the parents. She urged the Commission to recognize that right and to state it in the Declaration of Human Rights.

The CHAIRMAN said that, in her understanding, it was the general view of the Commission that acceptance of the word "compulsory" in no way put in doubt the right of a family to choose the school which its children should attend.

Speaking as the United States representative, she said that she considered the Lebanese amendment unwise. The obligation of the State to provide free and compulsory education meant that children had to attend school,

but not necessarily the school provided by the State. While the latter was distinctly obligated to provide schools for all children without distinction, the choice of the school was left to the parents.

In the United States there was a difference of opinion on what should be provided by the State to non-public schools; the limits were extremely difficult to define. The Lebanese amendment might well give rise to an endless discussion in which she urged the Commission not to engage.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) agreed with the Chairman that the word "compulsory" did not exclude the right of the family to choose the school to which its children would go. The Lebanese amendment was therefore not necessary in the first paragraph of Article 27. It might possibly be discussed in connection with the second paragraph.

Mr. MALIK (Lebanon) thanked the Chairman and the Ukrainian representative for their interpretation of the text approved by the Commission.

As that text did not deprive parents of the right to choose the school to be attended by the children, there was no objection of substance to the Lebanese amendment, which was intended to safeguard that right by stating it explicitly. In spite of the explanations and interpretations given at the present meeting, it was not excluded that a State might understand the word "compulsory" as depriving the parents of the right to choose their children's school.

He consequently urged the Commission to adopt his amendment in a still milder version, repeating, in fact, the very words used by the Ukrainian representative: "This does not exclude the right of the family to choose the school to which its children will go."

Mr. LEBEAU (Belgium) shared the view of the Lebanese representative that it was important, in the Declaration of Human Rights, to state explicitly

/a basic

a basic right of parents. While he preferred the second version of the Lebanese amendment, because it was stated in more general terms, he was prepared to vote in favour of the third.

Mr. FONTAINA (Uruguay) and Mrs. MEHTA (India) observed that the Lebanese amendment represented an unnecessary repetition; they could not support it.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) repeated that he was willing to consider the Lebanese amendment as a possible addition to the second paragraph of Article 27, but not to the first.

The Lebanese amendment, in its final version, was rejected by ten votes to three, with one abstention.

The CHAIRMAN stated that the second paragraph of Article 28, as proposed by the drafting sub-committee, read as follows: "Education shall be directed to the full development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the promotion of international good will." To that text there was a USSR amendment, re-introducing a portion of the text approved by the Commission at its second session.

Mr. FONTAINA (Uruguay) suggested that the words "compulsory and shall be" should be inserted before the word "directed". The second paragraph was intended to show what direction the education mentioned in the first paragraph should take; it was necessary for that education to be compulsory.

Mr. CHANG (China) pointed out that in the first paragraph the word "compulsory" referred only to elementary and fundamental education. He did not think it should be used in a paragraph which applied also to higher education.

Mr. PAVLOV (Union of Soviet Socialist Republics) agreed with the Chinese representative. He questioned the practical possibility of making higher education compulsory at the present time.

The Uruguayan amendment was rejected by five votes to three, with seven abstentions.

Mrs. MEHTA (India) stated that she would have to abstain from voting on the second paragraph of Article 27. She did not think the type of education to be provided should be defined.

Mr. INGLIS (Philippines) wished to express the views of his delegation on the proposed second paragraph, which did not differ substantially from the draft approved at the second session. The Philippine delegation felt that it was necessary not only to sanction the right to education, but to outline the objectives of that education. If the determination of the objectives were left entirely to Governments, there was a danger that some of them might pursue anti-social aims. He supported the draft proposed by the drafting sub-committee; in his opinion, the addition of the words "promotion of international good-will" was a sufficient substitute for the previously approved phrase, "combating of the spirit of intolerance and hatred against other nations or racial or religious groups everywhere", which the USSR representative wished to re-instate.

Mr. WILSON (United Kingdom), supported by Mr. JOCKEL (Australia) requested that consideration of the second paragraph might be postponed until the Secretariat could prepare and distribute to delegations a copy of the proposed text.

The Commission approved Mr. Wilson's request by eight votes to four, with two abstentions.

The Commission decided, by six votes to four, with three abstentions, to rise the following afternoon at 3.30 p.m. in order to enable its committees to meet.

The meeting rose at 5.50 p.m.