

UNITED NATIONS
ECONOMIC AND
SOCIAL COUNCIL
OFFICIAL RECORDS



FIFTH YEAR, TENTH SESSION
348th MEETING
MONDAY, 13 FEBRUARY 1950, AT 11 A.M.
LAKE SUCCESS, NEW YORK

President: Mr. Hernán SANTA CRUZ (Chile).

United Nations Appeal for Children (E/1589, E/1589/Corr.1 and E/1589/Add.1)

1. Mr. MAKIN (Australia) expressed gratification about the success of the 1948 UNAC campaigns and their financial results, as set forth in the Secretary-General's report (E/1589 and E/1589/Add.1). While considerable relief work was still necessary, the response to the Appeal had been impressive. The importance of maintaining child health standards in order to reduce the incidence of disease could not be over-emphasized. The improvement of child welfare was an urgent humanitarian problem which was being highly appreciated by peoples throughout the world and which could not fail to evoke their sympathy.

2. He warmly commended the nations which had responded to the Appeal in 1948, and stressed the generosity of the United States which had assisted the United Nations International Children's Emergency Fund by matching all contributions of other Governments with proportionate amounts in dollars.

3. It might be sufficient for the Council at that juncture to adopt a resolution acknowledging receipt of the Secretary-General's report and taking note of it. If further action were required, the Council might consider it at a subsequent meeting. The delegation of Australia would submit a draft resolution on the subject in writing.

4. The PRESIDENT suggested that consideration of the item should be deferred until that draft resolution had been circulated.

It was so agreed.

Application of the Hashemite Kingdom of Jordan for membership in UNESCO (E/1597 and E/L.10)

5. The PRESIDENT observed that the application of the Hashemite Kingdom of Jordan had been received barely one week earlier. In the absence of instructions, many delegations would be obliged to abstain in a vote on the relevant draft resolution (E/L.10). In the interest of greater unanimity, it seemed preferable to defer consideration of the item to a subsequent meeting.

It was so agreed.

Draft Convention on Freedom of Information (E/1560, E/L.4 and E/L.6)

6. The PRESIDENT recalled that during the discussion on the adoption of the agenda (345th meeting), it had been agreed that item 17 would be included for the purpose of adopting a formal resolution referring the matter to the Commission on Human Rights with the request that it should fulfil the terms of General Assembly resolution 313 (IV).

7. The Council had before it two draft resolutions on the subject: one submitted by the delegation of Chile (E/L.4) and the other submitted jointly by the delegations of France and India (E/L.6).

8. Sir Ramaswami MUDALIAR (India), presenting the joint draft resolution, recalled his earlier remarks (345th meeting) on the necessity for the Council — when transmitting the Assembly's decision to the Commission on Human Rights — to specify the action which the Commission should take.

9. From a reading of resolution 313 (IV) it was clear that the General Assembly believed that freedom of information was a basic human right which must be safeguarded and intended that it should be incorporated in the International Covenant on Human Rights. When, at its fifth session, the Commission on Human Rights had discussed the Covenant, the representative of China had asked whether it would be advisable to include such a provision in view of the fact that there might be an independent convention on the subject. Unquestionably, a clause restricted to basic principles, should appear in the Covenant.

10. It was evident from the second operative paragraph of resolution 313 (IV) that the Assembly was planning to consider the Convention and to eventually open it for signature by Member States. The Convention contained detailed principles regarding freedom of information which the Assembly would be called upon to approve. A statement of the basic principles in the Covenant would not prejudice the Assembly's decision.

11. Thus, the delegation of India had joined with that of France in submitting the draft resolution before the Council. It considered that in so doing, it was correctly interpreting the wishes of the General Assembly and was effectively reminding it that the draft Convention on Freedom of Information had been under consideration for a long time and should, if possible, be adopted at the Assembly's fifth session.

12. The PRESIDENT noted the differences between the draft resolutions before the Council and asked the representative of Chile whether he wished to maintain his proposal.

13. Mr. VALENZUELA (Chile) said that the Chilean draft resolution (E/L.4) had been intended to ensure the normal implementation of the Assembly's decision. Inasmuch as the joint draft resolution of France and India appeared to achieve the same purpose, he would not press for a vote on his delegation's draft.

14. Mr. CHANG (China) thought that the fourth paragraph of the French-Indian draft resolution might be misinterpreted and should be deleted. It seemed to imply that the Commission on Human Rights had to be instructed concerning the form to give to the "adequate provisions" on freedom of information mentioned in General Assembly resolution 313 (IV) which it was to incorporate in the draft International Covenant on Human Rights. The Commission had, in fact, never intended to embody in the Covenant all the important provisions of the draft Convention on Freedom of Information. It had a very clear understanding of the scope of the Covenant and fully realized that it would be neither wise nor feasible to attempt to incorporate in a single covenant definitive provisions on all the human rights proclaimed in the Declaration.

15. For that reason, it had been suggested at the fifth session of the Commission on Human Rights — and that suggestion had not been entirely ruled out — that instead of a single covenant, there might be a series, perhaps, of three or four covenants drawn up in the space of two or three years. Moreover, the Commission had never contemplated any measures with regard to freedom of information which would preclude Assembly action on the draft convention. It had never considered that the inclusion in the Covenant of one of two articles on the subject would make a separate convention unnecessary.

16. Mr. DEHOUSSE (Belgium) noted a regrettable tendency to delay action on freedom of information by shifting responsibility from one United Nations organ to another. The Commission on Human Rights had in the first instance hesitated to include such provisions until it had heard the fate of the Convention prepared at Geneva.

17. There seemed to be no divergence of opinion about the necessity of including a clause on freedom of information in the Covenant. A solution to the problem was not difficult. There would be a convention on freedom of information, and the Commission would be doing a useless piece of work if it did not take that draft Convention into account and adapt the clause to be embodied in the Covenant to the text of the draft Convention. The draft Convention on Freedom of Information must serve as a guide for the formulation of the basic principles to be stated in the Covenant. It was patently impossible to outline a complete code of regulations on freedom of information in the Covenant. Thus, the solution proposed in the French-Indian draft resolution was a sound one.

18. He himself had taken part in the debate on freedom of information in the Commission on Human Rights. Opinion had been divided regarding the form

to be given to provisions on the subject in the Covenant; some delegations had favoured the inclusion of an article specifying all the restrictions on freedom of information which might be permitted, while others had supported a brief, general statement of the basic principles. Though the intentions of the first group were laudable, he thought that an enumerative text would create the impression that the exceptions to the rule were being safeguarded and that that would have a detrimental psychological effect on world opinion. The French-Indian draft resolution, by instructing the Commission on Human Rights to confine itself to a statement of basic principles, resolved that difficulty. Moreover, the Commission could not do otherwise before a convention on freedom of information had been adopted in final form.

19. For those reasons, Mr. Dehousse strongly supported the draft resolution submitted jointly by France and India.

20. Mr. ENTEZAM (Iran) suggested that the beginning of the third paragraph of the draft resolution presented by France and India should be slightly amended to read: "Notes with satisfaction that, *during the discussion of the draft Covenant on Human Rights at its fifth session . . .*" The representative of India had accepted the proposed amendment.

21. Mr. KAYSER (France) said he also accepted the Iranian amendment. He said that if the views of the French delegation had prevailed at the fourth session of the General Assembly, the Council's current discussion would not have been necessary. The French delegation did not seek to contest the decision of the majority of the General Assembly but was particularly concerned with procedural considerations in the matter. In that respect, precise indications should be given to the Commission on Human Rights. Its terms of reference were indeed precise: it was not to replace the draft convention adopted at Geneva by introducing an article in the International Covenant on Human Rights, but rather to draft such an article which would exist side by side with the convention. However, it was possible that the Commission might fail to complete the drafting of an article on freedom of information at its forthcoming session. In view of the possibility of such a situation, it would be advisable for the Council to state its hope that the next General Assembly would not postpone a final decision on the draft Convention on Freedom of Information until a later session.

22. On one point, he could not agree with the statement of the Belgian representative; the fourth paragraph of the joint draft resolution did not involve a substantive decision; it did not bind the Commission on Human Rights, which would have to decide whether the text should contain a synthetic statement of principles, or an enumerative statement of precise restrictions as had been visualized at Geneva.

23. The French delegation felt that without the fourth paragraph of the joint draft resolution, the Commission on Human Rights would have no specific instructions on how it was to proceed.

24. He repeated that the draft International Covenant on Human Rights and the draft Convention on Freedom of Information were not incompatible. It was,

however, essential for the Covenant to include a provision for freedom of information. If, as the representative of China had suggested, there was to be a series of covenants on human rights, the French delegation would favour including freedom of information in the first one, because that fundamental freedom was essential for the very dissemination of the covenant itself.

25. He hoped that the draft resolution of India and France would be adopted in its entirety.

26. Mr. THORP (United States of America) considered that the Council must first of all determine whether it was engaged in a substantive or a procedural discussion.

27. Recalling past action by the Economic and Social Council and the General Assembly regarding the draft Convention on Freedom of Information, he noted that although considerable debate had taken place, it was impossible to determine the general consensus of opinion in the Assembly. Various delegations had taken specific and divergent positions. Finally, the Assembly had adopted a resolution recommending the Economic and Social Council to request the Commission on Human Rights to take certain action. There was, however, no clear-cut evidence to show whether the Assembly hoped that action by the Commission on Human Rights would make it unnecessary to have a separate convention on freedom of information.

28. In the circumstances, he felt it was the Council's duty to transmit General Assembly resolution 313 (IV) to the Commission on Human Rights in the terms of the Assembly's resolution. It would be unwise to attempt to modify or limit that resolution. In his opinion, the draft resolution of India and France constituted an attempt at limitation.

29. By its resolution the General Assembly postponed further action on the draft Convention on Freedom of Information until its fifth regular session. The item would therefore be dealt with at that session. Hence it seemed somewhat inappropriate for the Council to go beyond its authority and recommend that the General Assembly should complete its consideration of the draft Convention on Freedom of Information at its fifth session.

30. In view of the need for extreme care in the matter, he suggested that the simplest procedure would be to adhere to the language used by the General Assembly. He therefore would sponsor the draft resolution submitted by the Secretariat in document E/1560 and commend it to the Council. That resolution read as follows:

"The Economic and Social Council

"Transmits General Assembly resolution 313 (IV) of 20 October 1949 to the Commission on Human Rights for the action contemplated therein."

31. Sir Terence SHONE (United Kingdom) fully concurred in the remarks of the United States representative and shared the doubts expressed regarding the joint draft resolution. He would have preferred the Chilean draft resolution but in view of its withdrawal he would support that of the United States.

32. Mr. KAYSER (France), replying to the remarks of the United States representative, stated that while on certain occasions the Economic and Social Council might logically be regarded merely as a transmitting agent, it had a particular responsibility in the matter under consideration and therefore its role could not appropriately be so interpreted. He recalled that its action in discussing only one of the draft conventions prepared by the United Nations Conference on Freedom of Information before transmitting them all to the General Assembly had proved the urgency and the importance which it attached to the question of freedom of information.

33. While the Council was powerless to alter decisions of the General Assembly, it was essential for it to follow a consistent policy and to seek to discourage any further postponement of an item on which action had already been delayed too long.

34. Mr. CHANG (China) considered that it would be unwise for the Council to embark on a substantive discussion on the precise instructions to be given to the Commission on Human Rights. Obviously the draft resolution of India and France instructing the Commission "to consider inclusion of basic principles only" involved a matter of substance. In view of past discussions and particularly in view of the terms of General Assembly resolution 313 (IV) requesting the Economic and Social Council to transmit the matter to the Commission on Human Rights for action, the Council should restrict itself to procedural action and avoid duplication of discussions which had taken place in the General Assembly and the Commission on Human Rights.

35. Mr. EUDES (Canada) fully endorsed the remarks of the representatives of the United States and the United Kingdom and expressed support for the draft resolution which had been sponsored by the United States.

36. It was the understanding of the Canadian delegation that it was for the General Assembly to decide whether a separate draft Convention on Freedom of Information was necessary or whether the International Covenant on Human Rights would adequately cover the subject.

37. Mr. MAKIN (Australia) also supported the point of view of the representatives of the United States, the United Kingdom and Canada. That view was especially appropriate in view of the fact that resolution 313 (IV) indicated some hesitation on the part of the General Assembly as to whether it would be possible for the Commission on Human Rights to complete its task before the fifth session of the Assembly, and had even mentioned the possibility of a progress report on the draft International Covenant on Human Rights. In the circumstances, therefore, it seemed somewhat inappropriate for the Council to recommend to the General Assembly that it should complete consideration of the draft convention during its fifth session, as provided in the French-Indian draft resolution.

38. The Australian delegation therefore supported the United States draft resolution.

39. Mr. DEHOUSSE (Belgium) could not agree that the French-Indian draft resolution involved matters of substance. Action by any organ of the United Nations to instruct a subsidiary organ as to its methods of work was generally accepted as nothing more than procedural action.

40. If the vicious cycle of referring the matter of freedom of information from one United Nations organ to another was to be ended, the Commission on Human Rights had to be given some guidance. The French-Indian joint draft resolution called upon the Commission to consider only the inclusion of basic principles and to bear in mind that the General Assembly had not yet completed action on the draft Convention on Freedom of Information. The final decision whether that recommendation should be followed would rest with the Commission itself. The Council was, however, fully within its rights in issuing such a recommendation.

41. The Belgian delegation therefore supported the French-Indian joint draft resolution.

42. Mr. ALI (Pakistan) expressed agreement with the representative of the United States and stated that the delegation of Pakistan would support the United States draft resolution.

43. Sir Ramaswami MUDALIAR (India) wished to reply to those speakers who, in opposing the French-Indian joint draft resolution, had raised questions dealing with procedure and the Council's competence.

44. He recalled that the Council itself had convoked the United Nations Conference on Freedom of Information at Geneva; the fact that the Council had taken a direct and detailed interest in promoting the Conference and enabling it to draw up conventions on freedom of information was evidenced by the long and elaborate resolution 74 (V) which the Council had adopted on the subject on 15 August 1947 (118th meeting). The Conference had duly prepared conventions, which the Council had then forwarded to the General Assembly.

45. In its resolution 313 (IV), the General Assembly had recommended to the Council that it should transmit certain instructions to one of the Council's own subsidiary bodies, to wit, the Commission on Human Rights. It should be remembered that the Council was an independent organ of the United Nations, and that the commissions which it had itself established were under its exclusive jurisdiction. It could not be argued, therefore, that its sole function in the matter under discussion was to transmit the resolution of the General Assembly to the Commission on Human Rights. It was also fully entitled to interpret that resolution for the benefit of the Commission and, if it wished, to issue supplementary instructions, provided that neither the interpretation nor the instructions were in contradiction with the resolution of the General Assembly. Such a course would be in keeping with the active part the Council had taken in the question from the first.

46. Sir Ramaswami pointed out that the words "basic principles only of freedom of information" in the penultimate paragraph of the French-Indian draft resolution constituted a legitimate translation into more precise language of the rather vague expression "adequate provisions on freedom of information" contained in the

General Assembly resolution, since the preamble to that very resolution recognized that freedom of information was "one of the basic freedoms". He remarked in passing that, if the Council preferred, the penultimate paragraph might begin with the word "Requests" instead of "Instructs".

47. It had long been understood that the International Covenant on Human Rights would embody safeguards of human rights so fundamental that no Government would be able to refuse accepting them. Members of the Commission on Human Rights would surely agree that the more precise and the more confined to basic principles the provisions of the Covenant were, the better were their chances of acceptance by Governments. In that connexion, he remarked that if there were to be not one, but several, covenants, which the Chinese representative had said was a possibility, the consequences might be disastrous. Nations might then subscribe to one set of principles and not to another, whereas it was essential for the maintenance of peace and the progress of mankind that they should accept them all.

48. In any case, the Council had every right to give the Commission on Human Rights precise indications on at least one subject to be dealt with in the Covenant.

49. To meet objections to the final paragraph of the French-Indian draft resolution, he suggested that it might be re-drafted to read: "Recommends to the General Assembly *the desirability of completing* its consideration of the Convention on Freedom of Information *as early as possible, and if possible*¹ at its fifth session".

50. Unless the General Assembly were soon to resolve a vital matter the history of which went back nearly three years, the whole practice of convening international conferences for the purpose of drafting conventions might fall into disrepute, reflecting discredit on the Council and on the General Assembly. The Council therefore owed it to itself to make such a recommendation.

51. Mr. ENTEZAM (Iran) agreed with the Indian representative that, generally speaking, the Council had the right to interpret the resolutions of the General Assembly for the benefit of its subsidiary bodies. The Council should, however, refrain from interpreting resolution 313 (IV); it was precisely because the General Assembly had been unable to reach a decision with respect to the ultimate fate of the draft Convention on Freedom of Information that it had referred the matter to the Commission on Human Rights. It had quite properly done so through the intermediary of the Economic and Social Council, because the Commission was one of the latter's subsidiary bodies. The interpretation suggested in the French-Indian joint draft resolution represented only one of several points of view expressed in the General Assembly. Furthermore, the Council had already made its own views known on previous occasions.

52. He therefore requested that the first three paragraphs of the French-Indian draft resolution should be put to the vote first, followed by a vote on the fourth and last paragraphs. He would be able to vote for the first three paragraphs and would abstain on the fourth.

¹ Italicized text indicates changes to original draft.

As the last paragraph was addressed to the General Assembly, rather than to the Commission on Human Rights, it might well form a separate resolution.

53. Mr. CHANG (China) agreed with the Indian representative that the work of the United Nations Conference on Freedom of Information should not be forgotten. Since then, however, a number of other bodies had dealt with the draft conventions, two of which had been combined and adopted by the General Assembly. Their work and the changes it had brought, should also be taken into account.

54. He doubted, moreover, whether the Covenant should contain only basic principles. Those principles had already been proclaimed in the Universal Declaration of Human Rights, which might prove to be a document of greater historical value. The Covenant would, in all probability, contain not general principles but detailed legal provisions.

55. Mr. PADILLA NERVO (Mexico) agreed with the Iranian representative that the Council should refrain from interpreting resolution 313 (IV) of the General Assembly precisely because it had been the result of a compromise. The Assembly had thoroughly discussed the meaning of the words "adequate provisions" and they would not require a long debate, though the words "basic principles only" certainly would. If, as suggested in the French-Indian joint draft resolution, the Council on the one hand transmitted to the Commission on Human Rights the resolution of the General Assembly, and on the other instructed it to include in the International Covenant on Human Rights only basic principles of freedom of information, it would unnecessarily complicate the Commission's work. In the interest of the Commission itself, therefore, the Council should not go into the substance of the question but should confine itself to the procedural task of transmitting General Assembly resolution 313 (IV) to the Commission.

56. The Mexican delegation therefore supported the United States draft resolution.

57. With regard to the last paragraph of the French-Indian joint draft resolution, he suggested that, if it deemed it necessary, the Council might make some such recommendation to the General Assembly when transmitting to it the report of the Commission on Human Rights.

58. Mr. CABADA (Peru) appreciated the generous intentions of the French and Indian representatives, but thought that the General Assembly resolution itself made it quite clear what was required of the Commission on Human Rights. He therefore supported the United States draft resolution.

59. He agreed with the Mexican representative that the final paragraph of the French-Indian joint draft

resolution need not be considered by the Council at the current juncture. The matter to which it referred would be on the agenda of the General Assembly.

60. Mr. MUNIZ (Brazil) said that in the view of his delegation the debate was entirely procedural. The Council could not touch on the substance of the question, since, in that particular case, it had received specific instructions from the General Assembly. He therefore supported the United States draft resolution.

61. He wished to make it clear, however, that the Brazilian delegation felt that the action taken by the General Assembly in resolution 313 (IV) did not preclude the adoption of a separate convention on freedom of information. He hoped that the Assembly would ultimately arrive at that decision.

62. The PRESIDENT, in accordance with the Iranian representative's request, first called for a vote on the first three paragraphs of the French-Indian joint draft resolution (E/L.6) and said subsequent votes would be taken on the fourth and fifth paragraphs and on the draft resolution as a whole.

The first three paragraphs were adopted by 6 votes to none, with 8 abstentions.

The fourth paragraph was rejected by 10 votes to 4, with 1 abstention.

The fifth paragraph was rejected by 8 votes to 3, with 4 abstentions.

The French-Indian draft resolution as a whole was rejected by 7 votes to 1, with 6 abstentions.

63. The PRESIDENT then put the United States draft resolution (E/1560) to the vote.

The draft resolution was adopted by 12 votes to 1, with 2 abstentions.

Tentative outline programme for the remainder of the week

64. The PRESIDENT drew the Council's attention to the tentative outline programme for the remainder of the week.

65. Sir Terence SHONE (United Kingdom) suggested that the Council might also deal during the week with item 36, on which an early decision was desirable.

66. Mr. MAKIN (Australia) said he would not be prepared to discuss item 6 that week, since he would not receive instructions from his Government for some time. He therefore asked that discussion of item 6 might be postponed.

67. The PRESIDENT said that the Council would return to the subject at its following meeting.

The meeting rose at 1.10 p.m.